

**FILE NUMBER:** Z0520-0140  
**REQUEST FOR:** Conditional Use Permit to allow the sale and outdoor display of used farm equipment.  
**CASE MANAGER:** Lesley Frohberg

### **PUBLIC HEARINGS**

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Planning and Zoning Commission: Monday, June 8, 2020  
Planning and Zoning Commission: Monday, July 13, 2020  
City Council: Monday, August 3, 2020

### **GENERAL INFORMATION**

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**Applicant:** Daniel Santos, DBS Construction Support, LLC  
**Requested Action:** Rezone from "C", Commercial to "C", Commercial with a Conditional Use Permit to allow the sale and outdoor display of used farm equipment.  
**Location:** 4340 Interstate Highway 30

### **PLANNING AND ZONING ACTION**

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**Decision:** On July 13, 2020, the Planning & Zoning Commission voted unanimously to recommended approval of the request for a Conditional Use Permit to allow the sale and display of used farm equipment with Staff's recommended stipulations.

**Conditions:**

1. All customer parking spaces, as shown on the concept plan, shall be restriped prior to issuance of a Certificate of Occupancy.
2. The existing pole sign face, located in the northeast corner of the property, must be replaced within 6 months of approval of this CUP.
3. All screening and security fencing on the site shall be maintained in a like-new manner, meaning, any portion of fencing showing signs of deterioration, broken or missing panels, or creating a safety hazard, shall be replaced.
4. All code issues and violations must be resolved prior to the issuance of a Certificate of Occupancy, including the parking requirement.

## SITE BACKGROUND

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Platting:	Action Commercial, Block A, Lot 1
Size:	6.55 Acres
Zoning:	C – Commercial with Skyline Logistics Hub Overlay and CUP, Ordinance No.'s 3691 & 3866
Future Land Use:	Commercial with Corridor Development Overlay
Zoning History:	1954: Annexed into City of Mesquite, Zoned Residential 1968: Rezoned to C – Commercial 1998: CUP for outdoor display of model homes 2004: CUP for outdoor display and storage 2004: CUP for outdoor display and sales of tractors 2007: CUP to amend fence requirements

Surrounding Zoning and Land Uses (see attachment 3):

	<b><u>ZONING</u></b>	<b><u>EXISTING LAND USE</u></b>
<b>NORTH:</b>	Interstate Hwy 30 & C - Commercial	Interstate Hwy 30
<b>SOUTH:</b>	C – Commercial with Skyline Logistics Hub Overlay	Vacant / Undeveloped
<b>EAST:</b>	C – Commercial with CUP (Ord. No. 3752) & Skyline Logistics Hub Overlay	RV Dealer & Display Lot and Barnett Signs
<b>WEST:</b>	C – Commercial with Skyline Logistics Hub Overlay	Pepsi Bottling Plant

## **CASE SUMMARY**

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The applicant is requesting a Conditional Use Permit (CUP) to allow the sale and outdoor display of used farm equipment, such as tractors and related equipment, on the property located at 4340 Interstate Highway 30. The subject property has two existing CUPs, which were approved in 2004 and 2007 to allow the outdoor sale, display, and storage of new farm equipment. The requested CUP will not remove the existing CUPs authorizing the sale and outdoor display of new tractors and equipment.

At this time, the applicant is not proposing any changes to the existing facility. The existing business is located within the existing facilities that include an approximately 3,100 square-foot office, 13,600 square-foot assembly and manufacturing building, 4,250 square-foot covered display area, and 22,000 square-foot paved outdoor storage area. There is also an approximately 1,400 square-foot building on the site, which the business owner has stated has been decommissioned and is not intended to be used.

The subject property was first granted a CUP under Ordinance No. 3630 for Vina Tractor Company in January 2004 to allow outdoor display and storage for tractors with an approved concept plan. A subsequent CUP was approved in November 2004, Ordinance No. 3691, to revise the previously approved concept plan, with certain stipulations for the sale, storage, and display of tractors and related equipment. A third CUP was approved in 2007 for VN Tractors, Inc., Ordinance No. 3866, which amended the fence requirements for the subject property. None of the previous CUPs authorize the sale of used tractors or equipment. A copy of the existing CUPs is available in Attachment 9.

The business, VN Tractors, Inc., has been operating under an existing Certificate of Occupancy since 2006. The business assembles, repairs, and sells new, used, and refurbished heavy machinery, including tractors and other related equipment. The business acquires refurbished machinery from Vietnam. It is then transported, assembled, and sold in Mesquite. VN Tractors, Inc. has sold used and refurbished equipment since at least 2013. Staff discovered that the subject property required a CUP for the sale of used merchandise, as required by Section 3-203 of the Mesquite Zoning Ordinance, after the business applied for a new Certificate of Occupancy due to a name change to Farmer Equipment, LLC.

