

AN ORDINANCE OF THE TOWN OF PROSPER, TEXAS, AMENDING PROSPER'S ZONING ORDINANCE BY GRANTING A SPECIFIC USE PERMIT 45 (SUP-45) FOR A WIRELESS COMMUNICATION AND SUPPORT STRUCTURE, LOCATED ON A TRACT OF LAND CONSISTING 0.0574 ACRE, SITUATED IN THE COLLIN COUNTY SCHOOL LAND SURVEY, ABSTRACT NO. 147, IN THE TOWN OF PROSPER, COLLIN COUNTY, TEXAS 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 the Zoning Ordinance should be amended; and

WHEREAS, the Town of Prosper, Texas ("Prosper") has received a request from Sara Sangani ("Applicant"), to rezone 0.0574 acre of land, more or less, in the Collin County School Land Survey, Abstract No. 147, in the Town of Prosper, Collin County, Texas, being more particularly described in Exhibit "A," attached hereto and incorporated herein for all purposes; and

WHEREAS, the Town Council has investigated 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, Public Hearings have been held, and all other requirements of notice and completion of such 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

Amendment to the Town's Zoning Ordinance. The Town's Zoning Ordinance is amended as follows: The zoning designation of the below described property containing 0.0574 acres of land, more or less, in the Collin County School Land Survey, Abstract No. 147, in the Town of Prosper, Collin County, Texas, (the "Property") and all streets, roads, and alleyways contiguous and/or adjacent thereto is hereby zoned as Downtown Office (DTO) and being more particularly described in Exhibit "A," attached hereto and incorporated herein for all purposes as if set forth verbatim.

All development plans, standards, and uses for the Property shall comply fully with the requirements of all ordinances, rules, and regulations of the Town of Prosper, as they currently exist or may be amended.

Two (2) original, official, and identical copies of the zoning exhibit map are hereby adopted and shall be filed and maintained as follows:

- a. One (1) copy shall be filed with the Town Secretary and retained as an original record and shall not be changed in any manner.
- 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.

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 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 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, APPROVED, AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, ON THIS 28TH DAY OF FEBRUARY, 2023.



David F. Bristol, Mayor

ATTEST:



Michelle Lewis Sirianni, Town Secretary

APPROVED AS TO FORM AND LEGALITY:



Terrence S. Welch, Town Attorney



50'X50' LEASE AREA DESCRIPTION:

BEING A 50'X50' LEASE AREA CONTAINING 0.0574 ACRES (2,500.00 SQUARE FEET) LOCATED IN THE J.H. DURRETT SURVEY, ABSTRACT NO. 350, DENTON COUNTY, TEXAS, AND BEING OUT OF AND PART OF A 6.618-ACRE TRACT AS RECORDED IN FILE NUMBER 2021-121368 OF THE DEED RECORDS OF DENTON COUNTY, TEXAS. SAID 0.0574-ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS WITH ALL CONTROL REFERRED TO THE TEXAS STATE PLANE COORDINATE SYSTEM, NORTH CENTRAL ZONE (4202), NORTH AMERICAN DATUM OF 1983:

COMMENCING AT A 1/2" BENT IRON ROD MONUMENTING THE NORTHEAST CORNER OF SAID 6.618-ACRE TRACT AND HAVING A STATE PLANE COORDINATE VALUE OF X=2,476,499.41 (E), Y=7,141,559.36 (N);

THENCE SOUTH 88 DEGREES 44 MINUTES 42 SECONDS WEST, 765.60 FEET TO THE POINT OF BEGINNING AND NORTHEAST CORNER OF THE HEREIN DESCRIBED TRACT, HAVING A STATE PLANE COORDINATE VALUE OF X=2,475,734.00 (E), Y=7,141,542.59 (N);

THENCE SOUTH 01 DEGREES 01 MINUTES 50 SECONDS EAST, 50.00 FEET TO THE SOUTHEAST CORNER OF THE HEREIN DESCRIBED TRACT;

THENCE SOUTH 88 DEGREES 58 MINUTES 10 SECONDS WEST, 50.00 FEET TO THE SOUTHWEST CORNER OF THE HEREIN DESCRIBED TRACT;

THENCE NORTH 01 DEGREES 01 MINUTES 50 SECONDS WEST, 50.00 FEET TO THE NORTHEAST CORNER OF THE HEREIN DESCRIBED TRACT;

THENCE NORTH 88 DEGREES 58 MINUTES 10 SECONDS EAST, 50.00 FEET TO THE POINT OF BEGINNING, CONTAINING 0.0574 ACRES (2,500.00 SQUARE FEET) OF LAND.

