

FIRST AMENDMENT TO DEVELOPMENT AGREEMENT

THIS FIRST AMENDMENT TO DEVELOPMENT AGREEMENT (“First Amendment to Development Agreement”) is entered into by and between the Town of Prosper, Texas (“Town”), and VP Windsong Operations LLC and VP Windsong Investments LLC (collectively, “Owner”) (individually, a “Party” and collectively, the “Parties”) to be effective (the “Effective Date”) on the latest date executed by a Party.

WHEREAS, the Town is a home-rule municipal corporation, located in Collin County and Denton County, Texas, organized and existing under the laws of the State of Texas; and

WHEREAS, Owner is a Delaware limited liability company qualified to do business in the State of Texas; and

WHEREAS, Owner has developed Windsong Ranch located in Denton County in the Town, and more particularly described in Exhibit A, attached hereto and incorporated by reference (the “Property”); and

WHEREAS, in 2008 the Town approved Planned Development 40 (“PD-40”) relative to the development of the Property as a master-planned community, and has approved certain amendments to PD-40 subsequent thereto; and

WHEREAS, on or about January 14, 2020, the Town approved certain amendments to PD-40, as more fully described in the applicable zoning ordinance, and further, the Parties agreed to certain other matters, including architectural features and building materials to be utilized on the Property; and

WHEREAS, the foregoing were memorialized in a Development Agreement (“Development Agreement”) approved by the Town Council on or about January 14, 2020, and subsequently filed in the Denton County Real Property records on or about January 15, 2020, as Document # 6140; and

WHEREAS, on or about August 11, 2020, the Town Council considered and approved other amendments to PD-40, and authorized the execution of this First Amendment to Development Agreement on or about September 8, 2020; and

WHEREAS, this First Amendment to Development Agreement seeks to incorporate, in part, the negotiated and agreed upon development standards contained in PD-40, as amended, and to recognize Owner’s reasonable investment-backed expectations in PD-40, as amended; and

WHEREAS, subject to the terms of this First Amendment to Development Agreement, Owner agrees and acknowledges that it will construct on the Property structures in accordance with the provisions, standards and notes reflected in the Development Agreement executed on or about January 14, 2020, as amended by this First Amendment to Development Agreement.

NOW, THEREFORE, in consideration of the foregoing premises, and for other good and valuable consideration the receipt and adequacy of which are hereby acknowledged, the Parties to this Agreement agree as follows:

1. **Architectural Standards and Building Materials.** For any structure built on the Property following the Effective Date, it shall comply with the applicable requirements contained in Exhibit B, "Architectural Standards and Building Materials," attached hereto and incorporated by reference, and Owner agrees to construct those structures in compliance therewith. The Parties agree and acknowledge that the provisions of this Paragraph shall apply to any structure constructed subsequent to the execution of this Agreement. Nothing in this Agreement shall be deemed to modify or otherwise amend any zoning regulation duly adopted by the Town, previously or in the future.

2. **Effect of Development Agreement.** Except to the extent referenced in Exhibit B, attached hereto and incorporated by reference, all other terms and conditions contained in the Development Agreement executed on or about January 14, 2020, shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused this document to be executed as of the date referenced herein.

TOWN:

THE TOWN OF PROSPER, TEXAS

By: _____

Name: Harlan Jefferson

Title: Town Manager, Town of Prosper

STATE OF TEXAS)
)
COUNTY OF COLLIN)

This instrument was acknowledged before me on the ____ day of September, 2020, by Harlan Jefferson, Town Manager of the Town of Prosper, Texas, on behalf of the Town of Prosper, Texas.

Notary Public, State of Texas
My Commission Expires: _____

OWNER:

VP Windsong Operations LLC,
a Delaware limited liability company

By: _____
Name: David R. Blom
Title: Vice President

STATE OF TEXAS)
)
COUNTY OF DENTON)

This instrument was acknowledged before me on the ___ day of September, 2020, by David R. Blom, in his capacity as Vice President of VP Windsong Operations LLC, a Texas limited liability company, known to be the person whose name is subscribed to the foregoing instrument, and that he executed the same on behalf of and as the act of Owner.

