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ORDINANCE NO. 1090

CASE CV 17-2

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 "C" COMMERCIAL DISTRICT; SAID PROPERTY BEING ON TRACT 20, BLOCK 8, CASA VIEW HEIGHTS #17 ADDITION, CITY OF MESQUITE, DALLAS COUNTY, TEXAS, AND BEING 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; 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

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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 from "R-3" Single Family Dwelling District to "C" Commercial District, said property being on Tract 20, Block 8, Casa View Heights #17 Addition, City of Mesquite, Dallas County, Texas, and being further described in Exhibit "A" as attached hereto and made a part of this ordinance.

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 one certain agreement entered into between landowner and the City of Mesquite, Texas, on June 22, 1972, and attached hereto in lieu of the requirements of Ordinance 858, Code of the City of Mesquite.

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.


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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 AND APPROVED by the City Council of the City of Mesquite, Texas, on the 18 day of December, 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"

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BEING all that certain lot, tract, or parcel of land situated in the City of Mesquite, Texas, Dallas County, Texas, and being part of Block 8 of Casa View Heights No. 17, an Addition to the City of Mesquite, Dallas County, Texas, according to the plat thereof recorded in Volume 37 at page 7 of the Map Records of Dallas County, Texas, and being more particularly described as follows:

BEGINNING at a point for corner in the East line of a 15 foot alley easement at its intersection with the South line of a tract of land conveyed to the City of Mesquite, Texas, by deed filed June 6, 1968, in the Deed Records of Dallas County, Texas;

THENCE South 89° 33' East along the South line of said City of Mesquite tract, a distance of 179.6 feet to a point for corner, said point being in a curve having a central angle of 24° 25' 32" and a radius of 50 feet;

THENCE in a Northeasterly direction along said curve, an arc distance of 21.32 feet to the point of Tangent;

THENCE North 60° 56' East, a distance of 180.07 feet to a point for corner in the center of a 20 foot drainage easement, said point being in a curve having a central angle of 11° 31' 38" and a radius of 225.51 feet;

THENCE in a Easterly direction along said curve and the center of said 20 foot drainage easement, an arc distance of 45.37 feet to the point of Tangent;

THENCE South 83° 13' East along the center of said easement, a distance of 128.51 feet to the beginning of a curve to the right having a central angle of 54° 09' and a radius of 48.91 feet;

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THENCE in a Easterly and Southeasterly direction along said curve, an arc distance of 46.22 feet to the end of said curve;

THENCE South $60^{\circ} 56'$ West, a distance of 624.14 feet to a point for corner in the East line of said 15 foot alley easement;

THENCE North $29^{\circ} 04'$ West along the East line of said 15 foot alley easement, a distance of 156.53 feet to a point for angle;

THENCE North $0^{\circ} 27'$ East, a distance of 220.85 feet to the place of Beginning.

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AGREEMENT

WITNESSETH:

That the City of Mesquite, Texas, a municipal corporation and Commercial Parks, Inc., by and through Bayard M. Smith, President, hereinafter called Landowners enter into and make the following agreement:

WHEREAS, Landowners have requested that said Rockne Lane not be constructed through Landowners' property, but that Landowners be allowed to construct commercial building(s) on the land through which said Rockne Lane was projected;

Now, therefore, Landowners have and do offer the following inducement to the City of Mesquite to abandon all plans and intentions to extend Rockne Lane through Landowners' property and to issue a building permit for construction of commercial building(s) as aforesaid:

1. Landowners, at their sole expense will cause to be constructed a cul de sac at the point where Rockne Lane dead-ends in accordance with the plans and specifications of the City of Mesquite.
2. Landowners, at their sole expense, will cause to be constructed storm drainage from said cul de sac to the existing drainage channel in accordance with applicable City of Mesquite specifications for storm drainage.
3. Landowners will cause to be extended at their sole expense the existing alley now dead-ended at or near Landowners' property line so that said alley will connect with Rockne Lane.
4. Landowners will cause to be constructed and repaired that portion of the existing concrete drainage channel through and across

