

ORDINANCE NO. 772

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, AMENDING THE COMPREHENSIVE ZONING ORDINANCE OF 1964, DULY PASSED BY THE CITY COUNCIL ON AUGUST 17, 1964, SO AS TO GRANT A CHANGE OF ZONING ON THE HEREINAFTER DESCRIBED PROPERTY FROM "R-3" SINGLE FAMILY DWELLING DISTRICT TO A SPECIAL PERMIT FOR A TOWNHOUSE AND COMMUNITY CENTER DEVELOPMENT, SAID PROPERTY BEING IN THE CITY OF MESQUITE, DALLAS COUNTY, TEXAS, AND DESCRIBED AS FOLLOWS: A TRACT OF LAND OUT OF THE JOHN T. NELMS SURVEY, ABSTRACT NO. 1095, AND BEING PART OF THE 110 ACRES CALLED FIRST TRACT IN DEED FROM LYDA MAE LYTOL, ET AL, TO J. B. GALLOWAY, DATED JANUARY 28, 1933, AND RECORDED IN VOLUME 1825 AT PAGE 23 OF THE DEED RECORDS OF DALLAS COUNTY, TEXAS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT A POINT IN THE SOUTH RIGHT-OF-WAY LINE OF TOWN EAST BOULEVARD (MURPHY SCHOOL-NEW HOPE ROAD), SAID POINT BEING 40 FEET SOUTH OF THE CENTER LINE OF TOWN EAST BOULEVARD, AS ESTABLISHED BY RIGHT-OF-WAY DEED TO THE COUNTY OF DALLAS, DATED SEPTEMBER 14, 1948, AND RECORDED IN VOLUME 3037 AT PAGE 240 OF THE DEED RECORDS OF DALLAS COUNTY, TEXAS, AND THE WEST LINE OF A 165 ACRE TRACT CONVEYED BY ARLENE W. THOMPSON ET VIR TO O. W. GIBBONS BY DEED DATED NOVEMBER 25, 1939, RECORDED IN VOLUME 2171 AT PAGE 391 OF THE DEED RECORDS OF DALLAS COUNTY, TEXAS; THENCE NORTH 89° 06' 38" WEST ALONG THE SOUTH LINE OF TOWN EAST BOULEVARD, A DISTANCE OF 400 FEET TO A POINT FOR CORNER; THENCE SOUTH 1° 01' 52" WEST A DISTANCE OF 975 FEET TO A POINT FOR CORNER; THENCE 45° 0' 0" WEST A DISTANCE OF 570 FEET TO A POINT FOR CORNER; THENCE SOUTH 1° 01' 52" WEST A DISTANCE OF 200 FEET TO A POINT FOR CORNER; THENCE NORTH 89° 16' WEST A DISTANCE OF 940 FEET MORE OR LESS TO A POINT FOR CORNER IN THE EAST LINE OF A 6.43596 ACRE TRACT CONVEYED BY J. B. GALLOWAY AND WIFE MYRTLE GALLOWAY TO DALLAS POWER AND LIGHT COMPANY BY DEED DATED APRIL 19, 1961, AND RECORDED IN VOLUME 5533 AT PAGE 364 OF THE DEED RECORDS OF DALLAS COUNTY, TEXAS; THENCE SOUTH 28° 07' 01" WEST ALONG SAID EAST LINE OF DALLAS POWER AND LIGHT COMPANY RIGHT-OF-WAY A DISTANCE OF 450 FEET MORE OR LESS TO A POINT FOR CORNER IN THE SOUTH LINE OF SAID J. B. GALLOWAY 110 ACRE TRACT; THENCE SOUTH 89° 16' EAST ALONG SAID SOUTH LINE A DISTANCE OF 1208.12 FEET TO A POINT FOR CORNER; THENCE SOUTH 1° 01' 52" WEST A DISTANCE OF 61 FEET TO A POINT FOR CORNER, SAME BEING THE NORTHEAST CORNER OF THE HENRY HARTER SURVEY, ABSTRACT NO. 594; THENCE SOUTH 88° 38' 15" EAST A DISTANCE OF 732.63 FEET TO A POINT FOR CORNER, SAME BEING THE SOUTHWEST CORNER OF