Notary Public, State of Texas
My Commission Expires: _____

OWNER:

VP Windsong Investments LLC,
a Delaware limited liability company

By: _____
Name: David R. Blom
Title: Vice President

STATE OF TEXAS)
)
COUNTY OF DENTON)

This instrument was acknowledged before me on the ___ day of September, 2020, by David R. Blom, in his capacity as Vice President of VP Windsong Investments LLC, a Texas limited liability company, known to be the person whose name is subscribed to the foregoing instrument, and that he executed the same on behalf of and as the act of Owner.

Notary Public, State of Texas
My Commission Expires: _____

EXHIBIT A
(Property Description)

EXHIBIT B

ARCHITECTURAL STANDARDS AND BUILDING MATERIALS

1. **Type A Lots:** The architectural and building materials standards for Type A Lots are as follows:

A. Exterior Surfaces.

- i. The exterior facades of a main building or structure, excluding glass windows and doors, shall be constructed of one hundred percent (100%) masonry. Cementitious fiber board is considered masonry, but may only constitute fifty percent (50%) of the area for stories other than the first story. However, cementitious fiber board may not be used as a façade cladding material for portions of upper stories that are in the same vertical plane as the first story. Cementitious fiber board may also be used for architectural features, including window box-outs, bay windows, roof dormers, garage door headers, columns, chimneys not part of an exterior wall, or other architectural features approved by the Director of Development Services.
- ii. The surface area of windows surrounded completely by brick may be included within the computation of the exterior brick, brick veneer, stone, or stone veneer wall area of a residence.
- iii. **Address Plaque.** An address plaque or numbers made of cast stone, metal or other materials used on the exterior of the home of a size that meets Town fire code is required for each Type A Lot.
- iv. **Chimneys.** On Type A Lots, all exposed portions of the fire breast, flu and chimney shall be clad in cementitious lap siding, brick, stone or stucco. Chimneys located on an exterior wall must be 100% brick or stone.
- v. **Stucco.** Stucco on structures on Type A Lots shall be traditional 3-coat process cement plaster stucco.
- vi. **EIFS.** EIFS (Exterior Insulating and Finish Process) is not allowed on structures on Type A Lots.

B. Windows. All window framing on structures on Type A Lots shall be bronzed, cream, sand or white anodized aluminum, vinyl or wood.

- i. Window shutters may be used on structures on Type A Lots. Window shutters shall be painted, stained wood, or fiberglass.
- ii. No reflective window coverings or treatments shall be permitted.

C. Roofing.

- i. Structures constructed on the Type A Lots shall have a composition, slate, clay tile or cement/concrete tile roof.
- ii. The color of the composition roof must appear to be weathered wood shingles, black or slate, unless such other color is approved by the Director of Development Services.
- iii. Composition roof shingles must be laminated and have a minimum warranty of 30 years.
- iv. The main roof pitch of any structure shall have a minimum slope of 8" in 12". Clay tile and cement/concrete tile roofs shall have a minimum slope of 3" in 12". Pitch ends shall be 100% guttered.

D. Garage Doors. Garage doors shall be constructed of either metal or wood.

E. Accessory Structures. Accessory structures shall be subject to the same exterior construction and architectural standards as the main dwelling.

2. Type B Lots: The architectural and building materials standards for Type B Lots are as follows:

A. Exterior Surfaces.

- i. The exterior facades of a main building or structure, excluding glass windows and doors, shall be constructed of one hundred percent (100%) masonry. Cementitious fiber board is considered masonry, but may only constitute fifty percent (50%) of the area for stories other than the first story. However, cementitious fiber board may not be used as a façade cladding material for portions of upper stories that are in the same vertical plane as the first story. Cementitious fiber board may also be used for architectural features, including window box-outs, bay windows, roof dormers, garage door headers, columns, chimneys not part of an exterior wall, or other architectural features approved by the Director of Development Services.
- ii. The surface area of windows surrounded completely by brick may be included within the computation of the exterior brick, brick veneer, stone, or stone veneer wall area of a residence.
- iii. **Address Plaque.** An address plaque or numbers made of cast stone, metal or other materials used on the exterior of the home of a size that meets Town fire code is required for each Type B Lot.
- iv. **Chimneys.** On Type B Lots, all exposed portions of the fire breast, flu and chimney shall be clad in cementitious lap siding, brick, stone or stucco. Chimneys located on an exterior wall must be 100% brick or stone.
- v. **Stucco.** Stucco on structures on Type B Lots shall be traditional 3-coat process cement plaster stucco.

vi. **EIFS.** EIFS (Exterior Insulating and Finish Process) is not allowed on structures on Type B Lots.

