

TOWN OF PROSPER, TEXAS

ORDINANCE NO. 06 - 95

AN ORDINANCE AMENDING PROSPER'S ZONING ORDINANCE NO. 05-20; REZONING A TRACT OF LAND CONSISTING OF 65 ACRES MORE OR LESS, SITUATED IN THE GEORGE HORN SURVEY, ABSTRACT NO. 412, 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-32) FOR SINGLE FAMILY-ESTATE (SF-E) RESIDENTIAL USES WITH PRIVATE RURAL STREETS; 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 Company ("Applicant") to rezone 65 acres of land, more or less, situated in the George Horn Survey, Abstract No. 412, 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 98.049 acres of land, more or less, situated in the George Horn Survey, Abstract No. 412, 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-32) District for Single Family-15 Residential (SF-E) uses.

The property is 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 Planned Development Standards, with Statement of Intent and Development Schedule, attached hereto as Exhibit "B"; and 2) the Concept Plan, attached hereto as Exhibit "C"; 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.

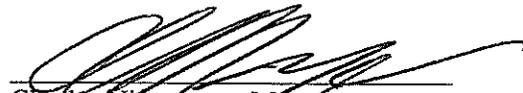
SECTION 6: Severability. Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. Prosper 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 12th DAY OF SEPTEMBER, 2006.

APPROVED AS TO FORM:


Charles Niswanger, Mayor

ATTESTED TO AND
CORRECTLY RECORDED BY:



Matthew Denton, Town Secretary



DATE OF PUBLICATION: SEPTEMBER 19, 2006 Morning News - Collin County
Addition

AFFIDAVIT OF PUBLICATION

STATE OF TEXAS

COUNTY OF DALLAS

Before me, a Notary Public in and for Dallas County, this day personally appeared Lynda Black, Legal Advertising Representative for the DALLAS MORNING NEWS being duly sworn by oath, states the attached advertisement of:

Town of Prosper

as published in The Dallas Morning News – Metro Collin County Edition on:

TOWN OF PROSPER, TEXAS
ORDINANCE NO. 06 - 95

A N O R D I N A N C E
AMENDING PROSPER'S
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AN EFFECTIVE DATE
OF THIS ORDINANCE;
AND PROVIDING FOR
THE PUBLICATION OF
THE CAPTION HEREOF

September 19, 2006
September 21, 2006

Lynda Black
(Lynda Black)

Sworn to and before me this

September 22, 2006, A.D

Lisa Battenfield
(Lisa Battenfield)



Exhibit B: PD Standards

PLANNED DEVELOPMENT STANDARDS

CHRISTIE FARMS

UPDATED 07/25/06

1.0 GENERAL DESCRIPTION - 65 ACRE RESIDENTIAL PLANNED DEVELOPMENT- The tract is 65 acres located on the west side of Custer Road approximately 1575 linear feet south of Frontier Parkway. The proposed PD allows for the development of one acre residential estate lots with private streets developed to rural roadway sections with roadside ditches. The lot count will not exceed 65. The tract will be developed under the regulations of the Single Family Estate District (SF-E) as outlined in the Town of Prosper Zoning Ordinance dated May 10, 2005, subject to the additional conditions as outlined below.

2.0 ADDITIONAL CONDITIONS

2.1. GENERAL DEVELOPMENT STANDARDS

- 2.1.1. **Lot Width:** The minimum width of any lot shall be 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.
- 2.1.2. **Lot Depth:** The minimum depth of any lot shall be 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.
- 2.1.3. **Front Yard:** The minimum depth of the front yard shall be thirty-five feet (35')
- 2.1.4. **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').
- 2.1.5. **Rear Yard:** The minimum depth of the rear yard shall be thirty feet (30').
- 2.1.6. **Minimum Dwelling Size:** The minimum area of the main building shall be twenty-six hundred (2600) square feet, exclusive of garages, breezeways, and porticos.
- 2.1.7. **Maximum Building Height:** Buildings shall be a maximum of two and one-half (2-1/2) stories high with the exception that split-level homes may have a maximum height of two and one-half (2-1/2) stories on either the front or rear, elevation and a maximum height 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 first floor bottom plate to the highest ridge line and/or peak (excluding lighting rods and decorative iron) may not exceed 45'.
- 2.1.8. **Streets:** All Streets will be private. A gated subdivision entrance will be allowed with a design approved by the Town Engineer and Fire Chief.
- 2.1.9. **Accessory buildings:** Accessory buildings and uses customarily incidental to the permitted uses are allowed. The total floor 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.

