

ORDINANCE NO. 4619

File No. Z0818-0061

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 AGRICULTURE TO PLANNED DEVELOPMENT - GENERAL RETAIL ON PROPERTY LOCATED AT 10991 IH-20 THEREBY ALLOWING A CONVENIENCE STORE WITH FUEL SALES IN ADDITION TO USES PERMITTED IN THE GENERAL RETAIL ZONING DISTRICT 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 Agriculture to Planned Development - General Retail with the following stipulations:

1. Except as provided herein, the plat and site plan for the property shall conform substantially to the Concept Plan, attached hereto as Exhibit "B." In the event of a conflict between the provisions of this ordinance and Exhibit "B," the provisions of this ordinance control.
2. Except as otherwise provided in Subsection a and b of this section, the uses shall be limited to those permitted in the General Retail Zoning District subject to the same conditions applicable in the General Retail Zoning District as provided in the City of Mesquite Zoning Ordinance. For example, a use permitted in the General Retail Zoning District by conditional use permit ("CUP") is permitted in this district only by CUP.
  - a. The following additional use is permitted:

SIC Code 554

Gasoline Service Station with up to 16 fueling positions

b. The following uses shall be prohibited:

SIC Code 5947      Gift, Novelty, Souvenir Shops

SIC Code 751      Automotive Rental, Leasing

SIC Code 753      Automobile Repair Services

3. Signage shall follow the current City of Mesquite Sign Ordinance and comply with the following requirements:
  - a. Window sign shall be limited to 25 percent of the area of any window or door.
  - b. The business shall have no more than one temporary sign at any time, except that two swoosher or teardrop signs may be on the property as long as there are no other temporary signs. Any temporary sign must comply with the Sign Code for the specific sign type.
4. No portion of any window shall be outlined with lighting.
5. Architectural lighting on the exterior of the building or within five feet of a window on the interior of the building shall flash or change no more frequently than every two minutes. Such lighting shall not have any motion or perceived motion. There shall be no rapid changes in color or intensity of lighting.
6. District screening shall not be required from the adjacent agricultural zoned districts.
7. Landscaping shall be provided as follows:
  - a. Landscaping shall be provided on no less than 15 percent of the site.
  - b. All parking islands shall be landscaped with grasses, perennials or shrubs.
  - c. Parking lot trees shall be placed in a landscape area no smaller than 9-feet by 18-feet. A landscape island located at an intersection of maneuvering aisles may contain landscape material exceeding 30 inches in height.
  - d. One shade tree, one evergreen tree or three ornamental trees are required for each 500-square feet of required landscape area. All trees may be counted to fulfill the requirement provided a minimum of 50 percent are located between the main building and the front and/or exterior side property lines.
8. Outdoor display and/or storage shall be prohibited.
9. The sidewalk along FM 741 Road and IH-20 shall be a minimum of six feet in width or a width necessary to comply with the City of Mesquite's Trails Master Plan or Texas Department of Transportation. If necessary or desired, a portion of the sidewalk may be

located on private property. Any portion of the sidewalk located on private property must be within a 10-foot pedestrian easement. Other sidewalks shall be a minimum of five feet in width.

10. A pedestrian plaza shall be located on the north side of the building facing the FM 741 Road and IH-20 intersection and shall consist of one of the following:
  - a. Pedestrian furniture; or
  - b. Bicycle rack.
11. Development shall comply with the Community Appearance Manual.
12. Parking shall be provided as generally shown on the Concept Plan.
13. All parking rows shall be bounded by a landscaped area or a landscaped parking island.

That the subject property is 0.8746 acres of undeveloped land described as being in the Martha Musick Survey, Abstract No. 312, City of Mesquite, Kaufman County, Texas, and located at 10991 IH-20 in the southwest corner of IH-20 and FM 741 Road, and is more fully described in Exhibit "A."

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.

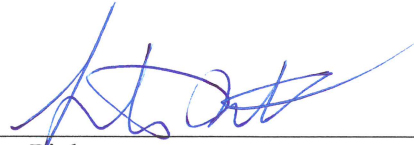
SECTION 3. That the property described in Section 1 of this ordinance shall be used only in the manner and for the purposes provided for by the Mesquite Zoning Ordinance.

SECTION 4. That 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 5. 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 6. That this ordinance shall take effect and be in force from and after five days after publication.

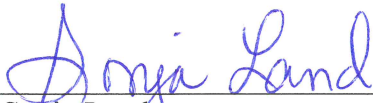
DULY PASSED AND APPROVED by the City Council of the City of Mesquite, Texas,  
on the 7th day of May, 2018.