B. Windows. All window framing on structures on Type B Lots shall be bronzed, cream, sand or white anodized aluminum, vinyl or wood.

i. Window shutters may be used on structures on Type B Lots. Window shutters shall be painted, stained wood, or fiberglass.

ii. No reflective window coverings or treatments shall be permitted.

C. Roofing.

i. Structures constructed on the Type B Lots shall have a composition, slate, clay tile or cement/concrete tile roof.

ii. The color of the composition roof must appear to be weathered wood shingles, black or slate, unless such other color is approved by the Director of Development Services.

iii. Composition roof shingles must be laminated and have a minimum warranty of 30 years.

iv. The main roof pitch of any structure shall have a minimum slope of 8" in 12". Clay tile and cement/concrete tile roofs shall have a minimum slope of 3" in 12". Pitch ends shall be 100% guttered.

D. Garage Doors. Garage doors shall be constructed of either metal or wood.

E. Accessory Structures. Accessory structures shall be subject to the same exterior construction and architectural standards as the main dwelling.

3. Type C Lots: The architectural and building materials standards for Type C Lots are as follows:

A. Exterior Surfaces.

i. The exterior facades of a main building or structure, excluding glass windows and doors, shall be constructed of one hundred percent (100%) masonry. Cementitious fiber board and siding are considered masonry. However, cementitious fiber board and siding may only be used as the primary exterior façade material in a limited number of homes as specified in Table 1 of the Development Standards (Exhibit C) to PD-40.

ii. The surface area of windows surrounded completely by brick may be included within the computation of the exterior brick, brick veneer, stone, or stone veneer wall area of a residence.

iii. **Address Plaque.** An address plaque or numbers made of cast stone, metal or other materials used on the exterior of the home of a size that meets Town fire code is required for each Type C Lot.

- iv. **Chimneys**. On Type C Lots, all exposed portions of the fire breast, flu and chimney shall be clad in cementitious lap siding, brick, stone or stucco. Chimneys located on an exterior wall must be 100% brick or stone.
 - v. **Stucco**. Stucco on structures on Type C Lots shall be traditional 3-coat process cement plaster stucco.
 - vi. **EIFS**. EIFS (Exterior Insulating and Finish Process) is not allowed on structures on Type C Lots.
- B. Windows**. All window framing on structures on Type C Lots shall be bronzed, cream, sand, white or other commercially available colors in anodized aluminum, vinyl or wood.
- i. Window shutters may be used on structures on Type C Lots. Window shutters shall be painted, stained wood, or fiberglass.
 - ii. No reflective window coverings or treatments shall be permitted.
- C. Roofing**.
- i. Structures constructed on the Type C Lots shall have a composition, slate, synthetic slate, standing seam metal, clay tile or cement/concrete tile roof.
 - iii. Composition roof shingles must be laminated and have a minimum warranty of 30 years.
 - iv. The main roof pitch of any structure shall have a minimum slope of 8" in 12" for at least 75% of all Type C Lots. Up to 25% of Type C Lots may have roof pitches anywhere in the range between 3" in 12" and 8" in 12". Pitch ends shall be 100% guttered.
- D. Garage Doors**. Garage doors shall be constructed of either metal or wood.
- E. Accessory Structures**. Accessory structures shall be subject to the same exterior construction and architectural standards as the main dwelling.
- 4. Type D Lots**: The architectural and building materials standards for Type D Lots are as follows:
- A. Exterior Surfaces**.
- i. The exterior facades of a main building or structure, excluding glass windows and doors, shall be constructed of one hundred percent (100%) masonry. Cementitious fiber board and siding are considered masonry. However, cementitious fiber board and siding may only be used as the primary exterior façade material in a limited number of homes as specified in Table 1 of the Development Standards (Exhibit C) to PD-40.

