

ORDINANCE NO. 4508

File No. Z0517-0005

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 R-1 SINGLE-FAMILY RESIDENTIAL TO PLANNED DEVELOPMENT - GENERAL RETAIL SUBJECT TO CERTAIN STIPULATIONS THEREBY ALLOWING A GROCERY STORE; 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 to approve a change of zoning on property zoned R-1 Single-Family Residential to Planned Development - General Retail subject to the following stipulations:

1. The site shall be developed consistent with the Concept Plan attached hereto as Exhibit "A." However, where the Concept Plan and the text of the Planned Development Ordinance are in conflict, the text shall rule.
2. Only uses that are allowed by right in the General Retail zoning district that are classified under the following SIC codes shall be permitted:

SIC 54	Food Stores	Except 549, Miscellaneous Food Stores
SIC 56	Apparel, Accessory Stores	
SIC 58	Eating, Drinking Places	
SIC 591	Drug Stores	

SIC 594	Miscellaneous Shopping Goods Stores	Except 5947, Gift, Novelty, Souvenir Shops
SIC 60	Depository Institutions	Except SIC 61 Non- Depository Financial Institutions
SIC 80	Health Services	
SIC 81	Legal Services	
SIC 82	Educational Services	
SIC 87	Engineering, Accounting, Research, Management Services	

3. The PD shall be platted as no more than one lot.
4. Open space shall be maintained as shown on Exhibit "A". No tree removal except as needed for required drainage, fire access and/or infrastructure improvements shall be allowed on the eastern 400 feet of the PD.
5. The sidewalk shall be extended along the full frontage of Cartwright Road before the certificate of occupancy is issued.
6. Development shall comply with the landscaping and screening requirements of Section 1A of the Mesquite Zoning Ordinance. In addition, the following perimeter landscaping and screening shall be provided prior to issuance of a certificate of occupancy:
 - a. A six-foot-tall wrought iron fence or a masonry wall must be constructed along the east property line or any parallel line east of the building and parking areas, with masonry columns 30-foot on center; provided, however, that this requirement will not be required if the tree canopy east of the drainage channel is left undisturbed.
 - b. A 15-foot wide landscape buffer shall be provided along East Cartwright Road as shown in Exhibit "A" and along the entire frontage of Wilkinson Road and shall include the following:
 - i. One canopy tree shall be provided per 35 lineal feet. Trees provided in these landscape buffers may be counted to fulfill the general tree requirement.
 - ii. If an area designed for tree preservation is located in an area where general landscaping or screening would be required and where preservation of the protected trees would serve the same purpose as required landscaping or screening, then the applicant may receive a credit for the protected trees against the required landscaping as dictated in the section above.

7. Buildings shall substantially comply with the Community Appearance Manual.
8. An internal traffic and truck circulation plan shall be provided with the site plan subject to approval by Staff. The internal traffic plan shall show how all heavy load vehicles will egress and ingress the site without using Wilkinson Road.
9. No heavy load vehicles including delivery trucks shall use Wilkinson Road for egress or ingress to the PD.

That the subject property is located at 440 East Cartwright Road and 1836 Wilkinson Road and is more fully described in the approved field notes in Exhibit "B" 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. 4216, 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.

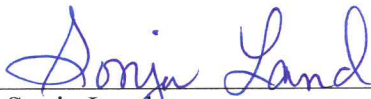
SECTION 7. That the property described in Section 1 of this ordinance requires that it be given the above classification in order to permit its proper development and in order to protect the public interest, comfort and general welfare of the City of Mesquite, creates an urgency and emergency for the 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 18th day of September, 2017.



Stan Pickett
Mayor

ATTEST:

