

AN ORDINANCE AMENDING PROSPER'S ZONING ORDINANCE NO. 84-16 AND ORDINANCE NO. 01-22; REZONING A TRACT OF LAND CONSISTING OF 266.467 ACRES, MORE OR LESS, SITUATED IN THE SPENCER GRAHAM SURVEY, ABSTRACT NO. 359, AND IN THE WILLIAM H. THOMASON SURVEY, ABSTRACT NO. 895, IN THE TOWN OF PROSPER, COLLIN COUNTY, TEXAS HERETOFORE ZONED PLANNED DEVELOPMENT-MIXED USE (PD-MIXED) IS HEREBY REZONED AND PLACED IN THE ZONING CLASSIFICATION OF PLANNED DEVELOPMENT-SINGLE FAMILY/COMMERCIAL (PD-SF/C); 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. 84-16, and Ordinance No. 01-22 should be amended; and

WHEREAS, the Town of Prosper, Texas ("Prosper") has received a request from the 2002 Tuscany Partners, LP ("Applicant") to rezone 266.467 acres of land, more or less, situated in the Spencer Graham Survey, Abstract No. 359, and in the William H. Thomason Survey, Abstract No. 895, 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. 84-16 and Ordinance No. 01-22. Zoning Ordinance No. 84-16 and Ordinance No. 01-22 are amended as follows: The zoning designation of the below-described property containing 266.467 acres of land, more or less, situated in the Spencer Graham Survey, Abstract No. 359, and in the William H. Thomason Survey, Abstract No. 895, 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/Commercial (PD-SF/C). 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"; and 3) the development schedule, attached hereto as Exhibit "D" each of which is 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 inspector 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. 84-16, or as amended, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined any sum not exceeding Two Thousand Dollars (\$2000.00). 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.

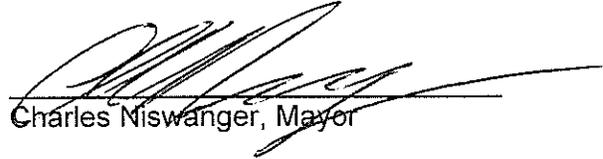
SECTION 6: Severability. Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. Prosper 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. 84-16 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 10<sup>th</sup> DAY OF AUGUST, 2004.

APPROVED AS TO FORM:

  
Charles Miswanger, Mayor

ATTESTED TO AND  
CORRECTLY RECORDED BY:

  
Shanae Jennings, Town Secretary

DATE OF PUBLICATION: 8/16/04 & 8/17/04, Dallas Morning News – Collin County Addition

EXHIBIT A  
11,607,310 S.F./266.467 ACRES  
SHEET 1 OF 5

LEGAL DESCRIPTION

BEING all that tract of land in Collin County, Texas, a part of the SPENCER GRAHAM SURVEY, ABSTRACT NO. 359, a part of the WILLIAM H. THOMASON SURVEY, ABSTRACT NO. 895, and being a part of that 275.75 acre tract of land conveyed to Tuscany Prosper Joint Venture from 288 Star Lakes Partners, L.P. on May 23, 2001, as recorded in Volume 4926, Page 1793, Collin County Deed Records, and being further described as follows:

BEGINNING at a one-half inch iron rod found at the northeast corner of said 275.75 acre tract of land, said point being in the west line of a 2.5 acre tract of land conveyed to Leon J. Mace as recorded in Volume 3610, Page 446, Collin County Deed Records, said point also being in the south line of County Road No. 122 (a variable width right-of-way) as recorded in Volume 4833, Page 1173, and Volume 4757, Page 1475, Collin County Deed Records;

THENCE South 00 degrees 24 minutes 27 seconds East, 20.00 feet along the east line of said 275.75 acre tract of land and along the west line of said 2.5 acre tract of land to a one-half inch iron rod found at the northeast corner of a 1.955 acre tract of land conveyed to the City of Prosper as recorded in Volume 5047, Page 1450, Collin County Deed Records;

THENCE North 89 degrees 51 minutes 20 seconds West, 298.67 feet to a one-half inch iron rod found at the northwest corner of said 1.955 tract of land;

THENCE along the southwesterly line of said 1.955 acre tract as follows:

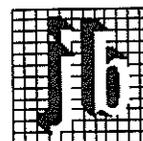
South 00 degrees 08 minutes 40 seconds West, 150.00 feet to a one-half inch iron rod found for corner;

Southeasterly, 236.44 feet along a curve to the left which has a central angle of 90 degrees 18 minutes 53 seconds, a radius of 150.00 feet, a tangent of 150.83 feet, and whose chord bears South 45 degrees 00 minutes 47 seconds East, 212.71 feet to a one-half inch iron rod found for corner;

North 89 degrees 49 minutes 47 seconds East, 150.70 feet to a one-half inch iron rod found for corner in the east line of said 275.75 acre tract of land, said point being in the west line of a 2.61 acre tract of land conveyed to George Boyce as recorded in Volume 2138, Page 253, Collin County Deed Records;

