

ORDINANCE NO. 1859
File No. 1461-74

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, AMENDING THE COMPREHENSIVE ZONING ORDINANCE OF 1973, DULY PASSED BY THE CITY COUNCIL ON SEPTEMBER 4, 1973, SO AS TO GRANT A CHANGE OF ZONING FROM GENERAL RETAIL, PLANNED DEVELOPEMNT TOWNHOUSE, A-1 MULTIFAMILY AND COMMERCIAL TO PLANNED DEVELOPMENT MULTI-FAMILY AT 18 UNITS PER ACRE WITH THE FOLLOWING STIPULATIONS: (1) NO MORE THAN 18 UNITS PER ACRE; (2) NO VARIANCES FROM CITY BUILDING AND HOUSING CODES; (3) ALL STREETS, PARKING AREAS AND SIDEWALKS WILL BE MADE OF CONCRETE. STREETS AND PARKING AREAS WILL BE CURBED AND GUTTERED; (4) THE COMMON AREA AND THE LANDSCAPING WILL BE FULLY SPRINKLERED; (5) ONE BEDROOM UNITS WILL CONTAIN NO LESS THAN 750 SQUARE FEET; TWO BEDROOM UNITS WILL CONTAIN NO LESS THAN 980 SQUARE FEET; (6) THE BUILDINGS WILL BE NO MORE THAN TWO STORIES TALL; (7) THE DEVELOPER WILL PAY UP TO \$22,000.00 FOR PROVIDING AND ERECTING TRAFFIC LIGHTS AT THE GALLOWAY/I-30 SERVICE ROAD INTERSECTION; THE SPECIFIC LOCATION TO BE DETERMINED BY THE CITY; (8) DEVELOPER TO PROVIDE A TRACT OF LAND OF NOT MORE THAN ONE ACRE FOR USE AS A FIRE STATION AT CITY'S OPTION; (9) THE DEVELOPER HAS AGREED TO DEVELOP THE LAND WITH A VARIETY OF EXTERIOR STYLES OF BUILDINGS; (10) THE DEVELOPER TO BUILD CONDOMINIUMS ON THE TRACTS; THEREFORE, IT AGREES TO VOLUNTARILY PLACE WITHIN THE CONDOMINIUM DECLARATION OF EACH RESPECTIVE INVESTMENT PHASE (IT BEING UNDERSTOOD THAT THE FAULKNER ON THE GREEN PROJECT IS TO BE DIVIDED INTO MANY SMALLER "INVESTMENT PHASES") A RESTRICTION STATING THAT NO MORE THAN 30% OF THE UNITS IN EACH RESPECTIVE INVESTMENT PHASE MAY BE LEASED. THE DECLARATION SHALL ALSO CONTAIN A PROVISION THAT THIS RESTRICTION MAY BE AMENDED OR DELETED ONLY BY A VOTE OF THE OWNER/OCCUPANTS OF THE RESPECTIVE INVESTMENT PHASE; A PROVISION THAT THE DEVELOPER, ITS SUCCESSORS OR ASSIGNS MAY NOT AMEND THE DECLARATION TO DELETE THE PROVISION OR INCREASE THE NUMBER OF RENTAL UNITS THEREUNDER; AND, A PROVISION THAT IF THE RESTRICTION IS DECLARED TO BE UNENFORCEABLE THEN THE HOMEOWNERS' ASSOCIATION WILL USE THEIR BEST EFFORTS TO REPLACE IT WITH A SIMILAR PROVISION THAT WOULD BE ENFORCEABLE. THE DECLARATION SHALL ALSO CONTAIN A SEVERABILITY CLAUSE; (11) THE