SAID O. W. GIBBONS TRACT; THENCE NORTH 1° 01' 52" EAST ALONG THE WEST LINE OF SAID GIBBONS TRACT A DISTANCE OF 2048.64 FEET TO THE PLACE OF BEGINNING. BY PROVIDING DEFINITIONS; BY PROVIDING USE REGULATIONS; BY ESTABLISHING MAXIMUM BUILDING HEIGHT REGULATIONS; BY PROVIDING MINIMUM YARD REQUIREMENTS; BY PROVIDING LOT OR BUILDING SIT REQUIREMENTS; BY PROVIDING GENERAL REQUIREMENTS AS TO ACCESS; PARKING; CONSTRUCTION; FIRE PROTECTION; DENSITY; MINIMUM DWELLING AREA; UNDERGROUND UTILITIES; AND CONFORMITY WITH CITY SPECIFICATIONS; BY PROVIDING FOR THE REGULATION OF COMMON OR RECREATION AREAS WITHIN THE DEVELOPMENT BY A HOMEOWNER'S ASSOCIATION; BY PROVIDING FOR THE APPLICABILITY OF ALL SUBDIVISION REQUIREMENTS TO THE LAND HEREWITH ZONED; BY REPEALING ALL ORDINANCES IN CONFLICT WITH THE PROVISIONS OF THIS ORDINANCE AND RETAINING IN FULL FORCE AND EFFECT ALL PROVISIONS OF THE 1964 ZONING ORDINANCE NOT IN CONFLICT HEREWITH; BY MAKING APPLICABLE ALL REGULATIONS OF THE 1964 ZONING ORDINANCE TO THE LAND HEREWITH ZONED TO THE EXTENT NOT IN CONFLICT WITH THE TERMS OF THE SPECIAL PERMIT HEREBY GRANTED; BY PROVIDING A SEVERABILITY CLAUSE; BY PROVIDING FOR A PENALTY NOT TO EXCEED TWO HUNDRED DOLLARS (\$200.00) FOR EACH OFFENSE; AND DECLARING AN EMERGENCY.

WHEREAS, the City Plan Commission of the City of Mesquite and the governing body of the City of Mesquite, in compliance with the Charter of the City of Mesquite and State Laws with reference to granting of zoning changes under the zoning ordinance regulations and Zoning Map, have given the requisite notices by publication and otherwise and, after holding due hearings and affording a full and fair hearing to all property owners generally and to the persons interested and situated in the area, the City of Mesquite is of the opinion that the said change of zoning should be granted herein:

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

SECTION 1. That the Comprehensive Zoning Ordinance of 1964, duly passed by the City Council of the City of Mesquite, Texas, on the 17th day of August, 1964, be, and the same is, hereby amended by amending the Zoning Map of the City of Mesquite so as to grant a change of zoning on the hereinafter described property from "R-3" Single-family Dwelling District to a Special Permit for a Townhouse and Community Center Development; said property being in the City of Mesquite, Dallas County, Texas, and described as follows:

A tract of land out of the John T. Nelms Survey, Abstrace No. 1095, and being part of the 110 acres called First Tract in Deed from Lyda Mae Lytol, et al, to J. B. Galloway, dated January 28, 1933, and recorded in Volume 1825 at page 23 of the Deed Records of Dallas County, Texas, and being more particularly described as follows:

BEGINNING at a point in the south right-of-way line of Town East Boulevard (Murphy School-New Hope Road), said point being 40 feet south of the center line of Town East Boulevard, as established by right-of-way deed to the County of Dallas, dated September 14, 1948, and recorded in Volume 3037 at page 240 of the Deed Records of Dallas County, Texas, and the west line of a 165 acre tract conveyed by Arlene W. Thompson et vir to O. W. Gibbons by deed dated November 25, 1939, recorded in Volume 2171 at page 391 of the Deed Records of Dallas County, Texas;

THENCE north $89^{\circ} 06' 38''$ West along the south line of Town East Boulevard, a distance of 400 feet to a point for corner;

THENCE South $1^{\circ} 01' 52''$ West a distance of 975 feet to a point for corner;

THENCE $45^{\circ} 0' 0''$ West a distance of 570 feet to a point for corner;

