

ORDINANCE NO. 2024- 21

AN ORDINANCE OF THE CITY OF MINERAL WELLS, TEXAS, PROVIDING FOR SPECIFIED CHANGES IN THE OFFICIAL ZONING MAP OF THE CITY OF MINERAL WELLS, TEXAS; PROVIDING FOR A SPECIFIC USE PERMIT FOR "BATCH PLANT" IN A WOLTERS PARK ZONE A (WP-A) ZONED DISTRICT ON THE PROPERTY LEGALLY DESCRIBED AS 13.630 ACRES OF LAND OUT OF THE SOUTHWEST 1/4 OF SECTION NO. 2, T. & P. RR. CO. SURVEY (R.Y. ALLEN SURVEY), BLOCK "A", EAST OF THE BRAZOS RIVER, ABSTRACT 1445, PALO PINTO COUNTY, TEXAS, AND COMMONLY KNOWN AS 507 TAYLOR ROAD, MINERAL WELLS, TEXAS; PROVIDING A PENALTY NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2,000.00) FOR EACH OFFENSE AND A SEPARATE OFFENSE SHALL BE DEEMED COMMITTED EACH DAY DURING OR ON WHICH A VIOLATION OCCURS OR CONTINUES; PROVIDING REPEALING, SEVERABILITY AND SAVINGS CLAUSES; PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.

WHEREAS, the City of Mineral Wells (the "City") is a Home Rule Municipality acting under its Charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Texas Local Government Code; and

WHEREAS, the City Council of the City of Mineral Wells, Texas (the "City Council") adopted Appendix "B" of its Code of Ordinances, the same being the Zoning Ordinance of the City (the "Zoning Ordinance"); and

WHEREAS, OK Concrete Company (hereinafter the "Applicant") has made application under the provisions of the Zoning Ordinance for a Specific Use Permit to operate a "Batch Plant", as defined by the Zoning Ordinance, in a Wolters Park Zone A (WP-A) Zoning District, on property legally described as 13.630 acres of land, more or less, out of the Southwest 1/4 of Section No. 2, T. & P. RR. Co. Survey (R.Y. Allen Survey), Block "A", East of the Brazos River, Abstract 1445, Palo Pinto County, Texas, commonly known as 507 Taylor Road, Mineral Wells, Texas (the "Property"); and

WHEREAS, Section 3-1 of the Zoning Ordinance allows for a "Batch Plant" in a Wolters Park Zone A (WP-A) District with the grant of a Specific Use Permit; and

WHEREAS, public hearings on said application having been held before the City's Planning and Zoning Commission and the City Council after due notice of the public hearings having been mailed and published in all respects as required by law; and

WHEREAS, the Planning and Zoning Commission has recommended a Specific Use Permit be granted to the Applicant to allow a "Batch Plant" facility in a Wolters Park Zone A (WP-A) District for the Property; and

WHEREAS, the City Council has considered the evidence and testimony provided by all parties appearing before the City Council, in person and in writing, and the recommendation of the Planning and Zoning Commission relative to the proposed zoning change and has further considered all written approvals and protests, all as required by law; and

WHEREAS, the City Council has determined that the use of the Property for a Batch Plant is compatible with surrounding properties, is appropriate for the location of the Property, and meets the conditions of Section 6-2.F. of the Zoning Ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MINERAL WELLS, TEXAS:

Section 1. Incorporation of Premises. The above and foregoing premises are true and correct and are incorporated herein and made a part hereof for all purposes.

Section 2. Zoning Map and Specific Use Permit Approved. The zoning map of the City of Mineral Wells adopted by Section 1-6 of Appendix "B" to the Mineral Wells Code of Ordinances and on file in the office of the Administrative Official, as defined in Section 3-3, Definitions, is hereby amended to reflect the following zoning use changes and the Specific Use Permit is approved as follows:

2.1. **Rezoning.** The Property is rezoned from WPA (Wolters Park Zone A) District to WPA (Wolters Park Zone A) District with Specific Use Permit for "Batch Plant".

2.2. **Specific Use Permit with Conditions Approved.** A Specific Use Permit ("SUP") for the Property authorizing a "Batch Plant" for the Applicant is hereby approved as set forth herein, and the SUP and the use for which it is granted is subject to all Applicable Regulations (defined below) and to the following conditions:

- A. **Uses.** In addition to uses allowed by right in the Wolters Park Zone A (WP-A) District, the following uses shall be permitted in accordance with the conditions of this SUP: "Batch Plant" shall only apply to the existing Property.
- B. **Applicable Regulations.** This SUP shall be subject to all ordinances and regulations of the City applicable to the Property, including without limitation the Zoning Ordinance, those regulations governing the Wolters Park Zone A (WP-A) District, and Subsections 2, 3, 7, 12, and 25 of Section 3-2.A. of the Zoning Ordinance ("Applicable Regulations"). The SUP granted by this Ordinance shall control in cases of conflict between this Ordinance and/or the Zoning Ordinance.

Section 3. Failure to Comply/Expiration/Transferable. All terms of this SUP shall be complied with prior to issuance of a certificate of occupancy. This SUP shall be declared null and void and of no force and effect and shall discontinue if or for any one or more of the following:

- A. Any failure to comply with any term or condition of this Ordinance or the Applicable Regulations, as they exist or may be amended; or

- B. Any improvements, the Property, uses or structures regulated by this SUP are enlarged, modified, structurally altered or otherwise significantly changed unless a separate Specific Use Permit or other required authorization is granted therefor; or
- C. A building permit for the construction of any new structure for which a use is authorized hereunder has not been approved within one (1) year of the date of approval of this Ordinance; or
- D. A certificate of occupancy for any existing structure for which a use authorized by this Ordinance is not applied for and issued within one hundred and eighty (180) days from the effective date of this Ordinance; or
- E. A use for which this SUP is granted ceases to operate for a continuous period of one hundred eighty (180) calendar days; or
- F. A structure for which this SUP is granted remains vacant for a continuous period of one hundred eighty (180) calendar days; or
- G. This SUP was obtained by fraud or deception; or
- H. As otherwise permitted by law, this Ordinance and/or the City's Zoning Ordinance, as they exist or may be amended, including without limitation the requirements of Article 2 "Nonconforming Lots, Structures, and Uses".

Section 4. Savings/Repealing Clause. 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 repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

Section 5. 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. Mineral Wells hereby declares that it would have passed this Ordinance, and each section, subsection, sentence, 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 6. Penalty. Any person, firm, entity or corporation who violates any provision of this Ordinance or Mineral Wells' Zoning Ordinance, Appendix B to the Code of Ordinances of the City, as they exist or may be amended, shall be deemed guilty of a misdemeanor, and upon conviction therefore, shall be fined in a sum not exceeding Two Thousand and No/100 Dollars (\$2,000.00). Each continuing day's violation shall constitute a separate offense. The penal provisions imposed under this Ordinance shall not preclude Mineral Wells from filing suit to enjoin the violation. Mineral Wells retains all legal rights and remedies available to it pursuant to local, state, and federal law.

Section 7. Publication and Effective Date. This Ordinance shall become effective immediately upon its adoption and its publication as required by law.

PASSED AND APPROVED BY THE MINERAL WELLS CITY COUNCIL IN A PUBLIC MEETING HELD this the 17th day of September 2024.

APPROVED:

Regan L Johnson
Regan Johnson, Mayor

ATTEST:

Sharon McFadden
Sharon McFadden, City Clerk

