

AN ORDINANCE AMENDING PROSPER'S ZONING ORDINANCE NO. 05-20; REZONING A TRACT OF LAND CONSISTING OF 0.6478 ACRE, 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 PLANNED DEVELOPMENT-DOWNTOWN OFFICE (PD-DTO); 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 Morris and Shirley Jackson ("Applicant") to rezone 0.6478 acre of land, more or less, situated at Hillside Addition, Block 1, Lot 1 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 0.6478 acre of land, more or less, situated at Hillside Addition, Block 1, Lot 1 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 Planned Development-Downtown

Office (PD-DTO). 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"; 3) the development schedule, attached hereto as Exhibit "E"; 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 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.

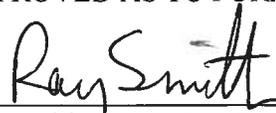
SECTION 6: Severability. Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. Prosper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

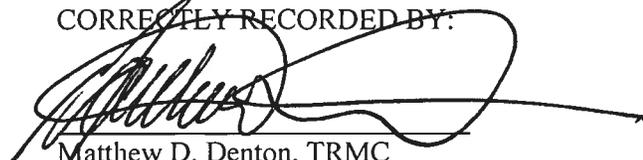
DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS ON THIS 26TH DAY OF JANUARY, 2010.

APPROVED AS TO FORM:



Ray Smith, Mayor Pro-Tem

ATTESTED TO AND
CORRECTLY RECORDED BY:



Matthew D. Denton, TRMC
Town Secretary

DATE OF PUBLICATION: FEBRUARY 1, 2010, Dallas Morning News



Exhibit "A"

DESCRIPTION 0.6478 Acre of Land
SITUATED in The City of Prosper, in the Hillside Addition, Ref. Vol. 2, Pg. 62 of the Official Public Records of Collin County Texas, in the Collin County School Land Survey; Abstract No. 147, being Lot 1, Block 1 of the Hillside Addition and half of the adjoining R.O.W.'s of 5th Street, Coleman Street and the alley adjoining on the north line of said Lot 1, being described by metes and bounds as follows:
BEGINNING at a 1/2" iron pin set at the southeast corner of said Lot 1, at the southwest corner of Lot 2, Block 1 of said Hillside Addition and in the north R.O.W. line of said 5th Street.
Thence south 0°04'15" east, 27.92 feet to a point in the center of said 5th Street for a corner;
Thence south 89°47'39" west, 140.01 feet with the center of said 5th Street to a point at the intersection of the center of said 5th Street and Coleman Street (Bus. S.H. 288) for a corner;
Thence north 11°33'39" west, 182.11 feet with the center of said Coleman Street to a point at the intersection of said Coleman Street and an alley from the east;
Thence north 89°35'43" east, 177.3 feet with the center of said alley to a point for a corner;
Thence south 0°04'15" east, passing an iron pin set at 10.0 feet of the northeast corner of said Lot 1 and the northwest corner of Lot 2 of said addition and continuing with the east line of said Lot 1 and the west line of said Lot 2 in all 750.0 feet to the PLACE OF BEGINNING and containing 0.6478 acre of land.



G. M. Geer
G. M. GEER, REGISTERED PROFESSIONAL LAND SURVEYOR
TEX. REG. NO. 3258
1514 North McDonald Street
McKinney, Texas 75071
Phone 972-562-3059.

Exhibit B

Statement of Intent and Purpose

The intent and purpose of the Planned Development is to establish the base zoning of the property as Downtown Office (DT/O). The DT/O zoning will provide an additional opportunity to achieve the Town's goal of enhancing the economic growth of the Town's Old Town Core District while allowing the property owner to use the property as a contractor's shop on an interim basis.

Exhibit C

Planned Development Standards

This tract shall be developed per the regulations of Downtown Office (DT/O) as outlined in accordance with the Town of Prosper's Comprehensive Zoning Ordinance No. 05-20 as it currently exists or may be amended subject to the following additional conditions:

Permitted Uses - Permitted uses shall also include:

- a "contractor's office with no outside storage" which will allow for contractors (landscapers, electricians, plumbers, carpenters, and the like) to use the existing structures on the property for office and incidental storage;
- household appliance service and repair; and
- parking for up to three moving trailers until the existing structures on the property are demolished.

Exhibit E

Development Schedule

Following approval of the zoning, the owner desires to secure a tenant to occupy the existing structures on the property as a "contractor's office with no outside storage". As market conditions improve, the owner will consider the sale of the property which would likely lead to the development of the property in accordance with the Downtown Office (DT/O) regulations.