

TOWN OF PROSPER, TEXAS

ORDINANCE NO. 14-41

AN ORDINANCE AMENDING PROSPER'S ZONING ORDINANCE NO. 05-20; REZONING A TRACT OF LAND CONSISTING OF 80.71 ACRES, MORE OR LESS, SITUATED IN THE COLLIN COUNTY SCHOOL LAND SURVEY NO. 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-12.5/RETAIL (PD-SF-12.5/R); 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 Metten Real Estate, L.P. ("Applicant") to rezone 80.71 acres of land, more or less, situated in the Collin County School Land Survey No. 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 80.71 acres of land, more or less, situated in the Collin County School Land Survey No. 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-12.5/Retail (PD-SF-12.5/R). 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 conceptual development plan requirements, attached hereto as Exhibit "D"; and 4) 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 (3) 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 District shall be sent to all owners of properties within the District as well as all properties within two hundred feet (200') of the District 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.

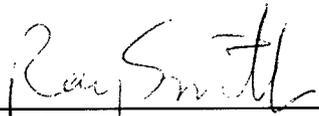
SECTION 7

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

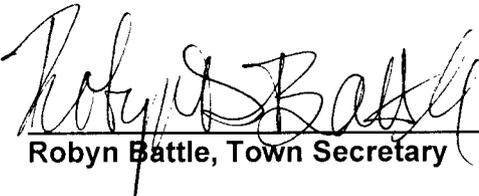
Effective Date. This Ordinance shall become effective from and after its adoption and publications as required by law.

DULY PASSED, APPROVED, AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, ON THIS 22nd DAY OF JULY, 2014.



Ray Smith, Mayor

ATTEST:



Robyn Battle, Town Secretary

APPROVED AS TO FORM AND LEGALITY:



