

PLANNING AND ZONING DIVISION

FILE NUMBER: Z0820-0145

REQUEST FOR: Conditional Use Permit to allow a primary outdoor storage yard

CASE MANAGER: Lesley Frohberg, AICP, Senior Planner

PUBLIC HEARINGS

Planning and Zoning Commission: Monday, October 25, 2021 City Council: Monday, December 6, 2021

GENERAL INFORMATION

Applicant: Manuel Molina Jr., Molina Construction

Requested Action: Conditional Use Permit to allow the subject property to be used as a

primary outdoor storage yard per Section 3-603.A.1 of the Mesquite

Zoning Ordinance

Location: 2526 Westwood Avenue

PLANNING AND ZONING ACTION

Decision:

On October 25, 2021, the Planning and Zoning Commission recommended approval of the Conditional Use Permit to allow a primary outdoor storage yard with the following stipulations:

- 1. The outdoor storage area shall be screened with a board on board, stained cedar privacy fence a minimum of six feet in height. The fence shall be constructed and maintained in good working condition, including the replacement of any missing boards and/or damaged portions immediately, with re-staining occurring at least every three years and as needed. The fence shall be constructed along the entirety of the south property line, along Westwood Avenue, to provide screening from public view, except in visibility triangle areas and the entry gate.
- 2. The outdoor storage area and driving area shall have an approved asphalt or concrete surface where the storage of vehicles, trailers, and equipment occurs.
- A Site Plan must be approved and indicate full compliance with the Mesquite Zoning Ordinance prior to the issuance of a Certificate of Occupancy.
- 4. The CUP shall apply to Molina Construction and cannot be reassigned or transferred.
- 5. If approved, this Conditional Use Permit will expire after six (6) months from the issuance of the Certificate of Occupancy.
- 6. Upon application for renewal of the Conditional Use Permit, the application fee shall be 30% of the existing CUP fee.

SITE BACKGROUND

Platting: Hilhome Gardens 2 Replat, Block 4, Lot 16R

Size: 0.749 Acres
Zoning: C - Commercial

Future Land Use: US 80 Special Planning Area

Zoning History: 1951: Annexed into City of Mesquite, Zoned Residential

1955: Rezoned from Residential to Duplex

1972: Rezoned from Duplex to Commercial (Ord. No. 1047)

1980: Conditional Use Permit for Metal Buildings with Masonry Fronts

(Ord. No. 1618)

Surrounding Zoning and Land Uses (see attachment 3):

	<u>ZONING</u>	LAND USE
NORTH:	C - Commercial	XL Auto Parts
SOUTH:	C - Commercial	Towing Company & Auto Repair
EAST:	C - Commercial	Vacant / Undeveloped
WEST:	C - Commercial	Multi-Tenant Commercial Building

CASE SUMMARY

The applicant is requesting a Conditional Use Permit (CUP) to allow the subject property to be used as a primary outdoor storage yard per Section 3-603.A.1 of the Mesquite Zoning Ordinance. Primary outdoor storage yards have required a CUP in the Commercial zoning district since December 1989, Ordinance 2650. The applicant began using the subject property for primary outdoor storage without a Certificate of Occupancy in October 2019. The primary outdoor storage yard is used to store commercial equipment and materials for the applicant's business, Molina Construction. There are currently no permanent structures on the premises. This violation was identified by Zoning Inspectors and a notice of violation was sent to the property owner on January 27, 2020, and code violation citations were issued on February 28, 2020. Below is a timeline of actions taken by staff and the applicant.

- The property owner met with City Staff on March 16, 2020, to discuss code violations and produce a plan for the subject property to come into compliance. This discussion included applying for a CUP to allow primary outdoor storage for the commercial business and constructing a screening fence and approved pavement materials following the zoning action.
- A CUP Application was submitted on August 21, 2020, and was deemed incomplete, as it was missing required documentation. The missing documentation was later submitted to Staff on October 14, 2020. Following an internal review, Staff had comments that needed to be addressed. The comments were returned to the applicant on October 23, 2020.

