

## TOWN OF PROSPER, TEXAS

## ORDINANCE NO. 12-26

**AN ORDINANCE AMENDING PROSPER'S ZONING ORDINANCE NO. 05-20; REZONING A TRACT OF LAND CONSISTING OF 4.298 ACRES, MORE OR LESS, SITUATED IN THE W. BUTLER SURVEY, ABSTRACT NO. 112, IN THE TOWN OF PROSPER, COLLIN COUNTY, TEXAS, HERETOFORE ZONED AGRICULTURAL (A) IS HEREBY REZONED AND PLACED IN THE ZONING CLASSIFICATION OF PLANNED DEVELOPMENT-OFFICE (PD-O); 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 2E Prosper LLC ("Applicant") to rezone 4.298 acres of land, more or less, situated in the W. Butler Survey, Abstract No. 112, 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 4.298 acres of land, more or less, situated in the W. Butler Survey, Abstract No. 112, 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-Office (PD-O). 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"; 3) and the concept plan, attached hereto as Exhibit "D", 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 Official and shall be maintained up-to-date by posting thereon all changes and subsequent amendments for observation, issuing building permits, certificates of compliance and occupancy and enforcing the Zoning Ordinance. Reproduction for information purposes may from time-to-time be made of the official zoning district map.

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. 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.

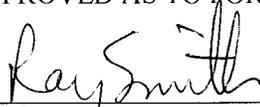
SECTION 6: Severability. Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. Prosper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

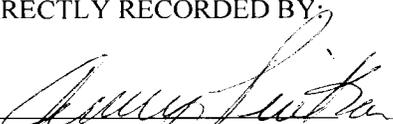
SECTION 8: Effective Date. This Ordinance shall become effective from and after its adoption and publications as required by law.

DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS ON THIS 25<sup>th</sup> DAY OF SEPTEMBER, 2012.

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Ray Smith, Mayor

ATTESTED TO AND  
CORRECTLY RECORDED BY:

  
\_\_\_\_\_  
Amy Piukana, Town Secretary

DATE OF PUBLICATION: 10-3-12, Prosper Press

**EXHIBIT "A"**

BEING a tract of land situated in the W. Butler Survey, Abstract No. 112, Town of Prosper, Collin County, Texas, the subject tract being a portion of a tract of land conveyed to 2E Prosper, L.L.C. according to the deed recorded in Document Number 20060705000918100 of the Real Property Records, Collin County, Texas (RPRCCT), the subject tract being more particularly described as follows;

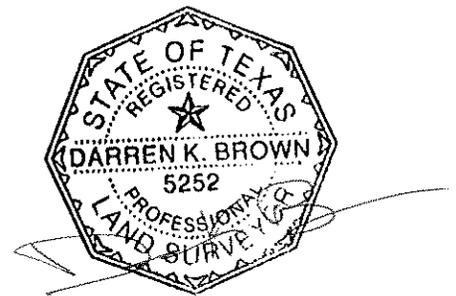
BEGINNING at 60D nail found in the intersection of County Road 77 (a public right-of-way, also known as Hays Road) and High Point Drive (a public right-of-way) for the northwest corner of said 2E Prosper tract;

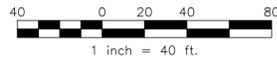
THENCE N 89°15'15" E, 417.62 feet along High Point Drive to a 60D nail found;

THENCE S 01°04'39" E, passing at 25.00 feet a 1/2" iron rod found for the northwest corner of Bradford Farms Addition, an addition to the Town of Prosper according to the plat thereof recorded in Volume J, Pages 765 & 766, Plat Records, Collin County, Texas, continuing along the common line thereof a total distance of 450.02 feet to a 5/8" iron rod found, and being the northeast corner of a called 1.6647 acre tract described in deed to High Point Self Storage, Inc. recorded in Volume 6081, Page 3462 RPRCCT;