Terrence S. Welch, Town Attorney



GRAPHIC SCALE IN FEET
1"=100' @ 24x36

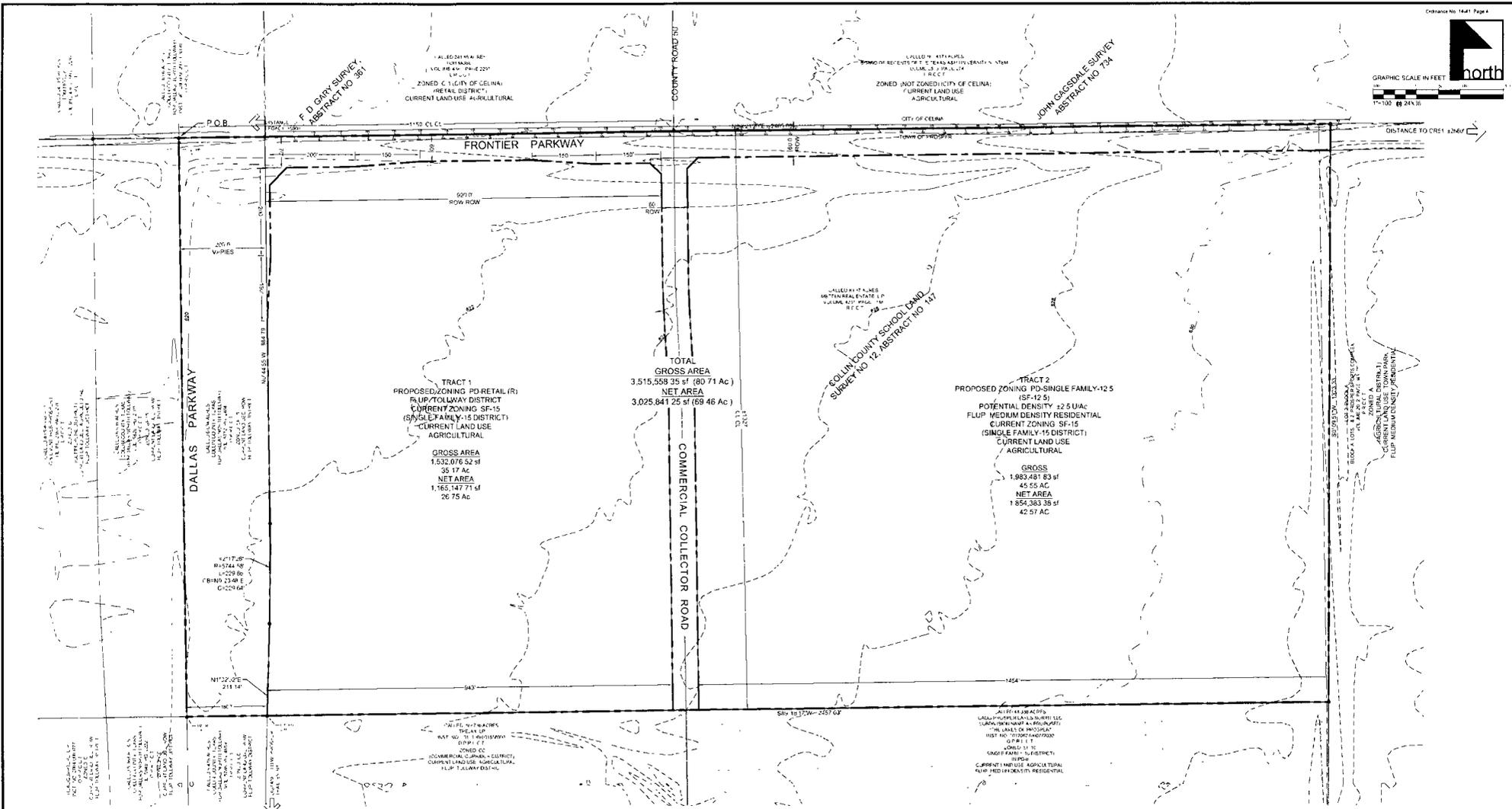


EXHIBIT A

BEING A 11.1 acre tract in the Collin County School Land Survey No. 12, Abstract No. 147, Town of Prosper, Collin County, Texas, now being all of a certain 80.37 acre tract conveyed to Metten Real Estate, L.P. as evidenced in a Warranty Deed recorded in Volume 4234, Page 1784, of the Land Records of Collin County, Texas, and being more particularly described by lines and bounds as follows:

BEGINNING at the northeast corner of said 80.37 acre tract and the northeast corner of a certain 47.04 acre tract conveyed to Collin County, Texas, as evidenced in a Subjunctive Warranty Deed recorded in Volume 11, Page 1865 of the Official Public Records of Collin County, Texas, same also being the intersection of the centerline of future Dallas North Tollway, with the approximate centerline of Frontier Parkway;

THENCE North 64°21'21" East, along the north line of said 80.37 acre tract and generally along the centerline of said Frontier Parkway a distance of 2,662.03 feet to the northeast corner of said 80.37 acre tract;

THENCE South 07°09'51" West, following said Frontier Parkway, along the east line of said 80.37 acre tract and the west line of Lot C, Block A of Dallas, Lobo, 1 & 2, Prosper, Texas, an addition to the Town of Prosper, Texas, according to the Final Plat thereof recorded in Volume 2011, Page 347 of the Public Records of Collin County, Texas, a distance of 4,482.20 feet to the southeast corner of said 80.37 acre tract, same being the northeast corner of a certain 44.28 acre tract conveyed to CADO, Prosper Lakes North, L.L.C., as evidenced in a Special Warranty Deed with Survey's Lien recorded in Instrument No. 2011-02670007720 in the Official Public Records of Collin County, Texas;

THENCE South 85°18'18" West, across the south line of said 80.37 acre tract, the north line of said 44.28 acre tract and the north line of a certain 246.16 acre tract, conveyed to Truist, LP, as evidenced in a Special Warranty Deed recorded in Instrument No. 2012-2086155000 of the Official Public Records of Collin County, Texas, generally at a distance of 4,482.20 feet to a 15' wide easement one foot back from the southeast corner of a certain 4.34 acre tract, same being the east line of a certain Dallas Parkway, future Dallas North Tollway, commencing at an intersection of a certain 44.28 acre tract and the southwest corner of said 80.37 acre tract;

THENCE North 16°25'17" West, along the west line of said 80.37 acre tract, the west line of a certain 6.03 acre tract and along the centerline of future Dallas North Tollway, a distance of 11,225.55 feet to the POINT OF BEGINNING and remaining 70°26'18" West of said point of beginning.

