## ORDINANCE NO. <u>4061</u> File No. 1462-265-2009

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 INDUSTRIAL TO INDUSTRIAL WITH A CONDITIONAL USE PERMIT THEREBY ALLOWING FOR THE SALE OF USED FORKLIFTS SUBJECT TO CERTAIN STIPULATIONS: REPEALING ALL ORDINANCES 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; and

WHEREAS, the City Council finds that the proposed forklift use is unusual in its character and operation, and there is the potential that future owners may conduct, function or operate the use in a manner different from the applicant and create negative impacts upon adjacent properties.

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 Industrial to Industrial with a Conditional Use Permit to allow for the sale of used forklifts and the outdoor display of forklifts subject to the following stipulations:

- 1. Used forklifts shall account for no more than 40 percent of the forklift inventory. It shall not include the sale of any other used merchandise.
- 2. Outside display of new or used forklifts shall be prohibited.
- 3. No signs, banners or balloons of any kind may be placed on the property with the following exceptions:
  - a. One monument sign.
  - b. Wall signs.
  - c. One flag pole.
  - d. Directional/instructional signage as needed. Such signage shall not include advertising.
  - e. Signs must comply with City sign ordinance.

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- 4. Site development shall conform to the Concept Plan, attached hereto as "Exhibit A." The improvements shown on the Concept Plan shall be made prior to issuing the Certificate of Occupancy.
- 5. This Conditional Use Permit is limited to the applicant, Texas Forklift, and is not transferable to a different person or business entity.

That the subject property is located at 3510 E. US Highway 80 on a 1.3109-acre lot which has a 15,950-square foot building.

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 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 21st day of September, 2009.

John Monaco

Mayor

ATTEST:

APPROVED:

Sonja Land City Secretary

City Attorney

