

TOWN OF PROSPER, TEXAS

ORDINANCE NO. 06 - 83

AN ORDINANCE AMENDING PROSPER'S ZONING ORDINANCE NO. 05-20; REZONING A TRACT OF LAND CONSISTING OF 72.318 ACRES, MORE OR LESS, SITUATED IN THE ELISHA CHAMBERS SURVEY, ABSTRACT NO. 179, IN THE TOWN OF PROSPER, COLLIN COUNTY, TEXAS, HERETOFORE ZONED AGRICULTURE (A) IS HEREBY REZONED AND PLACED IN THE ZONING CLASSIFICATION OF PLANNED DEVELOPMENT DISTRICT (PD-28) FOR SINGLE FAMILY-22 AND -15 RESIDENTIAL USES; 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 Mooreland Development ("Applicant") to rezone 72.318 acres of land, more or less, situated in the Elisha Chambers Survey, Abstract No. 179, 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 72.318 acres of land, more or less, situated in the Elisha Chambers Survey, Abstract No. 179, 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 (PD-28) District for Single Family Uses (SF-22 and

SF-15). 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 for Whispering Meadows, attached hereto as Exhibit "C"; 3) the Conceptual Development Plan, 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 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 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.

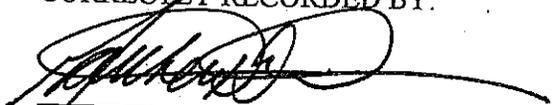
SECTION 8: Effective Date. This Ordinance shall become effective from and after its adoption and publications as required by law.

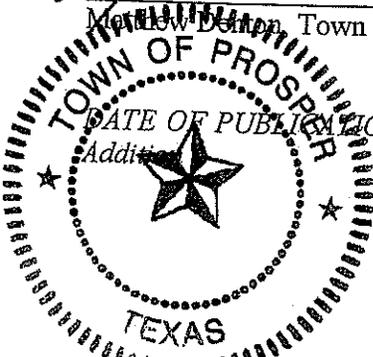
DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS ON THIS 13<sup>th</sup> DAY OF JUNE, 2006.

APPROVED AS TO FORM:

  
Charles Niswanger, Mayor

ATTESTED TO AND  
CORRECTLY RECORDED BY:

  
Town Secretary



DATE OF PUBLICATION: Aug 22<sup>nd</sup>, 2006, Dallas Morning News - Collin County

LEGAL DESCRIPTION  
EXHIBIT A

BEING all that tract of land in the Town of Prosper, Collin County, Texas, a part of the Elisha Chambers Survey, Abstract No. 179, and being a part of that 79.4381 acre tract of land conveyed to Fort Prosper, LP as recorded in Volume 5895, Page 799, Deed Records Collin County, and being further described as follows:

BEGINNING at a one-half inch iron rod set for the northeast corner of said 79.4381 acre tract of land, said point being the southeast corner of a 11.921 acre tract of land conveyed to Bob Walker as recorded in Volume 3205, Page 256, Deed Records Collin County, and said point being in the center of County Road No. 80 (a variable width right-of-way);

THENCE along the east line of said 79.4381 acre tract of land and along the center of County Road No. 80 as follows:

South 01 degrees 30 minutes 04 seconds East, 1265.68 feet to a one-half inch iron rod found for corner;

South 01 degrees 09 minutes 23 seconds East, 551.03 feet to a one-half inch iron rod found for the southeast corner of said 79.4381 acre tract of land, said point being the northeast corner of a 77.4419 acre tract of land described as the South Tract conveyed to NW Coit/CR81' L.P. as recorded in Volume 5895, Page 829, Deed Records Collin County;

THENCE West, 2123.02 feet along the south line of said 79.4381 acre tract of land and along the north line of said 77.4419 acre tract of land to a one-half inch iron rod found at the southeast corner of a 7.1196 acre tract of land conveyed to Collin County Investments, Ltd. as recorded in Volume 5984, Page 88, Deed Records Collin County;

THENCE North 18 degrees 56 minutes 58 seconds East, 534.57 feet to a one-half inch iron rod found in the west line of said 79.4381 acre tract of land, said point being the northeast corner of said 7.1196 acre tract of land, and said point being in the south line of Lot 42, Block B, Highland Meadows, Phase Two, an addition to the Town of Prosper as recorded in Cabinet N, Page 426, Map Records Collin County;

THENCE North 88 degrees 54 minutes 31 seconds East, 247.25 feet along the west line of said 79.4381 acre tract of land to a one-half inch iron rod found for the southeast corner of Lot 43, Block B, of said Highland Meadows, Phase Two;

THENCE along the west line of said 79.4381 acre tract of land and along the east line of said Highland Meadows, Phase Two as follows:

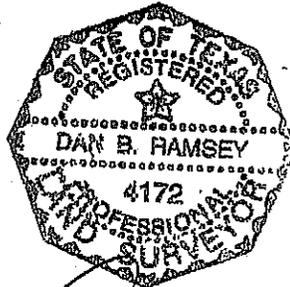
North 01 degrees 04 minutes 14 seconds West, 201.71 feet to a one-half inch iron rod found for corner;

North 01 degrees 39 minutes 55 seconds West, 831.51 feet to a one-half inch iron rod found for corner;

North 01 degrees 19 minutes 24 seconds West, 161.11 feet to a one-half inch iron rod found for the northwest corner of said 79.4381 acre tract of land, and said point being the southwest corner of said 11.921 acre tract of land;

THENCE North 86 degrees 12 minutes 32 seconds East, 1693.32 feet along the north line of said 79.4381 acre tract of land and along the south line of said 11.921 acre tract of land to the POINT OF BEGINNING and containing 3,150,191 square feet or 72.318 acres of land.