NON-EXCLUSIVE VARIABLE WIDTH ACCESS, UTILITY, AND FIBER EASEMENT DESCRIPTION:

BEING A NON-EXCLUSIVE VARIABLE WIDTH ACCESS, UTILITY, AND FIBER EASEMENT CONTAINING 0.5368 ACRES (23,394.69 SQUARE FEET) LOCATED IN THE J.H. DURRETT SURVEY, ABSTRACT NO. 350, DENTON COUNTY, TEXAS, AND BEING OUT OF AND PART OF A 6.618-ACRE TRACT AS RECORDED IN FILE NUMBER 2021-121368 OF THE DEED RECORDS OF DENTON COUNTY, TEXAS. SAID 0.5368-ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS WITH ALL CONTROL REFERRED TO THE TEXAS STATE PLANE COORDINATE SYSTEM, NORTH CENTRAL ZONE (4202), NORTH AMERICAN DATUM OF 1983:

BEGINNING AT A 1/2" BENT IRON ROD MONUMENTING THE NORTHEAST CORNER OF SAID 6.618-ACRE TRACT AND HAVING A STATE PLANE COORDINATE VALUE OF X=2,476,499.41 (E), Y=7,141,559.36 (N);

THENCE SOUTH 00 DEGREES 10 MINUTES 48 SECONDS EAST, 30.01 FEET ALONG THE EASTERLY PROPERTY LINE OF SAID 6.618-ACRE TRACT, TO THE SOUTHEAST CORNER OF THE HEREIN DESCRIBED TRACT;

THENCE SOUTH 88 DEGREES 58 MINUTES 10 SECONDS WEST, 734.41 FEET TO AN INTERIOR SOUTHERLY CORNER OF THE HEREIN DESCRIBED TRACT;

THENCE SOUTH 51 DEGREES 59 MINUTES 52 SECONDS WEST, 38.24 FEET TO THE SOUTHWEST CORNER OF THE HEREIN DESCRIBED TRACT;

THENCE NORTH 01 DEGREES 01 MINUTES 50 SECONDS WEST, 50.00 FEET TO AN INTERIOR WESTERLY CORNER OF THE HEREIN DESCRIBED TRACT;

THENCE SOUTH 88 DEGREES 58 MINUTES 10 SECONDS WEST, 25.00 FEET TO A WESTERLY CORNER OF THE HEREIN DESCRIBED TRACT;

THENCE NORTH 01 DEGREES 01 MINUTES 50 SECONDS WEST, 3.00 FEET TO THE NORTHWEST CORNER OF THE HEREIN DESCRIBED TRACT;

THENCE NORTH 88 DEGREES 58 MINUTES 10 SECONDS EAST, 790.59 FEET TO THE POINT OF BEGINNING, CONTAINING 0.5368 ACRES (23,394.69 SQUARE FEET) OF LAND.

GENERAL NOTES:

1. ALL BEARINGS ARE GRID BEARINGS BASED ON TEXAS STATE PLANE COORDINATE SYSTEM, NORTH CENTRAL ZONE (4202), NORTH AMERICAN DATUM OF 1983 AND ARE ROUNDED TO THE NEAREST SECOND. ALL DISTANCES ARE REPRESENTED IN GRID VALUES BASED ON THE NEAREST HORIZONTAL DATUM AND ARE MEASURED IN US SURVEY FEET TO THE NEAREST HUNDREDTH OF FOOT.

2. ELEVATIONS ARE BASED ON THE NORTH AMERICAN VERTICAL DATUM OF 1988 (GEOID18) AND ARE DETERMINED TO THE NEAREST TENTH OF FOOT.

3. PROVIDED ELEVATIONS, LATITUDE AND LONGITUDE VALUES ARE FROM GPS OBSERVATIONS (TYPE OF EQUIPMENT: TRIMBLE R2-TC650, DATE OF SURVEY: 06/17/2022).

