

ORDINANCE NO. 4209
File No. 1462-271-2012

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 PLANNED DEVELOPMENT – INDUSTRIAL ON UNDEVELOPED PROPERTY LOCATED ON THE SOUTHWEST CORNER OF SOUTH TOWN EAST BOULEVARD AND SAMUELL BOULEVARD THEREBY ALLOWING UP TO 36 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 (\$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 from Industrial to Planned Development – Industrial to allow up to 36 fueling positions subject to the following stipulations:

1. Uses shall be limited to those permitted by right in the Industrial Zoning District as provided in the City of Mesquite Zoning Ordinance with the following additions and exclusions:
 - a. Additional Uses Permitted:
 - (1) SIC 549: Convenience Store over 5,000-square feet
 - (2) SIC 554: Gasoline Service Station with up to 36 fueling positions including eight semi-truck fueling positions
 - b. Following uses shall be prohibited:
 - (1) Truck parking longer than six hours

- (2) Truck service/repair
 - (3) Rest lounge, sleeping rooms or showers
2. Driveways that align with a median opening on South Town East Boulevard or Samuell Boulevard shall provide a shared access easement connecting to the adjacent properties.
 3. Game machines shall be prohibited with the exception of lottery terminals.
 4. Sidewalks along the right-of-ways shall be constructed eight feet in width as each parcel is developed.

That the subject property is located on an undeveloped 17.241-acre tract located on the southwest corner of South Town East Boulevard and Samuell Boulevard, 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

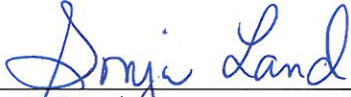
that this ordinance shall take effect immediately from and after its passage and publication of said ordinance as the law in such cases provides.

DULY PASSED AND APPROVED by the City Council of the City of Mesquite, Texas, on the 2nd day of April, 2012.




John Monaco
Mayor

ATTEST:



Sonja Land
City Secretary

APPROVED:



B.J. Smith
City Attorney

BEING attract tract of land located in the City of Mesquite, Dallas County, Texas, part of the Daniel Tanner, Abstract No. 1462, the J. Foreman Survey, Abstract No. 483 and the J. Field Survey, Abstract No. 1622, being all of that called 17.241 acre tract of land described in Deed to RKS Town East, LLC as recorded in County Clerk's File No. 201100252649, Deed Records, Dallas County, Texas, and being more particularly described as follows:

BEGINNING at a 3/8' iron rod found for the northwest corner of said 17.241 acre tract, being the northeast corner of Lot 1, Block 1, Associated Business Park, Phase II, as recorded in Volume 84247, Page 3600, Deed Records, Dallas County, Texas, being in the south right-of-way line of Samuell Boulevard (120' R.O.W. at this point);

THENCE, along the south line of Samuell Boulevard and the north line of said 17.241 acre tract, North 89 degrees 34 minutes 48 seconds East, a distance of 322.63 feet to a 5/8" iron rod set with plastic cap stamped "R.P.L.S. 5199", from which a 3" aluminum IXDOT monument bears North 12 degrees 18 minutes 30 seconds East, a distance of 3.01 feet, being the northwest corner of a 0.1800 acre tract of land conveyed to the City of Mesquite as recorded in County Clerk's File No. 20080150388, Deed Records, Dallas County, Texas;

THENCE, along the common line of said 17.241 acre tract and said 0.1800 acre tract, being the south right-of-way line of Samuell Boulevard as follows:

South 00 degrees 25 minutes 12 seconds East, a distance of 10.00 feet to a 5/8' iron rod set with plastic cap stamped "R.P.L.S. 5199", from which a 5/8' iron rod found bears North 11 degrees 40 minutes 40 seconds East, a distance of 2.86 feet;

North 89 degrees 34 minutes 48 seconds East, a distance of 40.42 feet to a 5/8' iron rod set with plastic cap stamped "R.P.L.S. 5199", from which a 5/8' iron rod found bears North 11 degrees 59 minutes 39 seconds East, a distance of 2.87 feet;

North 89 degrees 53 minutes 07 seconds East, a distance of 484.40 feet to a 5/8' iron rod set with plastic cap stamped "R.P.L.S. 5199", from which a 3" aluminum TXDOT monument bears North 19 degrees 35 minutes 24 seconds East, a distance of 2.52 feet; being the northwest end of a right-of-way clip at the intersection of the south right-of-way line of Samuell Boulevard and the west right-of-way line of Town East Boulevard (variable width R.O.W.);

THENCE, along said common and along said corner clip, South 45 degrees 30 minutes 21 seconds East, a distance of 42.66 feet to a 5/8" iron rod set with plastic cap stamped "R.P.L.S. 5199" for the southeast end of said corner clip;

THENCE, continuing along said common line, being the west right-of-way line of Town East Boulevard as follows:

South 00 degrees 49 minutes 49 seconds East, a distance of 391.96 feet to a 5/8' iron rod set with plastic cap stamped "R.P.L.S. 5199", from which a 3" aluminum TXDOT monument bears North 02 degrees 43 minutes 58 seconds East, a distance of 2.17 feet;

North 89 degrees 10 minutes 11 seconds East, a distance of 2.77 feet to a 5/8' iron rod set with plastic cap stamped "R.P.L.S. 5199", from which an "X" in concrete bears North 08 degrees 30 minutes 36 seconds East, a distance of 2.21 feet, being the southeast corner of said 0.1800 acre tract;

THENCE, continuing along the east line of said 17.241 acre tract and the west line of Town East Boulevard, South 00 degrees 19 minutes 01 seconds East, a distance of 46.55 feet to a 5/8' iron rod set with plastic cap stamped "R.P.L.S. 5199", being in the north corner of a 5.5148 acre tract of land described in Deed to John Hohenshelt d/b/a Paragon Industries as recorded in Volume 93006, Page 1531, Deed Records, Dallas County, Texas;

THENCE, departing the west line of Town East Boulevard and along the northwest line of said 5.5148 acre tract and the southeast line of said 17.241 acre tract, South 44 degrees 39 minutes 53 seconds West, a distance of 908.47 feet to a 1/2' iron rod found, from which a 5/8" iron rod found bears South 51 degrees 04 minutes 58 seconds East, a distance of 1.63 feet, being the south corner of said 17.241 acre tract and being in the northeast line of Lot 3, Block 1, High Point Industrial Park as recorded in Volume 87143, Page 4430 Deed Records, Dallas County, Texas;

THENCE, along the southwest line of said 17.241 acre tract, the northeast line of said Lot 3, and the north east line of Lot 1, Block C, Austin Addition as recorded in Volume 84168, Page 2378, Deed Records, Dallas County, Texas, North 45 degrees 14 minutes 57 seconds West a distance of 375.57 feet to a 5/8" iron rod set with plastic cap stamped "R.P.L.S. 5199", being the most southerly southeast corner of aforementioned Lot 1, Block 1, Associated Business Park Phase II;

THENCE, along the common line of said 17.241 acre tract and said Lot 1, North 43 degrees 01 minutes 55 seconds East, a distance of 27.10 feet to a 5/8' iron rod set with plastic cap stamped "R.P.L.S. 5199", from which a 3/8" iron rod found bears South 36 degrees 41 minutes 04 seconds West, a distance of 4.02 feet;

THENCE, continuing along said common line, North 00 degrees 00 minutes 48 seconds East, a distance of 836.61 feet to the **POINT OF BEGINNING** and containing 750,903 square feet or 17.2384 acres of land more or less.