See map prepared by Texas State Plane Coordinate System NAD 1983, North Central Zone 4202.

Michael B. Metz
Registered Professional Land Surveyor No. 5181
City and Associates, Inc.
12700 Park Central Blvd., Suite 1800
Dallas, Texas 75241
PR 972.721-1540

PRELIMINARY
THIS DOCUMENT SHALL NOT BE
RECORDED FOR ANY PURPOSE
UNLESS APPROVED BY THE
LEAD SURVEYOR

- NOTES**
- PROPERTY DOES NOT APPEAR TO BE AFFECTED BY THE 100-YEAR FLOOD PLAIN PER FLOOD INSURANCE RATE MAP PANELS 480501H151 AND 480502J151, JUNE 2, 2009.
 - ZONING BOUNDARIES ARE TO CENTERLINES OF EXISTING AND FUTURE ROADS AS SHOWN. NET ACRES AND SUBTRACTS AREAS WITHIN ROAD RIGHTS OF WAY.
 - THE THROUGHFARE ALIGNMENTS SHOWN ON THIS EXHIBIT ARE FOR ILLUSTRATION PURPOSES AND DOES NOT SET THE ALIGNMENT. THE ALIGNMENT IS DETERMINED AT TIMES OF FINAL PLAT.

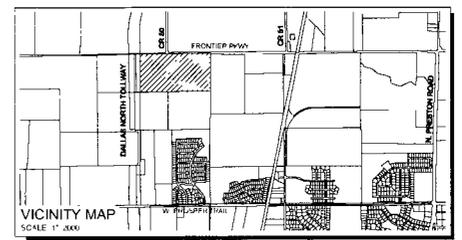


EXHIBIT A
ZONING CASE #14-0006
Metten Tract
COLLIN COUNTY SCHOOL LAND SURVEY NO. 12, ABSTRACT #147
MAY, 2014

OWNER / APPLICANT
Metten Real Estate, L.P.
6842 Westridge Drive
Dallas, Texas 75249
Contact: Christian Metten
P (972) 235-2580
F (972) 235-2779

ENGINEER / SURVEYOR
Kimley Horn and Associates
State of Texas Registration No. F-029
9750 Geneva Court, Suite 200
Frisco, TX 75034
P (972) 235-2580
F (972) 235-2779
Contact: Frank Abbott, P.C.

Kimley»Horn

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Exhibit B for Z14-0006
Statement of Intent and Purpose

The purpose of this planned development is to create a mix of retail and single family residential uses which are consistent with the Town's comprehensive plan. It is intended to utilize the Town's base standards and incorporate some additional uses and criteria which will better position the proposed development due to the properties proximity to the future Tollway and surrounding uses.

**Exhibit C for Z14-0006
Planned Development Standards**

Tract 1 Retail

- A. **General Description:** The areas identified as Retail will provide the ability to encourage and to accommodate the development of office and retail service centers within growth corridors located along the North Dallas Tollway extension. The property within these areas shall develop under the standards for the Retail District as contained within the Town of Prosper Zoning Ordinance, as it exists or may be amended, subject to the specific provisions contained herein below.
- B. **Permitted Uses:** In addition to those permitted uses as allowed per the Retail District of the Town of Prosper Zoning Ordinance, the following use shall be permitted in the retail areas indicated on Exhibit "D". Uses followed by an **S** are only permitted by Specific Use Permit. Uses followed by a **C** are permitted subject to the conditional standards in the Town's Zoning Ordinance:
1. Hotels - **C**
 2. Theater, Regional
 3. Research & Development Center - **S**
- C. **Max. FAR:** Max. FAR for buildings taller than two (2) stories shall be 1.5:1. Max. FAR for all other buildings shall be 0.4:1.
- D. **Building Heights:** The permitted height of all buildings within the retail areas of the Planned Development District shall be as follows:
- a. The allowed height for Hotels, Office buildings, and Hospitals located within the retail tract shall be eight (8) stories, not greater than one hundred (100) feet. All other uses shall be limited to two (2) stories, not greater than forty (40) feet.
 - b. Non-residential buildings located within one hundred fifty feet (150') of a single-family zoned area shall be limited to a maximum height of two (2) stories.
 - c. Non-residential buildings, which exceed two (2) stories in height, shall be required to have additional setbacks from single-family zoned areas. These additional setbacks will require one foot (1') of setback, beyond the aforementioned one hundred fifty feet (150'), for each additional foot of building height above two (2) stories.
- E. **Lot Area:** The minimum area of any lot shall be ten thousand (10,000) square feet.
- F. **Lot Width:** The minimum width of any lot shall be one hundred feet (100').
- G. **Lot Depth:** The minimum depth of any lot shall be one hundred (100').
- H. **Lot Coverage:** In no case shall more than sixty percent (60%) of the total lot area be covered by the combined area of the main buildings exceeding 2-stories. Parking structures and surface parking facilities shall be excluded from the coverage computations. Lot coverage is limited to forty percent (40%) excluding parking and parking structures for all structures 2-stories and less.