THENCE South $1^{\circ} 01' 52''$ West a distance of 200 feet to a point for corner;

THENCE North $89^{\circ} 16'$ West a distance of 940 feet more or less to a point for corner in the east line of a 6.43596 acre tract conveyed by J. B. Galloway and wife Myrtle Galloway to Dallas Power and Light Company by deed dated April 19, 1961, and recorded in Volume 5533 at page 364 of the Deed Records of Dallas County, Texas;

THENCE South $28^{\circ} 07' 01''$ West along said east line of Dallas Power and Light Company right-of-way a distance of 450 feet more or less to a point for corner in the south line of said J. B. Galloway 110 acre tract;

THENCE South $89^{\circ} 16'$ East along said south line a distance of 1208.12 feet to a point for corner;

THENCE South $1^{\circ} 01' 52''$ West a distance of 61 feet to a point for corner, same being the northeast corner of the Henry Harter Survey, Abstract No. 594;

THENCE South 88° 38' 15" East a distance of 732.63 feet to a point for corner, same being the southwest corner of said O. W. Gibbons tract;

THENCE North 1° 01' 52" East along the west line of said Gibbons tract a distance of 2048.64 feet to the place of beginning.

SECTION 2. Definitions

A Town house is defined as a one-family attached dwelling unit on a separately platted lot or officially approved building site, which is occupied by not more than one family and is joined to another dwelling unit on one or more sides.

SECTION 3. Use Regulations

- A. That no land within the boundaries set forth above shall be used for any purpose, nor any building erected or converted for any purpose other than for town houses; save for those exceptions noted in "B" below.
- B. That community centers; and recreational facilities may be constructed within the boundaries set forth above; provided that the developer of the land herewith zoned or his successors shall first provide a site plan depicting the location of such building and/or facilities to the Director of Public Works of the City of Mesquite and no such building for community center purposes nor recreational facilities may be constructed without the approval of the Director of Public Works.

SECTION 4. Maximum Building Height

No Building shall be constructed on the land herewith zoned that exceeds two and one-half stories in height.

SECTION 5. Minimum yard Requirements

- A. FRONT YARD - All attached dwellings shall have a front yard with a minimum depth of twenty feet.
- B. SIDE YARD - A side yard of twelve feet shall be provided between end walls of any two rows of town houses, and fifteen feet where adjacent to a street or drive.
- C. REAR YARD - A rear yard having a minimum depth of not less than 20 feet shall be provided.

- D. COMMON AREA - Where dwellings face each other, on a common open area, there shall be a minimum separation of forty feet between opposite walls.

SECTION 6. Lot or Building Site Requirements

Each dwelling shall be located on a lot or site having a minimum width of thirty feet and a minimum depth of seventy-five feet. Each such lot shall contain a minimum of 3,000 square feet.

- A. ATTACHED DWELLINGS - Attached dwellings shall be groups of not less than three nor more than six dwellings in a single group.

SECTION 7. General Requirements

- A. ACCESS - Each platted lot or building site shall have access to either a dedicated street or private drive having a minimum width of twenty-seven feet.
- B. APPROVAL BY CITY - All parking areas, access drives, sidewalks, private or public streets and drainage structures constructed on public or private property shall be approved by the City and constructed in accordance with City specifications and requirements.
- C. PARKING REGULATIONS - A carport or garage having a capacity of two standard size automobiles shall be provided on each lot or building site.
- D. CONSTRUCTION REQUIREMENTS - The exterior construction of all dwellings shall conform to the requirements of Section 3 (10) Article VI of the City Code of Mesquite, the same being an "R-2" Single family dwelling district.
- a. All attached dwellings shall have a four-hour rated fire wall between each such unit. All such fire walls shall be continuous and unbroken from foundation slab to the underside of roof deck and conform to all other requirements for fire walls as outlined in the Building Code of the City of Mesquite.
- E. DENSITY REQUIREMENTS - The average density of the total area of the land herewith zoned, as it relate to the erection of town houses, shall not exceed eleven dwelling units per acre. The density is to be computed by taking the gross land area of the tract and dividing by the total number of dwellings within the tract.

