

ORDINANCE NO. 2048
File No. 1095-21

0045

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 ON TRACT A FROM A-1 MULTI-FAMILY, R-2 SINGLE FAMILY, AND SPECIAL PERMIT FOR A DAY CARE CENTER TO "C" COMMERCIAL AND TRACT B AS DESCRIBED HEREIN CONSISTING OF THAT PORTION EAST OF THE DALLAS POWER AND LIGHT COMPANY RIGHT OF WAY FROM R-2 RESIDENTIAL TO OFFICE WITH THE STIPULATION THAT PARKING IN THE REQUIRED FRONT YARD SETBACK IS PERMITTED WITH CERTAIN RESERVATIONS, EXCEPTIONS AND STIPULATIONS; PROVIDING FOR A PERPETUAL CARE ESCROW AGREEMENT; PROVIDING FOR LANDSCAPE AND MAINTENANCE PLAN; THE TRACTS ARE LOCATED NORTH AND EAST OF THE I-635 AND TOWN EAST BOULEVARD INTERSECTION; 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 on Tract A from A-1 Multi-family, R-2 Single Family, and Special Permit for a day care center to "C" Commercial and Tract B as described herein consisting of that portion east of the Dallas Power and Light Company right of way from R-2 Residential to Office with the stipulation that parking in the required front yard setback is permitted with certain reservations, exceptions and stipulations; providing for a Perpetual Care Escrow Agreement; providing for Landscape and Maintenance Plan; The Tracts are located north and east of the I-635 and Town East Boulevard intersection; City of Mesquite, Dallas County, Texas, and being more fully described in exhibit "A" attached hereto; with the following reservations, exceptions and stipulations; provided, however, that the following uses shall not be allowed in either Tract A or Tract B:

A. 43A.002

*... farm implement, hire, display or repair, ... trailer lots, body and fender shops ... (vehicular) paint shops,

43A.003

*... Animal hospitals and veterinary clinics including kennels. (Retail pet shops within a mall area are not considered as excluded.)

43A.005

Warehousing

43A.006

Commercial laundry plants

43A.007

Bottling Works

43A.009

*... trucking or motor freight stations ... storage and sales of grain, or livestock feed; heavy machinery sales and storage.

43A.011

Processing and Fabrication

43A.012

Mobile home parks

43A.016

Contractor's equipment and storage yards

43A.018

Heavy millwork, carting, express and hauling establishments including storage of vehicles

The "Miscellaneous" uses listed in Section 43A.017 of the Mesquite Zoning Ordinances shall not be permitted.

These are as follows:

"Secondhand stores, used furniture or rummage sales, roadside stands (in permanent structure only), airport, heliport landing field or pad, poultry hatchery, wholesale meat processing, electrical generating plant."

B. The following criteria is made a part of this zoning change:

1. A landscape buffer area 50 feet wide shall be provided along Brazoria, the Devonshire-Shackelford connection, and the Palos Verdes No. 5 Alleys and Willow Glen Alley:
 - (a) This landscape area shall include grass, irrigation, existing and transplanted trees from the site, hardwood and softwood trees adaptable to the area;
 - (b) A continuous concrete sidewalk shall be provided, preferably meandering in nature, along Brazoria to the existing sidewalk on Devonshire.
 - (c) Street lighting along the landscape buffer area will be provided per City requirements;
 - (d) A perpetual maintenance agreement covering the landscape buffer area will be provided by Triland.
2. A masonry wall 8 feet in height shall be constructed at the 50 feet setback all along the landscape buffer area:
 - (a) The wall will be of masonry material, but not concrete block;
 - (b) The wall shall be located on an earthen berm at least one foot higher than the existing ground level.
 - (c) The masonry wall shall be continuous, with no penetrations for either vehicular or pedestrian traffic. Where the wall crosses property other

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than owned by Triland, (i.e., D.P.&L. right of way) Triland will make its best effort to gain permission to continue the wall across that property.

3. Building setbacks and height restrictions to be measured from Brazoria, the Devonshire-Shackelford connection, and the Palos Verdes No. 5 Alleys and Willow Glen Alley be as follows:
 - (a) A one-hundred (100) feet building setback for single-story structures;
 - (b) One hundred and fifty (150) feet building setback for two-story structures;
 - (c) A two-story maximum height restriction will be in effect for structures within 500 feet;
 - (d) A four-story maximum height restriction will be in effect for structures within 1000 feet;
 - (e) Only office uses will be allowed in two-story structures within 200 feet.
4. No multi-family housing will be permitted.
5. There will be no lakes or water features within 500 feet of the property line adjacent to residential areas.
6. Devonshire Lane shall be connected to Shackelford Drive in order to provide access between the two residential neighborhoods and the school site on Brazoria.
7. The tract enclosed by the Devonshire-Shackelford connection (approximately 350 feet by 120 feet) will be made available for use as a neighborhood park - at the City's option.
8. If the City of Mesquite does not desire to accept the land offered for a park at the Devonshire Lane - Shackelford connection, (a parcel approximately 350' x 120') it will be offered to a viable neighborhood homeowners association. Should such a homeowners association not wish to accept the property, the developer shall only develop single family lots consistent with R-2 District standards on that parcel and this zoning action specifically permits same.

