

TOWN OF PROSPER, TEXAS

ORDINANCE NO. 2021-72

AN ORDINANCE AMENDING PROSPER'S ZONING ORDINANCE NO. 05-20; GRANTING A SPECIFIC USE PERMIT (SUP) FOR OUTSIDE MERCHANDISE DISPLAY, INCIDENTAL CONSISTING OF 1.377 ACRES, MORE OR LESS, SITUATED IN THE SPENCER RICE SURVEY, ABSTRACT NO. 787, AND THE COLLIN COUNTY SCHOOL LAND SURVEY, ABSTRACT NO. 172, 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 should be amended; and

WHEREAS, the Town of Prosper, Texas ("Prosper") has received a request from Bryan Road Retail Partners, LP ("Applicant") for a Specific Use Permit (SUP) for Outside Merchandise Display, Incidental, consisting of 1.377 acres of land, more or less, in the Spencer Rice Survey, Abstract No. 787, and the Collin County School Land Survey, Abstract No. 172, in the Town of Prosper, Collin County, Texas, and being more particularly 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 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

Specific Use Permit Granted. The Town's Zoning Ordinance is amended as follows: Applicant is granted a Specific Use Permit (SUP) for a Outside Merchandise Display, Incidental, consisting of 1.377 acres of land, more or less, in the Spencer Rice Survey, Abstract No. 787, and the Collin County School Land Survey, Abstract No. 172, in the Town of Prosper, Collin County, Texas, and being 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 Specific Use Permit shall conform to, and comply with the conceptual development plans, attached hereto as Exhibit "B", which are incorporated herein for all purposes as if set forth verbatim, subject to the following condition of approval by the Town Council:

1. A maximum of two (2) ice machines being permitted outside on the subject property, in addition to a limitation of signage area on the ice machine to the doors of the machine only.

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 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

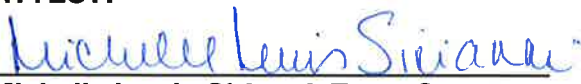
Effective Date. This Ordinance shall become effective from and after its adoption and publications as required by law.

DULY PASSED, APPROVED, AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF PROSPER, TEXAS, ON THIS 14TH DAY OF DECEMBER 2021.



Ray Smith, Mayor

ATTEST:



Michelle Lewis Sirianni, Town Secretary

APPROVED AS TO FORM AND LEGALITY:



Terrence S. Welch, Town Attorney



COLLIN COUNTY
SCHOOL LAND SURVEY,
ABSTRACT NO. 167

KEERAN FAMILY PARTNERSHIP, LTD.
VOL. 4957, PG. 2455
D.R.C.C.T.

FRONTIER PARKWAY

VARIABLE WIDTH RIGHT-OF-WAY
(DOC. NO. 2009073000915996, D.R.C.C.T.)

LOT 2, BLOCK A
59,998 SQ.FT.
1.377 ACRES

BRYAN ROAD RETAIL
PARTNERS, LP
DOC. NO. 20180920001181080
D.R.C.C.T.

SPENCER RICE SURVEY,
ABSTRACT NO. 787

LOT 3, BLOCK A
VICTORY AT FRONTIER
DOC. NO. 2018-699
P.R.C.C.T.

REMAINDER OF
VICTORY AT FRONTIER, LLC
DOC. NO. 2016122001590930
D.R.C.C.T.

LOT 1, BLOCK A
VICTORY AT FRONTIER
DOC. NO. 2018-699
P.R.C.C.T.

COLLIN COUNTY
SCHOOL LAND SURVEY,
ABSTRACT NO. 172

JONES JERRAL WETAL
VOLUME 5184 PAGE 212
B.R.C.C.T.

STATE OF TEXAS
COUNTY OF DENTON

This is to certify that I, Thomas W. Mauk, a Registered Professional Land Surveyor of the State of Texas, have platted the subdivision from an actual survey on the ground, and that this plat correctly represents that survey made by me or under my direction and supervision.

PRELIMINARY

THIS DOCUMENT SHALL NOT BE RECORDED FOR
ANY PURPOSE AND SHALL NOT BE VIEWED OR
RELIED UPON AS A FINAL SURVEY DOCUMENT
DATED 4/23/2018

Thomas W. Mauk, R.P.L.S.
No. 5119

STATE OF TEXAS
COUNTY OF DENTON

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared Thomas W. Mauk, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this _____ day of _____, 20____.

Notary Public in and for the State of Texas

SURVEYOR'S NOTES:

- Bearings and distances are based on the State Plane Coordinate System, Texas North Central Zone (4202) North American Datum of 1983 (NAD 83)(US Foot) with a combined scale factor of 1.000152710.
- This property lies partially within Zone "X" (Unshaded), of the Flood Insurance Rate Map for Collin County, Texas and Incorporated Areas, map no. 48085C0120 J, with an effective date of June 2, 2009 via scaled map location and graphic plotting.
- The purpose of this plat is to create 1 recorded lot.