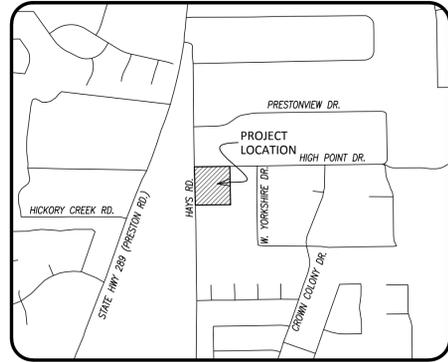
THENCE S 89°13'59" W, 414.36 feet along the common line thereof to a 5/8" iron rod found in County Road 77;

THENCE N 01°29'31" W, 450.21 feet along said road to the POINT OF BEGINNING with the subject tract containing 187,235 square feet or 4.298 acres of land.





Basis of bearing, horizontal and vertical position derived from the Texas WDS RTK Network-Texas State Plane Coordinate System, NAD83, North Central Zone (4202). Verified with static GPS observations and an OPUS solution, NAD83 (CORS96) Epoch 2002.0, Vertical positions are referenced to NAVD88 using (GEOID03).



LOCATION MAP  
1" = 1000'

**Stanley Goldstein, Trustee**  
Tract 1  
Vol. 3494, Pg. 330 RPRCCT  
Ex. Zoning: SF-15  
Ex. Use: Vacant  
FLUP: Neighborhood Office

**PRESTONVIEW ESTATES, PH. I**  
Vol. 12, Pg. 51 PRCCCT

**Thomas Eldon Dickson & spouse, Bonnie S. Dickson**  
Lot 22, Block A  
(Vol. 3163, Pg. 140 RPRCCT)  
Ex. Zoning: A  
Ex. Use: Single Family  
FLUP: Low Density Residential

**Alan Kent Wood & spouse, Pamela Sue Wood**  
Lot 23, Block A  
(Doc. No. 99-0060648 RPRCCT)  
Ex. Zoning: A  
Ex. Use: Single Family  
FLUP: Low Density Residential

**Jock T. Sharkey & wife, Jodi L. Sharkey**  
Lot 24, Block A  
(Doc. No. 2003-0171236 RPRCCT)  
Ex. Zoning: A  
Ex. Use: Single Family  
FLUP: Low Density Residential

**METES AND BOUNDS DESCRIPTION**  
2E Prosper, L.L.C. Tract

BEING a tract of land situated in the W. Butler Survey, Abstract No. 112, Town of Prosper, Collin County, Texas, the subject tract being a portion of a tract of land conveyed to 2E Prosper, L.L.C. according to the deed recorded in Document Number 20060705000918100 of the Real Property Records, Collin County, Texas (RPRCCT), the subject tract being more particularly described as follows:

BEGINNING at 60D nail found in the intersection of County Road 77 (a public right-of-way, also known as Hays Road) and High Point Drive (a public right-of-way) for the northwest corner of said 2E Prosper tract;

THENCE N 89°15'15" E, 417.62 feet along High Point Drive to a 60D nail found;

THENCE S 01°04'39" E, passing by 25.00 feet a 1/2" iron rod found for the northwest corner of Bradford Farms Addition, an addition to the Town of Prosper according to the plat thereof recorded in Volume J, Pages 765 & 766, Plat Records, Collin County, Texas, continuing along the common line thereof a total distance of 450.02 feet to a 5/8" iron rod found, and being the northeast corner of a called 1.6647 acre tract described in deed to High Point Self Storage, Inc. recorded in Volume 6081, Page 3462 RPRCCT;

THENCE S 89°13'59" W, 414.36 feet along the common line thereof to a 5/8" iron rod found in County Road 77;

THENCE N 01°29'31" W, 450.21 feet along said road to the POINT OF BEGINNING with the subject tract containing 187,235 square feet or 4.298 acres of land.

