

ORDINANCE NO. 4076
File No. 342-18-2009

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 MILITARY PARKWAY-SCYENE CORRIDOR (MPSC) 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 Military Parkway-Scyene Corridor (MPSC) Overlay District for the sale of used merchandise subject to the following stipulations:

1. Used merchandise sales shall only be permitted as part of a social services organization with administrative functions located on the same parcel. Used merchandise sales shall not occupy more than 3,000 square feet of floor area. Should the administrative functions cease, the CUP shall expire.
2. The sale of used merchandise shall be limited to:
 - a. Clothing and apparel accessories;
 - b. Furniture – wood and metal furniture only (no upholstered furniture); and
 - c. Household items (excluding appliances, electronics, and lawn and garden items).

3. Outdoor sales and display shall be prohibited.
4. Signage for the used merchandise store shall be limited to one wall sign and onsite instructional signage as needed in compliance with the Mesquite Sign Ordinance. For the purpose of the CUP, signs identifying the item drop-off location shall be considered instructional signage.
5. Items brought to the site for drop off must be deposited in the building, either directly or through an exterior opening of the building. The occupant of the property shall be required to remove any items left outside of the building at the beginning of each business day and/or immediately upon awareness of the items.
6. Merchandise display shall be orderly and similar in style and organization to typical displays at general merchandise and department stores.
7. All display merchandise shall be clean and in good condition. The display of severely damaged items is prohibited.
8. The CUP shall expire on February 1, 2013. Provided that after November 1, 2012, Mesquite Social Services may apply for renewal of the CUP and such application shall be subject to the same submittal, notification and hearing requirements and procedures as all other conditional use permits.

That the subject property is located at 1035 Military Parkway 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.

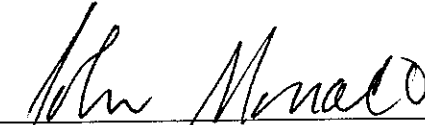
SECTION 4. That the foregoing change shall be, and it is, granted subject to any development of the land herein being developed in conformity with the requirements of current and/or future drainage improvement ordinances of the City of Mesquite, including Ordinance No. 3042, codified in Chapter 11 of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

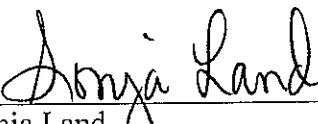
SECTION 7. That the property described in Section 1 of this ordinance requires that it be given the above classification in order to permit its proper development and in order to protect the public interest, comfort and general welfare of the City of Mesquite, creates an urgency and emergency for the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




John Monaco
Mayor

ATTEST:



Sonja Land
City Secretary

APPROVED:



B.J. Smith
City Attorney

Exhibit A

BEING 0.6156 acres of land situated in the D. S. Carver Survey, Abstract No. 342, Dallas County, Texas and being part of a 0.444 acre tract described in Deed dated July 19, 1963 from J. E. Williams to Parkway Baptist Church as recorded in Volume 119, Page 2136 of the Deed Records of Dallas County, Texas, and part of a tract of land described in Deed dated May 26, 1960 from Edwin W. Denham to Parkway Baptist Church as recorded in Volume 5331, Page 36 of the said Deed Records; said 0.6156 acres being more particularly described by metes and bounds as follows:

BEGINNING at a 1/2 inch iron rod set at the intersection of the North line of Military Parkway (200 foot R.O.W.) with the East line of Gross Road (60 foot R.O.W.) and being the Southeast corner of a 0.2662 acre tract described in Warranty Deed dated February 9, 1970 from Central Baptist Church to the City of Mesquite as recorded in Volume 70177, Page 1587 of the Deed Records of Dallas County, Texas;

THENCE North 0 degrees 09 minutes 53 seconds West with the East line of said 0.2662 acre tract and the East line of Gross Road, a distance of 190.35 feet to a 1/2 inch iron rod set for corner;

THENCE South 87 degrees 04 minutes 44 seconds East a distance of 140.57 feet to a 1/2 inch iron rod set for corner in the West line of a tract of land described in Warranty Deed dated October 11, 1976 from Opic Corporation to Robertson Capital Corporation as recorded in Volume 76215, Page 3135 of said Deed Records, and being located South 0 degrees 04 minutes 59 seconds East a distance of 174.59 feet from a 1/2 inch iron rod found at the Northwest corner of said Robertson Capital Corporation tract in the South line of Scyene Road (80 foot R.O.W.);

THENCE South 0 degrees 04 minutes 59 seconds East the East line of said Parkway Baptist Church tract described in Volume 5331, Page 36, a distance of 192.08 feet to a 1/2 inch iron rod found at the Southwest corner of said Robertson Capital Corporation tract described in Volume 76215, Page 3135, in the North line of Military Parkway;

THENCE North 86 degrees 22 minutes 00 seconds West a distance of 140.40 feet to the POINT OF BEGINNING;

CONTAINING within the metes recited 0.6156 acres or 26,815 square feet of land, more or less.

And:

BEING 0.5992 acres of land situated in the D. S. Carver Survey, Abstract No. 342, Dallas County, Texas, and being all of a tract of land described in Executor's Deed dated May 8, 1962, from Ted M. Brown Executor of the Estate of Dr. Edwin W. Denham, deceased, to Parkway Baptist Church as recorded in Volume 5887, Page 229 of the Deed Records of Dallas County, Texas, all of a 0.16 acre tract described in Warranty Deed dated September 8, 1970 from the City of Mesquite to Central Baptist Church as recorded in Volume 70177, Page 1590 of said Deed Records, part of a tract of land described in Deed dated May 26, 1960 from Edwin W. Denham to Parkway Baptist Church as recorded in Volume 5331, Page 36 of said Deed Records, and part of a 0.444 acre tract described in Deed dated July 19, 1963 from J. E. Williams to Parkway Baptist Church as recorded in Volume 119, Page 2136 of said Deed Records; said 0.5992 acres being described by metes and bounds as follows:

Exhibit A

BEGINNING at a 1/2 inch iron rod set at the Northwest corner of said 0.16 acre tract of land, being the intersection of the East line of Gross Road (60 foot R.O.W.) with the South line of Scyene Road (80 foot R.O.W.);

THENCE with a curve to the left on the South line of Scyene Road, having a central angle of 1 degree 25 minutes 36 seconds, a radius of 5779.58 feet and a chord that bears South 77 degrees 54 minutes 35 seconds East a distance of 143.91 feet, at 44.24 feet pass a 1/2 inch iron rod found at the Northwest corner of said Parkway Baptist Church tract described in Volume 5887, Page 229, in all a total arc distance of 143.91 feet to a 1/2 inch iron rod found at the Northeast corner of said Park Baptist Church tract described in Volume 5887, Page 229, said point also being the Northwest corner of a tract of land described in Warranty Deed dated October 11, 1976 from Opic Corporation to Robertson Capital Corporation as recorded in Volume 76215, Page 3135 of the Deed Records of Dallas County, Texas;

THENCE South 0 degrees 04 minutes 59 seconds East with the West line of said Robertson Capital Corporation tract and the east line of said Parkway Baptist Church tract described in Volume 5887, Page 229, a distance of 174.59 feet to a 1/2 inch iron rod set for corner;

THENCE North 87 degrees 04 minutes 44 seconds West a distance of 140.57 feet to a 1/2 inch iron rod set for corner in the East line of Gross Road and the West line of said 0.16 acre tract;

THENCE North 0 degrees 09 minutes 53 seconds West a distance of 197.57 feet to the POINT OF BEGINNING;

CONTAINING within the metes recited 0.5992 acres or 26,102 square feet of land, more or less.