- Approximately in November 2020, the applicant began laying a crushed gravel surface onto the site without permits.
- On May 5, 2021, an inspector identified a wood fence was constructed without permits
 on the subject property. The inspector issued a notice of violation for operating without
 a Certificate of Occupancy, unapproved surfacing (gravel), parking on an unimproved
 surface, failure of owner's responsibility, and failure to obtain a permit or final inspection
 for the fence. Citations were issued for the violations on May 27, 2021.
- The CUP Application was resubmitted, with corrections, on August 9, 2021. Staff returned the CUP Application with comments on August 17, 2021.
- August 11, 2021, citations were issued for parking on unimproved surfaces and failure to obtain a permit or final inspection for the fence.
- A fence permit was submitted on August 30, 2021, and the final inspection was approved on September 20, 2021.
- A completed CUP Application was resubmitted, with corrections, on September 1, 2021.
- On October 18, 2021, citations were issued for parking on an unimproved surface, nuisance premises, and failure of the owner to correct code violations.

MESQUITE COMPREHENSIVE PLAN

The Mesquite Comprehensive Plan designates the subject property within the US 80 Special Planning Area. The purpose of the US 80 Special Planning Area designation is to create an office and commercial district with revitalized existing development and new office space along the highway. Land uses should include small office warehouses and some personal services. Outdoor storage should be screened from view and limited to ensure an aesthetically pleasing appearance and consistent design. The Mesquite Comprehensive Plan calls for additional analysis on the ratio of the appropriate commercial and industrial uses within the US 80 Special Planning Area.

STAFF COMMENTS:

The future land use designation within the *Mesquite Comprehensive Plan* provides consideration for outdoor storage, provided that the area is screened and is aesthetically pleasing. The proposed CUP is consistent with the surrounding neighborhood.

MESQUITE ZONING ORDINANCE

SECTION 5-503: REVIEW CRITERIA FOR CONDITIONAL USE PERMITS

1. Existing uses

The Conditional Use will not be injurious to the use and enjoyment of other property in the immediate area for the purposes already permitted, nor substantially diminish and impair property values within the immediate vicinity.

STAFF COMMENTS:

The subject property is being used as primary outdoor storage to store commercial equipment for Molina Construction. Outdoor storage may be appropriate in a commercial district, provided it meets all the requirements and the site is orderly. City Staff has received complaints regarding the subject property due to the unkempt conditions.

2. Vacant Properties

The Conditional Use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.

STAFF COMMENTS:

Staff does not anticipate the request to negatively impact the development or redevelopment of any nearby property.

3. Services

Adequate utilities, access roads, drainage, and other necessary facilities have been or are being provided.

STAFF COMMENTS:

Adequate utilities, access roads, and drainage facilities exist for the site and are sufficient for accommodating the demands associated with the request for the Conditional Use Permit. The property is not currently served with water or wastewater.

4. Parking

Adequate measures have been or will be taken to provide sufficient off-street parking and loading spaces to serve the proposed uses.

STAFF COMMENTS:

Sufficient off-street parking is not currently provided. The applicant must demonstrate sufficient off-street parking on an improved surface through the Site Plan process.

5. Performance Standards

Adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise, and vibration, so that none of these will constitute a nuisance and to control lighted signs and other lights in such a manner that no disturbances to neighboring properties will result.

STAFF COMMENTS:

Based upon ongoing code violations and complaints, Staff anticipates disturbances to neighboring businesses or residences as a result of the request.

CONCLUSIONS

ANALYSIS

The request for a CUP to allow for a primary outdoor storage yard is consistent with the existing land uses within the immediate area of the subject property; however, Staff anticipates continued negative impacts to the immediate area.