- ii. The surface area of windows surrounded completely by brick may be included within the computation of the exterior brick, brick veneer, stone, or stone veneer wall area of a residence.
 - iii. **Address Plaque**. An address plaque or numbers made of cast stone, metal or other materials used on the exterior of the home of a size that meets Town fire code is required for each Type D Lot.
 - iv. **Chimneys**. On Type D Lots, all exposed portions of the fire breast, flu and chimney shall be clad in cementitious lap siding, brick, stone or stucco. Chimneys located on an exterior wall must be 100% brick or stone.
 - v. **Stucco**. Stucco on structures on Type D Lots shall be traditional 3-coat process cement plaster stucco.
 - vi. **EIFS**. EIFS (Exterior Insulating and Finish Process) is not allowed on structures on Type D Lots.
- B. Windows**. All window framing on structures on Type D Lots shall be bronzed, cream, sand, white or other commercially available colors in anodized aluminum, vinyl or wood.
- i. Window shutters may be used on structures on Type D Lots. Window shutters shall be painted, stained wood, or fiberglass.
 - ii. No reflective window coverings or treatments shall be permitted.
- C. Roofing**.
- i. Structures constructed on the Type D Lots shall have a composition, slate, synthetic slate, standing seam metal, clay tile, or cement/concrete tile roof.
 - iii. Composition roof shingles must be laminated and have a minimum warranty of 30 years.
 - iv. The main roof pitch of any structure shall have a minimum slope of 8" in 12" for at least 50% of all Type D Lots. Up to 50% of Type D Lots may have roof pitches anywhere in the range between 3" in 12" and 8" in 12". Pitch ends shall be 100% guttered.
- D. Garage Doors**. Garage doors shall be constructed of either metal or wood.
- E. Accessory Structures**. Accessory structures shall be subject to the same exterior construction and architectural standards as the main dwelling.
- 5. Type E Lots**: The architectural and building materials standards for Type E Lots are as follows:
- A. Exterior Surfaces**.

- i. The exterior facades of a main building or structure, excluding glass windows and doors, shall be constructed of one hundred percent (100%) masonry. Cementitious fiber board may also be used for architectural features, including window box-outs, bay windows, roof dormers, garage door headers, columns, chimneys not part of an exterior wall, or other architectural features approved by the Director of Development Services.
- ii. The surface area of windows surrounded completely by brick may be included within the computation of the exterior brick, brick veneer, stone, or stone veneer wall area of a residence.
- iii. **Address Plaque.** An address plaque or numbers made of cast stone, metal or other materials used on the exterior of the home of a size that meets Town fire code is required for each Type E Lot.
- iv. **Chimneys.** On Type E Lots, all exposed portions of the fire breast, flu and chimney shall be clad in cementitious lap siding, brick, stone or stucco. Chimneys located on an exterior wall must be 100% brick or stone.
- v. **Stucco.** Stucco on structures on Type E Lots shall be traditional 3-coat process cement plaster stucco.
- vi. **EIFS.** EIFS (Exterior Insulating and Finish Process) is not allowed on structures on Type E Lots.

B. Windows. All window framing on structures on Type E Lots shall be bronzed, cream, sand or white anodized aluminum, vinyl or wood.

- i. Window shutters may be used on structures on Type E Lots. Window shutters shall be painted, stained wood, or fiberglass.
- ii. No reflective window coverings or treatments shall be permitted.

C. Roofing.

- i. Structures constructed on the Type E Lots shall have a composition, slate, clay tile or cement/concrete tile roof.
- ii. The color of the composition roof must appear to be weathered wood shingles, black or slate, unless such other color is approved by the Director of Development Services.
- iii. Composition roof shingles must be laminated and have a minimum warranty of 30 years.
- iv. The main roof pitch of any structure shall have a minimum slope of 8" in 12". Clay tile roofs and cement/concrete tile roofs shall have a minimum slope of 3" in 12". Pitch ends shall be 100% guttered.
- v. A minimum of twenty-five percent (25%) of Type E Lots shall have a main roof pitch greater than 8:12.