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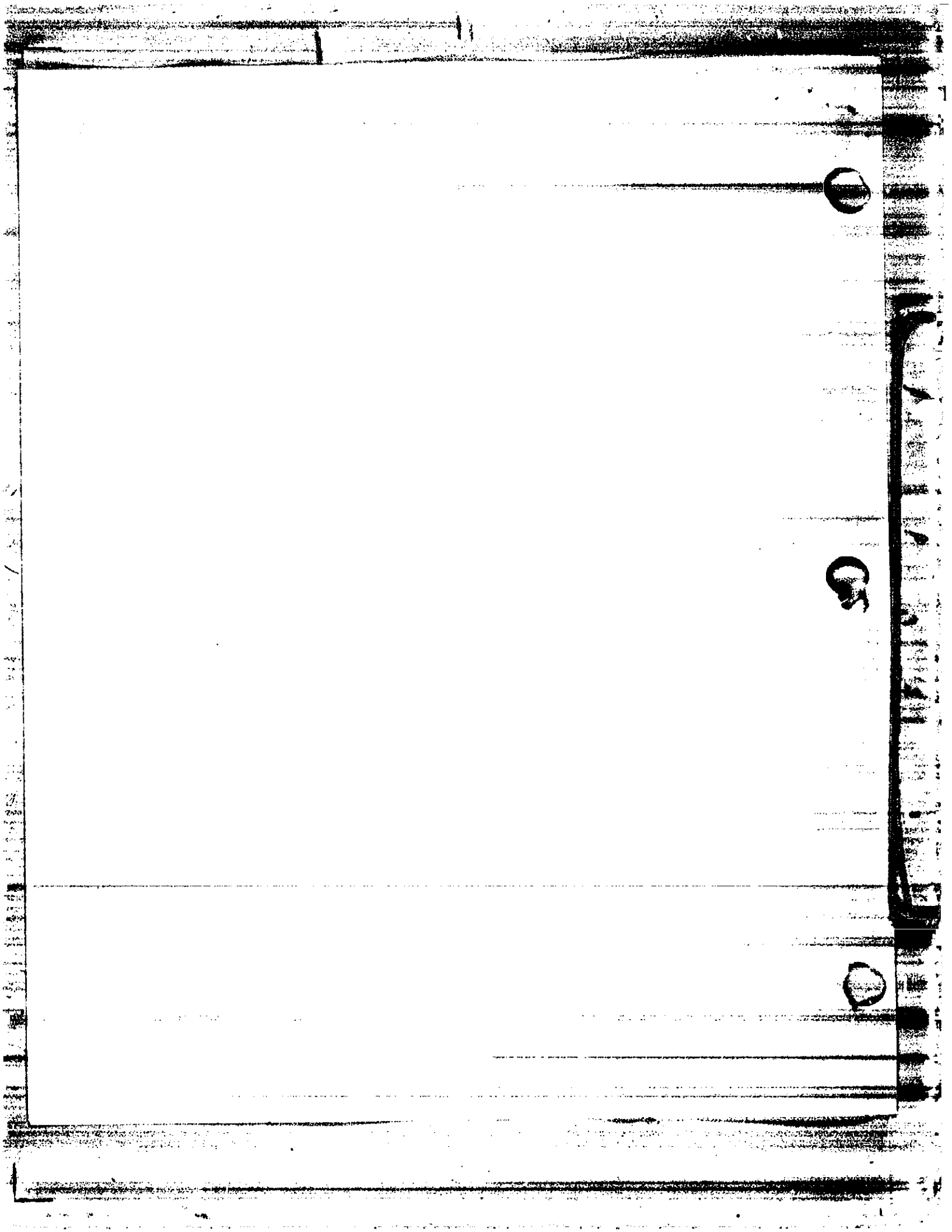
Agreement/Page 2

Landowners' property to the extent that said channel will meet the requirements of Ordinance 858, Code of the City of Mesquite, or in the alternative, said channel will meet such requirements as may satisfy the Director of Public Works, whichever may be less expensive to Landowners.

It is agreed and understood that the issuance of a building permit is expressly conditioned upon the foregoing numbered provisions. By Acceptance of a building permit, Landowners agree and covenant to satisfactorily perform each and every obligation. Said obligation shall be binding upon Landowners' successors in title and shall run with the land.

In the event Landowners fail to perform any of the listed obligations the City of Mesquite is authorized to cause the improvements to be made at Landowners expense. Further, the City of Mesquite may obtain specific performance through a court of equity, or a combination thereof, or the City may pursue such other remedy as the law may provide. In any event, a final certificate of occupancy shall not be issued until the provisions herein have been performed.

In consideration thereof, the City of Mesquite, Texas, does, upon satisfactory compliance by Landowners, abandon all plans and intentions to extend Rockne Lane through and across Landowners property and agrees that Landowners may construct a commercial building on the space wherein said street was projected, subject to the conditions set forth. In addition, the construction and repair of said drainage ditch by Landowners as set forth shall satisfy and extinguish any claim by the City of Mesquite against Bayard M. Smith for the original cost of construction of said drainage channel; which claim is not acknowledged by Landowners.



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It is further agreed that the construction and repair of the drainage channel to the satisfaction of the Director of Public Works and acceptance thereof shall constitute compliance with Ordinance 858, at such time as the residential property adjacent to said channel may be rezoned, should said land be rezoned.

The City of Mesquite, upon satisfaction of the obligations herein, shall furnish to Landowners a certificate of compliance properly acknowledged, so that same may be filed for record.

It is agreed and stipulated herein that in addition to any act or acts the parties may be required by law to perform or any rights the parties may have at law, there is, nevertheless, mutual consideration for the contractual obligations undertaken by this agreement.

To witness same we hereunto set our hands this _____ day of _____, 1972.