THENCE South 00 degrees 10 minutes 13 seconds East, 387.21 feet along the east line of said 275.75 acre tract of land to a one-half inch iron rod found at the southwest corner of said 2.61 acre tract of land, said point being the northwest corner of an 8.5 acre tract of land conveyed to George A. Boyce, Jr. as recorded in Volume 1816, Page 72, Collin County Deed Records;

THENCE South 00 degrees 26 minutes 15 seconds East, 1417.13 feet to a point in a creek at the most easterly southeast corner of said 275.75 acre tract of land, said point being the southwest corner of said 8.5 acre tract of land;



JONES & BOYD, INC.  
ENGINEERS • PLANNERS • SURVEYORS  
17090 Dallas Parkway, Suite 200  
Dallas, Texas 75248  
972-248-7676  
Fax 972-248-1414

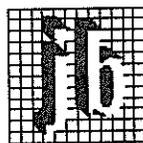
EXHIBIT A  
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THENCE along the south line of said 275.75 acre tract of land and along the centerline of said creek as follows:

North 88 degrees 33 minutes 55 seconds West, 53.53 feet to a point for corner;  
North 62 degrees 34 minutes 26 seconds West, 54.74 feet to a point for corner;  
South 62 degrees 48 minutes 24 seconds West, 72.92 feet to a point for corner;  
South 35 degrees 50 minutes 37 seconds West, 205.05 feet to a point for corner;  
South 54 degrees 43 minutes 02 seconds West, 44.38 feet to a point for corner;  
South 37 degrees 59 minutes 48 seconds West, 144.12 feet to a point for corner;  
South 19 degrees 18 minutes 46 seconds West, 70.40 feet to a point for corner;  
South 41 degrees 10 minutes 30 seconds West, 42.61 feet to a point for corner;  
South 25 degrees 15 minutes 26 seconds West, 145.97 feet to a point for corner;  
South 59 degrees 15 minutes 45 seconds East, 107.99 feet to a point for corner;  
South 33 degrees 07 minutes 51 seconds East, 78.82 feet to a point for corner;  
South 31 degrees 31 minutes 34 seconds West, 45.80 feet to a point for corner;  
South 48 degrees 13 minutes 44 seconds West, 102.47 feet to a point for corner;  
South 55 degrees 25 minutes 10 seconds West, 183.39 feet to a point for corner;  
South 54 degrees 46 minutes 08 seconds West, 115.82 feet to a point for corner;  
South 48 degrees 25 minutes 42 seconds West, 55.61 feet to a point for corner;  
South 65 degrees 41 minutes 28 seconds West, 79.59 feet to a point for corner;  
South 77 degrees 14 minutes 04 seconds West, 815.22 feet to a point for corner in an SCS lake;

THENCE North 00 degrees 46 minutes 37 seconds West, 868.82 feet along the south line of said 275.75 acre tract of land to a point for corner in an SCS lake;

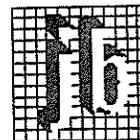
THENCE South 82 degrees 56 minutes 28 seconds West, 446.43 along the south line of said 275.75 acre tract of land feet to a point for corner in the centerline of a creek;



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THENCE along the south line of said 275.75 acre tract of land and along the centerline of said creek as follows:  
South 76 degrees 36 minutes 27 seconds West, 170.60 feet to a point for corner;  
South 86 degrees 20 minutes 50 seconds West, 104.77 feet to a point for corner;  
South 60 degrees 58 minutes 04 seconds West, 150.75 feet to a point for corner;  
South 35 degrees 36 minutes 08 seconds West, 111.49 feet to a point for corner;  
South 22 degrees 17 minutes 04 seconds West, 55.30 feet to a point for corner;  
South 65 degrees 24 minutes 59 seconds West, 56.49 feet to a point for corner;  
North 79 degrees 50 minutes 07 seconds West, 62.51 feet to a point for corner;  
North 60 degrees 18 minutes 17 seconds West, 40.74 feet to a point for corner;  
North 37 degrees 21 minutes 21 seconds West, 100.94 feet to a point for corner;  
North 58 degrees 29 minutes 03 seconds West, 115.87 feet to a point for corner;  
North 75 degrees 19 minutes 43 seconds West, 136.88 feet to a point for corner;  
South 81 degrees 01 minutes 23 seconds West, 69.61 feet to a point for corner;  
South 59 degrees 09 minutes 12 seconds West, 124.75 feet to a point for corner;  
South 57 degrees 10 minutes 39 seconds West, 337.31 feet to a point for corner;  
South 87 degrees 40 minutes 00 seconds West, 111.84 feet to a point for corner;  
South 68 degrees 46 minutes 24 seconds West, 85.50 feet to a point for corner;  
South 80 degrees 04 minutes 06 seconds West, 144.15 feet to a point for corner;  
South 35 degrees 52 minutes 35 seconds West, 62.18 feet to a point for corner;  
South 49 degrees 57 minutes 47 seconds West, 57.41 feet to a point for corner;  
South 38 degrees 53 minutes 49 seconds West, 92.32 feet to a point for corner;  
North 73 degrees 30 minutes 31 seconds West, 57.28 feet to a point for corner;  
North 25 degrees 37 minutes 59 seconds West, 119.49 feet to a point for corner;  
North 61 degrees 33 minutes 15 seconds West, 56.21 feet to a point for corner;



