

## TOWN OF PROSPER, TEXAS

## ORDINANCE NO. 2021-02

**AN ORDINANCE AMENDING PROSPER'S ZONING ORDINANCE NO. 05-20 AND ORDINANCE NO. 18-97; GRANTING A SPECIFIC USE PERMIT (SUP) FOR A CONCRETE BATCHING PLANT, LOCATED ON A TRACT OF LAND CONSISTING OF 4.955 ACRES, MORE OR LESS, SITUATED IN THE COLLIN COUNTY SCHOOL LAND SURVEY NO. 12, ABSTRACT NO. 147, BLOCK 4, TRACT 36, LOCATED AT 570 SOUTH DALLAS PARKWAY, 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 Zoning Ordinance No. 05-20 and Ordinance No. 18-97 should be amended; and

**WHEREAS**, the Town of Prosper, Texas ("Prosper") has received a request from Nelson Bros Ready Mix, ("Applicant") for a Specific Use Permit (SUP) to allow for a Concrete Batching Plant on a tract of land zoned Planned Development-19-Commercial Corridor (PD-19), consisting of 4.955 acres of land, more or less, situated in the Collin County School Land Survey No. 12, Abstract No. 147, Block 4, Tract 36, located at 570 South Dallas Parkway, in the Town of Prosper, Collin County, Texas, and being particularly being described in Exhibit "A," attached hereto and incorporated herein for all purposes; 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 to grant an SUP 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**

Specific Use Permit Granted. Zoning Ordinance No. 05-20 and Ordinance No. 18-97 is amended as follows: Applicant is granted an SUP to allow the operation of a Concrete Batching Plant, on a tract of land zoned Planned Development-19-Commercial Corridor (PD-19), consisting of 4.955 acres of land, more or less, situated in the Collin County School Land Survey No. 12,

Abstract No. 147, Block 4, Tract 36, located at 570 South Dallas Parkway, in the Town of Prosper, Collin County, Texas, and being particularly being described in Exhibit "A," attached hereto and incorporated herein for all purposes as if set forth verbatim, subject to the following conditions of approval by the Town Council:

1. Nelson Bros Ready Mix (NBR) shall cease operations on the property on or before October 1, 2024 and shall remove all operations equipment from the property within 90 days of the date it ceases operations.
2. An on-site billing office is required to continue the Concrete Batching Plant use. All concrete deliveries from the physical Prosper location shall be billed as taxable to the Town of Prosper.
3. The Town of Prosper reserves the right to audit books to ensure that Prosper is the primary HUB for tax revenue and upon inspections, if there are any failures to correct errors, the Town of Prosper reserves the right to revoke the SUP.

The property shall continue to be used in a manner consistent with the conditions expressly stated in the site plan, attached hereto as Exhibit "A," which is incorporated herein for all purposes as if set forth verbatim.

Except as amended by this Ordinance, the development of the Property within this SUP 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**

Specific Use Permit Expiration Date. This SUP shall expire on October 1, 2024. The applicant may seek an extension to the SUP by following the procedure in Chapter 2, Section 25 of the Zoning Ordinance as it currently exists or may be amended.

### **SECTION 4**

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 5**

**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 6**

**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 7**

**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 8**

**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 9**

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 12TH DAY OF JANUARY, 2021.**

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

**ATTEST:**

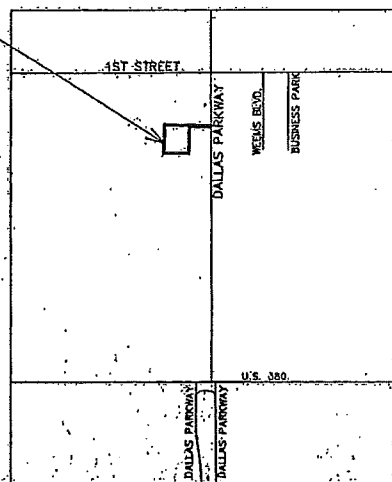
  
\_\_\_\_\_  
Melissa Lee, Town Secretary

**APPROVED AS TO FORM AND LEGALITY:**

  
\_\_\_\_\_  
Terrence S. Welch, Town Attorney



PROJECT LOCATION



VICINITY MAP



GRAPHIC SCALE

NOTES:  
THE THOROUGH PARE ALIGNMENT SHOWN ON THIS EXHIBIT ARE FOR ILLUSTRATION PURPOSES AND DOES SET THE ALIGNMENT. THE ALIGNMENT IS DETERMINED AT TIME OF FINAL PLAT.

Know All Men By These Presents:  
That I, Jerald Yensen, do hereby certify that I prepared this plat and the field notes made a part thereof from an actual and accurate survey of the land and that the corner monuments shown thereon were properly placed under my personal supervision, in accordance with the Subdivision Regulations of the Town of Prosper, Texas.  
I further certify that only portions shown of subject property lies within a special flood hazard area according to the FLOOD INSURANCE RATE MAP for Collin County and Incorporated Areas, Map Number 48086CO230, dated June 2, 2009. (Subject property lies in Zone A and Zone X approximately as shown).