This item was presented at the June 8, 2020 Planning and Zoning Commission meeting, but the item was postponed to July 13, 2020, to give the applicant time to address code compliance issues.

Staff completed a site visit on July 8, 2020, and identified that the applicant made improvements to address the code compliance issues, including restriping the parking area and fire lane, replacing the dumpster screening fence, replacing missing or broken fence boards, and staining the fence. Other code compliance issues will be required to be addressed prior to being issued a Certificate of Occupancy.

## MESQUITE COMPREHENSIVE PLAN

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The *Mesquite Comprehensive Plan* designates the future land use of the subject property as Commercial and Corridor Development. The Commercial land use designation represents a broad range of goods and services for a community or region. Developments in this category are larger and more intense than those in the Neighborhood Retail category. The Corridor Development designation represents commercial development that is located along a major corridor. Developments within these corridors are highly visible and enhanced landscaping and public art is encouraged in this area. Compatible land use types for this area include retail, hotels, restaurants, big box retailers, entertainment, and personal services.

### STAFF COMMENTS:

The CUP to allow the sale and outdoor display of used farm equipment is consistent with the *Mesquite Comprehensive Plan's* Commercial land use designation. The proposed use would be along a major highway, Interstate 30, and serve as a regional retailer for tractors and other related equipment. To meet the expectations of the Corridor Development area, Staff is recommending improvements to the signage, the existing fence, and the refuse container enclosure.

## MESQUITE ZONING ORDINANCE

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### 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 request to allow the sale and display of used equipment will be located within an existing building and on an existing paved area, located at 4340 IH 30. This site has been operating as an equipment dealership since approximately 2004. Prior to 2004, this site was the location of a mobile home dealership. The requested CUP will not be injurious to the use and enjoyment of other businesses within or surrounding the subject property or negatively impact development or redevelopment in the immediate vicinity. The existing dealership abuts an RV dealership to the northeast and the Pepsi Bottling Plant to the southwest, which similarly have outdoor display and storage.

#### 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 CUP.

### 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:

The existing parking lot provides 19 parking spaces at the entrance of the property for customers. Section 3-405 of the Mesquite Zoning Ordinance requires 1 space for each 300 square feet of office/display area and 1 space for each 1,000 square feet of storage/plant area. Based on this requirement, 40 parking spaces are required (See Table 1).

Type of Use	Area	Parking Ration	Required Parking
Office	3,100 sq. ft.	1 per 300 sq. ft.	10 spaces
Display	4,250 sq. ft.	1 per 300 sq. ft.	14 spaces
Manufacturing/Warehousing	13,600 sq. ft.	1 per 1,000 sq. ft.	14 spaces
Outdoor Storage	22,000 sq. ft.	1 per 10,000 sq. ft.	2 spaces
<b>Total Parking Spaces Required</b>			<b>40</b>

*Table 1: Parking Requirements*

The site does not provide the required number of parking spaces; however, Staff believes there is adequate parking on the site to support the existing business. The applicant will be required to resolve the nonconforming parking through a Special Exception or Site Plan approval prior to the issuance of the new Certificate of Occupancy.

### 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:

Staff does not anticipate disturbances to neighboring businesses or residences as a result of the request.

## CONCLUSIONS

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### ANALYSIS

Staff does not anticipate the proposed CUP to sell and display used farm equipment to negatively impact the surrounding area, given that there other businesses that have outdoor display and storage in the immediate vicinity. The subject property has been operating as a dealership for new tractors and other related equipment with outdoor display since approximately 2004 per Ordinance No. 3691. As a retail use, selling used tractors does not differ from selling new tractors concerning parking needs, traffic congestion, etc. Adding used tractors sales to the property is not expected to change the operation of the property.

### RECOMMENDATIONS

Staff recommends approval of the CUP to allow the sale and display of used farm equipment, located at 4340 IH 30, with the following stipulations:

1. All customer parking spaces, as shown on the concept plan, shall be restriped prior to issuance of a Certificate of Occupancy.
2. The existing pole sign face, located in the northeast corner of the property, must be replaced within 6 months of approval of this CUP.
3. All screening and security fencing on the site shall be maintained in a like-new manner, meaning, any portion of fencing showing signs of deterioration, broken or missing panels, or creates a safety hazard, shall be replaced.
4. All code issues and violations must be resolved prior to the issuance of a Certificate of Occupancy, including the parking requirement.

