

ORDINANCE NO. 4938
File No. Z1221-0232

AN ORDINANCE AMENDING THE MESQUITE ZONING ORDINANCE BY APPROVING A CHANGE OF ZONING FROM TRUMAN HEIGHTS NEIGHBORHOOD TO PLANNED DEVELOPMENT – GENERAL RETAIL ON PROPERTY LOCATED AT 2015 AND 2019 NORTH GALLOWAY AVENUE TO ALLOW A DRIVE-THROUGH RESTAURANT IN ADDITION TO USES PERMITTED IN THE GENERAL RETAIL ZONING DISTRICT; REPEALING ALL ORDINANCES IN CONFLICT WITH THE PROVISIONS OF THIS ORDINANCE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY NOT TO EXCEED \$2,000.00; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Planning and Zoning Commission and the City Council, in compliance with the Charter of the City of Mesquite, state laws and the zoning ordinance, have given the required notices and held the required public hearings regarding the rezoning of the subject property; and

WHEREAS, the City Council finds that it is in the public interest to grant this change in zoning.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS:

SECTION 1. The subject property is approximately 1.116 acres of vacant/undeveloped land located at 2015 and 2019 North Galloway Avenue, City of Mesquite, Dallas County, Texas, and being more fully described in the legal description attached hereto as Exhibit A (the “**Property**”).

SECTION 2. The Mesquite Zoning Ordinance is amended by approving a change of zoning for the Property from Truman Heights Neighborhood to Planned Development – General Retail to allow a drive-through restaurant in addition to other uses permitted in the General Retail Zoning District subject to the Planned Development Standards and the Concept Plan, attached hereto as Exhibits B and C, respectively, and incorporated herein by reference.

SECTION 3. 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of the City of Mesquite in conflict with the provisions of this ordinance, to the extent of such conflict, are hereby repealed; otherwise, they shall remain in full force and effect.

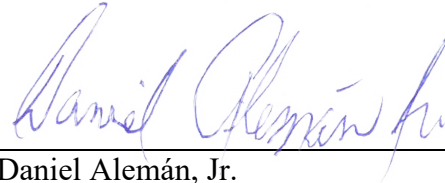
SECTION 4. The Property shall be used only in the manner and for the purposes provided for by the Mesquite Zoning Ordinance, as amended.

SECTION 5. 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. 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 \$2,000.00 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.

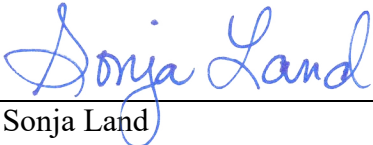
SECTION 7. This ordinance shall take effect and be in force from and after five days after publication.

DULY PASSED AND APPROVED by the City Council of the City of Mesquite, Texas, on the 7th day of February 2022.



Daniel Alemán, Jr.
Mayor

ATTEST:



Sonja Land
City Secretary

APPROVED AS TO LEGAL FORM:



David L. Paschall
City Attorney

EXHIBIT A

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LEGAL DESCRIPTION OF LAND

Being a 1.116 acre tract of land situated in the Daniel Tanner Survey, Abstract No. 1462, Dallas County, Texas, and being all of a Tract 1 and Tract 2 as described in a Substitute Trustee's Deed to IB Property Holdings, LLC., recorded in Dallas County Document 20080329684 Deed Records, Dallas County, Texas (D.R.D.C.T.), said 1.116 acre tract of land being more particularly described by metes and bounds as follows:

Beginning at a "X" cut found for the Northwest corner of said Tract 2 and the Southeast corner of a tract of land described in deed to Mesquite Exposition Blvd as recorded in Volume 99014, Page 1517 (D.R.D.C.T.) and being on the West Right-of-Way line of North Galloway Avenue (50' ROW);

