

ORDINANCE NO. 3692
File No. 1095-44

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, AMENDING THE MESQUITE ZONING ORDINANCE ADOPTED ON SEPTEMBER 4, 1973, AND RECODIFIED ON NOVEMBER 21, 1988, SO AS TO APPROVE A CONDITIONAL USE PERMIT ON PROPERTY ZONED COMMERCIAL THEREBY ALLOWING A GAME ROOM AND A RESTAURANT WITH A PRIVATE CLUB SUBJECT TO CERTAIN STIPULATIONS; REPEALING ALL ORDINANCES IN CONFLICT WITH THE PROVISIONS OF THIS ORDINANCE; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY NOT TO EXCEED TWO THOUSAND DOLLARS (\$2,000.00) FOR EACH OFFENSE; AND DECLARING AN EMERGENCY.

WHEREAS, the Planning and Zoning 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 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 Mesquite Zoning Ordinance adopted on September 4, 1973, and recodified on November 21, 1988, be and the same is hereby amended by amending the Zoning Map of the City of Mesquite so as to approve a Conditional Use Permit on property zoned Commercial thereby allowing a game room and a restaurant with a private club subject to the following stipulations:

1. The Conditional Use Permit shall be issued to Jason Stout, Cyber Zone, Inc., and shall be reviewed by City Council for compliance with stipulations 2 through 12 listed below one year from the date of issuance of the Certificate of Occupancy.
2. The restaurant shall have an exterior entrance. Entrances from the interior of the mall will be allowed but are optional.
3. Conformance with the site plan/floor plan layout as submitted with the Conditional Use Permit application, attached hereto as Exhibit "A," is required. Future revisions to the site plan/floor plan must be submitted to the City Council for review and approval.
4. The establishment shall contain a minimum seating capacity of 125 persons.

5. The bar area shall have no exterior entrance and shall not be visible from the entry foyer or the main dining room.
6. The establishment shall be a sit-down restaurant with food and drink service at the table. Cafeteria-style service shall be prohibited.
7. Game machines shall be limited to a total of 85 and televisions shall be limited to the 11 shown on the site plan.
8. Amplified music and live bands shall be prohibited, and music or other sound shall not be audible in the mall area adjacent to this facility.
9. Alcoholic beverage service shall be limited to beer and wine only, and shall be limited to the interior of the restaurant.
10. No signs advertising the sale of alcoholic beverages shall be permitted, provided however, this shall not prohibit use of established trade names of establishments; i.e., "Steak and Ale."
11. Drinks shall not be offered for sale at a price reduced from the customary price during a specific period for promotional purposes; i.e., "Happy Hour" or similar promotional activities designed to stimulate the sale of alcohol in comparison to the sale of food.
12. The maximum revenue from the sale of alcoholic beverages shall not exceed 20 percent of the gross revenue of the establishment. The City Council or its designated agent may promulgate reasonable rules and regulations for enforcement of this provision and may require books and records for examination. Failure to provide such records reasonably requested shall constitute violation of this ordinance.

That the subject property is a 6,342-square foot lease space located at 2034 Town East Mall, further described as Abstract 1095, Sheet 1, Tract 3.

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 are 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 Mesquite Zoning Ordinance.

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. 3042, codified in Chapter 11 of the Mesquite City Code.

SECTION 5. That should any word, sentence, clause, paragraph or provision of this ordinance be held to be invalid or unconstitutional, the remaining provisions of this ordinance shall remain in full force and effect.

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 upon conviction in the Municipal Court, shall be punished by a fine not to exceed Two Thousand Dollars (\$2,000.00) for each offense.

SECTION 7. That 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 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 15th day of November, 2004.



Mike Anderson
Mayor

ATTEST:

APPROVED:



Judy Womack
City Secretary

B. J. Smith
City Attorney