- 2.1.10. **Detached freestanding garages with "Granny Flats":** Detached freestanding garages with "Granny Flats", shall be permitted, and defined as accessory buildings. 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.
- 2.1.11. **Parking requirements:** 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
- 2.1.12. **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
- 2.1.13. **Walls:** Wood Privacy walls and fences are not allowed on any lot, with the sole exception being for a privacy fence surrounding a pool or spa. 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 unless approved by City Council through a variance request and such shall not exceed six feet in height with a minimum 50% open space.
- 2.1.14. **Temporary Buildings:** Temporary buildings and uses incidental to construction work on premises, which shall be removed upon completion, shall be permitted.

2.2. INFRASTRUCTURE

- 2.2.1. **Street Section:** Streets will be private and developed as Rural Neighborhood Street (2LRN) and Divided Residential Subdivision Entrance as indicated on the attached Exhibit "C". The Divided Residential Subdivision Entrance section may be modified to delete the outside curbs and include roadside ditches. In addition, parkway width and median width may be increased to accommodate entry features, drainage and landscaping.
- 2.2.2. **Cul-de-sacs:** Cul-de-sacs of up to 1000 feet will be permitted.
- 2.2.3. **Street Signs:** All street signs will incorporate the Town of Prosper logo as provided by the town to the developer.

- 2.2.4. **Lot to Lot Drainage:** Storm water runoff will be allowed to drain from lot to lot.
- 2.2.5. **Franchise Utilities:** All franchise utilities within the development shall be installed underground, and shall be located within easements.
- 2.2.6. **Bar Ditches and Culverts:** Ditches and culverts will be constructed adjacent to streets as necessary to convey the storm water runoff. The developer will maintain the engineered grades and drainage capacity of the bar ditches during the 5-year maintenance period . The HOA will assume maintenance of bar ditches at the end of the 5-year maintenance period. The Builder will install culverts and driveway monuments on all lots in accordance with the approved engineering drawings detailing the required culvert sizes for each residential lot.

2.3. BUILDING MATERIALS

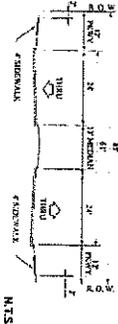
- 2.3.1. **Exterior Finish:** A minimum of ninety percent (90%) of the total exterior wall surfaces of all main buildings shall have an exterior finish of glass, natural and/or cultured stone, stucco, brick, cut- or split-face CMU or similar materials as approved by the Building Official of the Town 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.
- 2.3.2. **Fire Sprinkler Requirements:** All residential structures in excess of 5500 ft of AC space shall be required to have working sprinkler systems in accordance with UBC requirements at the time of adoption of this agreement by the city council of Prosper.

2.4. **PERIMETER SCREENING:** The developer 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.