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EXHIBIT A  
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THENCE South 70 degrees 43 minutes 09 seconds West, 204.80 feet to a point for corner in the centerline of County Road No. 80, said point being the southwest corner of said 275.75 acre tract, said point also being in the east line of a 140.542 acre tract of land conveyed to Sexton Farms, Ltd. as recorded in Volume 4673, Page 778, Collin County Deed Records;

THENCE along the center line of County Road No. 80 and along the west line of said 275.75 acre tract as follows:

North 00 degrees 12 minutes 29 seconds West, 327.55 feet to a one-half inch iron rod found at the northeast corner of said 140.542 acre tract, said point being the southeast corner of a 54.03 acre tract of land conveyed to Charles W. Stuber as recorded in Document No. 97-0070218, Collin County Deed Records;

North 00 degrees 28 minutes 24 seconds West, 2023.82 feet to a one-half inch iron set for corner in the east line of a 160 acre tract of land conveyed to Mary E. Robinson as recorded in Volume 384, Page 450, Collin County Deed Records;

THENCE North 89 degrees 56 minutes 07 seconds East, 360.82 feet to a one-half inch iron rod set for corner;

THENCE North 00 degrees 26 minutes 19 seconds West, 289.47 feet to a one-half inch iron rod set for corner;

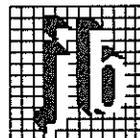
THENCE North 89 degrees 50 minutes 59 seconds East, 359.73 feet to a one-half inch iron rod set for corner;

THENCE North 00 degrees 26 minutes 14 seconds West, 310.01 feet to a one-half inch iron rod set for corner in the south line of County Road No. 122, said point being in the north line of said 275.75 acre tract;

THENCE along the north line of said 275.75 acre tract and along the south line of County road No. 122 as follows:

North 89 degrees 56 minutes 07 seconds East, 2887.74 feet to a one-half inch iron rod set for corner;

South 89 degrees 51 minutes 20 seconds East, 730.32 feet to the POINT OF BEGINNING and containing 11,607,310 square feet or 266.467 acres of land.



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EXHIBIT B:

Statement of Intent and Purpose

The Owners of 2002 Tuscan Partners hereby propose the development of approximately 130 single-family homesites, an Equestrian Center, a 20+ acre Town Lake and Park, a 2 ½ mile Public hike/bike and equestrian trail system interwoven through out the community and a future potential Work-Live Village along Coit Road (CR 80) on 275 acres of land. All current and proposed uses were previously in the current PD. The proposed amendments are to allow for the PD to match the as-built conditions.

**The Mooreland Companies  
New Homes Development Construction  
4516 Lover's Lane #350 Dallas, TX 75225  
(O) 214.599.0852 (F) 214.599.0856  
[www.mooreland.com](http://www.mooreland.com)**

## Exhibit C

### PLANNED DEVELOPMENT STANDARDS WHISPERING FARMS

#### 1.0 PLANNED DEVELOPMENT – RESIDENTIAL – 210.73 acres

Tracts I-A ( $\pm$  108.11 acres), I-B ( $\pm$  102.62 acres).

- 1.01 General Description:** The residential tracts are intended to accommodate a variety of single-family residential uses. The residential units may be comprised of Single Family-Type A, and/or Single Family-Type B. Development standards for each of the aforementioned housing types are outlined within this text. All street signs will incorporate the Town of Prosper logo as provided by the Town to the developer.
- 1.02 Density:** The overall allowed residential density for Tracts I-A and I-B shall be 1 unit per gross acre or a total of two hundred and sixty six (266) units, as calculated on a gross land area based on approximately two hundred and sixty six (266) acres as contained within the entire tract of land (residential and non-residential) covered by this PD.
- 1.03 Permitted Uses:** Land uses permitted within residential areas, indicated as Tracts I-A, and I-B on Exhibit "B", are as follows:
- a. Residential units as described herein.
  - b. Permitted uses referenced in the Prosper Zoning Ordinance 84-16 for use SF-1 as it currently exists or may be amended.
  - c. Private or public recreation facilities.
  - d. Churches/rectories
  - e. Schools - public or state accredited.
  - f. Utility distribution lines and facilities.
  - g. Parks, playgrounds and neighborhood recreation facilities including, but not limited to, swimming pools, clubhouse facilities and tennis courts.
  - h. Fire stations and public safety facilities.
  - i. Real estate sales offices during the development and marketing of the residential areas.
  - j. Public streets.
  - k. Accessory buildings and uses customarily incidental to the permitted uses. The total land area used for accessory buildings shall not exceed twenty-five percent (25%) of the total area designated for the main buildings. Accessory buildings shall not be permitted within any "front yard" area but shall be permitted within any portion of the "side yard" or "rear yard" of a building lot as set forth in Prosper Zoning Ordinance for accessory buildings.
  - l. Temporary buildings and uses incidental to construction work on the premises, which shall be removed upon completion.
  - m. Detached freestanding garages with "Granny Flats," collectively called accessory buildings, shall be permitted. A minimum of ten feet (10')

separation shall be provided between the garage and the main building. "Detached" shall allow for an unenclosed breezeway connecting roof canopies between garages and residences. Detached structures not incorporating a breezeway to the main building shall be subject to accessory building setbacks of five-foot (5') rear and side yards. Accessory buildings that are attached to the main building with a breezeway shall be subject to the main building setbacks as specified herein. The maximum area of enclosed space for quarters shall not exceed eight hundred square feet (800 s.f.). The quarters may be leased to a non-related party only if the main residence is currently owner-occupied. Should the main residence be leased, then the same party leasing the main structure may only occupy the quarters. A maximum of one "Granny Flat" per lot is allowed. Granny Flats are not allowed within Tract I-TH.