Dated this 6th day of May, 2021.  
Jerald D. Yensen, Professional Surveyor  
Texas P.L.S. No. 4561



LEGEND

P.U.E. = PUBLIC UTILITY EASEMENT  
D.E. = DRAINAGE EASEMENT  
S.Y.S.L. = SIDE YARD SETBACK LINE  
B.L. = BUILDING LINE  
R.Y.S.L. = REAR YARD SETBACK LINE  
C/W = CONCRETE SIDEWALK  
W/V = WATER VALVE  
W/M = WATER METER  
F.I.R. = FOUND IRON ROD  
S.I.R. = SET IRON ROD  
P.P. = POWER POLE  
L.P. = LIGHT POLE  
I.C.V. = IRRIGATION CONTROL VALVE  
F.O.C. = FIBER OPTIC CABLE  
T.C.B. = TRAFFIC CONTROL BOX  
C.O. = SANITARY SEWER CLEANOUT  
E.B. = ELECTRIC BOX  
T.E.P. = TELEPHONE BOX  
F.H. = FIRE HYDRANT  
S.M.M. = STORM SEWER MANHOLE  
F. = FENCE  
O.H. = OVERHEAD POWER LINE

SUP Case #S20-0002

EXHIBIT "A"

NELSON BROTHERS PROSPER PLANT  
SUP APPLICATION FOR CONCRETE BATCHING PLANT  
BEING 4.955 ACRES IN THE  
COLLIN COUNTY SCHOOL LAND  
SURVEY NO. 12 A-147  
CITY OF PROSPER, COLLIN COUNTY, TEXAS

LANDMARK SURVEYORS, L.L.C.  
4238 I-35 NORTH  
DENTON, TEXAS 76207  
(940) 382-4016  
FAX (940) 382-9784

OWNER  
A & J OWENS, LTD.  
721 E. MAIN ST.  
LEWISVILLE, TX 75057  
(817) 507-6419

SURVEYOR  
LANDMARK SURVEYORS  
4238 I-35 N  
DENTON, TEXAS 76207  
(940) 382-4016

CURRENT ZONING = AGRICULTURAL  
FUTURE LAND USE PLAN = TOLLWAY DISTRICT  
CURRENT LAND USE = FARM LAND

MCGINNIS FARMS, INC.  
VOL. 4919, PG. 1793  
L.R.C.C.T.

6" CHAINLINK FENCE

60' ACCESS EASEMENT  
VOL. 4919, PG. 1793

CURRENT ZONING = AGRICULTURAL  
FUTURE LAND USE PLAN = TOLLWAY DISTRICT  
CURRENT LAND USE = LANDSCAPING BUSINESS

APPROXIMATE LIMITS  
OF FLOOD ZONE A

COLLIN COUNTY, TEXAS  
VOL. 5784, PG. 4420  
L.R.C.C.T.

120' TO 1ST STREET

DALLAS PARKWAY  
25' PAVED (VARIABLE FLOW)

1300.10'  
L=20.01'  
cd=20.01'  
cb=5 195'20" E  
d=018'04"

5 89°23'47" E 802.13'

CONCRETE DRIVE

N 89°23'47" W 374.46'

TEL. PED.

POB

KIPLING ENTERPRISES, LLC.  
TO  
G & H PROPERTIES, L.P.  
VOL. 5565, PG. 3107  
L.R.C.C.T.

1" PIPE FENCE

CURRENT ZONING = SINGLE FAMILY - 15  
FUTURE LAND USE PLAN = TOLLWAY DISTRICT  
CURRENT LAND USE = STORAGE/WAREHOUSE

CURRENT ZONING = PLANNED DEVELOPMENT-19- COMMERCIAL CORRIDOR  
PROPOSED ZONING = PLANNED DEVELOPMENT-19- COMMERCIAL CORRIDOR  
WITH A SPECIFIC USE PERMIT FOR A CONCRETE BATCHING PLANT  
FUTURE LAND USE PLAN = TOLLWAY DISTRICT  
CURRENT LAND USE = CONCRETE BATCHING PLANT

1-STY BRICK BLDG.  
ON CONC. SLAB  
(BLDG. HEIGHT 14.5')

FLY ASH SILO  
(HEIGHT = 84')

25.0'

30.0'

7.3'

CONC. BLDG.  
(HEIGHT=15')

A & J OWENS, LTD.  
VOL. 5805, PG. 1782  
L.R.C.C.T.

CONCRETE

SOUTHERN STAR CONCRETE, INC.  
VOL. 5468, PG. 5436  
L.R.C.C.T.

CURRENT ZONING = SINGLE FAMILY - 15  
FUTURE LAND USE PLAN = TOLLWAY DISTRICT  
CURRENT LAND USE = CONC. BATCH PLANT

SOUTH LOOP  
DEVELOPMENT CORP.  
VOL. 4186, PG. 2346  
L.R.C.C.T.

CURRENT ZONING = SINGLE FAMILY - 15  
FUTURE LAND USE PLAN = TOLLWAY DISTRICT  
CURRENT LAND USE = CONC. BATCH PLANT