RECOMMENDATIONS

Staff recommends denial of the Conditional Use Permit to allow primary outdoor storage at 2526 Westwood Avenue. Should the Commission recommend approval of the applicant's request, Staff suggest including the following stipulations:

- 1. The outdoor storage area shall be screened with a board on board, stained cedar privacy fence a minimum of six feet in height. The fence shall be constructed and maintained in good working condition, including the replacement of any missing boards and/or damaged portions immediately, with re-staining occurring at least every three years and as needed. The fence shall be constructed along the entirety of the south property line, along Westwood Avenue, to provide screening from public view, except in visibility triangle areas and the entry gate.
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- A Site Plan must be approved and indicate full compliance with the Mesquite Zoning Ordinance prior to the issuance of a Certificate of Occupancy.
- 4. The CUP shall apply to Molina Construction and cannot be reassigned or transferred.
- 5. If approved, this Conditional Use Permit will expire after five (5) years from the issuance of the Certificate of Occupancy.

PUBLIC NOTICE

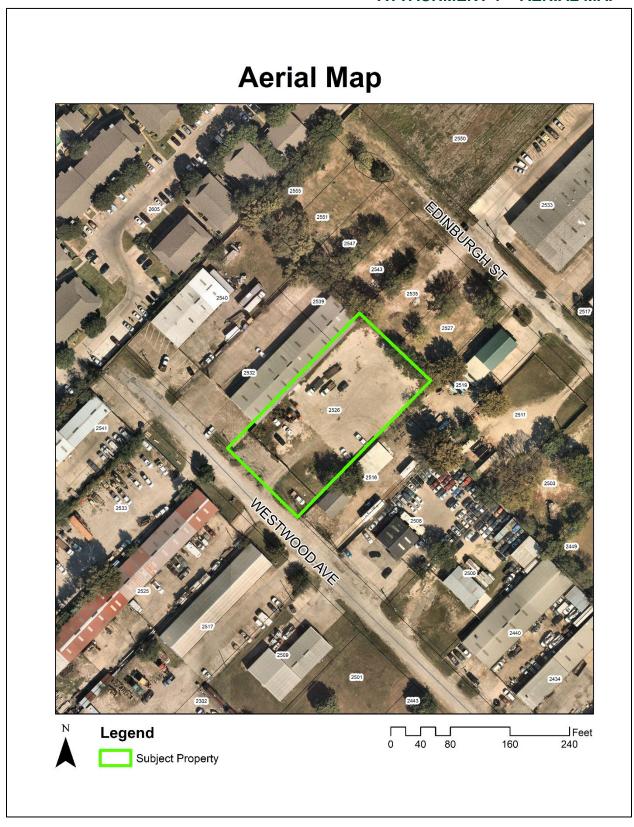
Staff mailed notices to all property owners within 200 feet of the subject property. As of the date of this writing, Staff has received four (4) returned notice in favor of the request.

CODE CHECK

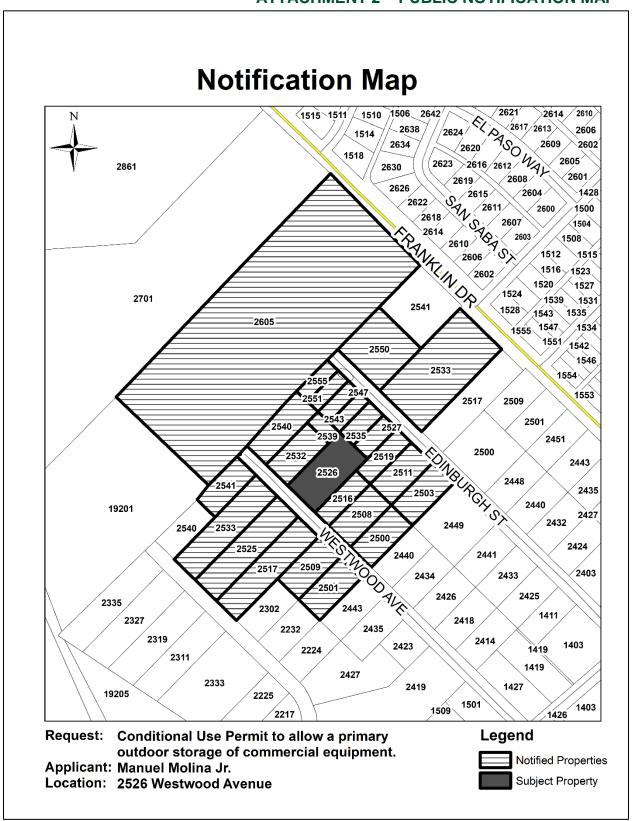
The property does not meet existing zoning and City Code regulations. If the request does not receive approval, Staff will ensure the property meets current codes and regulations. If this request is approved, Staff has provided suggested stipulations that will ensure compliance.

