

TOWN OF PROSPER, TEXAS

ORDINANCE NO. 2020-44

AN ORDINANCE OF THE TOWN OF PROSPER, TEXAS, AMENDING THE TOWN'S ZONING ORDINANCE NO. 05-20 AND ORDINANCE NO. 2020-02, BY REZONING A TRACT OF LAND CONSISTING OF 5.409 ACRES, SITUATED IN THE A. ROBERTS SURVEY, ABSTRACT NO. 1115, IN THE TOWN OF PROSPER, DENTON COUNTY, TEXAS FROM PLANNED DEVELOPMENT-40 PD-40) IS HEREBY AMENDED IN ITS ENTIRETY AND PLACED IN THE ZONING CLASSIFICATION OF PLANNED DEVELOPMENT-OFFICE (PD-O); 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 the Town's Zoning Ordinance should be amended; and

WHEREAS, the Town of Prosper, Texas ("Prosper"), has received a request (Case Z20-0006) from VP Windsong Investments, LLC ("Applicant"), to rezone 5.409 acres of land, more or less, in the A. Roberts Survey, Abstract No. 1115, in the Town of Prosper, Denton County, Texas, and being more particularly described in Exhibit "A," attached hereto and incorporated herein for all purposes; 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, THAT:

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 and Ordinance No. 2020-02. The Town's Zoning Ordinance, adopted by Ordinance No. 05-20 and Ordinance No. 2020-02 are amended as follows: The zoning designation of the below-described property containing 5.409 acres of land, more or less, in the A. Roberts Survey, Abstract No. 1115 in the Town of Prosper, Denton County, Texas; (the "Property") and all streets, roads and alleyways contiguous and/or adjacent thereto is hereby amended in its entirety and rezoned as Planned Development-Office

(PD-O). The property as a whole is more particularly described in Exhibit A and 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 the Development Standards, attached hereto as Exhibit B, 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.

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 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.

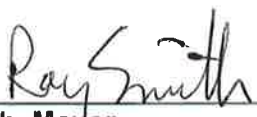
SECTION 7

Savings/Repealing Clause. Prosper's Zoning Ordinance 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 12TH DAY OF MAY, 2020.



Ray Smith, Mayor

ATTEST:



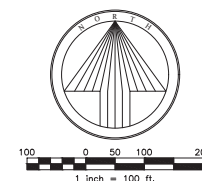
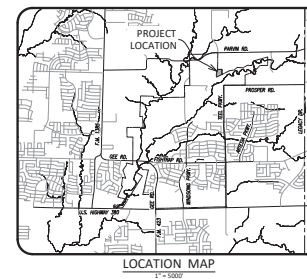
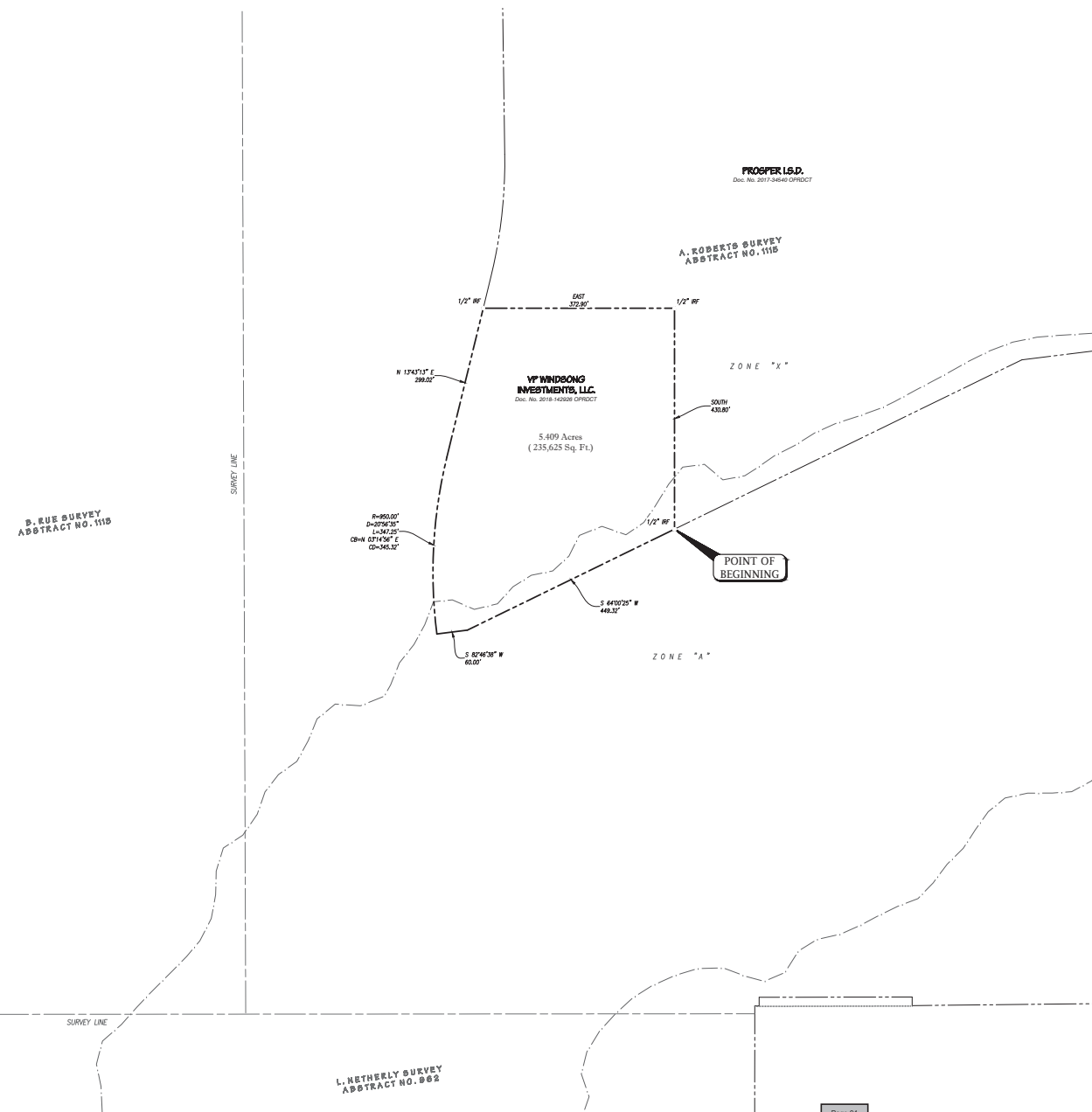
Melissa Lee, Town Secretary