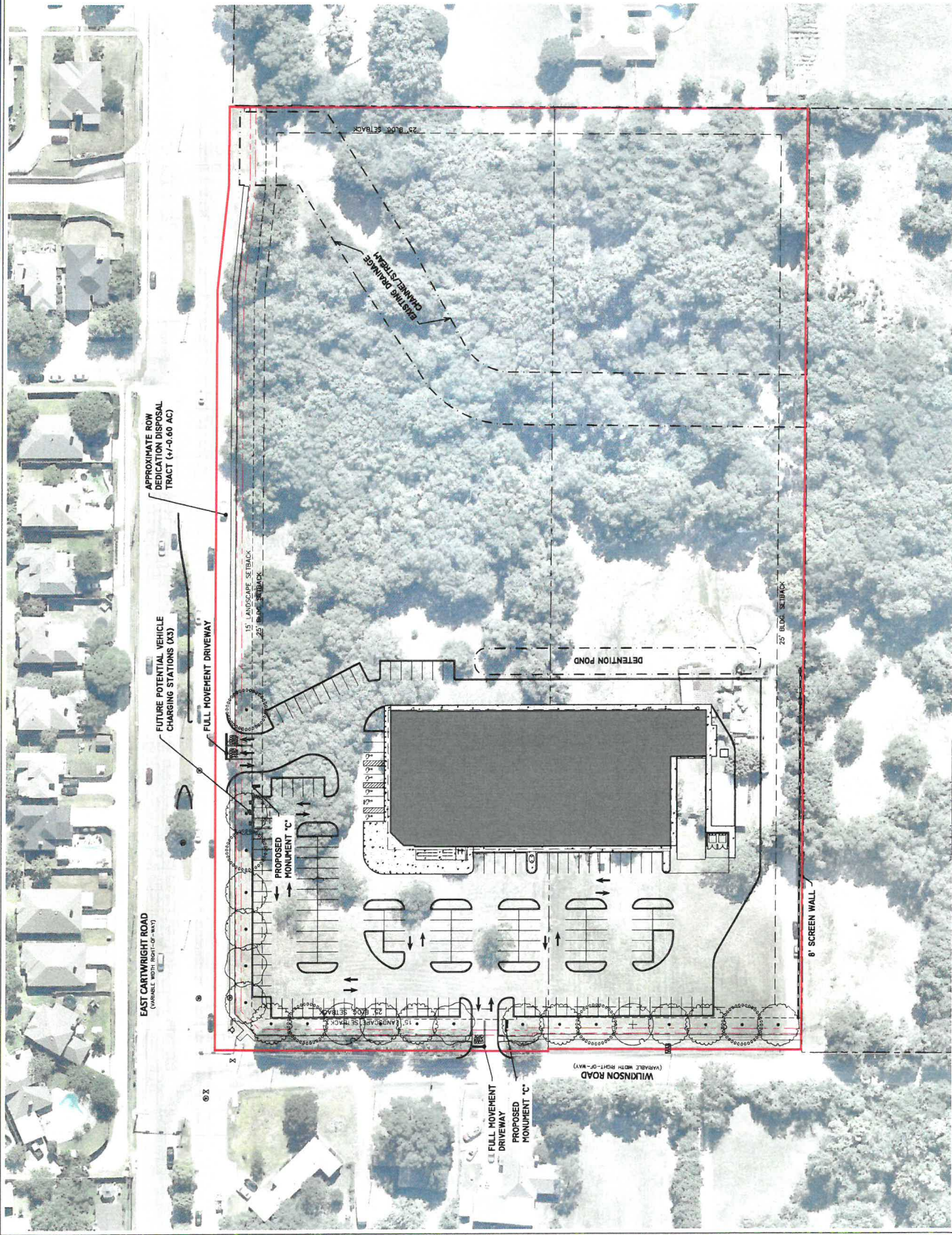


Sonja Land
City Secretary

APPROVED:



B. J. Smith
City Attorney



METES AND BOUNDS DESCRIPTION

BEING a 11.556 acre tract of land situated in the James Moore Survey, Abstract Number 972 and the W. C. Dowdy Survey, Abstract Number 420, Dallas County, Texas, in the City of Mesquite. Being all of the tract of land described in the Correction Affidavit recorded in Document Number 201500158436, Deed Records of Dallas County, Texas and all of the tract of land described in the deed to Gary R. and Patricia J. Wood recorded in Volume 99242, Page 514, Deed Records of Dallas County, Texas, said 11.556 acre tract of land being more particularly described as follows:

BEGINNING at an "X" cut in concrete for the point of intersection of the easterly right-of-way line of Wilkinson Road (40 foot wide right-of-way) with the southerly right-of-way line of Lake June Road (a variable width right-of-way) as described in the deed recorded in Volume 2171, Page 279, Deed Records of Dallas County, Texas;

THENCE with the southerly right-of-way line of Lake June Road the following:

North 88° 47' 32" East a distance of 425.98 feet to an "X" cut in concrete;

North 89° 01' 32" East a distance of 299.00 feet to an "X" cut in concrete;

South 85° 15' 50" East a distance of 100.50 feet to an "X" cut in concrete;

North 89° 01' 32" East a distance of 75.00 feet to an "X" cut in concrete for the northwesterly corner of the Renfro Addition, according to the plat recorded in Volume 80223, Page 1949, Map Records of Dallas County, Texas;

THENCE departing the southerly right-of-way line of Lake June Road with the westerly line of said Renfro Addition South 00° 48' 28" East at a distance of 10.00 feet passing a 3/8 inch iron rod found for the northwesterly corner of Lot 1, Block A of said Renfro Addition, at a distance of 309.74 feet passing a 1/2 inch iron rod found for the common easterly corner of the tract described in said Correction Affidavit and said Gary R. and Patricia J. Wood tract, continuing with the westerly line of said Renfro Addition in all a total distance of 551.74 feet to a 5/8 inch iron rod with a cap stamped "Dunaway Assoc LP" set for corner;

THENCE departing the westerly line of said Renfro Addition South 89° 01' 53" West a distance of 897.80 feet to a 5/8 inch iron rod with a cap stamped "Dunaway Assoc LP" set in the easterly right-of-way line of Wilkinson Road;

EXHIBIT "B"
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THENCE with the easterly right-of-way line of Wilkinson Road the following:

North 00° 48' 32" West a distance of 242.00 feet to a ½ inch iron rod found for corner;

South 89° 01' 53" West a distance of 2.19 feet to a 5/8 inch iron rod with a cap stamped "Dunaway Assoc LP" set for corner;

North 00° 48' 28" West a distance of 317.91 feet to the POINT OF BEGINNING;

CONTAINING a computed area of 11.556 acres (503,370 square feet) of land.