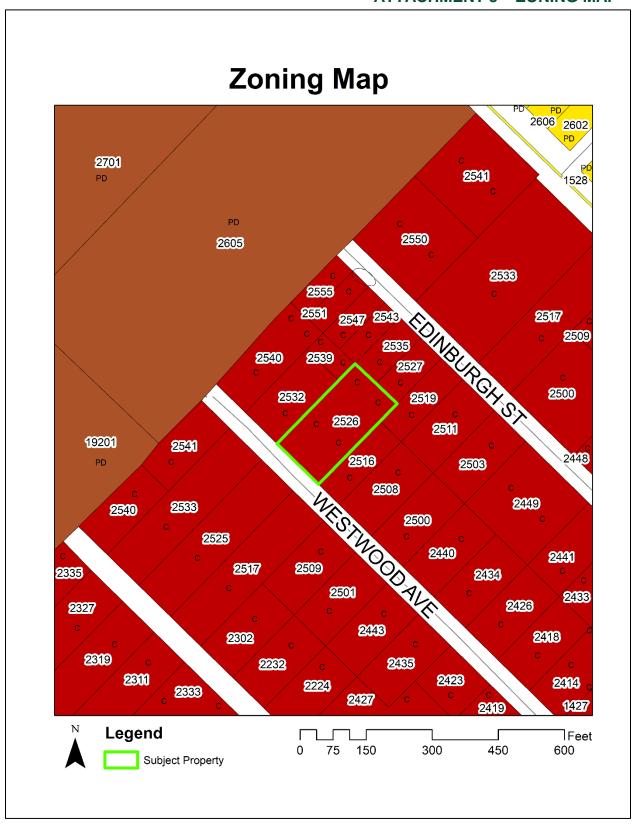
ATTACHMENTS

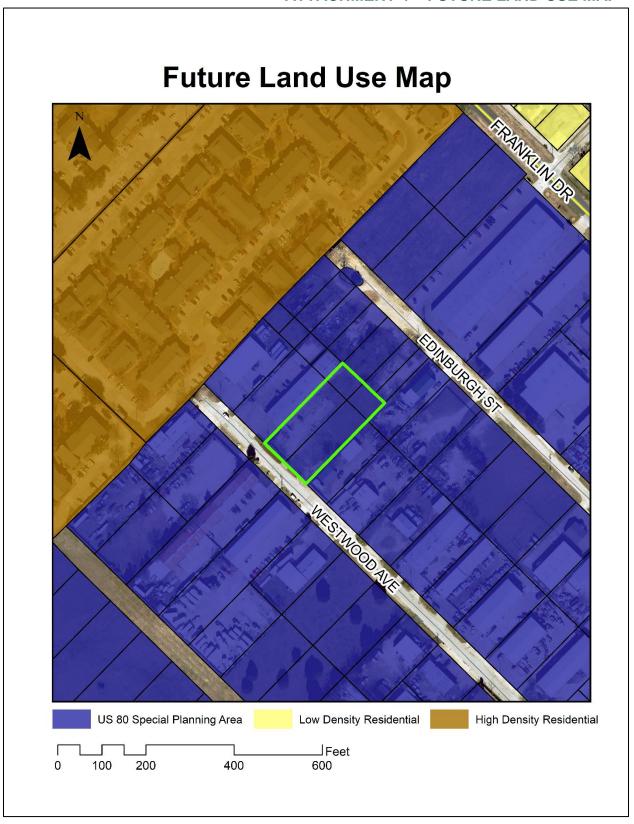
- 1. Aerial Map
- 2. Public Notification Map
- 3. Zoning Map
- 4. Future Land Use Map
- 5. Site Pictures
- 6. Application Materials
- 7. Concept Plan
- 8. Returned Property Owner Notice