- n. Any residence abutting and/or adjoining a trail built to serve as an equestrian trail is permitted to house one (1) horse in the permitted accessory building on one acre or larger lots.
- o. Residences with the ability to board one horse per acre may be permitted to build a free standing barn to house the animal. Structure is to be single story with a loft allowed. Maximum of 400 s.f. footprint per acre of lot size. Exterior materials may be pre-finished metal with a metal roof.

**1.04 Required Parking:** Parking requirements for single-family development areas shall be as follows: two (2) off-street parking spaces shall be provided on the same lot as the main structure. In conjunction with this requirement, a two (2)-car garage shall be provided for each unit. Garage parking shall be behind the front yard building line as defined within the zoning

**1.05 Building Materials:**

- a. **Masonry:** A minimum of ninety percent (90%) of the total exterior wall surfaces of all main buildings shall have an exterior finish of glass, natural and/or cultured stone, Hardi-plank and/or other cementitious-type siding, stucco, brick, cut- or split-face CMU or similar materials as approved by the Town of Prosper, Texas, or any combination thereof. The use of wood as an accent exterior material shall be limited to a maximum of ten percent (10%) of the total exterior wall surfaces.
- b. **Roofing Materials:** Wood-roofing materials shall not be permitted within the development.
- c. **Fire Sprinkler Requirements:** All residential structures in excess of 6000 ft of gross space shall be required to have working sprinkler systems in accordance with UBC requirements at the time of adoption of this agreement by the Town council of Prosper.
- d. **Fencing Requirements:**
  - i. **Bridle / Hike & Bike trails:** All fencing installed against the hike & bike trail and/or green belts shall be of open-type fencing, with a height not to exceed 4 feet above grade at the base of fence.

- ii. Lot Fencing: No residential fencing regardless of material may exceed 8 feet in overall height above grade at the base of the fence.
  - iii. General Wood Fencing restrictions: Any wood fence that faces a residential street shall be of board-on-board construction of cedar or better.
- e. **Bar Ditches and Culverts:** Developer agrees that all lots serviced by bar ditches within the development will require:
- i. Builder-installed culverts and driveway monuments on all one acre or larger lots to ensure continuity within the development and designed drainage capacity as approved by the Town Engineer and recorded with the as-built drawings detailing the required culvert sizes for each residential lot.
  - ii. Developer-maintained engineered grades and drainage capacity within the bar ditches during the development to ensure the designed drainage capacity during the 5 year maintenance period.
  - iii. HOA to assume maintenance of Bar Ditches for a period 5 years after date of final acceptance by Town of that particular phase of the subdivision.
- f. **Garage Orientation:** For Tract I-B, no more than 1/3 of the homes will have two or more garages facing the street which the front elevation of the house is oriented toward unless said garage is located at least 25 feet behind the front building line.

**1.06 Single Family - Type A in Tract I-A:** Single Family - Type A units are a form of single family, detached housing. Building and area requirements are as follows:

- a. **Minimum Dwelling Size:** The minimum area of the main building shall be twenty-six hundred (2600) square feet, exclusive of garages breezeways and porticos.
- b. **Lot Area:** The minimum area of any lot within Tract I-A shall be twenty-one thousand square feet (21,000).
- c. **Lot Coverage:** In no case shall more than thirty-five percent (35%) of the total lot area be covered by the combined area of the main buildings and accessory buildings. Swimming pools, spas, decks, patios, driveways, walks and other paved areas shall not be included in determining maximum lot coverage.
- d. **Lot Width:** The minimum width of any lot shall be a minimum of one hundred feet (100') at the front building line, except that a lot at the terminus of a cul-de-sac or along street elbows/eyebrows may have a minimum width of seventy feet (70') at the building line; provided all other requirements of this section are fulfilled.

- e. **Lot Depth:** The minimum depth of any lot shall be a minimum of one hundred and ninety feet (190'), except that a lot at the terminus of a cul-de-sac or along street elbows/eyebrows may have minimum lot depth, measured at mid-points on front and rear lot lines, of one hundred feet and forty feet (140') provided all other requirements of this section are fulfilled.
- f. **Front Yard:** The minimum depth of the front yard shall be thirty-five feet (35') for any lot containing less than 30,000 square feet, and forty-five feet (45') for any lot of 30,000 square feet or greater.
- g. **Side Yard:** The minimum side yard on each side of the lot shall be ten feet (10'). A side yard adjacent to a street shall be a minimum of fifteen feet (15').
- h. **Rear Yard:** The minimum depth of the rear yard shall be thirty feet (30'). If the rear lot line abuts a dedicated alley; the garage door, if provided, must be set back a minimum of twenty feet (20').
- i. **Maximum Building Height:** Buildings shall be a maximum of two and one-half (2-1/2) stories with the exception that split-level homes may have a maximum of two and one-half (2-1/2) stories on either the front or rear, elevation and a maximum of three and one-half (3-1/2) stories on the elevation which begins at the lowest grade. For homes over one story, permitted roof heights as measured from the top of the second floor top plate to the highest ridge line and/or peak (excluding lighting rods and decorative iron) may not exceed 100% of the height of the home as measured from the Finish Floor Elevation of the first floor to the top of the second story top plate.