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Stan Pickett  
Mayor

ATTEST:



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Sonja Land  
City Secretary

APPROVED:



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Paula Anderson  
Interim City Attorney

**OWNER'S CERTIFICATE**

**STATE OF TEXAS**  
**COUNTY OF KAUFMAN**

**WHEREAS, DEAL A DAY REAL ESTATE, LLC, A TEXAS LIMITED LIABILITY COMPANY, IS THE OWNER OF ALL THAT CERTAIN TRACT OR PARCEL OF LAND OUT OF THE MARTHA MUSICK SURVEY, ABSTRACT NO. 312, KAUFMAN COUNTY, TEXAS, AND BEING A PART OF THE 132 ACRE TRACT KNOWN AS TRACT NO. 6, DESCRIBED IN A PARTITION DEED TO GORDON T. WEST AND ELLEN BROOKS WEST BY JAMES K. BROOKS, ET UX, ET AL AND RECORDED IN VOLUME 441, PAGE 305 OF THE DEED RECORDS OF KAUFMAN COUNTY, TEXAS AND BEING THE SAME PROPERTY CONVEYED TO DEAL A DAY REAL ESTATE, LLC, BY SPECIAL WARRANTY DEED RECORDED IN DOCUMENT NUMBER 2017-0024610 OF THE REAL RECORDS OF KAUFMAN COUNTY, TEXAS, AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:**

**BEGINNING** AT A 5/8" IRON ROD SET FOR THE CORNER, SAID POINT BEING THE INTERSECTION OF THE SOUTH RIGHT-OF-WAY LINE OF INTERSTATE HIGHWAY NO. 20 (VARIABLE WIDTH RIGHT OF WAY) AS DETERMINED BY RIGHT OF WAY DEED TO THE STATE OF TEXAS, CALLED 10.6120 ACRES, AS RECORDED IN VOLUME 709 AT PAGE 237 OF THE DEED RECORDS OF KAUFMAN COUNTY, TEXAS AND THE NORTHWEST RIGHT-OF-WAY LINE OF FARM TO MARKET ROAD NO. 741, (VARIABLE WIDTH RIGHT OF WAY) AND BEING IN A CURVE, THE RADIUS POINT OF WHICH BEARS SOUTH 49° 04' 42" EAST AT A DISTANCE OF 598.02';

**THENCE** SOUTHWESTERLY ALONG SAID NORTHWEST RIGHT-OF-WAY LINE OF FARM TO MARKET ROAD NO. 741 WITH A CURVE TO THE LEFT HAVING A RADIUS OF 598.02 FEET, A CENTRAL ANGLE OF 13° 24' 25", AND A CHORD BEARING OF SOUTH 34° 13' 05" WEST AT A DISTANCE OF 139.61 FEET AND AN ARC DISTANCE OF 139.93 FEET TO A 5/8" IRON ROD SET FOR CORNER;

**THENCE** SOUTH 27° 30' 52" WEST AND CONTINUING ALONG SAID NORTHWEST RIGHT-OF-WAY LINE OF FARM TO MARKET ROAD NO. 741, FOR A DISTANCE OF 122.50 FEET TO A 5/8" IRON ROD SET FOR CORNER AT THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 517.41 FEET, A CENTRAL ANGLE OF 02° 33' 03", A CHORD BEARING OF SOUTH 28° 47' 24" WEST AT A DISTANCE OF 23.03 FEET AND AN ARC DISTANCE OF 23.04 FEET TO A 5/8" IRON ROD SET FOR CORNER;

**THENCE** NORTH 44° 23' 22" WEST DEPARTING THE NORTHWEST RIGHT-OF-WAY LINE OF FARM TO MARKET ROAD NO. 741, AND FOLLOWING THE PROPERTY CONVEYED TO NADG 10/HEARTLAND, L.P. AS RECORDED IN INSTRUMENT NO. 2007-00026313 OF THE DEED RECORDS OF KAUFMAN COUNTY, TEXAS, FOR A DISTANCE OF 287.59 FEET TO A 5/8" IRON ROD SET FOR CORNER IN THE SOUTH RIGHT-OF-WAY LINE OF INTERSTATE HIGHWAY NO. 20;

**THENCE** NORTH 83° 37' 54" EAST (BASIS OF BEARING PER DEED RECORDED IN VOLUME 2940 AT PAGE 496 OF THE DEED RECORDS OF KAUFMAN COUNTY, TEXAS) AND FOLLOWING ALONG THE SOUTH RIGHT-OF-WAY LINE OF INTERSTATE HIGHWAY NO. 20 AS DETERMINED BY THE AFORESAID DEED TO THE STATE OF TEXAS AS RECORDED IN VOLUME 709 AT PAGE 237 OF THE DEED RECORDS OF KAUFMAN COUNTY, TEXAS, FOR A DISTANCE OF 348.75 FEET TO A 5/8" IRON ROD SET FOR CORNER;

**THENCE** NORTH 83° 40' 58" EAST AND CONTINUING ALONG THE SOUTH RIGHT-OF-WAY LINE OF NEW INTERSTATE HIGHWAY NO. 20, FOR A DISTANCE OF 0.78 FEET TO **THE POINT OF BEGINNING AND CONTAINING 0.8746 ACRES OF LAND, MORE OR LESS.**