**H & R Partners, LP**  
Doc. No. 20071227001707200 RPRCCT  
Ex. Zoning: SF-15  
Ex. Use: Tree Nursery  
FLUP: Neighborhood Office

**Larry E. Swingle & Sandra T. Swingle**  
Lot 1, Block A  
(Doc. No. 20080715000863250 RPRCCT)  
Ex. Zoning: SF-15  
Ex. Use: Single Family  
FLUP: Low Density Residential

**2E Prosper, LLC**  
4.298 Acres Gross  
3.76 Acres Net  
Ex. Zoning: Agricultural  
Prop. Zoning: PD-OFFICE  
Ex. Use: Landscape Company/Office  
FLUP: Low Density Residential

**Barbara A. Shoemith & spouse, Bernard Shoemith**  
Lot 2, Block A  
(Doc. No. 2004-0080355 RPRCCT)  
Ex. Zoning: SF-15  
Ex. Use: Single Family  
FLUP: Low Density Residential

**Carolyn L. Williams & Angela M. Tobar**  
Lot 3, Block A  
(Doc. No. 2004-0097166 RPRCCT)  
Ex. Zoning: SF-15  
Ex. Use: Single Family  
FLUP: Low Density Residential

**MA Realty Services LLC**  
Doc. No. 20100929001043970 RPRCCT  
Ex. Zoning: R  
Ex. Use: Vacant  
FLUP: Neighborhood Office

**W. BUTLER SURVEY**  
ABSTRACT NO. 112

**BRADFORD FARMS ADDITION**  
Vol. J, Pgs. 765 & 766 PRCCCT

**Jock T. Sharkey & wife, Jodi L. Sharkey**  
Lot 24, Block A  
(Doc. No. 2003-0171236 RPRCCT)  
Ex. Zoning: SF-15  
Ex. Use: Single Family  
FLUP: Low Density Residential

**High Point Self Storage, Inc.**  
Vol. 6081, Pg. 3462 RPRCCT  
Ex. Zoning: A  
Ex. Use: Mini-Warehouse  
FLUP: Low Density Residential

**Blue Star Land, L.P.**  
Doc. No. 99-0063315 RPRCCT  
Ex. Zoning: SF-15  
Ex. Use: Vacant  
FLUP: Neighborhood Office

**William Michael Anderson & Leslie Monica Anderson**  
Lot 4, Block A  
(Doc. No. 20111220001371300 RPRCCT)  
Ex. Zoning: SF-15  
Ex. Use: Single Family  
FLUP: Low Density Residential

**ZONING EXHIBIT 'A'**  
ZONING CASE NO: Z12-0005  
2E PROSPER LLC

4.298 ACRES IN THE W. BUTLER SURVEY,  
ABSTRACT NO. 112, TOWN OF PROSPER  
COLLIN COUNTY, TEXAS

<b>Applicant/Owner</b>	<b>Engineer/Surveyor</b>	<b>Zoning Consultant</b>
2E Prosper LLC ATTN: Matt Edgemon 474 Hays Rd. Suite C Prosper, TX. 75078 Telephone (214) 882-5999	Spira Engineering, Inc. TBPE No. F-2121 765 Custer Road, Suite 100 Plano, Texas 75075 Telephone (972) 422-0077 Contact: Kevin Wier	Baldwin Planning Attn: Rob Balwin 3904 Elm St. Suite B Dallas, Texas 75226 Telephone (214) 824-7949

Scale 1"=40' May 2012



**ZONING EXHIBIT 'A'**

TOWN OF PROSPER  
COLLIN COUNTY, TEXAS

2E PROSPER LLC

Issue Dates:  
May 2, 2012

Date

Revisions

Scale: 1" = 40'

Drawn By: ED

Checked By: DKB

Sheet 1

of 1

JOB #12-062

**EXHIBIT "B"**

600 N. Hays Road

2E Prosper, LLC

Owner/Representative

**HAYS AND HIGHPOINT OFFICE**

**PLANNED DEVELOPMENT  
DISTRICT**

**STATEMENT OF INTENT AND PURPOSE**

2E Prosper, LLC is seeking a rezoning to allow for the continued operation of the subject property as it has been historically prior to its annexation into the Town of Prosper. To this end, we are seeking a Planned Development District for Office Uses with the inclusion of outside storage for the existing landscaping company.