ATTACHMENT 2 - PUBLIC NOTIFICATION MAP







ATTACHMENT 5 - SITE PICTURES



Subject site from Westwood Avenue, facing northeast.



Vehicles parked on an unimproved surface on subject property.

ATTACHMENT 5 – SITE PICTURES



Vehicles parked on unimproved surface and nuisance premise on subject property.



Vehicles parked on unimproved surface and nuisance premise on subject property.

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Vehicles parked on unimproved surface and nuisance premise on subject property.



Vehicles parked on unimproved surface and nuisance premise on subject property.

ATTACHMENT 5 - SITE PICTURES



November 18, 2021 aerial photo of subject property.



June 17, 2021 aerial photo of subject property.

ATTACHMENT 6 – APPLICATION MATERIALS

CITY OF MESQU ZONING APPLICA			-Fromoug	AUG 2 1 2020 PLANNING AND ZONIN
REQUESTED ACTION:			- Havibug	PLANNING AND ZONIN
Change District Classification to:	Conditional	Use Permit for:	Ame	nd Special Conditions of
	Primary	outekon Stone	age Ordi	nance #(Explain Below)
Additional explanation of requested	action:			
SITE INFORMATION/GENERA	L LOCATION:	LC	OCATION/LEG	GAL DESCRIPTION:
Current Zoning Classification:	unnerci'al	. Co	omplete one o	of the following:
Site Size: (Acre	s or Square Feet)	1. Platted Pro	perty	
Address (if available):			Hill Home	Gurden 2.
General Location Description:		Block:	4	Surden 2.
		2. Unplatted		
		H-00		Tract:
		Abstract.		11800
Contact: Manual Ma	lina Dr		. 1116	0101 22/5
001	1 1			919 - 2865
	struction	Fax:		
Address: <u>2526 Westwood</u> <u>TX 75150</u>	d ave, Mesq	Norte E-ma	Ail: <u>Molinu (</u> (Require	Construction (Das). en
Signature:		Own	er 🗖 Represent	ative Tenant Buyer
OWNER AUTHORIZATION AND	ACKNOWLEDGEN	MENTS:		
1. I hereby certify that I am the owner or du 2. I hereby designate the person named abd person with the City of Mesquite in the pi 3. I hereby authorize the City of Mesquite, if of 1) Erecting, maintaining, or removing "which indicate how further information nof the property; and further, I release the to the subject property in the erecting, m Owner:	ove as applicant, if oth rocessing of this appli is agents or employee Change of Zoning'' sig hay be obtained, and a City of Mesquite, its ag	er than myself, to file cation. is, to enter the subjec ms, which indicate the c) Taking photograph tents or employees fro of said signs or the to	this application a t property at any at a zoning amend s documenting co om liability for any aking of said pho	and to act as the principal contact reasonable time for the purpose diment is under consideration and urrent use and current conditions of damages which may be incurred
Address: 2526 Westween	1 full	Fax:	()	
ave Megust TX	18150		il: Molina .	lonstruction Dirol con

ATTACHMENT 6 - APPLICATION MATERIALS

OWNER AUTHORIZATION PAGE

- 1. I hereby certify that I am the owner of the subject property or the duly authorized agent of the owner of the subject property for the purpose of this application.
- 2. I hereby designate the person named as the applicant on page 1 of this application, if other than myself, to file this application and to act as the principal contact person with the City of Mesquite.
- 3. I hereby authorize the City of Mesquite, its agents or employees, to enter the subject property at any reasonable time for the purpose of taking photographs, documenting current use and current conditions of the property; and further, I release the City of Mesquite, its agents or employees from liability for any damages which may be incurred to the subject property in taking of said photographs.
- I have read and understand the information contained in the Front Carport Design Standards, Requirements, & Application packet.