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9. There shall be no direct street connections between the proposed commercial site and the surrounding residential neighborhoods except for Childress if required by the City.
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10. The masonry wall and landscaping must be installed prior to commencement of development on the property.
- C. That suitable arrangements to be made with City regarding the street connection to Childress. (It is understood that Triland Development requests that the street connection to Childress as shown on our site plan not be required by the City of Mesquite. If the City feels that a connection for emergency access is necessary, Triland will coordinate with the City to provide an "emergency access mountable curb" or other suitable control feature which prohibits access other than for emergency purposes.
- D. The portion of the tract east of the Dallas Power and Light Company right-of-way be designated for Commercial limited to Office usage with a 100-foot setback from the residential area to conform with the balance of the perimeter and that setback and height restrictions as set out under Item 3 of Triland's letter apply to this area.
- E. Triland shall submit a landscape plan to the City Council for approval for everything proposed under Items 1 and 2 of their letter.
- F. Development on the tract will be limited to 2,000,000 square feet as described in Scenario B - Land Use Assumptions/Estimated Site Traffic, as shown in Exhibit "C", or equivalent Commercial/Office Development until such time as traffic improvement to LBJ Freeway are accomplished. Proposed improvements include the construction of a frontage road, relocation of the entrance ramp northward, and construction of a U-turn from the southbound exit ramp to the northbound frontage road. Construction of those improvements needing State authorization are to begin within four years. Ramp re-location and frontage road construction is to be at the expense of the developer.
- G. Prior to the issuance of Certificates of Occupancy for the first phase of construction, traffic improvements to Town East Boulevard must be completed. Proposed improvements include construction of a continuous right turn lane adjacent to their property and construction of left turn lanes from Town East Boulevard at all drives, such improvements to be at the expense of the developer.

- H. The developer will participate on a 50-50 basis with the City on the traffic signal at the Towne Centre and Town East Boulevard intersection, and on a one-third basis on any other required signalization along Town East Boulevard adjacent to their property.
- I. A maintenance agreement shall be executed by Triland and approved by the City of Mesquite to provide maintenance for all open and landscaped areas and screening fence.

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.

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 (\$200.00) Dollars 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 provid

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DULY PASSED AND APPROVED by the City Council of the City of
Mesquite, Texas, on the 16th day of July, A.D., 1984.

Mrs. Brunhilde Nystrom

Mrs. Brunhilde Nystrom
Mayor

ATTEST:

APPROVED AS TO FORM:

Lynn Prugel

Lynn Prugel
City Secretary

Elland Archer
City Attorney

DESCRIPTION

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TRACT A

(Portion to be re-zoned Commercial)

BEING 128.019 acres of land in ABSTRACT NO. 1095, the J. T. NELMS SURVEY, an ABSTRACT NO. 1501, the I. THOMAS SURVEY, in the City of Mesquite, Dallas County, Texas, and being part of that land conveyed to Basil Georges by Raleigh Black Trustee, by deed recorded in Volume 70004, Page 1298, and a part of that land conveyed to Basil Georges by Estelle Chenault by deed recorded in Volume 67227, Page 1159, both recorded in the Deed Records of Dallas County, Texas, and being a part of the same property conveyed to Basil Georges by deed recorded in Volume 79135, Page 0044, Deed Records of Dallas County, Texas, said 128.019 acres being more particularly described as follows:

BEGINNING at the most Northerly Northeast corner of that land described as Tract 1 in said Chenault deed, said point also being the Southeast corner of Country Meadow No. 2, an addition to the City of Mesquite, according to the plat thereof, recorded in Volume 80139, Page 0990, of said Deed Records, an iron stake found for corner;

THENCE South $00^{\circ}48'06''$ West, along the West line of Palos Verdes Estates No. 5, Phase III, an addition to the City of Mesquite, according to the plat thereof, recorded in Volume 79211, Page 0578, of said Deed Records, 1447.51 feet to the Southwest corner thereof, an iron stake found for corner;

THENCE South $87^{\circ}57'18''$ East, along the South line of said Palos Verdes Estates No. 5, Phase III, 560.59 feet to a point in the West line of a tract of land conveyed to Dallas Power & Light Company by Estelle Chenault by deed recorded in Volume 5535, Page 0245, of said Deed Records, an iron stake found for corner;

