

ORDINANCE NO. 3933
File No. 261-31

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 CHANGE OF ZONING FROM COMMERCIAL AND PLANNED DEVELOPMENT – MULTI-FAMILY TO PLANNED DEVELOPMENT – COMMERCIAL SUBJECT TO CERTAIN STIPULATIONS; PROVIDING FOR A REPEALER CLAUSE; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY NOT TO EXCEED TWO THOUSAND (\$2,000.00) DOLLARS 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 change of zoning from Commercial and Planned Development - Multi-Family to Planned Development – Commercial subject to the following stipulations:

1. Uses in the Planned Development (“PD”) shall be limited to the following. All listed uses will be permitted by right:
 - a. SIC Group 56: Retail Apparel and Accessory Stores
 - b. SIC Group 58: Eating and Drinking Places
 - c. SIC Group 594: Miscellaneous Shopping Goods Stores
 - d. SIC Code 701a: General Service Hotel/Motel
 - e. SIC Code 702: Rooming and Boarding Houses

- f. SIC Code 704: Hotel/Lodging (Membership) – must be associated with development within this Planned Development
 - g. SIC Group 79: Amusement and Recreation Services as modified below:
 - No distance separations from residential zoning shall be required
 - Bingo Parlors shall not be allowed
 - Sports Instruction may be indoor or outdoor
 - h. SIC Code 829: Schools and Educational Services
 - i. SIC Code 841: Museums, Art Galleries
 - j. Accessory and Incidental Uses related to the above uses
 - k. Sales of alcohol where permitted by the Texas Alcohol Beverage Commission.
2. Pole signs shall be prohibited except that the existing Big Town Mall sign may be preserved, and may be modified in accordance with the policies of Historic Mesquite. It may be left in place or relocated to meet the needs of the development. If the sign is to be removed from the site, the City of Mesquite and Historic Mesquite shall be notified prior to its removal. If requested by either entity that the sign be donated to an identified agency or organization, the property owner shall make such donation at the time of removal.
 3. One group monument sign may be installed along U.S. Highway 80 to identify the name of the facility and other uses within the Planned Development, the design to be agreed upon between the developer and the City of Mesquite Planning staff. The sign may include an Electronic Display Screen subject to such conditions as the Council may establish. An additional monument sign may be located along U.S. Highway 80 to identify an anchor tenant such as a sports team or other special attraction.
 4. Restaurant and retail signage may include monument signs and wall signs as allowed in the Mesquite Sign Regulations. However, the design of such signs, including height and area, may be negotiated and approved by Planning Staff.
 5. The City of Mesquite above ground water storage facility existing within the PD may be enhanced to include decorative or themed lighting and display of the name of one sponsor of the athletic facilities/activities within the PD. Any such sponsor name must be removed and no longer displayed immediately upon termination of sponsorship of facilities/activities within the PD. Other text shall also be permitted identifying the facility.

6. Advertising signs may be placed on walls and fences interior to the athletic fields. No more than one temporary sign may be placed on the exterior of an athletic field wall or fence that may identify an event or team using that field and a sponsor of that event or team. Such signs may be in place only for the duration of the time in which the team or event is using the facility.
7. Landscaping that includes:
 - a. One shade tree per 30 feet along the Samuell Boulevard and U.S. Highway 80 rights-of-way excluding the drive aisles. This requirement will also apply to Big Town Boulevard at such time as new building construction takes place on the Exhibition Hall site. Where athletic fields are adjacent to Samuell Boulevard, no street trees shall be required along Samuel Boulevard abutting such fields.
 - b. Decorative plantings and/or landscaping around monument signs.
 - c. A four-foot parking screen shall be provided along the perimeter of any parking area within 50 feet of a public street.
 - d. Parking lot landscaping (parking contained within a parking structure shall not be subject to this subsection d):
 - i. Parking lot trees will be required at a rate of one tree per five surface parking spaces. However, trees may be grouped as long as there is at least one tree island a maximum of every 20 surface-parking spaces.
 - ii. Each tree shall be placed in a landscaped area no smaller than nine-feet by 18-feet.
 - e. Foundation landscaping shall be provided around all buildings.
 - f. Driveway medians shall be landscaped.
 - g. Enhanced landscaping at all driveways going to or from public streets that at a minimum shall consist of the following:
 - i. Bushes or hedges.
 - ii. Flowerbeds and/or low ground plantings.
8. Dumpsters shall be screened in a manner that provides an appearance consistent with the surrounding area or nearby building(s).

9. Outdoor storage shall be prohibited, except that sport-related equipment may be stored in areas adjacent to athletic fields and facilities.
10. Fencing must be masonry, wrought iron or a combination of the two, except when associated with an athletic field, where other fencing materials typical to athletic fields may be used.
11. An eight-foot sidewalk shall be provided along the Samuell Boulevard right-of-way.
12. Pedestrian facilities shall be provided throughout the development that link the various uses and parcels within the PD.
13. Hotel may be a maximum of 12 stories.
14. No building permits for restaurant or retail uses shall be issued in the PD until either:
 - a. A Certificate of Occupancy has been issued for the indoor athletic facility;
or
 - b. Two or more baseball fields are complete and ready for commercial use.
15. Thirty-six months from the date of this ordinance, if there is no building permit for the indoor athletic facility or if at least one baseball field is not complete and ready for commercial use, the Director of Community Development shall initiate rezoning of the PD to a zoning classification consistent with the Comprehensive Plan.

That the subject property is an 89.75-acre tract that was formerly occupied by Big Town Mall located at the southwest corner of U. S. Highway 80 and Big Town Boulevard, and is described more fully in the approved field notes in Exhibit "A" attached hereto.

SECTION 2. 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 3. 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.

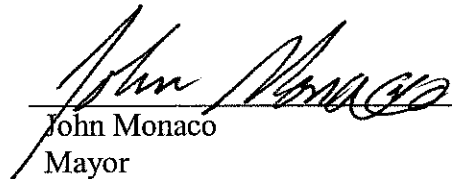
SECTION 4. That all ordinances, or portions thereof, of the City of Mesquite in conflict with the provisions of this ordinance, to the extent of such conflict are hereby repealed. To the extent that such ordinances or portions thereof not in conflict herewith, the same shall remain in full force and effect.

SECTION 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 (\$2,000.00) Dollars 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 18th day of February, 2008.




John Monaco
Mayor

ATTEST:

APPROVED:



Judy Womack
City Secretary



B. J. Smith
City Attorney

Field Notes

All of the Big Town Addition out of the W.A. Cole Survey, Abstract #261,

And;

A 9.394-acre tract of land out of the W.A. Cole Survey, Abstract #261, being more fully described as follows: BEGINNING at the point of intersection of the east line of Big Town Shopping Center tract and the Southwest line of U.S. Highway 80; THENCE South 0 deg. 06' east a distance of 752.6 feet to a point for corner; THENCE North 89 deg. 56' east a distance of 750.2 feet to a point for corner in the West line of Big Town Boulevard; THENCE North 45 deg. 01' West a distance of 164.7 feet; THENCE North 0 deg. 01' West a distance of 402.2 feet to a point for corner in the Southwest line of U.S. Highway 80; THENCE North 70 deg. 01' West a distance of 671.8 feet to the place of beginning.