

ORDINANCE NO. 4074
File No. 1095-51-2009

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 CONDITIONAL USE PERMIT ON PROPERTY ZONED COMMERCIAL WITHIN THE TOWN EAST RETAIL AND RESTAURANT AREA (TERRA) OVERLAY DISTRICT THEREBY ALLOWING FOR THE SALE OF USED MERCHANDISE 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 Conditional Use Permit (CUP) on property zoned Commercial within the Town East Retail and Restaurant Area (TERRA) Overlay District for the sale of used merchandise subject to the following stipulations:

1. The used merchandise shall be limited to DVDs, CDs, iPods, video games and video game consoles. It shall not include the sale of any other used merchandise.
2. Merchandise display shall be orderly and similar in style and organization to typical displays at general merchandise and department stores.
3. No display of used merchandise shall be permitted outside the establishment.
4. All display merchandise shall be clean and operational. The display of severely damaged items is prohibited.

5. No signage advertising the sale of used merchandise shall be visible from outside the establishment.
6. Handwritten labels shall not be used or permitted.
7. Previously-owned merchandise shall be marked as "pre-owned" or "pre-played."
8. Compensation to customers for all previously-owned merchandise received shall be in the form of store credit only. No cash shall be paid for previously-owned merchandise.
9. Three convictions for violation of this CUP during any 12-month period shall result in the automatic revocation of this CUP.
10. This CUP is approved exclusively to the applicant, Entertainmart, and may not be transferred or assigned.
11. This CUP is granted for a period of one year from the date of issuance of the Certificate-of-Occupancy and shall be subject to renewal upon review by the City Council for compliance with stipulations 1 through 8.

That the subject property is in a 4,313-square-foot lease space located at 2063 Town East Mall.

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.

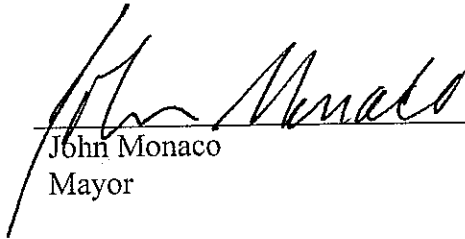
SECTION 4. That the foregoing change shall be, and it is, granted subject to any development of the land herein being developed in conformity with the requirements of current and/or future drainage improvement ordinances of the City of Mesquite, including Ordinance No. 3042, codified in Chapter 11 of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

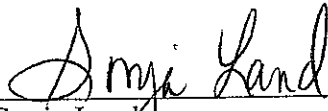
SECTION 7. That the property described in Section 1 of this ordinance requires that it be given the above classification in order to permit its proper development and in order to protect the public interest, comfort and general welfare of the City of Mesquite, creates an urgency and emergency for the 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 19th day of January, 2010.



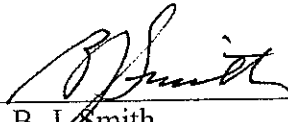
John Monaco
Mayor

ATTEST:



Sonja Land
City Secretary

APPROVED:



B. J. Smith
City Attorney