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ORDINANCE NO. 1012

CASE HH-7

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 FROM "R-3" SINGLE FAMILY DWELLING DISTRICT TO "A-2" MULTI-FAMILY TOWNHOUSES, ON AN APPROXIMATE 35-ACRE TRACT OF LAND, BEING PART OF TRACT 27, ABSTRACT 1367, SHEET 2, SWEET SURVEY, AND UNDEVELOPED LOTS OUT OF BLOCKS B, C, D, AND E, HICKORY HEIGHTS SUBDIVISION TO THE CITY OF MESQUITE, DALLAS COUNTY, TEXAS, SUBJECT TO THE FOLLOWING STIPULATIONS: (1) THAT THE DENSITY BE LIMITED TO NOT MORE THAN EIGHT UNITS PER ACRE; (2) THAT THE TOWNHOUSES BE INDIVIDUALLY SOLD AND OWNERSHIP TRANSFERRED BY FEE SIMPLE TITLE; (3) THAT THE HOMEOWNERS ASSOCIATION AGREEMENT HAVE PRIOR APPROVAL OF THE CITY STAFF; (4) THAT A SWIMMING POOL AND CLUBHOUSE BE PROVIDED IN AND FOR THE USAGE OF THE RESIDENTS OF THE DEVELOPMENT; (5) THAT RIGHT OF WAY BE DEDICATED FOR THE FRONTAGE ROAD OF I. H. 635 ABUTTING THE SUBJECT PROPERTY, AND THAT ASSURANCE (ACCEPTABLE TO THE CITY), BY THE ESCROWING OF FUNDS, A SURETY BOND, OR SOME OTHER METHOD, BE GIVEN THAT THE DEVELOPER'S FUNDS WILL BE AVAILABLE FOR THE ENTIRE COST OF CONSTRUCTING THE FRONTAGE ROAD OF I. H. 635 ABUTTING THE SUBJECT PROPERTY, AT SUCH TIME AS THE OTHER PORTION OF THE FRONTAGE ROAD IN THIS VICINITY IS CONSTRUCTED; (6) THAT A 37-FOOT WIDE COLLECTOR STREET BE CONSTRUCTED FROM NEW MARKET THROUGH TO BRUTON ROAD, WITH A 37-FOOT CONNECTION TO HICKORY TREE ROAD. OTHER AFFECTED PROPERTY OWNERS WOULD BE ASKED TO PARTICIPATE IN THE COST OF THE PORTION OF THE STREETS ABUTTING THEIR PROPERTY; HOWEVER, SHOULD THEY FAIL TO DO SO, THE DEVELOPER SHALL HAVE THE ULTIMATE RESPONSIBILITY OF ACQUIRING THE NEEDED RIGHT OF WAY AND CONSTRUCTING THE 37-FOOT COLLECTOR STREETS; (7) THAT THE SITE PLAN SHALL BE SUBJECT TO APPROVAL OF THE CITY PLANNING COMMISSION; SAID PROPERTY BEING IN THE CITY OF MESQUITE, DALLAS COUNTY, TEXAS, AND FURTHER DESCRIBED IN EXHIBIT "A" AS ATTACHED HERETO AND MADE A PART OF THIS ORDINANCE; 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;

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BY MAKING APPLICABLE ALL REGULATIONS OF THE 1964 ZONING ORDINANCE TO THE LAND HEREWITH ZONED; BY PROVIDING THAT THE FOREGOING ZONING CHANGE IS GRANTED SUBJECT TO ANY DEVELOPMENT OF THE LAND BEING DEVELOPED IN CONFORMITY WITH THE REQUIREMENTS OF CURRENT AND/OR FUTURE DRAINAGE IMPROVEMENT ORDINANCES; 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 Planning 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 property described in Exhibit "A", as attached hereto and made a part of this ordinance, from "R-3" Single-Family Dwelling District to "A-2" Multi-Family Townhouses, with the following stipulations:

- (1) That the density be limited to not more than eight units per acre;
- (2) That the Townhouses be individually sold and ownership transferred by fee simple title;
- (3) That the Homeowners Association agreement have prior approval of the City Staff;
- (4) That a swimming pool and clubhouse be provided in and for the usage of the residents of the development;

