

TOWN OF PROSPER, TEXAS

ORDINANCE NO. 13-02

AN ORDINANCE AMENDING PROSPER’S ZONING ORDINANCE NO. 05-20; REZONING A TRACT OF LAND CONSISTING OF 10.445 ACRES, MORE OR LESS, SITUATED IN THE COLLIN COUNTY LAND SURVEY 12, 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-SINGLE FAMILY-10 (PD-SF-10); 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 Mike A. Myers Investment Holdings, LP (“Applicant”) to rezone 10.445 acres of land, more or less, situated in the Collin County School Land Survey 12, 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 10.445 acres of land, more or less, situated in the Collin County School Land Survey 12, 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-Single Family-10 (PD-SF-10). 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 concept plan, attached hereto as Exhibit “D”; 4) and 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.

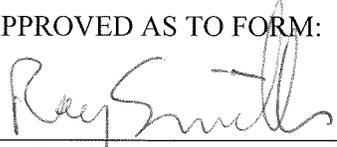
SECTION 6: Severability. Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. Prosper 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 22nd DAY OF JANUARY, 2013.

APPROVED AS TO FORM:



Ray Smith, Mayor

ATTESTED TO AND
CORRECTLY RECORDED BY:



Amy Piukana, Town Secretary

DATE OF PUBLICATION: 1-30-13, Prosper Press

FIELD NOTES

BEING a tract of land situated in the Collin County School Lands Survey 12, Abstract No. 147, Collin County, Texas and being all of that 10.455 acre tract of land described to Mike A. Myers Investment Holdings, L.P. by deed recorded in County Clerk's File Number 20070207000176870, Deed Records, Collin County, Texas (D.R.C.C.T.) and being more particularly described by metes and bounds as follows:

BEGINNING at a PK nail found in the apparent centerline of County Road 4 (a 20 foot wide asphalt road), said point being at the southwesterly corner of said Myers 10.445 acre tract, said point also being on the north line of a tract of land described in deed to Blue Star Allen Land, L.P., recorded in County Clerk File No. 20110630000676920, D.R.C.C.T., also being the southeasterly corner of a tract of land described to Kirk Andrews and Lourie Andrews by deed recorded in County Clerk File No. 2012080300958660, D.R.C.C.T.;

THENCE North 00 deg. 06 min. 26 sec. East, along the westerly line of said Myers 10.455 tract and the easterly line of said Andrews tract, passing a one-half inch iron rod with cap found at a distance of 45.92 feet, in all a total distance of 1325.68 feet to a one-half inch iron rod found for corner, said point being the northeasterly corner of said Andrews tract and a southerly corner of a called 201.55 acre tract of land described to Mike Myers Investment Holdings, L.P. by deed recorded in Volume 5786, Page 4398, D.R.C.C.T.;

THENCE North 00 deg. 04 min. 40 sec. East, departing the northerly line of said Andrews tract and following the westerly line of said Myers 10.455 acre tract and the southerly line of said Myers 201.55 acre tract, a distance of 96.15 feet to a one-half inch iron rod found for corner;

THENCE South 89 deg. 49 min. 58 sec. East, following the northerly line of said Myers 10.455 acre tract and the southerly line of said Myers 201.55 acre tract, a distance of 320.05 feet to a five-eighths inch iron rod with cap marked (COTTON SURVEYING) found for corner;

THENCE South 00 deg. 06 min. 26 sec. West, departing the southerly line of said Myers 201.55 acre tract and along the westerly line of a remainder tract of land described in deed to JBJ/Calder Fund V Joint Venture & Calder Brothers Co., recorded in Volume 5543, Page 3213 D.R.C.C.T., a distance of 1421.72 feet to a cotton spindle found for corner in the apparent center line of said County Road 4 and the north line of said Blue Star Allen Land, L.P. tract;

THENCE North 89 deg. 51 min. 05 sec. West, following the apparent centerline of said County Road 4, a distance of 320.00 feet to the **POINT OF BEGINNING** and containing 10.445 acres of land, more or less.

 11/5/2012
Eduardo Martinez
Registered Professional Land Surveyor No. 5274



EXHIBIT B FOR Z12-0008
STATEMENT OF INTENT AND PURPOSE

The purpose of this planned development is to contribute to the positive environment created by the PD regulations established for Legacy Crossing. The proposed development standards mirror those previously adopted by the Legacy Crossing Planned Development. This property will further the design for the entrance, common areas, and buffer treatments established for Legacy Crossing.

This planned development will also allow the opportunity for an addition entrance to Legacy Crossing which will further the positive atmosphere created by that community.

EXHIBIT C FOR Z12-0008
10.445 ACRES (GROSS)
PLANNED DEVELOPMENT STANDARDS

1.0 Planned Development District - Single Family Residential

- 1.1 The property shall be developed in accordance with the Single Family-10 District as outlined in the Town of Prosper Zoning Ordinance 05-20, as it exists or may be amended, unless identified below.
- 1.2 Development Pattern: The property shall generally develop in accordance with Exhibit D, Zoning Exhibit. No single-family lots shall be located within 750 feet of the Prosper Trail right-of-way.
- 1.3 Number of Lots: The maximum number of single-family residential lots within the proposed development shall not exceed 17.
- 1.4 Setbacks
 - a. Minimum Front Yard: 25'.
 - b. Minimum Side Yard: 8', 15' on corner adjacent to a side street.
 - c. Minimum Rear Yard: 25'.
- 1.5 Minimum Lot Area: 11,000 square feet.
- 1.6 Minimum Lot Width at Front Building Line: 80'.
- 1.7 Minimum Lot Depth: 120'.
- 1.8 Minimum Dwelling Area: 1,800 square feet.
- 1.9 Maximum Height: Buildings shall be a maximum of 2 1/2 stories, not to exceed 40' in height.
- 1.10 Maximum Lot Coverage: 45%.
- 1.11 Required Parking: A minimum of 4 off-street, concrete parking spaces shall be provided for each residential unit. As part of the parking requirement, at least 2 of the off-street parking spaces shall be in an enclosed garage. Garage doors shall be located on or behind the applicable setback line for the residential unit. Detached, stand-alone carports shall be prohibited. The parking of motor homes, boats, and/or trailers on a lot facing a street or on a street, is prohibited.

- 1.12 Fencing: All lots adjacent to designated open spaces shall be restricted to ornamental metal fencing. All wood fencing shall be a minimum of stained/sealed board to board with metal poles and meet the town's fencing regulations as they exist or may be amended.

2.0 General Conditions

- 2.01 Homeowners Association. Each lot shall be a member of the Legacy Crossing (PD-36) Homeowner's Association.

Exhibit E for Z12-0008
10.445 Acres (Gross)
Development Schedule

12/17/12 – Development Application Submitted

1/15/13 – Preliminary plat goes to P&Z

2/12/13 – Preliminary plat goes to Council

3/1/13 – Phase 1 construction plans approved

3/22/13 – Construction begins

1/6/14 – Construction Complete/Town accepts infrastructure

1/13/14 – Final plat file