**1.07 Single Family - Type B on Tract I-B:** Single Family - Type B units are another form of detached housing. Building and area requirements are as follows:

- a. **Minimum Dwelling Size:** The minimum area of the main building shall be two thousand four hundred (2400) square feet, exclusive of garages breezeways and porticos.
- b. **Lot Area:** The minimum area of any lot within Tract I-B shall be fourteen thousand four hundred and ninety square feet (14,490).
- c. **Lot Coverage:** In no case shall more than forty percent (40%) of the total lot area be covered by the combined area of the main buildings and accessory buildings. Swimming pools, spas, decks, patios, driveways, walks and other paved areas shall not be included in determining maximum lot coverage.
- d. **Lot Width:** The minimum width of any lot shall be a minimum of ninety feet (90') at the front building line, except that a lot at the terminus of a cul-de-sac or along street elbows/eyebrows may have a minimum width of sixty feet (60') at the building line; provided all other requirements of this section are fulfilled.

- e. **Lot Depth:** The minimum depth of any lot shall be a minimum of one hundred and sixty feet (160'), except that a lot at the terminus of a cul-de-sac or along street elbows/eyebrows may have minimum lot depth, measured at mid-points on front and rear lot lines, of one hundred feet and twenty feet (120') provided all other requirements of this section are fulfilled.
- f. **Front Yard:** The minimum depth of the front yard shall be thirty-five feet (35').
- g. **Side Yard:** The minimum side yard on each side of the lot shall be ten feet (10'). A side yard adjacent to a street shall be a minimum of fifteen feet (15').
- h. **Rear Yard:** The minimum depth of the rear yard shall be thirty feet (30'). If the rear lot line abuts a dedicated alley, the garage drive entry, if provided, must be set back a minimum of twenty feet (20').
- i. **Maximum Building Height:** Buildings shall be a maximum of two and one-half (2-1/2) stories with the exception that split-level homes may have a maximum of two and one-half (2-1/2) stories on the front or rear, elevation and a maximum of three and one-half (3-1/2) stories on the elevation, which begins at the lowest grade. For homes over one story, permitted roof heights as measured from the top of the second floor top plate to the highest ridge line and/or peak (excluding lighting rods and decorative iron) may not exceed 100% of the height of the home as measured from the Finish Floor Elevation of the first floor to the top of the second story top plate.

**1.08 Internal Utilities for Development:**

All franchise utilities within the development shall be run underground.

**1.09 General Landscaping Requirements for Tracts I-A & I-B:**

For lots developed on Tracts I-A, I-B, two hardwood shade trees with a minimum of three caliper inches (3") shall be planted within the lot area. One shade tree in the lot may be substituted for three (3) ornamental trees. A credit toward these requirements shall be granted by preserving existing trees on any lot equal to one caliper inch credit for each caliper inch of tree preserved regardless of specie of preserved tree. These requirements shall satisfy landscape and tree requirements for single-family homes.

**1.10 General Requirements for Tracts I-A, I-B,**

- a. **Driveways:** Covered drives and porte-cocheres that are architecturally designed as an integral element of the residential or garage structure of Single Family, detached structures shall be permitted to extend up to fifteen feet (15') from the established front building line into the front yard area; that area between the street pavement and the front building line

- b. **Side Yards:** If approved by the Town of Prosper, Texas, at the time of platting, side and rear yard requirements may be waived where they abut a common open space.
- c. **Streets:** All interior streets for the development shall be 24' from edge of concrete to edge of concrete. All lots in tracts I-A, I-B and to be serviced by bar ditches. Due to the low density of the community, cul-de-sac's of up to 1,000 feet will be permitted if not more than fourteen (14) lots front onto the cul-de-sac.
- d. **Roof Materials:** No wood roofing materials are permitted within the development.
- e. **Fire Sprinkler Requirements:** All residential structures in excess of 6000 ft of gross space shall be required to have working sprinkler systems in accordance with UBC requirements at the time of adoption of this agreement by the Town council of Prosper.
- f. **Sidewalks:** The Developer shall install the 35' wide combined-use hike/bike/equestrian trail along CR 80 and CR 122 as approved by Town Council and the Parks Board to satisfy all park fee requirements and sidewalk escrow requirements.
- e. **Park Trail:** The Developer shall be permitted to construct a parallel trail system. One trail is specifically to service pedestrian traffic that will consist of a 4' wide and 4" thick concrete ribbon. The second trail will consist of a 6 to 8 foot wide cinder trail for equestrian use. These trails are to run on a basically parallel path with no physical separation barrier. The Developer may vary the separation of the two trails where restraining topographic conditions exist creating an unsafe condition for pedestrian, equestrian and bicycle users.
- f. **Bridle Trail:** Bridle trail to be of in-situ shredded wood chips and is to be maintained by the Owner/Operator of the Whispering Farms Equestrian Center.
- g. **Perimeter Screening:** The developer shall not be required to erect, but shall be permitted to erect living screens, screen walls and/or fencing along the major thoroughfares and collector roads to include masonry; iron, plastic or wood fencing and/or landscape materials (living screen), provided plans are submitted and approved by Town of Prosper staff.
- j. **Walls:** Privacy walls and fences are not allowed on any lot larger than 20,000 square feet, with the sole exception being for a privacy fence surrounding a pool or spa. For any lot smaller than 20,000 square feet regardless of Tract, a privacy fence may be constructed (builder/owner choice) along the property line, within the front, rear or side yard space. There may exist special lot conditions where the front building lines are offset for adjacent lots whereby privacy walls may be required within the front building line for privacy conditions. Fences and walls shall be set back a