Attest:

Secretary

Commercial Parks Inc.

by _____
Bayard M. Smith, President

Attest:

Norma McGaughy
City Secretary

City of Mesquite, Texas

by _____
George Boyce, Mayor

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CORPORATE ACKNOWLEDGEMENT

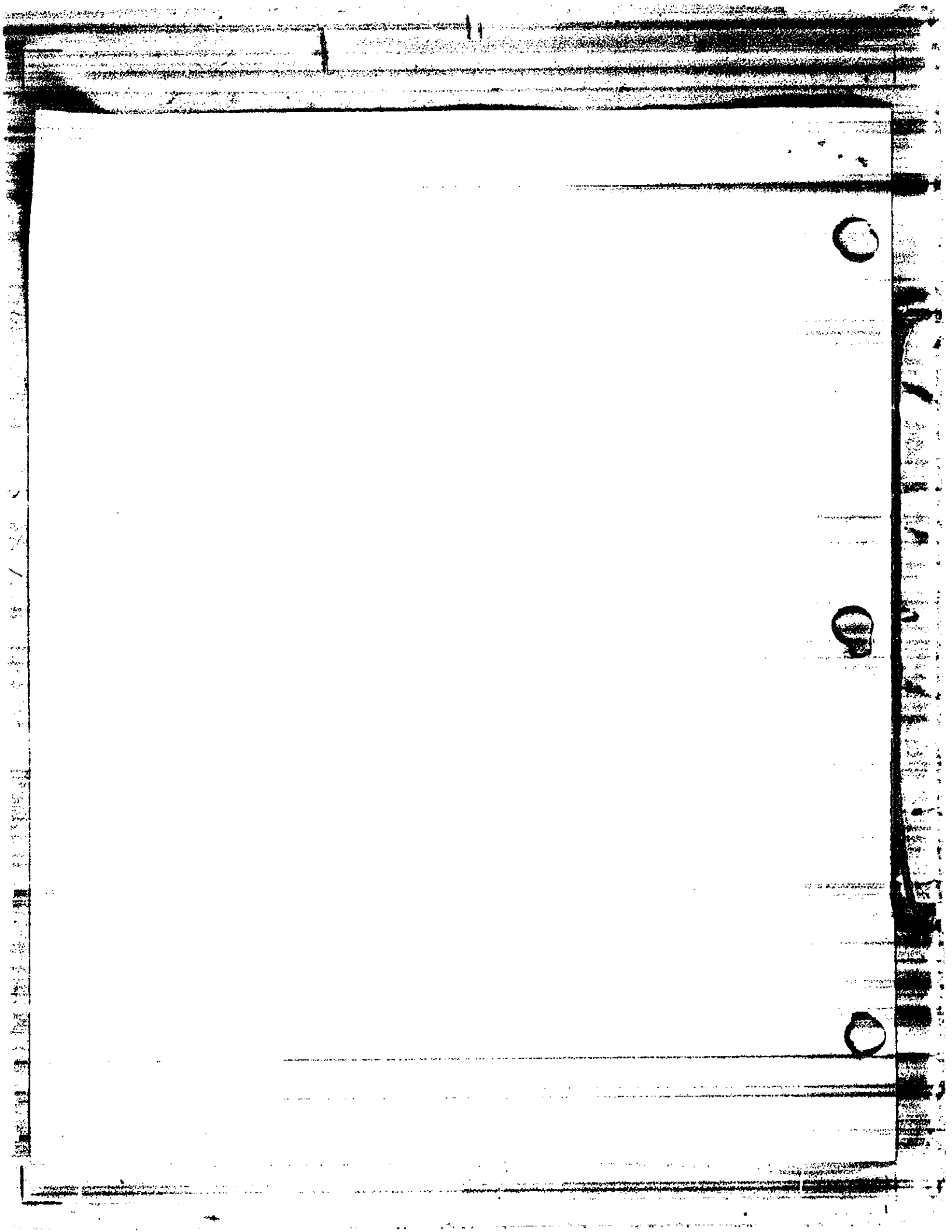
THE STATE OF TEXAS |
 |
COUNTY OF DALLAS |

Before me, the undersigned authority, on this day personally appeared
BAYARD M. SMITH, known to me to be the
PRESIDENT of the COMMERCIAL PARKS, INC.
and the person whose signature is affixed to the foregoing instrument; and the
said BAYARD M. SMITH did upon his oath solemnly
swear and depose that he was authorized by the said COMMERCIAL PARKS, INC.
to sign the instrument aforesaid and that he executed the same for the purposes
and considerations therein expressed.

Given under my hand and seal of office this _____ day
of _____, A. D. 19 72.

Notary Public, Dallas County, Texas

My commission expires
on the 1st
day of June
19 73.



CORPORATE ACKNOWLEDGEMENT

THE STATE OF TEXAS |
COUNTY OF DALLAS |

Before me, the undersigned authority, on this day personally appeared
GEORGE BOYCE, known to me to be the
MAYOR of the CITY OF MESQUITE, TEXAS
and the person whose signature is affixed to the foregoing instrument; and the
said GEORGE BOYCE did upon his oath solemnly
swear and depose that he was authorized by the said CITY OF MESQUITE,
to sign the instrument aforesaid and that he executed the same for the purposes
and considerations therein expressed.

Given under my hand and seal of office this _____ day
of _____, A. D. 19 72.

Notary Public, Dallas County, Texas

My commission expires
on the 1st
day of June,
19 73.

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