APPROVED AS TO FORM AND LEGALITY:



Terrence S. Welch, Town Attorney





Basis of bearing derived from the State Plane Coordinate System, Texas North Central Zone 4202, North American Datum of 1983, (2011).

BEING a tract of land situated in the A. Roberts Survey, Abstract No. 1115, being a portion of a tract conveyed to VP Windsong Investments, LLC, according to the deed recorded in Document No. 2018-142926 of the Official Public Records, Denton County, Texas (OPRDCT), with the subject tract being more particularly described as follows:

BEGINNING at a 1/2" iron rod with a plastic cap stamped "SPIARSENG" found for the southerly southwest corner of a tract conveyed to Prosper I.S.D., recorded in Document No. 2017-34540 OPRDCT;

THENCE S 64°00'25" W, 449.32 feet to a point

THENCE S 82°46'38" W, 60.00 feet to a point;

THENCE around a non-tangent curve to the right having a central angle of 20°56'35", a radius of 950.00 feet, a chord of N 03°14'56" E - 345.32 feet, an arc length of 347.25 feet;

THENCE N 13°43'13" E, 299.02 feet, to a 1/2" iron rod with a plastic cap stamped "SPIARSENG" found for the northerly southwest corner of said Prosper I.S.D. tract;

THENCE East, along the south line thereof, 372.90 feet, to a 1/2" iron rod with a plastic cap stamped "SPIARSENG" found for the inset southwest corner of said Prosper L.S.D. tract;

THENCE South, along the west line thereof, 430.80 feet, to the POINT OF BEGINNING with the subject tract containing 235,625 square feet or 5.409 acres of land.

ZONING EXHIBIT

TOWN OF PROSPER
TOWN COUNTY, TEXAS

VP WINDSONG INVESTMENTS, LLC

Issue Dates:

3/6/2000

[illegible]

Scale: 1" = 100'