## PUBLIC NOTICE

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

## CODE CHECK

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Staff conducted a site visit to the subject property and found multiple potential code issues and possible violations. Some violations have since been resolved. Prior to the issuance of a new Certificate of Occupancy, all code issues and violations must be resolved.

## ATTACHMENTS

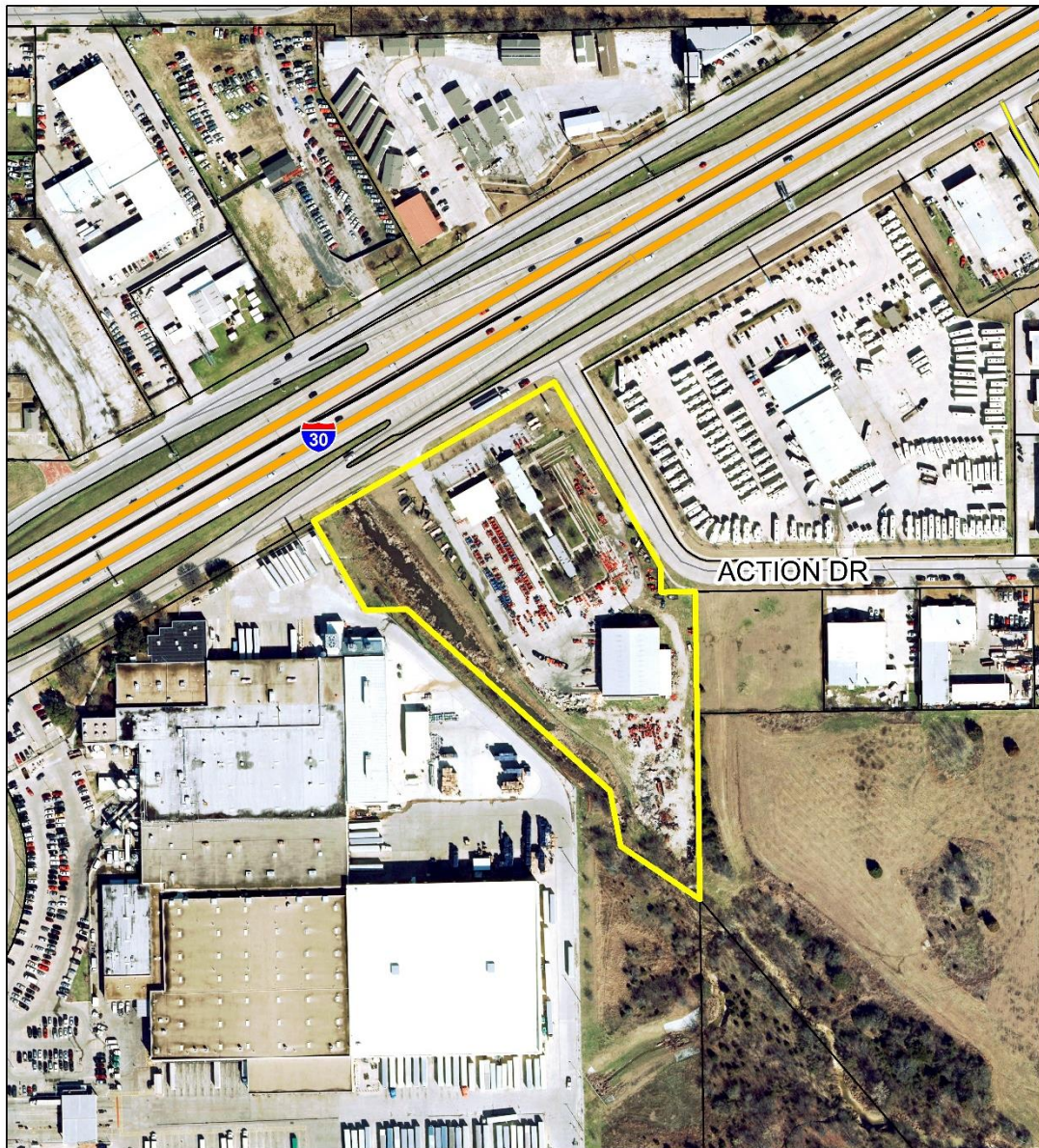
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1. Aerial Map
2. Public Notification Map
3. Zoning Map
4. Future Land Use Map
5. Site Pictures
6. Application Materials
7. Concept Plan
8. Returned Property Owner Notices
9. Existing CUP Ordinances