The subject property will be maintained in good order and with the intent of screening the nonresidential uses from the residential uses adjacent to the property with the existing tree line. The existing tree line along the eastern property line will be maintained and additional landscaping will be planted along Highpoint Road and Hays Road within six (6) months from the approval of this ordinance. The intent of the screening is to provide a solid living landscape screen within two (2) growing seasons in order to completely screen all open storage from public view. In addition, masonry facades will be required along all street frontages when the existing buildings expand or new buildings are built.

The subject property's improvements have been shown on this Zoning Exhibit D/site plan. All existing and proposed landscaping, existing buildings, open spaces, existing concrete parking, open storage, landscape buffers, and gravel drives are shown on this zoning exhibit. All existing landscape buffers and setbacks are shown.

**EXHIBIT “C”  
HAYS AND HIGHPOINT  
PD – OFFICE DISTRICT**

Conformance with the Town's Zoning Ordinance and Subdivision Ordinance: Except as otherwise set forth in these Development Standards, the regulations of the Town's Zoning Ordinance (No. 05-20 as it currently exists or may be amended) and the Town's Subdivision Ordinance (No. 03-05 as it exists or may be amended) shall apply to the property.

**1. Office District – Hays and Highpoint:**

**1.1 GENERAL PURPOSE AND DESCRIPTION:**

The Office District is established to accommodate a variety of office developments providing for professional, financial, medical and similar services for local residents; corporate offices for regional and national operations; major employment centers for city, county and state governmental entities; and service uses necessary to support such office uses. Such uses may require accessibility to major thoroughfares.

**1.2 REGULATIONS:**

**A. Size of Yards:**

1. **Minimum Front Yard:** Thirty (30) feet.
2. **Minimum Side Yard:**
  - a. Fifteen (15) feet adjacent to a non-residential district; twenty five (25) feet adjacent to a residential use or zone.
3. **Minimum Rear Yard:**
  - a. Fifteen (15) feet adjacent to a non-residential district; twenty five (25) feet adjacent to a residential use or zone.

**B. Size of Lots:**

1. **Minimum Size of Lot Area:** Seven thousand (7,000) square feet.
2. **Minimum Lot Width:** Seventy (70) feet.
3. **Minimum Lot Depth:** One hundred (100) feet.

**C. Maximum Height for Buildings:** One (1) story, no greater than thirty (30) feet.

**D. Maximum Height for outdoor open storage:** Eight (8) feet.

**E. Lot Coverage:** Thirty (30) percent

**F. Floor Area Ratio:** Maximum 0.30:1

**1.3 PERMITTED USES:**

- A. Compliance with State and Federal Law:** No uses shall be allowed which are prohibited by State law or which operate in excess of State or Federal environment or pollution standards as determined by the U.S. Environmental Protection Agency, Texas Air Control Board, Texas State Department of Health, or the Texas Water Commission, as the case.

- B. **Open Storage:** Not more than sixty-five (65) percent of the lot or tract may be used for the open storage of products such as fertilizer and bagged products, materials such as but not limited to, mulch, limited amounts of landscape stone, masonry mortar, trees, shrubs, annuals or fencing, or equipment such as lawn equipment or materials trailers, all of which shall be screened from adjoining properties or streets. The screening will consist of the existing eight (8) foot tall chain link and barbed wire fence with trees and shrubs along the outside on the west property line, in a quantity sufficient to screen the storage area from view, and north of the east-west eight (8) feet tall fence as shown on Exhibit D. The east property line screening will consist of shrubs as shown on Exhibit D. All open storage will be enclosed by fence and landscaping as shown on Exhibit D. All screening materials must be in place within six (6) months of the adoption of this ordinance. The screening material must be planted at a concentration to provide for a solid living screen within two (2) growing seasons.
- C. **List of Permitted Uses:** Uses followed by an **S** are permitted by Specific Use Permit. Uses followed by a **C** are permitted subject to conditional development standards. See Chapter 3, Section 1 of the Town's Zoning Ordinance for the conditional development standards.