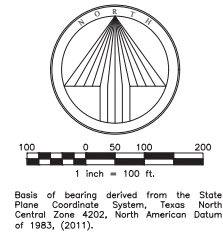
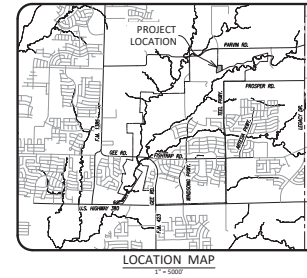
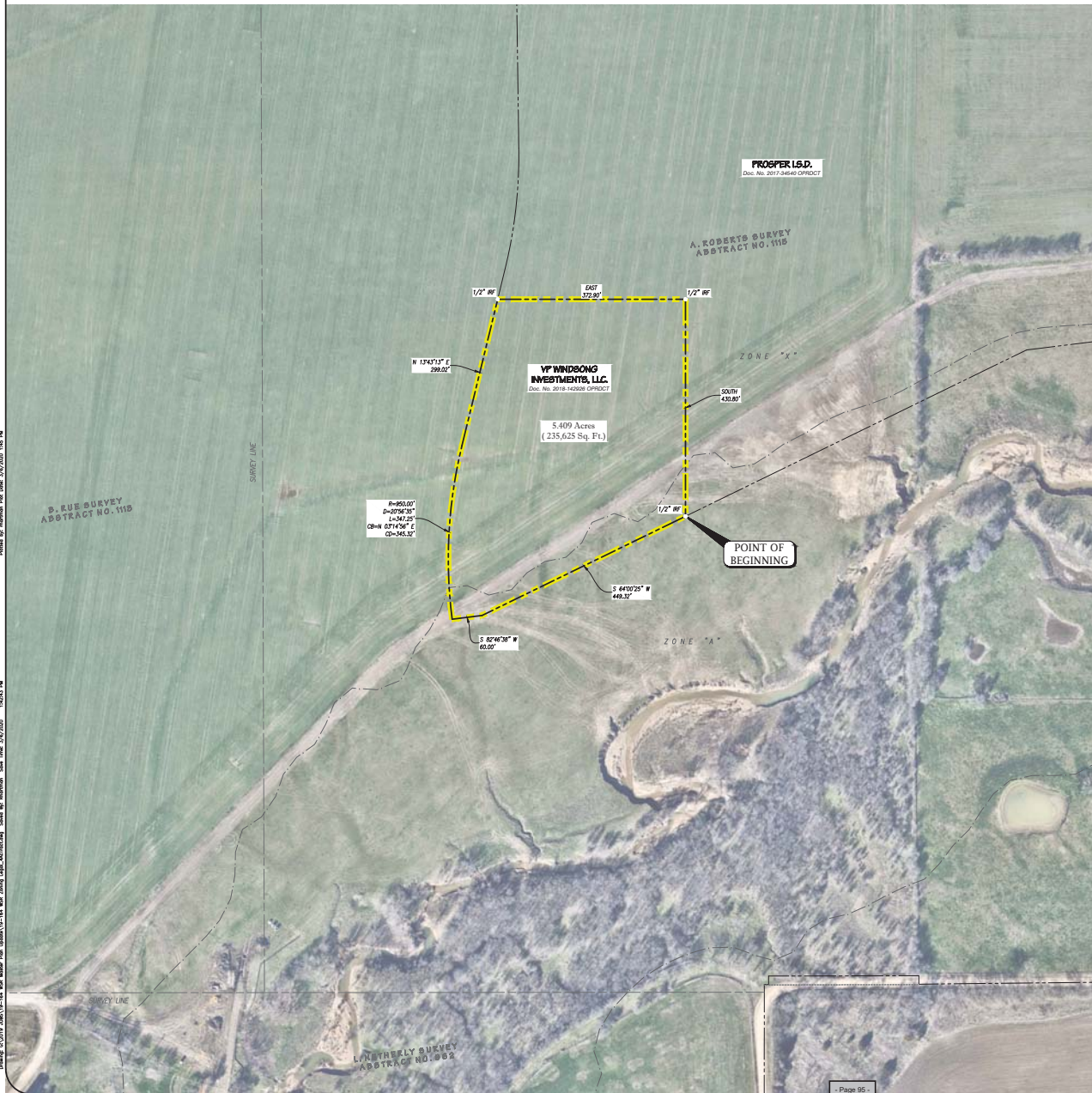
Drawn By: RWH

State	Year	Rate
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Alabama	1991	1.0
Alabama	1992	1.0
Alabama	1993	1.0
Alabama	1994	1.0
Alabama	1995	1.0
Alabama	1996	1.0
Alabama	1997	1.0
Alabama	1998	1.0
Alabama	1999	1.0
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Alabama	2103	1.0
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Alabama	2105	1.0
Alabama	2106	1.0
Alabama	2107	1.0
Alabama	2108	1.0
Alabama	2109	1.0
Alabama	2110	1.0
Alabama	2111	1.0
Alabama	2112	1.0</

Sheet 1

of 1

JOB #19-164



BEING a tract of land situated in the A. Roberts Survey, Abstract No. 1115, being a portion of a tract conveyed to VP Windson Investments, LLC, according to the deed recorded in Document No. 2018-142928 of the Official Public Records, Denton County, Texas (OPRDCT), with the subject tract being more particularly described as follows:

BEGINNING at a 1/2" iron rod with a plastic cap stamped "SPIARSENG" found for the southerly southwest corner of a tract conveyed to Prosper I.S.D., recorded in Document No. 2017-34540 OPRDCT;

THENCE S 64°00'25" W, 449.32 feet to a point;

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Date	Revisions

Z20-0007

EXHIBIT “B”

DEVELOPMENT STANDARDS

Conformance with the Town’s Zoning Ordinance and Subdivision Ordinance: Except as otherwise set forth in these Development Standards, the regulations of the Town’s Zoning Ordinance (Ordinance No. 05-20), as it exists or may be amended, and the Subdivision Ordinance, as it exists or may be amended, shall apply.

1. Except as noted below, the Tract shall develop in accordance with the Office (O) District, as it exists or may be amended.
2. Uses. All of the permitted uses in the Office (O) District shall be allowed with the same provisions and restrictions, including uses permitted by a Specific Use Permit (SUP) and Conditional Uses (C), except as noted below:
 - a) Uses permitted by right:
 - Assisted Living Facility
 - Restaurant
 - Veterinarian Clinic and/or Kennel, Indoor
 - b) Uses permitted upon approval of a Specific Use Permit:
 - Commercial Amusement, Indoor
 - Convenience Store without Gas Pumps
 - Dry Cleaning, Minor
 - Gymnastics/Dance Studio
 - Retail Stores and Shops
 - Restaurant with drive-through
 - c) Prohibited uses:
 - Recycling Collection Point