

ORDINANCE NO. 4196 _____
File No. 1461-57A-2011

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 PLANNED DEVELOPMENT – COMMERCIAL #1643 TO PLANNED DEVELOPMENT - COMMERCIAL ON PROPERTY LOCATED ON THE SOUTH CORNER OF NORTH GALLOWAY AVENUE AND IH-30 THEREBY ALLOWING A SERVICE STATION WITH A CONVENIENCE STORE LARGER THAN 5,000-SQUARE FEET WITH 24 FUELING POSITIONS 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 DOLLARS (\$2,000.00) 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 all 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 Planned Development – Commercial #1643 to Planned Development - Commercial to allow a service station with a convenience store larger than 5,000-square feet with 24 fueling positions subject to the following stipulations:

1. Uses shall be limited to those permitted by right in the Commercial Zoning District as provided in the Mesquite Zoning Ordinance with the following additions and exclusions:

- a. Additional Uses Permitted:

SIC 549	Convenience Store over 5,000-square feet
SIC 554	Gasoline Service Station with up to 24 fueling positions

b. Prohibited Uses:

SIC Groups 15-17	Construction
SIC Group 75	Automotive Repair, Services

2. Outdoor storage shall be prohibited.
3. Driveway access to this Planned Development from the IH-30 service road and North Galloway Avenue shall contain a shared access easement connecting to the adjacent properties.

That the subject property is 2.017 acres out of the undeveloped 17-acre tract of land located on the south corner of North Galloway Avenue and IH-30, 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 (as defined in Chapter 1, Section 1-2 of the Code of the City of Mesquite, Texas, as amended) violating any of the provisions or terms of this ordinance shall be deemed to be guilty of a Class C Misdemeanor and upon conviction thereof, shall be subject to a fine not to exceed Two Thousand (\$2,000.00) Dollars for each offense, provided, however, if the maximum penalty provided for by this ordinance for an offense is greater than the maximum penalty provided for the same offense under the laws of the State of Texas, the maximum penalty for violation of this ordinance for such offense shall be the maximum penalty provided by the laws of the State of Texas. Each day or portion of a day any violation of this ordinance continues shall constitute a separate offense.

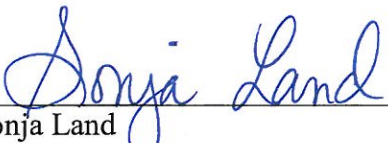
SECTION 7. That the property described in Section 1 of this ordinance requires that it be given the above classification in order to permit its proper development and in order to protect the public interest, comfort and general welfare of the City of Mesquite, creates an urgency and emergency for the 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 3rd day of January, 2012.



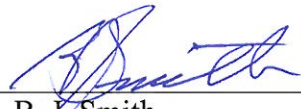
John Monaco
Mayor

ATTEST:



Sonja Land
City Secretary

APPROVED:



B. J. Smith
City Attorney

*** PROPERTY DESCRIPTION ***

BEING A 2.017 ACRE TRACT OF LAND SITUATED IN THE THEOPHALUS THOMAS SURVEY, ABSTRACT NO. 1461, CITY OF MESQUITE, DALLAS COUNTY, TEXAS, BEING A PORTION OF THAT CALLED 17.4292 ACRE TRACT OF LAND DESCRIBED TO PEEK PROPERTIES & INVESTMENTS, LTD. IN THE SPECIAL WARRANTY DEED RECORDED IN INSTRUMENT NO. 200600463793, OFFICIAL PUBLIC RECORDS OF DALLAS COUNTY, TEXAS, SAID 2.017 ACRE TRACT OF LAND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A TEXAS DEPARTMENT OF TRANSPORTATION (TXDOT) ALUMINUM MONUMENT FOUND AT THE WEST END OF A CORNER CLIP AT THE INTERSECTION OF THE SOUTHERLY RIGHT-OF-WAY LINE OF INTERSTATE HIGHWAY 30 (A VARIABLE WIDTH PUBLIC RIGHT-OF-WAY) WITH THE SOUTHWESTERLY RIGHT-OF-WAY LINE OF GALLOWAY AVENUE, (A 100-FOOT WIDE PUBLIC RIGHT-OF-WAY);

THENCE NORTH 70°37'14" EAST ALONG SAID CORNER CLIP AT A DISTANCE OF 62.62 FEET PASSING A TXDOT ALUMINUM MONUMENT FOUND, CONTINUING IN ALL FOR A DISTANCE OF 64.19 FEET TO A 5/8-INCH IRON ROD WITH YELLOW PLASTIC CAP STAMPED "BURY+PARTNERS" SET FOR THE EAST END OF SAID CORNER CLIP IN SAID SOUTHWESTERLY RIGHT-OF-WAY LINE OF GALLOWAY AVENUE;

THENCE SOUTH 46°00'02" EAST ALONG SAID SOUTHWESTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 275.20 FEET TO A 5/8-INCH IRON ROD WITH YELLOW PLASTIC CAP STAMPED "BURY + PARTNERS" SET FOR CORNER;

THENCE SOUTH 43°59'58" WEST, A DISTANCE OF 275.00 FEET TO A 5/8-INCH IRON ROD WITH YELLOW PLASTIC CAP STAMPED "BURY + PARTNERS" SET FOR CORNER;

THENCE NORTH 46°00'02" WEST, A DISTANCE OF 350.77 FEET TO A 5/8-INCH IRON ROD WITH CAP STAMPED "BURY+PARTNERS" SET FOR CORNER IN THE AFOREMENTIONED SOUTHERLY RIGHT-OF-WAY LINE OF INTERSTATE HIGHWAY 30 AND FROM WHICH A TXDOT ALUMINUM MONUMENT FOUND BEARS SOUTH 56°08'16" WEST, A DISTANCE OF 1014.15 FEET;

THENCE NORTH 56°08'16" EAST ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE, A DISTANCE OF 222.59 FEET TO THE POINT OF BEGINNING;

CONTAINING A COMPUTED AREA OF 87,857 SQUARE FEET OR 2.017 ACRES OF LAND.

BEARINGS CALLED FOR HEREIN ARE BASED ON THE SOUTH RIGHT-OF-WAY LINE OF INTERSTATE HIGHWAY 30, BEING NORTH 56°08'16" EAST, THE SAME AS RECORDED IN INSTRUMENT NO. 200600173411, OPRDCT.