minimum of ten feet (10') from the front elevation of the home. Such walls will be constructed of materials consistent with the exterior architectural elements of the home. Fencing material to be a durable treated or seasoned wood material of cedar or better and is to utilize metal posts, concrete footer for these metal posts and board-on-board only with further construction details as further defined within the CCR package for each phase of development. No front yard fencing is to be allowed in Tracts I-A, I-B, unless approved by Town Council through a variance request.

**2.0 PLANNED DEVELOPMENT - COMMERCIAL Tracts I-C (± 6 acres located at the Southeast corner of CR 80 and CR 122), and**

**2.01 General Description:** The Commercial areas will provide the ability to encourage and to accommodate the further development of neighborhood service centers along future Coit Road and CR 122

**2.02 Permitted Uses:** The following uses shall be permitted in the commercial areas indicated as Tracts I-C on Exhibit "B".

- Advertising Signs - Permitted in compliance with the Town of Prosper, Texas Sign Ordinance as it presently exists or may be amended
- Antique Shops - Indoor Display Only
- Appliance Stores
- Artist Materials and Supplies
- Auto Laundries/ Car Wash Facilities
- Auto Parts Sales - No Outdoor Storage/Display
- Baby Shops
- Bakery and Confectionery Shops
- Banks, Savings and Loan and Credit Unions
- Banks, Savings and Loan and Credit Unions - With Drive-Thru Services
- Barber/Beauty Shops
- Beverage Stores - In accordance with other applicable Town of Prosper, Texas Ordinances as they presently exist or may be amended
- Book and Stationery Shops
- Bus Stops
- Business Services
- Cafeterias
- Camera Shops
- Candy and Cake Shops
- Catering Establishments
- Churches/Rectories
- Clothing and Apparel Stores
- Clothing, Footwear and Textile Centers
- Computer Sales and Repairs
- Computer Training Facilities
- Convenience Stores
- Convenience Stores - With Gas Service
- Copy Services (i.e. Quick Copy)
- Corporate and Professional Office Facilities and Headquarters

- Curio and Gift Shops
- Dairy Products and Ice Cream Stores
- Day Care Centers for Children
- Delicatessens
- Drapery Shops
- Dress Shops
- Drug Stores/Pharmacies
- Dry Good Stores
- Electronic Product Sales
- Electronic Security Facilities
- Feed Stores
- Financial Institutions
- Fitness and Health Centers
- Florist and Garden Shops
- Fraternal Organizations, Lodges and Civic Clubs
- Furniture and Upholstery Centers - Including Repairs
- Furniture, Home Furnishings and Equipment Showrooms and Sales
- Furniture Stores
- General Merchandise Stores
- Governmental and Utility Agencies, Offices and Facilities - No outdoor storage unless screened
- Greenhouse and Nursery Facilities - Sales Permitted
- Grocery Stores and Supermarkets
- Guard and Patrol Services
- Hardware and Building Materials Stores - No outdoor storage unless screened
- Health Product Sales
- Hospitals and Emergency Centers
- Household Appliance Services and Repairs
- Interior Decorating Stores
- Jewelry Stores
- Key Shops/Locksmiths
- Laundromats
- Laundry and Dry Cleaning Establishments
- Leather Goods Shops
- Meat Markets - No Slaughter Houses or Packing Plants
- Medical Equipment Showrooms
- Medical and Health Care Facilities/Clinics
- Medical Offices
- Messenger/Courier and Telegraph Services
- Municipal Buildings and Facilities
- Museums, Libraries, Art Schools and Art Galleries
- Musical Instrument Sales
- Newspaper and Magazine Sales
- Novelty/Notion Stores
- Offices - Professional, Administrative and General Offices - Including but not limited to, doctors, optometrists, psychiatrists, attorneys, architects,

engineers, planners, travel agents, advertising, insurance and real estate offices