- Accessory Building
- Administrative, Medical, or Professional Office
- Antenna and/or Antenna Support Structure, Non-Commercial **C**
- Artisan's Workshop
- Bank, Savings and Loan, or Credit Union
- Bed and Breakfast Inn **S**
- Caretaker's/Guard's Residence
- Civic/Convention Center
- Community Center
- Day Care Center, Adult **S**
- Day Care Center, Child **C**
- Dry Cleaning, Minor
- Fraternal Organization, Lodge, Civic Club, Fraternity, or Sorority
- Governmental Office
- Gymnastics/Dance Studio
- Health/Fitness Center **S**
- House of Worship
- Insurance Office
- Municipal Uses Operated by the Town of Prosper
- Museum/Art Gallery
- Open Storage (subject to screening requirements)
- Park or Playground
- Print Shop, Minor
- Private Recreation Center
- Private Utility, Other Than Listed
- School, Private or Parochial
- School, Public
- Stealth Antenna, Commercial **C**
- Telephone Exchange
- Temporary Building **C**

#### 1.4 Exterior Appearance of Buildings:

- A. Expansion of Existing Buildings Up 2,000 Square Feet: The front façade facing Hays Road and

Highpoint Drive shall be required to be maximum of 80% Cultured Natural Shaped Field Stone (upper) & minimum of 20% Cultured rectangular Field Stone (lower) of contrasting colors. The roof for any expansion shall be a sloping metal roof. Metal, cementitious fiber board (Hardie Siding) or masonry materials per the Town's Zoning Ordinance shall be permitted exterior materials for the side and rear elevations. No architectural articulation is required on sides or rear facades.

B. New Buildings: New buildings shall meet the exterior building material requirements per the Zoning Ordinance as it exists or may be amended.

1.5 **Paving Materials Permitted in Open Storage Area:** Gravel or crushed rock shall be a permitted paving material in the open storage area located behind all screening and gates. All additional fire lanes, drives and parking areas shall be constructed of concrete and shall meet Town of Prosper's paving standards.

1.6 **Fencing:** The existing metal chain link fence on the property will be allowed to remain, provided it is fully screened from public view by landscaping as detailed below. Barbed wire is allowed to remain on the top of the existing fence. All new fencing shall comply with the Town's ordinances, as they exist or may be amended.

1.7 **Perimeter Landscaping:**

- West & North Line Perimeter: A 25-foot landscape setback is required. Within six (6) months of the approval of this ordinance the following landscaping shall be required. West and North line perimeter landscaping shall consist of one small, thirty (30) gallon evergreen tree (Leyland Cypress or Eastern Red Cedar), six (6) to eight (8) feet high at time of planting, per every twenty (20) linear feet and one 3-5 gallon shrub, reaching six (6) feet high in two (2) growing seasons, per every eight (8) linear feet along the existing eight (8) foot tall chain link and barbed wire fence. The landscaping shall be planted between the fence and the street right-of-way. A landscaped berm will be required along the southwestern portion of the property where the property is higher than the travel lanes of Hays Road. The berm must be of sufficient height to facilitate the screening of the property from Hays Road, with a minimum height of four (4) feet. The plantings for the living screen must be of a sufficient concentration to provide a solid living screen within two (2) growing seasons.
- East Line Perimeter: A 25-foot wide landscape setback is required. The existing chain link fence with barbed wire will remain in place. The existing berm and tree line will suffice for the landscaping requirement along the eastern property line. This planting material must be maintained as a solid living screen.
- Southern Perimeter: A 5-foot wide landscape setback is required. The existing chain link fence will remain. The southern perimeter must comply with Exhibit D.
- All plantings must be maintained in a healthy condition. Any dead or diseased plants must be replaced in a manner to ensure proper screening.

1.8 **Landscaping:** All requirements for 5-gallon shrubs will be amended to 3-5 gallon shrubs, three (3) feet high at time of planting.

