

ORDINANCE NO. 4029  
File No. 1462-263

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 GENERAL RETAIL TO PLANNED DEVELOPMENT – GENERAL RETAIL THEREBY ALLOWING A HEATING AND AIR CONDITIONING BUSINESS 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 (\$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 on property zoned General Retail to Planned Development-General Retail subject to the following stipulations:

1. Only uses that are classified under the following Standard Industrial Classification (SIC) codes shall be permitted:

|               |      |                                     |                                   |
|---------------|------|-------------------------------------|-----------------------------------|
| Construction: | 171  | Plumbing, Heating, Air Conditioning |                                   |
| Retail:       | 56   | Apparel, Accessory Stores           |                                   |
|               | 57   | Furniture, Home Furnishings         |                                   |
|               | 58   | Eating, Drinking Places             |                                   |
|               | 594  | Miscellaneous Shopping Goods Stores | Except 5947, Gift, Souvenir Shops |
|               | 5992 | Florists                            |                                   |
|               | 5995 | Optical Goods Stores                |                                   |

|  |         |   |  |
|--|---------|---|--|
| Finance,<br>Insurance,<br>Real Estate: | 60 - 67 | Depository Institutions,<br>Security & Commodity<br>Services, Insurance<br>Carriers, Agents & Brokers,<br>Real Estate, Holding<br>Companies | Except 60a,<br>Alternative Financial<br>Establishments,<br>61, Nondepository<br>Institutions |
| Services:                              | 722     | Photographic, Portrait  |  |
|  | 7291    | Tax Preparation Services  |  |
|  | 7299    | Tanning Salon Only  |  |
|  | 7334    | Photocopying, Duplicating<br>Services   |  |
|  | 80      | Health Services   |  |
|  | 81      | Legal Services  |  |
|  | 82      | Educational Services  |  |
|  | 83      | Social Services   |  |
|  | 87      | Engineering, Accounting,<br>Research, Management<br>Services  |  |

2. Removal of the existing pole sign located on the site.
3. The existing structure shall comply with the Community Appearance Manual.
4. Outdoor storage shall be prohibited with the exception of three one-ton service vehicles.
5. The location of the three service vehicles shall be located to the rear of the parking lot and shall be screened placing two large shade trees at the northwest corner of the lot screening the storage of the vehicles from the freeway.
6. Two large shade trees shall be placed in front of the building east of the driveway.
7. The fencing along the frontage of the property shall consist of wrought iron.
8. A masonry screening wall shall be installed with a tree buffer line along the rear of the property adjacent to residential properties.

That the subject property is located at 1320 E. U.S. Highway 80 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 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.

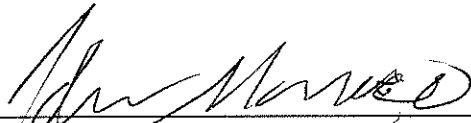
SECTION 4. That the foregoing change shall be, and it is, granted subject to any development of the land herein being developed in conformity with the requirements of current and/or future drainage improvement ordinances of the City of Mesquite, including Ordinance No. 3042, codified in Chapter 11 of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

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.

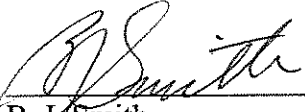
DULY PASSED AND APPROVED by the City Council of the City of Mesquite, Texas, on the 20th day of January, 2009.

  
\_\_\_\_\_  
John Monaco  
Mayor

ATTEST:

  
\_\_\_\_\_  
Judy Womack  
City Secretary

APPROVED:

  
\_\_\_\_\_  
B. J. Smith  
City Attorney

**Property Description**  
**1320 E. Highway 80, Mesquite, TX 75149**

|                                  |
|----------------------------------|
| Exhibit "A"<br>File No. 1462-263 |
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Being all of that certain lot, tract, or parcel of land situated in DANIEL TANNER LEAGUE, ABSTRACT NO. 1462, City of Mesquite, Dallas County, Texas and being a portion of those certain tracts of land conveyed to Cole Investments, Inc. by David C. Cole by Specialty Warranty Deed as recorded in Volume 90211, Page 1468 of the Deed Records of Dallas County, Texas, and being all of that certain tract described as TRACT 3 (FIRST TRACT and SECOND TRACT) in said Special Warranty Deed and also being all of Lot 15, Block A of Miles Smith Addition, an addition to the City of Mesquite, Dallas County, Texas according to the plat thereof recorded in Volume 99032, Page 21 of the Deed Records of Dallas County, Texas, and being more particularly described by metes and bounds as follows:

COMMENCING at a brass Texas Department of transportation monument found in concrete for corner at the intersection of the West right-of-way line of Rayburn Avenue (60' ROW) and the South right-of-way line of United States Highway No. 80 (320' ROW):

THENCE North 87 degrees 21 minutes 15 seconds West, along the south right-of-way line of said United states Highway No. 80, 75.33 feet to an angle point in said line:

THENCE North 89 degrees 12 minutes 46 seconds West, continuing along the south right-of-way line of said U.S. Highway 80, a distance of 75.13 feet to a brass Texas Department of Transportation monument found in concrete for corner at the intersection of the South right-of-way line of said United States Highway No. 80 and the Northeast corner Lot 1A of the R. Bell Addition, an addition to the City of Mesquite, Texas, according to the Plat thereof recorded in the Volume 91124, Page 0484 of the Deed Records of Dallas County, Texas:

THENCE North 89 degrees 08 minutes 54 seconds West, along South right-of-way line of said United States Highway No. 80 and the North line of said Lot 1A, 148.00 feet to a ½ inch iron rod found for corner at the Northwest corner of said Lot 1A, said point also being the Northeast corner of said FIRST TRACT of TRACT 3, said point also being the POINT OF BEGINNING:

THENCE South 00 degrees 06 minutes 59 seconds West, along the West line of said Lot 1A, 154.26 feet to a ½ inch iron rod found for corner at the Southeast corner of said FIRST TRACT of TRACT 3, and also being an interior corner of said Lot 1A:

THENCE South 45 degrees 53 minutes 14 seconds West, along the South line of said FIRST TRACT of TRACT 3, and passing at 10.77 feet an interior corner of said Lot 1A and the Northeast corner of Lot 11, Block A of the Miles Smith Addition, an addition to the City of Mesquite, Texas, according to the Plat thereof recorded in volume 16, Page 55 of the Map Records of Dallas County, Texas, and continuing along the North line of said Lot 11, Lot 10, Lot 9 of Block A, and passing at 71.34 feet the Southwest corner of said FIRST TRACT of TRACT 3 and the Southeast corner of said SECOND TRACT of TRACT 3, and continuing for a total distance of 136.82 feet to a 5/8" iron rod set with a yellow plastic cap stamped (DCA, Inc.) for corner Southwest corner of said Lot 15, Block A of Miles Smith Addition, said point also being at the Southwest corner of said SECOND TRACT of TRACT 3, said point also being the southeast corner of a tract of land conveyed to Rocco R. Miele and Lisa Miele by deed recorded in Volume 95118, Page 1562 of the Deed Records of Dallas County, Texas:

THENCE North 00 degrees 27 minutes 39 seconds West, along the East line of said Miele tract, 249.51 feet to a 5/8 inch iron rod found at the Northwest corner of said Lot 15, and the Northwest corner of said SECOND TRACT of TRACT 3, said point also being the Northeast corner of said Miele tract, said point also lying in the south right-of-way line of said United States Highway No. 80:

THENCE East, along the South right-of-way line of said United States Highway No. 80 and the North line of said SECOND TRACT of TRACT 3, and passing at 50.00 feet the Northeast corner of said SECOND TRACT of TRACT 3 and the Northwest corner of said FIRST TRACT of TRACT 3, and continuing along the South right-of-way line of said United States Highway No. 80, and the North line of said FIRST TRACT of TRACT 3 for a total distance of 99.93 feet to the POINT OF BEGINNING, and CONTAINING 0.460 acres or 20,057.49 square feet.