"This document was prepared under 22 TAC 663.23, does not reflect the results of an on the ground survey, and is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared."



*[Handwritten Signature]* 3/24/06

Exhibit B:

## **Whispering Meadows**

### **Statement of Intent and Purpose**

The intent is to develop large lots with a rural, bar ditch street section in an area of Prosper known for its larger lot developments. Total density is not to exceed 1.37 units per acre, and the minimum lot size is 15,000 square feet with the average lot size to be in excess of 22,000 square feet.

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)

# PLANNED DEVELOPMENT STANDARDS WHISPERING MEADOWS

UPDATED 04-11-06

## 1.0 PLANNED DEVELOPMENT – RESIDENTIAL – 72.32 acres

Tracts 1 (± 36.32 acres), 2 (± 36.00 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-22, and/or Single Family-15. 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 1 and 2 shall be no more than 1.37 units per gross acre or a total of ninety eight (98) units, as calculated on a gross land area based on approximately seventy-two (72) acres as contained within the entire tract of land covered by this PD.

1.03 **Permitted Uses:** Land uses permitted within residential areas, indicated as Tracts 1 and 2 on Exhibit "D", are as follows:

- a. Residential units as described herein.
- b. Permitted uses referenced in the Prosper Zoning Ordinance 05-20 for use SF-15 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.

**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, 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. **Bar Ditches and Culverts:** Developer agrees that all lots serviced by bar ditches within the development will require:
  - 1) Builder-installed culverts and driveway monuments on all one (1) 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.
  - 2) Developer-maintained engineered grades and drainage capacity within the bar ditches during the development to ensure the designed drainage capacity during the five (5) year maintenance period.
  - 3) HOA to assume maintenance of Bar Ditches for a period five (5) years after date of final acceptance by Town of that particular phase of the subdivision.
- d. **Garage Orientation:** For Tract 2, no homes will have two (2) or more garages facing the street which the front elevation of the house is oriented toward unless said garage is located at least twenty-five (25) feet behind the front building line.

**1.06 Single Family-22 in Tract 1:** Single Family-22 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 square feet (2600 s.f.), exclusive of garages breezeways and porticos.
- b. **Lot Area:** The minimum area of any lot within Tract 1 shall be twenty-two thousand square feet (22,000 s.f.).
- c. **Lot Coverage:** In no case shall more than forty-five percent (45%) 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 ninety feet (90') 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 forty feet (40') Front building lines shall be staggered per Prosper Zoning Ordinance 05-20.
  - g. **Side Yard:** The minimum side yard on each side of the lot shall be twelve feet (12'). 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 twenty five feet (25'). 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-15 on Tract 2:** Single Family-15 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 square feet (2400 s.f.), exclusive of garages breezeways and porticos.
  - b. **Lot Area:** The minimum area of any lot within Tract 2 shall be fifteen thousand square feet (15,000 s.f.).
  - c. **Lot Coverage:** In no case shall more than forty-five percent (45%) 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 eighty feet (80') 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'). Front building lines shall be staggered per Prosper Zoning Ordinance 05-20.
- 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 twenty five feet (25'). 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 one hundred ten percent (110%) 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 1, 2:**

For lots developed on Tract 1, four hardwood shade trees with a minimum of three caliper inches (3") shall be planted within the lot area. For lots developed on Tract 2, three (3) hardwood shade trees with a minimum of three caliper inches (3") shall be planted within the lot area. One (1) 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 (1) 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 1, 2:**

- 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. In no case shall the front setback be less than twenty feet (20').
- b. **Streets:** All interior streets for the development shall be twenty-six feet (26') from edge of concrete to edge of concrete with two foot (2') shoulders on both sides. All lots in Tracts 1 and 2 are to be serviced by bar ditches. Due to the low density of the community, cul-de-sac's of up to one thousand feet (1000') will be permitted for streets servicing tracts with less than one (1) unit per acre overall density.

- c. **Walls:** Privacy walls and fences are not allowed on any lot larger than twenty thousand square feet (20,000 s.f.), with the sole exception being for a privacy fence surrounding a pool or spa. For any lot smaller than twenty thousand square feet (20,000 s.f.), 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 off-set 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 1 and 2, unless approved by Council through a variance request.

#### 4.0 PLANNED DEVELOPMENT - GENERAL CONDITIONS

- 4.01 **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.
- 4.02 **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.
- 4.03 **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 two (2) year, ten percent (10%) bond.