Property Owner: Manual Molinu J.	Phone Number: (469)-919-2865
Address: 2526 Westwood Ave. Mesquite, TX 75190	Email Address: Moling Corstruction Qaol Con
Signature: Amal.	

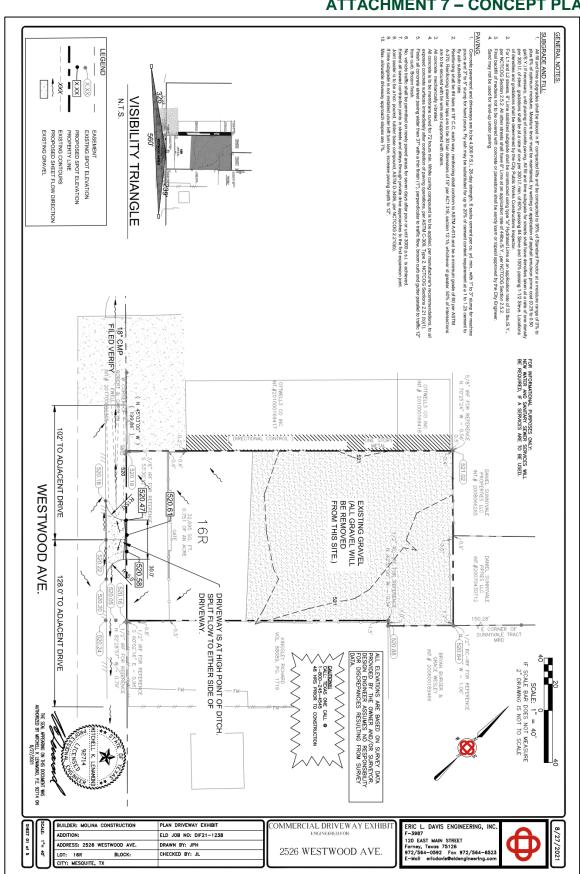
June 2020

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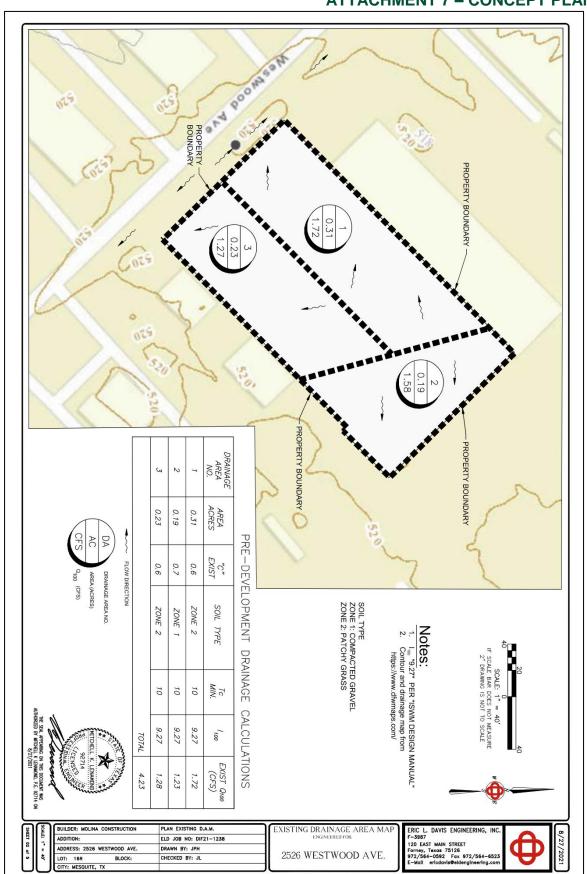
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ATTACHMENT 7 - CONCEPT PLAN