THENCE South $27^{\circ}58'30''$ West, along the West line of said Dallas Power & Light Company tract, 641.48 feet to a point in the North line of Towne East Boulevard (50.00 feet from the centerline thereof, according to a deed recorded in Volume 83205, Page 1514, of said Deed Records), an iron stake set for corner;

THENCE North $89^{\circ}11'13''$ West, with the North line of Towne East Boulevard, 1672.02 feet to the Southeast corner of that tract which was changed from "R-2" Residential to "C" Commercial described in Ordinance No. 701 and dated October 23, 1967;

THENCE Northerly and Westerly and Southerly with the boundary of the said "C" Commercial tract as follows:

1. North $22^{\circ}23'43''$ West, 363.50 feet;
2. North $17^{\circ}43'43''$ West, 40.40 feet;
3. South $88^{\circ}16'17''$ West, 530.00 feet
4. North $02^{\circ}04'13''$ West, 365.00 feet;
5. South $88^{\circ}16'17''$ West, 280.00 feet;
6. North $02^{\circ}04'13''$ West, 190.00 feet;

7. South 88°16'17" West, 554.93 feet;

8. South 02°04'13" East, 782.00 feet;

9. South 88°16'17" West, 16.88 feet to the East edge of I.H. No. 635
(LBJ Freeway - variable R.O.W.);

THENCE North 06°35'12" West, along the East line of I.H. No. 635, 171.86 feet
to a concrete monument found for corner;

THENCE North 09°56'01" West, along the East line of I.H. No. 635, 661.31 feet
to a concrete monument found for corner;

THENCE North 06°28'46" West, along the East line of I.H. No. 635, 1130.16 feet
to a point in the North line of said Raleigh Blakely tract, an iron stake found
for corner;

THENCE South 89°16'17" East, along the North line of said Raleigh Blakely tract
and the South line of said Country Meadow No. 2, 3218.14 feet to the PLACE OF
BEGINNING and containing 128.019 acres of land, more or less.

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TRACT B

BEING a tract of land lying and being situated in the J. NELMS SURVEY, ABSTRACT No. 1095 in the City of Mesquite, Dallas County, Texas, and being part of that land described as "TRACT 2" in a deed from Estelle Chenault to Basil Geroges, recorded in Volume 67227, Page 1159 of the Deed Records of Dallas County, Texas, and being a part of the same property conveyed to Basil Georges by Deed dated 7-3-79, filed 7-9-79, recorded in Volume 79135, Page 0044, Deed Records, Dallas County, Texas, save and except that portion of the property conveyed to the City of Mesquite for the widening of Town East Blvd., and being more particularly described as follows:

BEGINNING at a point in the East line of a tract of land conveyed to Dallas Power & Light Company by Estelle Chenault by deed recorded in Volume 5535, Page 254 of said Deed Records, said point being the most Westerly corner of Palos Verdes Estates No. 5, Phase II, an addition to the City of Mesquite according to the plat thereof recorded in Volume 79019, Page 0280 of said Deed Records, an iron stake found for corner;

THENCE S 87°57'18" E, along the most Westerly South line of said Palos Verdes Estates No. 5, Phase II, 588.60 feet to a point in the most Southerly West line of said addition, an iron stake set for corner;

THENCE 50°51'21" W, along the most Southerly West line of said Palos Verdes Estates No. 5, Phase II, 555.09 feet to a point in the North line of Town East Boulevard (50' from the centerline thereof, according to the deed recorded in Volume 83205, Page 1514 of said Deed Records), an iron stake set for corner;

THENCE N 89°11'13" W, along the North line of Town East Boulevard, 879.36 feet to a point in the East line of said Dallas Power & Light Company tract, an iron stake set for corner;

THENCE N 27°58'30" E, along the East line of said Dallas Power & Light Company tract, 638.12 feet to the POINT OF BEGINNING and containing 9.480 acres of land, more or less.

EXHIBIT C
SCENARIO B

LAND USE ASSUMPTIONS

Regional Center	1,020,000 SFGLA
Community Center	89,100 SFGLA
Hotel	300 Rooms
Restaurants	120,000 SF
Office	800,000 SF

ESTIMATED SITE TRAFFIC
(New Trips on Adjacent Roadways)

<u>Land Use</u>	<u>Density</u>		<u>A.M. Peak Hour</u>		<u>P.M. Peak Hour</u>		<u>Daily 2-way</u>
			<u>In</u>	<u>Out</u>	<u>In</u>	<u>Out</u>	
Regional Center	1,080,000 SFGLA		290	105	665	855	20,610
Community Center	89,100 SFGLA		65	55	155	165	3,525
Hotel	300 Rooms		175	85	85	85	2,360
Restaurants	120,000 SF		80	45	195	120	5,325
Office	800,000 SF		1125	115	110	805	5,165
Totals			1735	405	1210	2030	36,985

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