

**AN ORDINANCE OF THE TOWN OF PROSPER, TEXAS, AMENDING THE TOWN'S ZONING ORDINANCE AND ZONING ORDINANCE NO. 08-030, AS AMENDED, BY REZONING A TRACT OF LAND CONSISTING OF 2,120.242 ACRES, MORE OR LESS, SITUATED IN THE C. SMITH SURVEY, ABSTRACT NO. 1681, THE J. BATES SURVEY, ABSTRACT NO. 1620, THE L. SALING SURVEY, ABSTRACT NO. 1675, THE H.P. SALING SURVEY, ABSTRACT NO. 1628, THE M.E.P. & P. RR SURVEY, ABSTRACT NO. 1476, THE P. BARNES SURVEY, ABSTRACT NO. 79, THE B. HADGES SURVEY, ABSTRACT NO. 593, THE A.B. JAMISON SURVEY, ABSTRACT NO. 672, THE B.B. WALTON SURVEY, ABSTRACT NO. 1369, THE T. BUTTON SURVEY, ABSTRACT NO. 1369, THE P.R. RUE SURVEY, ABSTRACT NO. 1555, THE J. TETTER SURVEY, ABSTRACT NO. 1262, THE L. NETHERLY SURVEY, ABSTRACT NO. 962, THE B. RUE SURVEY, ABSTRACT NO. 1113, THE A. ROBERTS SURVEY, ABSTRACT NO. 1115, THE R. YATES SURVEY, ABSTRACT NO. 1538, THE L. RUE SURVEY, ABSTRACT 1110, THE H. RUE SURVEY, ABSTRACT NO. 1111, AND THE J. MORTON SURVEY, ABSTRACT NO. 793, IN THE TOWN OF PROSPER, DENTON COUNTY, TEXAS, FROM PLANNED DEVELOPMENT-40 (PD-40) TO PLANNED DEVELOPMENT-40 (PD-40); 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 Z20-0015) from Tellus Group, LLC ("Applicant") to rezone 2,120.242 acres of land, more or less, situated in the C. Smith Survey, Abstract No. 1681, The J. Bates Survey, Abstract No. 1620, The L. Saling Survey, Abstract No. 1675, The H.P. Saling Survey, Abstract No. 1628, The M.E.P. & P. RR Survey, Abstract No. 1476, The P. Barnes Survey, Abstract No. 79, The B. Hadges Survey, Abstract No. 593, The A.B. Jamison Survey, Abstract No. 672, The B.B. Walton Survey, Abstract No. 1369, The T. Button Survey, Abstract No. 1369, The P.R. Rue Survey, Abstract No. 1555, The J. Tetter Survey, Abstract No. 1262, The L. Netherly Survey, Abstract No. 962, The B. Rue Survey, Abstract No. 1113, The A. Roberts Survey, Abstract No. 1115, The R. Yates Survey, Abstract No. 1538, The L. Rue Survey, Abstract 1110, The H. Rue Survey, Abstract No. 1111, and The J. Morton Survey, Abstract No. 793, 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:**

### **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 the Town's Zoning Ordinance. The Town's Zoning Ordinance is amended as follows: The zoning designation of the property containing 2,120.242 acres of land, more or less, situated in the C. Smith Survey, Abstract No. 1681, The J. Bates Survey, Abstract No. 1620, The L. Saling Survey, Abstract No. 1675, The H.P. Saling Survey, Abstract No. 1628, The M.E.P. & P. RR Survey, Abstract No. 1476, The P. Barnes Survey, Abstract No. 79, The B. Hedges Survey, Abstract No. 593, The A.B. Jamison Survey, Abstract No. 672, The B.B. Walton Survey, Abstract No. 1369, The T. Button Survey, Abstract No. 1369, The P.R. Rue Survey, Abstract No. 1555, The J. Tetter Survey, Abstract No. 1262, The L. Netherly Survey, Abstract No. 962, The B. Rue Survey, Abstract No. 1113, The A. Roberts Survey, Abstract No. 1115, The R. Yates Survey, Abstract No. 1538, The L. Rue Survey, Abstract 1110, The H. Rue Survey, Abstract No. 1111, and The J. Morton Survey, Abstract No. 793, in the Town of Prosper, Denton County, Texas, (the "Property") and all streets, roads and alleyways contiguous and/or adjacent thereto is hereby rezoned as Planned Development-40 (PD-40) and being 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 Development Standards, attached hereto as Exhibit C; 3) the Site Plan, attached hereto as Exhibit D; 4) the Development Schedule, attached hereto as Exhibit E; and 5) the Façade Plans, attached hereto as Exhibit F, which are incorporated herein for all purposes as if set forth verbatim.

All development plans, standards, and uses for the Property shall comply fully with the requirements of all ordinances, rules, and regulations of the Town of Prosper, as they currently exist or may be amended.

Two (2) original, official, and identical copies of the zoning exhibit map are hereby adopted and shall be filed and maintained as follows:

- a. One (1) copy shall be filed with the Town Secretary and retained as an original record and shall not be changed in any manner.
- 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 or any provision of Prosper's Zoning Ordinance, 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, as amended, 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 8TH DAY OF SEPTEMBER, 2020.**

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**Ray Smith, Mayor**

**ATTEST:**

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**Robyn Battle, Town Secretary**

**APPROVED AS TO FORM AND LEGALITY:**

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**Terrence S. Welch, Town Attorney**