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- (5) That right of way be dedicated for the frontage road of I.H. 635 abutting the subject property, and that assurance (acceptable to the City), by the escrowing of funds, a surety bond, or some other method, be given that the developer's funds will be available for the entire cost of constructing the frontage road of I.H. 635 abutting the subject property, at such time as the other portion of the frontage road in this vicinity is constructed;
- (6) That a 37-foot wide collector street be constructed from New Market through to Bruton Road, with a 37-foot connection to Hickory Tree Road. Other affected property owners would be asked to participate in the cost of the portion of the streets abutting their property; however, should they fail to do so, the developer shall have the ultimate responsibility of acquiring the needed right of way and constructing the 37-foot collector streets; and
- (7) That the site plan shall be subject to approval of the City Planning Commission;

said property being in the City of Mesquite, Dallas County, Texas, and further described in Exhibit "A".

SECTION 2. 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 3. That the property described in Exhibit "A" shall be used only in the manner and for the purposes provided for by the Comprehensive Zoning Ordinance of 1964.

SECTION 4. That the foregoing zoning change shall be, and it is, granted subject to any development of the land herein being developed in conformity with the requirements of current and/or future drainage improvement ordinances of the City of Mesquite, including Ordinance No. 858 of the Mesquite City Code.

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SECTION 5. 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 6. 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.

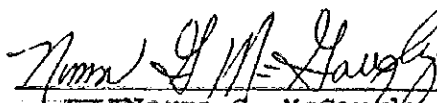
SECTION 7. Whereas, the property described in Exhibit "A" requires that it be given the above zoning classification in order to permit its proper development and in order to protect the public interest, comfort, and general welfare of the City of Mesquite, and creates an urgency and an emergency for 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 said ordinance, as the law in such cases provides.

DULY PASSED by the City Council of the City of Mesquite, Texas, on the 6 day of March, A.D., 1972.


George Boyce
Mayor

ATTEST:

APPROVED AS TO FORM:


Norma G. McGaughy
City Secretary

Elland Archer
City Attorney

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EXHIBIT "A"

BEING a tract of land situated in the L. SWEET SURVEY, Abstract No. 1367, City of Mesquite, County of Dallas, Texas and being more particularly described as follows:

COMMENCING at a point in the North line of HICKORY HEIGHTS SUBDIVISION, said point being the Northeast corner of Lot 3, Block "D" of said Subdivision;

THENCE, NORTH, $89^{\circ}41'10''$ East a distance of 500.0 feet to the PLACE OF BEGINNING;

THENCE, NORTH, $0^{\circ}24'$ West a distance of 305 feet to a point for corner;

THENCE, SOUTH, $89^{\circ}41'$ West a distance of 42 feet to a point for corner;

THENCE, NORTH, a distance of 455 feet to a point for corner;

THENCE, NORTH, $89^{\circ}41'$ East a distance of 680 feet to a point for corner;

THENCE, SOUTH, a distance of 756 feet to a point for corner;

THENCE, NORTH, $89^{\circ}41'10''$ East a distance of 485 feet to a point;

THENCE, NORTH, $88^{\circ}58'02''$ East a distance of 55.56 feet to a point located in the West Right-of-Way line of Interstate Highway 635;

THENCE, SOUTH, $22^{\circ}00'26''$ East along said Right-of-Way a distance of 335.38 feet to a point;

THENCE, SOUTH, $25^{\circ}43'22''$ East along said Right-of-Way a distance of 270 feet to a point for corner;

THENCE, SOUTH, $89^{\circ}41'$ West a distance of 615 feet to a point for corner;

THENCE, SOUTH, $3^{\circ}32'$ East 357.1 feet to a point for corner;

THENCE, NORTH, $89^{\circ}48'$ West a distance of 850 feet to a point for corner;

THENCE, NORTH, $0^{\circ}24'$ West a distance of 770 feet to a point for corner;

THENCE, SOUTH, $89^{\circ}48'$ East a distance of 30 feet to a point for corner;

THENCE, NORTH, $0^{\circ}24'$ West a distance of 130 feet, more or less, to the PLACE OF BEGINNING; and containing 35.5 acres of land, more or less.

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