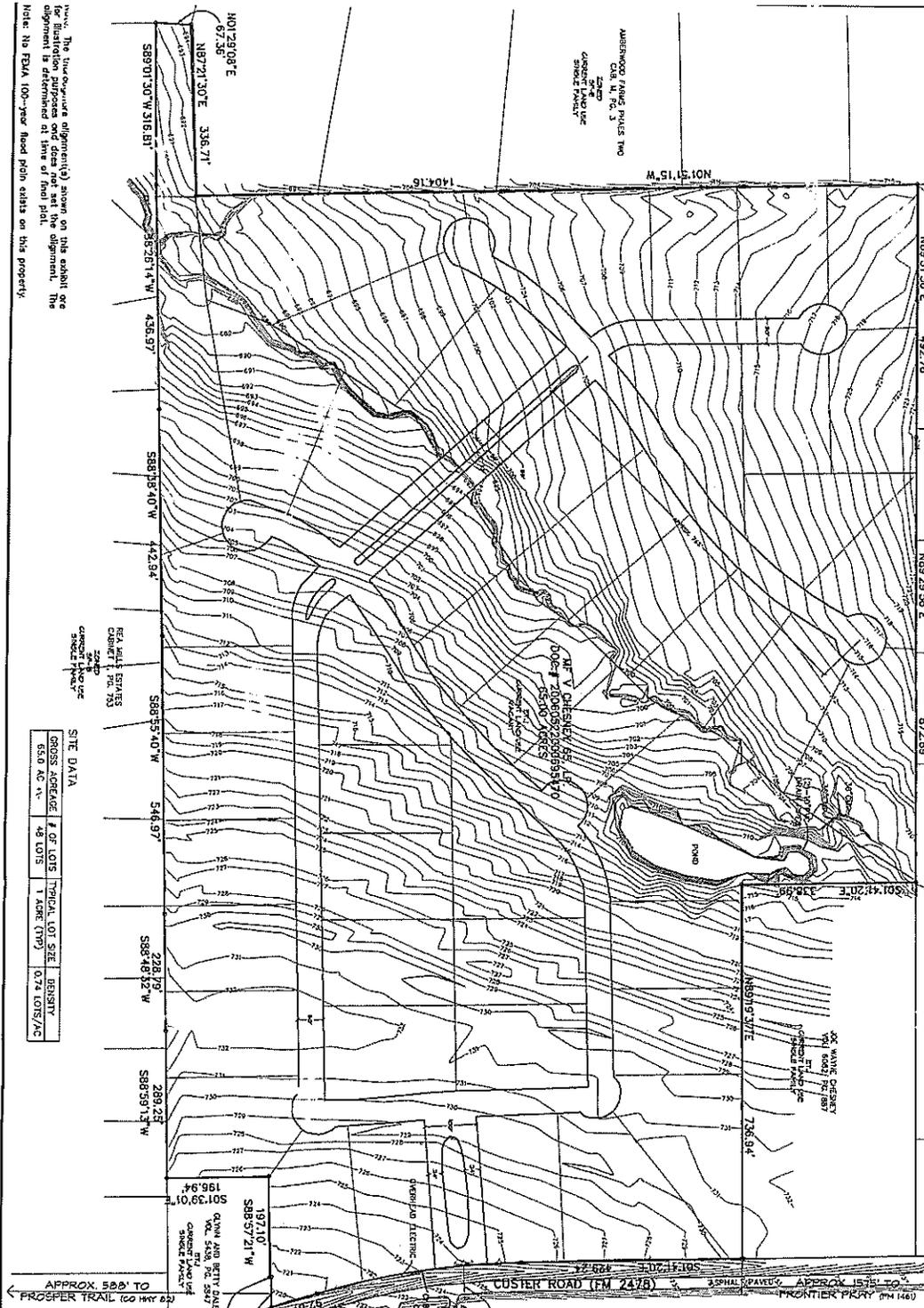
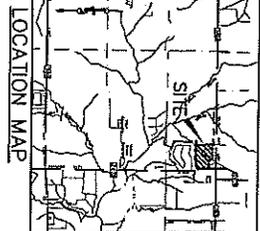
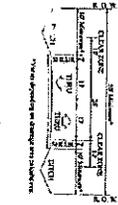
2.5. **MAINTENANCE:** The Owner(s) shall establish, with each development plan submittal, a property owner's association, or other designation that will be responsible for the improvement and maintenance of all common areas and/or common facilities contained within the area of the development plan. CCRs for the association shall be filed with the final plat.

3.0 **GENERAL CONDITIONS:** 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 City of Prosper, Texas as they presently exist.

Divided Residential Subdivision Entrance



Rural Neighborhood Street 2110'



OWNER/DEVELOPER
 M.F. V. CHESNEY 65, LP
 4316 LOWERS LAKE SUITE 350
 DALLAS, TEXAS 75225
 (214) 956-0832

PLANNER/SURVEYOR/ENGINEER
 JONES & BOYD, INC.
 17300 Dallas Parkway, Suite 200
 Dallas, Texas 75248
 (972) 234-0670

EXHIBIT C
 CHRISTIE FARMS
 65.00 ACRES OUT OF
 GEORGE HORN SURVEY, ASSHACT NO. 412
 COLLIN COUNTY, TEXAS

REVISIONS
 REVISED JULY 31, 2006
 JUNE 28, 2006

SHEET 2 OF 2