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ATTACHMENT 8 – RETURNED PROPERTY OWNER NOTICE



CITY OF MESQUITE PLANNING AND ZONING COMMISSION NOTICE OF PUBLIC HEARING

LOCATION:

2526 Westwood Avenue

(See attached map for reference)

CASE NUMBER:

Z0820-0145

APPLICANT:

Manuel Molina Jr.

REQUEST:

Conditional Use Permit to allow primary outdoor storage.

The requested Conditional Use Permit would allow primary outdoor storage for commercial equipment as a permitted use on the subject property. A list of permitted uses for each zoning district is available on the City's website at www.cityofmesquite.com/1250/Zoning-Ordinance. Please note that the City Council may approve a different zoning district than the one requested, except that the different district may not (1) have a maximum structure height or density that is higher than the one requested; or (2) be nonresidential when the one requested is for a residential use or vice versa.

LEGAL DESCRIPTION

Hilhome Gardens 2 Replat, Block 4, Lot 16R

PUBLIC HEARINGS

The Planning and Zoning Commission will hold a public hearing on this request at 7:00 p.m. on Monday, October 25, 2020, in the City Council Chambers of City Hall located at 757 N. Galloway Ave.

The City Council will hold a public hearing on this request at 7:00 p.m. on Monday, November 15, 2020, in the City Council Chambers located at 757 N. Galloway Ave.

Questions pertaining to this case may be directed to the Planning Division at (972) 216-6346 or lifetimesquite.com

REPLY FORM

State law requires that cities notify all property owners within 200 feet of any proposed zoning change. For this reason, we are sending you this notice. As a property owner within 200 feet of the property, you are urged to give your opinion on the request by attending the public hearing or by completing the form below or both. Your written reply is important and will be considered by the Commission and the Council. The reply form (below) is provided to express your opinion on this matter. The form should be returned to the Planning Division by 5:00 pm on October 19th to be included in the Planning and Zoning Commission packet and by 5:00 pm on October 28th to be included in the City Council packet. All notices received after the listed dates will still be accepted and presented to Commission/Council, but will not be included in meeting packets.

(Complete and return)

Do not write on the reverse side of this form. By signing the form, I declare I am the owner or authorized agent of the property at the address written below. OBBEL Name:(required) Case Number: Z0820-0145 I am in favor of this request Address of Noticed Property Owner Signature: I am opposed to this request Reasons (optional): PLANNING DIVISION OCT 2 2 2021 Please respond by returning to: Lesley Frohberg CITY OF MESQUITE PLANNING AND ZONING PO BOX 850137 MESQUITE TX 75185-0137

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	(Complete and return)					
	Do not write on the reverse side of this form.					
By signing the form, I	declare I am the owner or authorized agent of the property at the address written below.	_				
Case Number: Z0820-0145	Name: (required) BROWNY COOKSEY (MB)					
	Address of 2541, 2533, 12525, 2632, 2426 All WESTWOOD					
I am in favor of this request						
	- 10: 11:21					
I am opposed to this request	Owner Signature: Date: 70 78 27					
Reasons (optional): As Long As NOONE CANIESEE THROUGH FENE CRUSHED CONCRETE Should BE About No TREES NEEDED, No Sacinfel System, No Syntey's DR RE Plats. RECEIVED Please respond by returning to: PLANNING DIVISION Lesley Frohberg CITY OF MESQUITE PO BOX 850137 MESQUITE TX 75185-0137						
PLANNING AND ZONING						

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PLANNING DIVISION Lesley Frohberg CITY OF MESQUITE PO BOX 850137 MESQUITE TX 75185-0137

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MESQUITE TX 75185-0137