4. BASIS OF BEARING: GPS OBSERVATIONS CONDUCTED AT THE TIME OF THE SURVEY.

5. BASIS OF ELEVATION: GPS OBSERVATIONS CONDUCTED AT THE TIME OF THE SURVEY.

6. THIS SURVEY DOES NOT REPRESENT A BOUNDARY SURVEY AND NO BOUNDARY SURVEY OF THE PARENT TRACT WAS PERFORMED.

7. THIS SURVEY CONTAINS A DRAWING AND METES & BOUNDS DESCRIPTIONS FOR A 50'X50' LEASE AREA AND A NON-EXCLUSIVE VARIABLE WIDTH ACCESS, UTILITY, AND FIBER EASEMENT THAT WERE PREPARED FOR THE EXCLUSIVE USE OF ANTHEMNET, INC. AND EXCLUSIVELY FOR THE TRANSFER OF THE LESSEE PREMISES SHOWN HEREON, THE LEASE AREA AND THE EASEMENTS WILL NOT BE MONUMENTED.

8. THIS SURVEY WAS BASED ON INFORMATION FOUND IN THE ABSTRACTOR CERTIFICATE ISSUED BY TEXAS ABSTRACT SERVICES, CONTROL NO. 23048, DATED JULY 14, 2022.

9. NO WETLAND AREAS HAVE BEEN INVESTIGATED BY THIS SPECIFIC SURVEY.

10. ALL ZONING INFORMATION SHOULD BE VERIFIED WITH PROPER ZONING OFFICIALS.

11. UTILITY EASEMENTS AS SHOWN HEREON ARE BASED ON FIELD OBSERVATIONS CONDUCTED ON 06/17/2022. UNDERGROUND UTILITIES MAY EXIST AND WERE NOT PHYSICALLY LOCATED AS A PART OF THIS SURVEY.

12. AT THE TIME OF THE SURVEY, THE 50'X50' LEASE AREA AND THE NON-EXCLUSIVE VARIABLE WIDTH ACCESS, UTILITY, AND FIBER EASEMENT LIE WITHIN AN UNSHADED AREA OF MINIMAL FLOOD HAZARD ZONE X ACCORDING TO FEMA FIRM PANEL MAP NUMBER 487103430G, EFFECTIVE 04/18/2011 (DENTON COUNTY, TEXAS).

EASEMENTS AND AGREEMENT:

EASEMENTS AND AGREEMENT HEREON WERE LISTED IN THE ABSTRACTOR CERTIFICATE ISSUED BY TEXAS ABSTRACT SERVICES, CONTROL NO. 23048, DATED JULY 14, 2022.

- RIGHT-OF-WAY EASEMENT DATED APRIL 13, 1938 GRANTED TO DENTON COUNTY ELECTRIC COOPERATIVE, INC. AS RECORDED IN VOLUME 402, PAGE 318 OF THE DEED RECORDS OF DENTON COUNTY, TEXAS. (THE EASEMENT DOES NOT HAVE SUFFICIENT DATA TO DETERMINE ITS LOCATION)

- RIGHT-OF-WAY EASEMENT DATED FEBRUARY 26, 1946 GRANTED TO DENTON COUNTY ELECTRIC COOPERATIVE, INC. AS RECORDED IN VOLUME 402, PAGE 374 OF THE DEED RECORDS OF DENTON COUNTY, TEXAS. (THE EASEMENT DOES NOT HAVE SUFFICIENT DATA TO DETERMINE ITS LOCATION)

- MEMORANDUM OF COMMUNICATIONS FACILITY SITE LEASE AGREEMENT DATED JUNE 14, 2022 BETWEEN 1185 LEGACY, LLC AND ANTHEMNET, INC. AS RECORDED IN FILE NUMBER 2022-98972 OF THE DEED RECORDS OF DENTON COUNTY, TEXAS.



SITE EXHIBIT AND DESCRIPTION

ANTEHMETNET - TEXAS AREA
PROSPER STAR
LEGACY DR
PROSPER, TX 75078



HELEN F. LECOMET, RPLS
TEXAS REGISTRATION NO. 65807

DATE: 11/23/2022
PDM
HL

SHEET 2 OF 2
SURVEY NOT VALID
WITHOUT ALL SHEETS

EXHIBIT A