- F. MINIMUM AREA OF DWELLING - The minimum area of all dwellings shall be twelve hundred square feet of living area, exclusive of garages, breezeways and porches.
- G. UTILITIES - All utilities in the development herewith zoned shall be placed beneath ground, except installation above ground shall be permitted when approved by the Director of Public Works of the City of Mesquite under the following circumstances:
- a. above ground installation of transformers.
 - b. Where utility line crosses a major drainage channel or depression of such depth as to make below ground installation impractical.
 - c. At the point where the utility enters into the development herewith zoned.

There shall be no other exceptions save those enumerated above, save by approval of the City Council; but in no event shall individual house services be above ground.

SECTION 8. Home Owners or Maintenance Association

In the event common open area is provided and/or other recreational facilities established for the exclusive use of the occupants of the dwellings, all provisions of any type of association formed to maintain and manage all such area shall first be approved by the City Manager prior to the issuance of any building permit.

Further, if such a greenbelt or common area is provided, a plat depicting the location of recreational facilities and areas, types and location of trees and shrubs, the installation of a sprinkler system, the installation of utilities, and all other appurtenances connected with this area shall be filed for approval and an agreement concerning construction and maintenance shall be entered into between the City of Mesquite and the developer or its successor. The execution of such an agreement and approval of said plat shall be a condition precedent to the issuance of a building permit.

SECTION 9. Subdivision Regulations

That all requirements of Ordinance No. 420, the same being the Subdivision Ordinance of the City of Mesquite shall apply to the development herein zoned with the following exceptions:

- a. No alley shall be required save in the case of perimeter lots.

- b. A preliminary plat must be filed in accordance with the rules and regulations of the subdivision ordinance. The preliminary plat must be approved by the City Council after receiving a recommendation from the Planning Commission. If there are no material variances between the preliminary and final plats, City Council approval will not be necessary for such final plats.

SECTION 10. Conflict

That all ordinances of the City of Mesquite in conflict with the provisions of this ordinance be, and the same are, hereby repealed, and all other ordinances of the City of Mesquite not in conflict with the provisions of this ordinance shall remain in full force and effect.

SECTION 11. Provisions of Zoning Ordinance Applicable

That the above described tract of land shall be used only in the manner and for the purposes provided for by the Comprehensive Zoning Ordinance of 1964.

SECTION 12. Severability

That should any paragraph, sentence, subdivision, clause, phrase, or section of this ordinance be adjudged or held to be unconstitutional, illegal, or invalid, the same shall not affect the validity of this ordinance as a whole, or any part or provision hereof other than the part so decided to be invalid, illegal, or unconstitutional and shall not affect the validity of the Comprehensive Zoning Ordinance as a whole.

SECTION 13. Penalty

That any person, firm, or corporation violating any of the provisions or terms of this ordinance shall be subject to the same penalty as provided for in the Comprehensive Zoning Ordinance of 1964 of the City of Mesquite, and upon conviction shall be punished by a fine not to exceed Two Hundred Dollars (\$200.00) for each offense.

SECTION 14. Emergency

Whereas, the above described property requires that it be given the above zoning classification in order to permit its proper development and in order to protect the public interest, comfort, and general welfare of the City of Mesquite, and creates an urgency and an emergency for the preservation of the public health, safety, and welfare and requires that this ordinance shall take effect immediately from and after

its passage and publication of the caption of said ordinance, as the law in such cases provides.

DULY PASSED by the City Council of the City of Mesquite, Dallas County, Texas, on the 6 day of January, 1969.



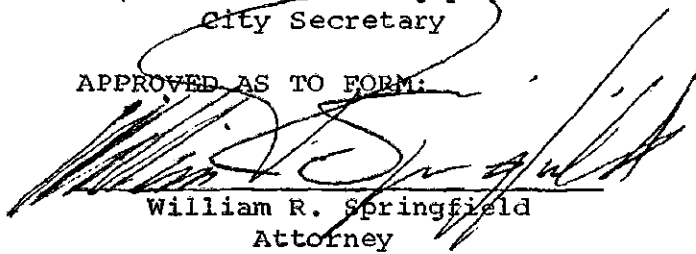
GEORGE BOYCE
MAYOR

ATTEST:



Norma G. McGaughey
City Secretary

APPROVED AS TO FORM:



William R. Springfield
Attorney