D. Garages.

- I Homes with two (2) single car width garage doors facing the street shall have such garage doors separated by a masonry column of no less than twelve inches (12”) in width.
- ii. A minimum of fifty percent (50%) shall have two (2) single garage doors split by a masonry column.
- iii. Garage doors shall be constructed of wood, or a material that gives the appearance of a real wood door. Materials may consist of paint or stain grade wood (Cedar, Ash, Hemlock, etc.) or other material, including fiberglass or steel, that when stained or painted gives the appearance of a real wood door.
- iv. Two of the following garage door upgrades shall be incorporated:
 - (a) Carriage style door designs giving the appearance of a classic swing-open design with the flexibility of an overhead door operation
 - (b) Doors incorporating decorative hardware.
 - (c) Doors with windows.

E. Accessory Structures. Accessory structures shall be subject to the same exterior construction and architectural standards as the main dwelling.

6. Type F Lots: The architectural and building materials standards for Type F Lots are as follows:

A. Exterior Surfaces.

- i. The exterior facades of a main building or structure, excluding glass windows and doors, shall be constructed of one hundred percent (100%) masonry. Cementitious fiber board and siding are considered masonry. However, cementitious fiber board and siding may only be used as the primary exterior façade material in a limited number of homes as specified in Table 1 of the Development Standards (Exhibit C) to PD-40.
- ii. The surface area of windows surrounded completely by brick may be included within the computation of the exterior brick, brick veneer, stone, or stone veneer wall area of a residence.
- iii. **Address Plaque**. An address plaque or numbers made of cast stone, metal or other materials used on the exterior of the home of a size that meets Town fire code is required for each Type F Lot.

- iv. **Chimneys**. On Type F Lots, all exposed portions of the fire breast, flu and chimney shall be clad in cementitious lap siding, brick, stone or stucco. Chimneys located on an exterior wall must be 100% brick or stone.
- v. **Stucco**. Stucco on structures on Type F Lots shall be traditional 3-coat process cement plaster stucco.
- vi. **EIFS**. EIFS (Exterior Insulating and Finish Process) is not allowed on structures on Type F Lots.

B. Windows. All window framing on structures on Type F Lots shall be bronzed, cream, sand, white or other commercially available colors in anodized aluminum, vinyl or wood.

- i. Window shutters may be used on structures on Type F Lots. Window shutters shall be painted, stained wood, or fiberglass.
- ii. No reflective window coverings or treatments shall be permitted.

C. Roofing.

- i. Structures constructed on the Type F Lots shall have a composition, slate, synthetic slate, standing seam metal, or tile roof.
- iii. Composition roof shingles must be laminated and have a minimum warranty of 30 years.
- iv. The main roof pitch of any structure shall have a minimum slope of 8" in 12" for at least 25% of all Type F Lots. Up to 75% of Type F Lots may have roof pitches anywhere in the range between 3" in 12" and 8" in 12". Pitch ends shall be 100% guttered.

D. Garage Doors. Garage doors shall be constructed of either metal or wood.

E. Accessory Structures. Accessory structures shall be subject to the same exterior construction and architectural standards as the main dwelling.

7. Exterior Façade Building Materials for Multifamily Uses. All buildings within a multifamily development shall have an exterior finish of stone, stucco, brick, tile, concrete, glass or similar materials or any combination thereof. The use of cementitious fiber board as a primary exterior building material shall be limited to a maximum of fifteen percent (15%) of the total exterior wall surfaces. All exterior finishes of buildings within a multifamily development shall have a minimum of ten percent (10%) stone accents.

8. Exterior Façade Building Materials for Townhome Uses. All buildings within a townhouse development shall have an exterior finish of stone, stucco, brick, tile, concrete, glass or similar materials or any combination thereof. The use of cementitious fiber board as a primary exterior building material shall be limited to a maximum of fifteen percent of the total exterior wall surfaces. All exterior finishes of buildings within a townhouse development shall have a minimum of ten percent (10%) stone accents.

9. Exterior Façade Building Materials for Non-Residential Uses. All main buildings shall have an exterior finish of stone, stucco, brick, tile, concrete, glass or similar materials or any combination thereof. Cementitious fiber board may only be used as an accent material subject to 10% of a façade.

NOTE: For purposes of this First Amendment to Development Agreement, unless otherwise specifically noted herein, “masonry” shall mean stone, stucco, brick, tile, concrete, glass or similar materials of any similar material approved by the Town’s Director of Development Services.