

ORDINANCE NO. 3902  
File No. 1059-60

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 AND TERRA OVERLAY THEREBY ALLOWING A PRIVATE CLUB SUBJECT TO CERTAIN STIPULATIONS; REPEALING ALL ORDINANCES IN CONFLICT WITH THE PROVISIONS OF THIS ORDINANCE; PROVIDING 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 and TERRA Overlay for a private club subject to the following stipulations:

1. Sales of liquor products shall be to movie theater patrons only who have purchased a movie ticket.
2. Outdoor patio area for the consumption of food and beverages, including alcohol, shall be permitted.
3. The bar area, including the outdoor patio, shall have no direct exterior access. However, emergency egress may be allowed as needed or required.
4. The bar area shall not be required to be screened from any entrance or foyer areas.
5. The building shall comply with the proposed Community Appearance Manual.
6. Landscaping, to include the use of trees, shall be provided around the perimeter of the theater parking area located northeast of the building.

7. Foundation landscaping shall be provided around the perimeter of the building including the outdoor patio. In addition to grass or ground cover, trees, shrubs and/or other plantings shall be incorporated into this landscaped area. Sidewalks may pass through the landscaped area. A pedestrian area will be allowed in the general vicinity of the ticket booth and primary entrance where foundation landscaping will not be required. The pedestrian area may consist of concrete surfaces, pavers, waiting benches, bicycle racks and landscape elements. The Development Review Committee shall approve the specific landscape design during the site plan review process.
8. No new pole or monument signs shall be permitted.
9. In addition to wall signs as permitted by the Sign Ordinance, a changeable letter sign to advertise current or coming movies may be placed on the front façade of the building with a total area not to exceed five percent of the front building elevation. This sign should be architecturally consistent with and appear as an integrated part of the building. Final design shall be subject to approval by the Community Development Department.
10. A maximum of 12 movie posters of current or coming movies may be placed on the front exterior wall, but must be located generally near the main entrance and ticket booth area. Such poster must be displayed within framed glass enclosures.
11. There shall be no on-site advertising of food or beverages (including brands of alcohol or terminology associated with alcohol) visible from outside of the building except on a permitted sign where a food or beverage term is part of the business name (e.g. "John Doe's Cinema Tavern," "Acme Movies and Ale," "Dinner and a Movie").
12. No person under 18 years-of-age shall be admitted after 6:30 p.m. unless accompanied by an adult.
13. This Conditional Use Permit is granted exclusively to the applicant, Movie Tavern Partners, L.P., and may not be transferred or assigned.

That the subject property is a 5.9-acre tract located at 1628 N. Town East Boulevard on the southeast portion of the Town East Mall property and on the west side of Towne Centre Drive, and is more fully described in the approved field notes 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 Mesquite Zoning Ordinance.

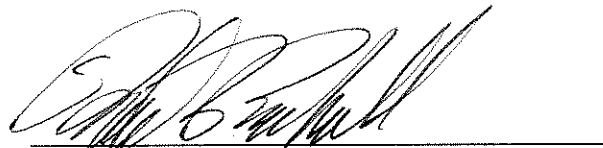
SECTION 4. That the foregoing change shall be, and it is, granted subject to any development of the land herein being developed in conformity with the requirements of current and/or future drainage improvement ordinances of the City of Mesquite, including Ordinance No. 3042, codified in Chapter 11 of 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.

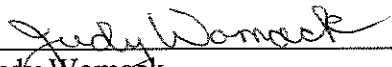
DULY PASSED AND APPROVED by the City Council of the City of Mesquite, Texas, on the 2nd day of October, 2007.



David Paschall  
Mayor Pro Tem

ATTEST:

APPROVED:

  
\_\_\_\_\_  
Judy Womack  
City Secretary  
\_\_\_\_\_  
B. J. Smith  
City Attorney

TRACT III:

BEING all of that tract of land in Dallas County, Texas, out of the John T. Neims Survey, Abstract No. 1095, and being all of Tract III as described in a deed to Town East Mall Partnership as recorded in Volume 97113, Page 4056 of the Deed Records of Dallas County, Texas, and being further described as follows:

BEGINNING at a 1/2 inch steel rod found at the East corner of said Tract III, and on the Northwest line of a tract of land described in a deed to Dallas Power and Light Co. as recorded in Volume 5629, Page 404 of the Deed Records of Dallas County, Texas;

THENCE South 27 degrees 29 minutes 13 seconds West, 565.37 feet to a 1/2 inch steel rod set at the intersection of the Southeast line of said Tract III with the Northwest line of Towns Centre Drive;

THENCE Southwesterly, 146.24 feet along said line of Towns Centre Drive and a curve to the left having a radius of 830.00 feet and a central angle of 10 degrees 05 minutes 42 seconds (Chord bears South 50 degrees 29 minutes 33 seconds West, 146.05 feet) to a 1/2 inch steel rod set for corner;

THENCE South 45 degrees 26 minutes 44 seconds West, 185.37 feet to a 1/2 inch steel rod found at the South corner of said Tract III, and at the East corner of that called 11.789 acres of land described in a deed to Franklin Towns Centre Limited Partnership as recorded in Volume 95237, Page 2471 of the Deed Records of Dallas County, Texas;

THENCE North 89 degrees 30 minutes 49 seconds West, 153.08 feet to a 1/2 inch steel rod set for corner;

THENCE North 89 degrees 30 minutes 30 seconds West (Bearing Basis), 270.00 feet along the North line of said 11.789 acres to a 1/2 inch steel rod set for corner;

THENCE North 15 degrees 39 minutes 40 seconds West, 30.92 feet to a 1/2 inch steel rod set for corner;

THENCE South 89 degrees 33 minutes 10 seconds East, 44.76 feet to a 1/2 inch steel rod set for corner;

THENCE Northeasterly, 252.42 feet along a curve to the left having a radius of 222.50 feet and a central angle of 65 degrees 00 minutes 02 seconds (Chord bears North 57 degrees 56 minutes 49 seconds East, 239.10 feet) to a 1/2 inch steel rod set for corner;

THENCE North 25 degrees 26 minutes 50 seconds East, 281.33 feet to an "X" set for corner;

THENCE South 64 degrees 32 minutes 52 seconds East, 63.50 feet to a 1/2 inch steel rod found for corner;

THENCE North 29 degrees 57 minutes 11 seconds East, 197.52 feet to a pk nail set for corner;

THENCE North 25 degrees 27 minutes 08 seconds East, 204.62 feet to an "X" found at the North corner of said Tract III;

THENCE North 89 degrees 28 minutes 52 seconds East, 52.34 feet to an "X" set for corner;

THENCE North 89 degrees 37 minutes 50 seconds East, 39.56 feet to an "X" set for corner;

THENCE Southeasterly, 222.14 feet along a curve to the right having a radius of 715.00 feet and a central angle of 17 degrees 48 minutes 05 seconds (Chord bears South 81 degrees 28 minutes 08 seconds East, 221.25 feet) to the Point of Beginning, containing 5.947 acres of land, more or less.