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DEVELOPER SHALL SAVE A REASONABLE PORTION OF THE NATURAL PRAIRIE LAND. IT IS CURRENTLY ANTICIPATED THAT A PORTION OF THE PRAIRIE LYING WEST OF THE D P & L RIGHT-OF-WAY WILL BE MARKED, SAVED FROM DEVELOPMENT AND DEED RESTRICTED SO THAT NO DEVELOPMENT SHALL OCCUR THEREON EXCEPT FOR THE CONSTRUCTION OF A SALES OFFICE, SUCH CONSTRUCTION BEING ACCOMPLISHED WITH DUE CARE TO THE SURROUNDING PRAIRIE; SAID PROPERTY IS LOCATED GENERALLY NORTH OF I-30 BETWEEN NORTHWEST DRIVE AND NORTH GALLOWAY AVENUE; CITY OF MESQUITE, DALLAS COUNTY, TEXAS, AND BEING MORE FULLY DESCRIBED IN EXHIBIT "A" 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 REGULATIONS OF THE 1973 ZONING ORDINANCE TO THE LAND HEREWITH ZONED; BY PROVIDING THAT THE FOREGOING CHANGES ARE 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 change 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 change of zoning may 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 1973, duly passed by the City Council of the City of Mesquite, Texas, on the 4th day of September, 1973, 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 General Retail, Planned Development Townhouse, A-1 Multifamily and Commercial to Planned Development Multifamily at 18 units per acre with the following stipulations: (1) No more than 18 units per acre; (2) No variances from city building and housing codes; (3) All streets, parking areas and sidewalks will be made of concrete. Streets and parking areas will be curbed and guttered; (4) The common area and the landscaping will be fully sprinklered; (5) One bedroom units will contain no less than 750 square feet; Two bedroom units will contain no less than 960 square feet; (6) The buildings will be no more than two stories tall; (7) The developer will pay up to \$22,000.00 for providing and erecting traffic lights at the Galloway/I-30 service road intersection; The specific location to be determined by the City; (8) Developer to provide a tract of land of not more than one acre for use as a fire station at City's option; (9) The developer has agreed to develop the land

with a variety of exterior styles of buildings; (10) The developer to build condominiums on the tracts; therefore, it agrees to voluntarily place within the condominium declaration of each respective investment phase (it being understood that the Faulkner on the Green project is to be divided into many smaller "investment phases") a restriction stating that no more than 30% of the units in each respective investment phase may be leased. The declaration shall also contain a provision that this restriction may be amended or deleted only by a vote of the owner/occupants of the respective investment phase; a provision that the developer, its successors or assigns may not amend the declaration to delete the provision or increase the number of rental units thereunder; and a provision that if the restriction is declared to be unenforceable then the Homeowners' Association will use their best efforts to replace it with a similar provision that would be enforceable. The declaration shall also contain a severability clause. (11) The developer shall save a reasonable portion of the natural prairie land. It is currently anticipated that a portion of the prairie lying west of the D P & L right-of-way will be marked, saved from development and deed restricted so that no development shall occur thereon except for the construction of a sales office, such construction being accomplished with due care to the surrounding prairie; said property is located generally North of I-30 between Northwest Drive and North Galloway Avenue; City of Mesquite, Dallas County, Texas, and being more fully described in Exhibit "A" attached hereto.

SECTION 2. That all ordinances, or portions thereof, of the City of Mesquite in conflict with the provisions of this ordinance, to the extent of such conflict are hereby repealed. To the extent that such ordinances or portions thereof not in conflict herewith, the same shall remain in full force and effect.

SECTION 3. That the property described in Section 1 of this ordinance, shall be used only in the manner and for the purposes provided for by the Comprehensive Zoning Ordinance of 1973.

SECTION 4. That the foregoing 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. 1249 of the Mesquite City Code.

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.

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SECTION 6. That any person, firm, or corporation violating any of the provisions or terms of this ordinance shall be deemed to be guilty of a Class C Misdemeanor and subject to the same penalty as provided for in the Comprehensive Zoning Ordinance of 1973, of the City of Mesquite, and upon conviction in the Municipal Court shall be punished by a fine not to exceed Two Hundred Dollars (\$200.00) for each offense.

SECTION 7. Whereas, the property described in Section 1 of this ordinance requires that it be given the above 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, 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 7th day of February, A.D., 1983.