Thence S 45°56'14" E, along said Right-of-Way and the North lines of said Tract 1 and 2, at a distance of 60.85 feet passing a 5/8" iron rod found and a "X" cut found for the Northwest corner of said Tract 1 and the Southeast corner of said Tract 1, continuing a total distance of 190.82 feet to a 1/2" iron rod capped "RSCI PLS 5034" found for the Southeast corner of said Tract 1 and the Northeast corner of a tract of land described in deed to Angela D Draughton, as recorded in Volume 99172, Page 6170 (D.R.D.C.T.);

Thence S 44°28'20" W, along the South line of said Tract 1 and the North line of said Draughton Tract, at distance of 117.49 feet passing a 5/8" iron found for the Northwest corner of said Draughton Tract and the North Right-Of-Way line of Ridgeview Street, continuing a total distance of 299.47 feet to a 5/8" iron rod capped "Bohannan Huston" set for the Southwest corner of said Tract 1 and being a Southerly corner on said Mesquite Exposition Blvd Tract from which a 1/2" iron rod capped "RSCI RPLS 5034" found bears N 69°51'17" W – 0.94 feet;

Thence along the Southerly line of said Mesquite Exposition Blvd Tract and the North and West lines of said Tract 1 and Tract 2 the following calls:

N 46°06'46" W, a distance of 129.99 feet to a 5/8" iron rod capped "Bohannan Huston" set for corner;

N 44°28'25" E, a distance of 139.09 feet to a "X" cut found from which a PK nail found bears N 45°18'47" W – 0.12 feet;

N 45°36'18" W, a distance of 59.25 feet to a 5/8" iron rod capped "Bohannan Huston" set for corner;

N 43°54'24" E, a distance of 160.43 feet to the POINT OF BEGINNING, and containing an area of 1.116 acres of land more or less.

NOTE: COMPANY DOES NOT REPRESENT THAT THE ABOVE ACREAGE AND/OR SQUARE FOOTAGE CALCULATIONS ARE CORRECT.

EXHIBIT B

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PLANNED DEVELOPMENT STANDARDS

This Planned Development General Retail (PD-GR) must adhere to all conditions of the Mesquite Code of Ordinances, including but not limited to the Mesquite Zoning Ordinance, as amended, and adopts General Retail base district standards consistent with the Concept Plan attached hereto and incorporated herein as Exhibit C and the standards identified below, which apply to this PD-GR district. Where these regulations conflict with or overlap another ordinance, the more stringent restriction will control.

1. **Permitted Land Uses.** The permitted uses on the Property include the permitted uses in the General Retail District classification (“GR”) as set out in the Mesquite Zoning Ordinance (MZO), and those permitted uses on the Property are subject to the same requirements as set out in the MZO. Prohibited uses on the Property are identified in subsection 2 below.
 - a. The permitted uses requiring a conditional use permit (“CUP”) as set out in the Mesquite Zoning Ordinance (MZO), also require a CUP for the use to be permitted on the Property.
 - b. The following uses are permitted on the Property only by obtaining a conditional use permit (“CUP”):
 - i. SIC Code 549a: Convenience Stores
 - ii. SIC Code 5947: Gift Novelty, Souvenir Shops
 - iii. SIC Code 5993: Tobacco Stores
 - iv. SIC Code 7215: Coin-Operated Laundries
2. **Prohibited Land Use.** The following use are prohibited on the property:
 - a. SIC Code 753: Automobile Repair Shops
3. **Development Standards.** In addition to the requirements of the GR base zoning district, the Planned Development is subject to the following.
 - a. Open space, as defined by the Mesquite Zoning Ordinance, must be a minimum of 15% of the lot.
 - b. One (1) shade tree, or one (1) evergreen tree, or three (3) ornamental trees shall be provided for each six hundred (600) square feet of required 15% open space area. Trees provided for internal parking area landscaping and trees in a required buffer tree line may be counted to fulfill this requirement, provided that at least thirty (30) percent of the required trees are located between the main building and the front and/or exterior side property lines.
 - c. All pole signage must have an irrigated landscaped area consisting primarily of bushes, shrubs, and ornamental grasses that is equal to or greater in size than the surface area of one sign face of the pole sign and shall be installed around the base of the sign.