- Office Showroom Facilities - Sales Permitted
- Office Businesses
- Office Equipment Repairs and Maintenance
- Office Supplies and Sales
- Optical Stores - Sales and Services
- Paint Stores
- Parks, Playgrounds, Recreational Facilities and Community Centers
- Pet Grooming and Supplies
- Pet Shops
- Photographic Services
- Play Equipment - Sales and Display
- Post Office Facilities
- Printing and Duplicating Establishments
- Private Club Facilities - In accordance with other applicable Town of Prosper, Texas Ordinances as they presently exist or may be amended
- Radio and Television Sales and Services
- Recreation Centers - Public and Private
- Restaurants
- Restaurants - With Drive-In/Drive-Thru Service
- Retail Sales
- Retail Shops and Stores
- Schools - Public or State Accredited
- Scientific/Research Facilities - Emissions of hazardous or toxic chemicals shall be prohibited
- Securities and Commodities Offices - Including, but not limited to, brokers, dealers, underwriters, exchange offices and similar offices
- Service Stations Full Service (Including Bays)
- Service Stations - Self Service
- Sewing Machine Sales and Services
- Shoe and Boot Sales and Repair Stores
- Sign Sales, Sign installation to be in compliance with the Town of Prosper, Texas Sign Ordinance as it presently exists or may be amended
- Small enclosed Machinery Sales and Services - Service and repair facilities to be under roof and enclosed.
- Specialty Shops and Boutiques
- Sporting Good Sales
- Studios - Art, Photography, Music, Dance, Gymnastics, Health, etc.
- Tailor Shops
- Theaters - Indoor
- Theatrical Centers
- Tire Dealers - No Outdoor Storage
- Toy Stores
- Trade and Commercial Schools
- Travel Bureaus
- Trophies and Awards Shops
- Utility Distribution Systems and Facilities

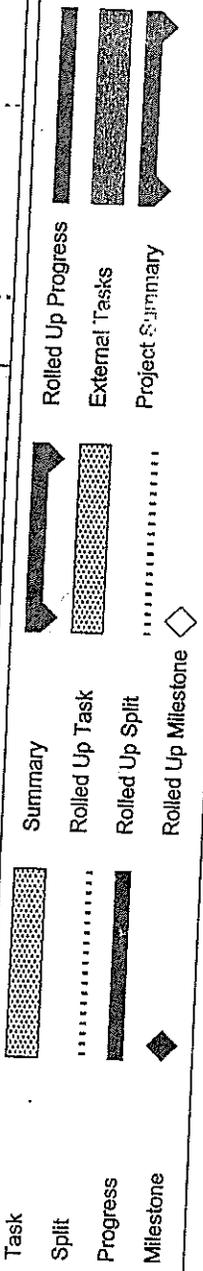
- Variety Stores
  - Veterinarian Clinics and Kennels - Limited to Small Animals (No Outside Runs)
  - Watch Making Shops
  - Accessory buildings and uses customarily incidental to the permitted uses
  - Temporary buildings and uses incidental to construction work on the premises to be removed upon completion or abandonment of construction work
  - Uses similar to the above-mentioned permitted uses, provided the Prosper Town Council approves said uses prior to the issuance of a building permit.
- 2.03 **Density:** Allowed density for Tracts I-C shall be as follows: The allowed floor area ratio for buildings located within Tracts I-C shall be 4:1.
- 2.04 **Required Parking:** Parking shall be provided according to Zoning Ordinance No. 84-16, as it presently exists or may be amended. Parking shall be permitted within all required yard areas.
- 2.05 **Off-Street Parking and Loading Conditions:** Off-street parking and loading requirements shall conform to Zoning Ordinance No. 84-16 as it presently exists or may be amended. Off-street parking and loading shall be permitted within all required yard areas.
- 2.06 **Shared Parking:** all owners or parties involved must submit shared parking agreements, in writing to the Town of Prosper. The agreement must be approved by the Town of Prosper, Texas. If approved, the reduction shall be tied to the uses listed in the shared agreement. If any of the uses change, a reassessment of the shared parking agreement will be required. The Town of Prosper, Texas shall not permit new uses until another agreement is approved by the Town of Prosper, Texas or the individual parking requirements are met.
- 2.07 **Building Materials:** A minimum of ninety percent (90%) of the total exterior wall surfaces of all main buildings shall have an exterior finish of glass, natural and/or cultured stone, stucco, brick, split-face CMU or similar materials (as approved by the Town of Prosper, Texas) or any combination thereof. The use of wood as an accent exterior building material shall be limited to a maximum of ten percent (10%) of the total exterior wall surfaces. Additionally, a structure may be comprised of 50% brick, stone or other conventional material and the balance of the exterior finish to be Hardi-plank.
- 2.08 **Building Heights:** The permitted height of all buildings within the commercial tracts, Tracts I-C and I-SC shall be two (2) stories or 36 feet.
- 2.09 **Lot Area:** The minimum area of any lot shall be twelve thousand five hundred (12,500) square feet.
- 2.10 **Lot Width:** The minimum width of any lot shall be one hundred feet (100').
- 2.11 **Lot Depth:** The minimum depth of any lot shall be one hundred twenty-five feet (125').