LEGEND OF ABBREVIATIONS

D.R.C.C.T. DEED RECORDS, COLLIN COUNTY, TEXAS
P.R.C.C.T. PLAT RECORDS, COLLIN COUNTY, TEXAS
R.O.W. RIGHT-OF-WAY
C.M. CONTROLLING MONUMENT

ACCESS EASEMENT

The undersigned covenants and agrees that the access easement(s) may be utilized by any person or the general public for ingress and egress to other real property, and for the purpose of general vehicular use and access, and for the Fire Department, Police, and emergency use in, along, upon, and across said premises, with the right and privilege at all times of the Town of Prosper, its agents, employees, workmen, and representatives having ingress, egress, and regress in, along, upon, and across said premises.

FIRE LANE EASEMENT

The undersigned covenants and agrees that he (they) shall construct upon the Fire Lane Easements, as delineated and shown hereon, a hard surface paved in accordance with town standards and that he (they) shall maintain the same in a state of good repair at all times and keep the same free and clear of any structures, fences, trees, shrubs, or other improvements or obstructions, including but not limited to the parking, loading, or unloading of motor vehicles, trailers, boats, or other impediments to the access of fire apparatus. The maintenance of pavement in accordance to town standards of the Fire Lane Easements is the responsibility of the owner, and the owner shall post and maintain signage in accordance to town standards in conspicuous places along the Fire Lanes, stating "Fire Lane, No Parking". The police or their duly authorized representative is hereby authorized to cause such fire lanes and utility easements to be maintained free and unobstructed at all times for Fire Department and emergency use.

LANDSCAPE EASEMENT

The undersigned covenants and agrees that the landscape easement and restrictions herein set forth shall run with the land and be binding on the owner(s) of the property in this subdivision, their successors and assigns, and all parties claiming by, through and under them. In the event a replat is requested on all or part of this property, the Town may require any similar or additional restrictions at its sole discretion. The sole responsibility for maintenance and replacement of landscape materials thereof shall be borne by any 'homeowners' association hereafter established for the owners of lots in this subdivision and/or the owners of the individual lots within this subdivision. Such maintenance and replacement shall be in conformance with the requirements, standards, and specifications of the Town of Prosper, as presently in effect or as may be hereafter amended. This provision may be enforced by specific performance or by any other remedy allowed by law. This Landscape Easement shall be void of utilities and other elements unless otherwise approved on the plat.

Line Data Table		
Line #	Distance	Bearing
L1	8.97'	N15°44'03"E
L2	12.27'	N13°15'59"W

Curve Data Table					
Curve #	Arc	Radius	Delta	Chord Bearing	Chord
C1	17.90'	30.00'	034°11'16"	S17°20'51"W	17.64'
C2	48.82'	30.00'	088°50'49"	S44°10'12"E	42.00'
C3	8.33'	30.00'	015°54'49"	N59°48'40"W	8.31'
C4	53.65'	106.00'	028°00'02"	N01°14'02"E	53.08'

VICINITY MAP
NOT TO SCALE



OWNER/DEVELOPER

BRYAN ROAD RETAIL
PARTNERS, LP
1201 N. RIVERFRONT
BLVD., SUITE 100
DALLAS, TX 75207

ENGINEER

CLAY MOORE
ENGINEERING

1903 Central Drive Suite 4006
Bedford, Texas 76021
Phone: 817-281-0572

STATE OF TEXAS
COUNTY OF COLLIN

WHEREAS, Bryan Road Retail Partners, LP is the owner of a tract of land situated in the Spencer Rice Survey, Abstract No. 787 and the Collin County School Land Survey, Abstract No. 172, in the Town of Prosper, Collin County, Texas, being all of Lot 2, Block A of Victory at Frontier, an addition to the Town of Prosper, Collin County, Texas, according to the Plat thereof recorded in Document No. 2018-699 of the Plat Records of Collin County, Texas (P.R.C.C.T.), being that same tract of land conveyed to Bryan Road Retail Partners, LP by deed recorded in Document No. 20180920001181080 of the Deed Records of Collin County, Texas (D.R.C.C.T.) and being more particularly described by metes and bounds as follows (Bearings and distances are based on the State Plane Coordinate System, Texas North Central Zone (4202) North American Datum of 1983 (NAD 83)(US Foot) with a combined scale factor of 1.000152710):

BEGINNING at a TXDOT monument found for the easternmost Northeast corner of said Lot 2, at the easterly end of a corner clip at the intersection of the South right-of-way line of Frontier Parkway (variable width right-of-way) and the West right-of-way line of N. Preston Road (State Highway 289) (variable width right-of-way);

THENCE, with the West right-of-way line of said N. Preston Road, the following courses and distances:

- South 01 Degrees 23 Minutes 32 Seconds West, a distance of 117.44 feet to a TXDOT monument found;
- South 04 Degrees 45 Minutes 06 Seconds East, a distance of 100.58 feet to a 1/2 inch rebar with a cap stamped "KHA" found;
- South 01 Degrees 24 Minutes 24 Seconds West, a distance of 9.20 feet to a 1/2 inch rebar found for the Southeast corner of said Lot 2, same being the easternmost Northeast corner of Lot 3, Block A of said addition;

THENCE North 88 Degrees 35 Minutes 36 Seconds West, departing the West right-of-way line of said N. Preston Road, with the easternmost North line of said Lot 3, and with the South line of said Lot 2, a distance of 263.84 feet to a 1/2 inch rebar with a cap stamped "Windrose" found for the Southwest corner of said Lot 2, same being an interior "ell" corner of said Lot 3;

THENCE North 00 Degrees 15 Minutes 13 Seconds East, with the northernmost East line of said Lot 3, and with the West line of said Lot 2, a distance of 237.43 feet to a 1/2 inch rebar with a cap stamped "Windrose" found for the northernmost Northeast corner of said Lot 3, same being the Northwest corner of said Lot 2, and lying on the South right-of-way line of said Frontier Parkway;

THENCE South 77 Degrees 20 Minutes 03 Seconds East, with the South right-of-way line of said Frontier Parkway, a distance of 38.42 feet to a 1/2 inch rebar with a cap stamped "Windrose" found for corner;

THENCE South 89 Degrees 53 Minutes 39 Seconds East, continuing with the South right-of-way line of said Frontier Parkway, a distance of 211.81 feet to a 1/2 inch rebar with a cap stamped "Windrose" found for the northernmost Northeast corner of said Lot 2, being at the West end of said corner clip;

THENCE South 41 Degrees 42 Minutes 27 Seconds East, with the Southwest side of said corner clip, a distance of 11.61 feet to the POINT OF BEGINNING and containing 59,998 square feet or 1.377 acres of land, more or less.

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS

THAT Bryan Road Retail Partners, LP does hereby certify and adopt this plat designating the herein above described property as FINAL PLAT OF LOT 2, BLOCK A, VICTORY AT FRONTIER, and does hereby dedicate to the public use forever, the streets and alleys shown thereon

Bryan Road Retail Partners, LP, does hereby certify the following:

- The streets and alleys are dedicated for street and alley purposes.
- All public improvements and dedications shall be free and clear of all debt, liens, and/or encumbrances.
- The easements and public use areas, as shown, are dedicated to the public use forever for the purposes indicated on this plat.
- No buildings, fences, trees, shrubs or other improvements or growths shall be constructed or placed upon, over or across the easements as shown, except that landscape improvements may be placed in landscape easements if approved by the Town of Prosper.
- The Town of Prosper is not responsible for replacing any improvements in, under, or over any easements caused by maintenance or repair.
- Utility easements may also be used for the mutual use and accommodation of all public utilities desiring to use or using the same unless the easement limits the use to particular utilities, said use by the public utilities being subordinate to the public's and Town of Prosper's use thereof.
- The Town of Prosper and public utilities shall have the right to remove and keep removed all or parts of any buildings, fences, trees, shrubs or other improvements or growths which may in any way endanger or interfere with the construction, maintenance, or efficiency of their respective systems in the easements.
- The Town of Prosper and public utilities shall at all times have the full right of ingress and egress to or from their respective easements for the purpose of constructing, reconstructing, inspecting, maintaining, reading meters, and adding to or removing all or parts of their respective systems without the necessity at any time procuring permission from anyone.
- All modifications to this document shall be by means of plat and approved by the Town of Prosper.

This plat approved subject to all platting ordinances, rules, regulations and resolutions of the Town of Prosper, Texas

WITNESS MY HAND AND SEAL OF OFFICE, this _____ day of _____, 2018

BRYAN ROAD RETAIL PARTNERS, LP

By: _____
Printed Name Position

STATE OF TEXAS
COUNTY OF _____

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared _____ known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this _____ day of _____, 20____.

Notary Public in and for the State of Texas

CERTIFICATE OF APPROVAL:

APPROVED THIS _____ DAY OF _____, 20____ BY THE PLANNING
& ZONING COMMISSION OF THE TOWN OF PROSPER, TEXAS

TOWN SECRETARY

DEVELOPMENT SERVICES DEPARTMENT

ENGINEERING DEPARTMENT



SURVEYOR
WINDROSE
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EXHIBIT A
LOT 2, BLOCK A
VICTORY AT FRONTIER
AN ADDITION TO THE TOWN
OF PROSPER, COLLIN COUNTY, TEXAS
BEING LOT 2, BLOCK A, VICTORY AT HERITAGE
DOC. NO. 2018-699, P.R.C.C.T.
1.377 ACRES
OUT OF THE SPENCER RICE SURVEY,
ABSTRACT NO. 787,
& COLLIN COUNTY SCHOOL LAND
SURVEY, ABSTRACT NO. 172
COLLIN COUNTY, TEXAS
TOWN OF PROSPER CASE NO. D18-0128

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