LEN GIBBENS
MAYOR

ATTEST:

APPROVED AS TO FORM:


Norma G. McGaughy
City Secretary

Elland Archer
City Attorney

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STATE OF TEXAS Y
COUNTY OF DALLAS Y
CITY OF MESQUITE Y

TRACT 3

BEING a tract of land situated in the THEOPHALIUS THOMAS SURVEY, ABSTRACT NO. 1461, Dallas County, Texas, also being part of a 393.66 acre tract deeded to C. C. Oates as recorded in Volume 666, Page 366, DRDCT, and part of a 313.66 acre tract deeded to Bird Armstrong as recorded in Volume 664, Page 611, DRDCT, and being more particularly described as follows:

COMMENCING at a point, said point being at the intersection of the Northwest line of Interstate Highway 30 and the South line of a variable width Dallas Power and Light R.O.W. recorded in Volume 5458, Page 218, DRDCT, a 1/2" iron rod set for corner;

THENCE Southwesterly along said Northwest line of I.H. 30 on a curve to the left, having a central angle of 1°30'57", a radius of 11773.93 feet, and an arc length of 311.49 feet to a 1/2" iron rod set for corner;

THENCE South 56°18'46" West, along said Northwest line of I.H. 30, 378.91 feet to a 1/2" iron rod set for corner;

THENCE North 55°08'33" West, leaving said Northwest line of I.H. 30, 1327.27 feet to a 1/2" iron rod set for corner;

THENCE South 45°10'00" West, 1581.72 feet to an iron rod for corner;

THENCE North 08°43'00" East, 390.37 feet to a 1/2" iron rod set for corner;

THENCE North 45°00'00" West, 884.55 feet to a 1/2" iron rod set for corner;

THENCE North 66°31'30" East, 705.23 feet to a 1/2" iron rod set for corner;

THENCE North 02°39'30" West, 129.77 feet to a 1/2" iron rod set for corner;

THENCE North 45°00'00" West, 610.68 feet to a 1/2" iron rod set for corner;

THENCE North 45°02'00" East, 477.81 feet to an iron rod for corner;

THENCE North 45°22'00" East, 51.07 feet to a 1/2" iron rod set for corner, said corner being in the South line of said Dallas Power and Light R.O.W.;

THENCE North 45°22'00" East, 735.82 feet to an iron rod for corner;

THENCE North 44°52'00" East, 44.38 feet to a point in the South line of Northwest Drive (a 100' R.O.W.), a 1/2" iron rod set for corner;

THENCE South 55°43'00" East, 1499.41 feet along the South line of Northwest Drive (a 100' R.O.W.), to a 1/2" iron rod set for corner;

THENCE continuing along the South line of Northwest Drive as follows:

Southeasterly along a curve to the left, having a central angle of 19°37'00" a radius of 628.44 feet and an arc length of 215.16 feet to an iron rod for corner;

South 75°20'00" East, 124.89 feet to an iron rod for corner;

Southerly along a curve to the right, having a central angle of 09°00'00", a radius of 1220.62 feet and an arc length of 191.73 feet to a 1/2" iron rod set for corner;

South 66°20'00" East, 410.30 feet to an iron rod for corner;

Southerly along a curve to the right having a central angle of 35°45'00", a radius of 880.21 feet and an arc length of 549.21 feet to a 1/2" iron rod set for corner;

South 30°35'00" East, 50.57 feet to a 1/2" iron rod set for corner;

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THENCE leaving said South line of Northwest Drive (a 100' R.O.W.), South
59°25'00" West, 200.00 feet to a 1/2" iron rod set for corner;
THENCE South 30°35'00" East, 202.55 feet to a 1/2" iron rod set for corner,
said corner being in the Northwest line of Interstate Highway 30;
THENCE Southwesterly along the Northwest line of said I.H. 30, along a curve
to the left, having a central angle of 1°29'52", a radius of 11773.93 feet,
and an arc length of 307.81 feet to the POINT OF BEGINNING, containing
109.5522 acres of land.

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