- 2.12 **Lot Coverage:** In no case shall more than fifty percent (50%) of the total lot area be covered by the combined area of the main buildings. Parking structures and surface parking facilities shall be excluded from the coverage computations.
- 2.13 **Front Yard:** There shall be a front yard having a depth of not less than thirty feet (30'). Front yard setbacks are required on both streets for corner lots.
- 2.14 **Side Yard:** Side yard requirements for commercial areas shall be as follows:
- a. No side yard shall be required where commercial structures are attached.
  - b. A ten foot (10') side yard shall be required where commercial structures are located adjacent to one another and where vehicle access is not required.
  - c. A twenty-four foot (24') side yard shall be provided where fire lane access is required and provision for a vehicular access/fire lane easement is not available on the adjoining property.
  - d. A twenty-five foot (25') side yard shall be provided adjacent to a single family zoned district.
  - e. A thirty foot (30') side yard shall be provided adjacent to a dedicated street.
- 2.15 **Rear Yard:** Rear yard requirements for commercial areas shall be as follows:
- a. No rear yard shall be required where commercial structures are attached.
  - b. A ten foot (10') rear yard shall be required where commercial structures are located adjacent to one another and where vehicle access is not required.
  - c. A twenty-four foot (24') rear yard shall be provided where fire lane access is required and provision for a vehicular access/fire lane easement is not available on the adjoining property.
  - d. A twenty-five foot (25') rear yard shall be provided adjacent to a single family zoned district.
  - e. A thirty-foot (30') rear yard shall be provided adjacent to a dedicated street.
- 2.16 **Screening Wall:** Developer of Whispering Farms Phase I has installed a living screen of Eastern Red Cedars as part of the work completed for Phase I. This screen shall serve as the screening wall between the residential, church and commercial areas. The developer of the non-residential properties shall install landscaping ground cover and one 3-inch caliper large tree per thirty linear feet of adjacency to the living screen within a minimum 15-foot landscape buffer. The owners of the non-residential properties shall be responsible for maintaining the landscaping and the living screen in a healthy growing condition.

### 3.0 PLANNED DEVELOPMENT - GENERAL CONDITIONS

- 3.01 **General Compliance:** Except as amended by these conditions, development of property within this Planned Development must comply with the requirements of all ordinances, rules and regulations of the Town of Prosper, Texas as they presently exist or may be amended.
- a. All paved areas, permanent drives, streets and drainage structures must be constructed in accordance with standard Town of Prosper, Texas specifications as they presently exist or may be amended.
  - b. The Building Inspector shall not issue a building permit or a certificate of occupancy for a use in a phase of this Planned Development District until there has been full compliance with these codes and all other rules and regulations of the Town of Prosper, Texas as they presently exist or may be amended and area applicable to that phase.
- 3.02 **Maintenance of Facilities:** The Owner(s) shall establish, with each development plan submittal, a property owner's association, or other designation that will be responsible for the improvement and maintenance of all common areas and/or common facilities contained within the area of the development plan.
- 3.03 **Performance Bond.** Developer agrees to provide to the Town a Performance Bond on all public improvements dedicated to the Town. This bond is to be a 2 year, 10% bond.

ID	Task Name	Duration	Start	Finish	Predecessors	2005				2006
						Qtr 1	Qtr 2	Qtr 3	Qtr 4	Qtr 1
1	Whispering Farms	506 days	Mon 3/29/04	Mon 3/16/06						
2	Phase I	450 days	Mon 3/29/04	Fri 12/16/05						
3	City Acceptance	0 days	Mon 3/29/04	Mon 3/29/04						
4	Recording of Plat	0 days	Mon 3/29/04	Mon 3/29/04						
5	Phase I Build out	450 days	Mon 3/29/04	Fri 12/16/05						
6	PD Cleanup	15 days	Mon 3/29/04	Fri 4/16/04	3					
7	WF Construction Projects	270 days	Mon 4/19/04	Fri 4/29/05	6					
8	Equestrian Center	90 days	Mon 4/19/04	Fri 8/20/04						
9	Commercial Corner	270 days	Mon 4/19/04	Fri 4/29/05						
10	Church Lot	270 days	Mon 4/19/04	Fri 4/29/05						
11										
12	Phase 2	506 days	Mon 3/29/04	Mon 3/16/06						
13	Engineering Plans	300 days	Mon 3/29/04	Fri 5/20/05	4					
14	Resolve Sewer issue	300 days	Mon 3/29/04	Fri 5/20/05	4					
15	Final Plat	1 day	Mon 5/23/05	Mon 5/23/05	13,14					
16	Phase 2 Development	205 days	Tue 5/24/05	Mon 3/6/06	15,13					
17	Grading	40 days	Tue 5/24/05	Mon 7/18/05	15					
18	Water / Sewer ?	30 days	Tue 7/19/05	Mon 8/29/05	17					
19	Paving	35 days	Tue 8/30/05	Mon 10/17/05	18					
20	Franchise Utilities	75 days	Tue 10/18/05	Mon 1/30/06	19					
21	Trail Improvements	25 days	Tue 1/31/06	Mon 3/6/06	20					
22	City Acceptance Phase 2	0 days	Mon 3/6/06	Mon 3/6/06	21					



Project: WF Phase II Timeline for PD  
Date: Wed 4/7/04

# Exhibit D