- I. All required detention areas shall be developed as an amenity with upgrades such as landscaping, trees, trails, benches, etc., and constructed as a wet detention pond (constant water level) with a fountain and/or bubblers. The wet pond requirement may be waived if in conflict with TCEQ regulations, other applicable City/Town downstream water rights and/or other applicable regulatory requirements. Underground detention may be utilized within nonresidential components of the Planned Development.

Tract 2 Single Family Residential

- A. The property shall be developed in accordance with the Single Family-12.5 District as outlined in the Town of Prosper Zoning Ordinance 05-20, as it exists or may be amended, unless identified below.
- B. Fencing: Privacy fences on single family residential lots shall be located ten (10) feet behind the front elevation of the main building and shall not exceed eight (8) feet in height above grade. All fencing located on single family residential lots adjacent to open space, parks, or floodplain shall consist of ornamental metal (wrought iron or decorative tubular steel). All wood fencing shall consist of cedar, board on board with a top rail, and comply with the Town's fencing standards as they exist or may be amended. A common wood fence stain color shall be established for the development.
- C. All required detention areas shall be developed as an amenity with upgrades such as landscaping, trees, trails, benches, etc., and constructed as a wet detention pond (constant water level) with a fountain and/or bubblers. The wet pond requirement may be waived if in conflict with TCEQ regulations, other applicable City/Town downstream water rights and/or other applicable regulatory requirements. Underground detention may be utilized within nonresidential components of the Planned Development.
- D. All homes shall provide an exterior lighting package to illuminate front entrances, landscaping and/or trees located in the front yard and garages.

Exhibit D for Z14-0006
Conceptual Development Plan

Conceptual Development Plan: Prior to application for a Preliminary Site Plan or a Preliminary Plat, a Conceptual Development Plan shall be submitted, receive a recommendation from the Planning & Zoning Commission and be approved by the Prosper Town Council. This Conceptual Development Plan shall only be required for the general area within which development is to occur. This general area shall be bounded by thoroughfares, ownership lines, creekways or other physical barriers that define a geographic boundary that separates the area of interest from other parcels.

Plats and/or site plans submitted for the development of the PD District shall conform to the data presented and approved on the Conceptual Development Plan. Changes of detail on these final development plan(s) that differ from the Conceptual Development Plan may be authorized by the Planning & Zoning Commission, with their approval of the final development plan(s) and without public hearing, if the proposed changes do not:

1. alter the basic relationship of the proposed development to adjacent property,
2. alter the uses permitted,
3. increase the density,
4. increase the building height,
5. increase the coverage of the site,
6. reduce the off-street parking ratio,
7. reduce the building lines provided at the boundary of the site, or
8. significantly alter any open space plans

If the Director of Development Services or the Planning & Zoning Commission determines that the proposed changes(s) violates one (1) or more of the above eight (8) criteria, then a public hearing shall be held to adequately amend the Conceptual Development Plan that is attached to the PD District's granting ordinance prior to the Planning & Zoning Commission's approval of the final development plan(s).

**Exhibit E for Z14-0006
Development Schedule**

The development schedule will be influenced by actual market conditions. It is believed the single family residential development will occur in the next 2 to 3 years and will likely be an extension of the ongoing residential development to the south. The retail/office development will likely occur once the future improvements to Frontier Pkwy and the Dallas North Tollway are underway and/or completed.