ATTACHMENT 1 – AERIAL MAP

## Aerial Map



**Request:** Conditional Use Permit to allow  
the sale of used merchandise.


**Applicant:** Daniel Santos

**Location:** 4340 Interstate Highway 30

### Legend

 Subject Property

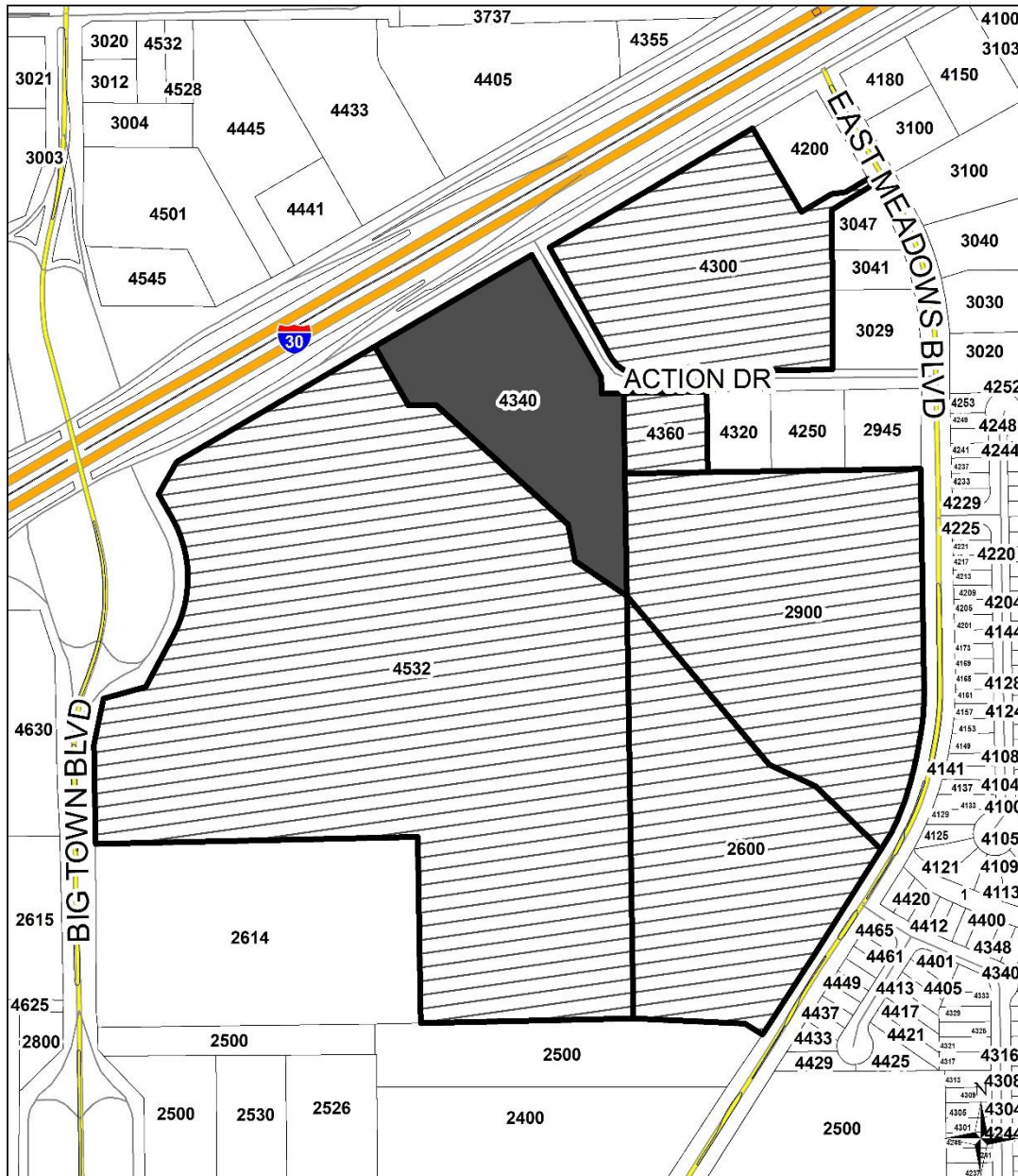


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ATTACHMENT 2 – PUBLIC NOTIFICATION MAP

# Notification Map



**Request:** Conditional Use Permit to allow the sale of used merchandise.  
**Applicant:** Daniel Santos  
**Location:** 4340 Interstate Highway 30

## Legend

-  Notified Properties
-  Subject Property



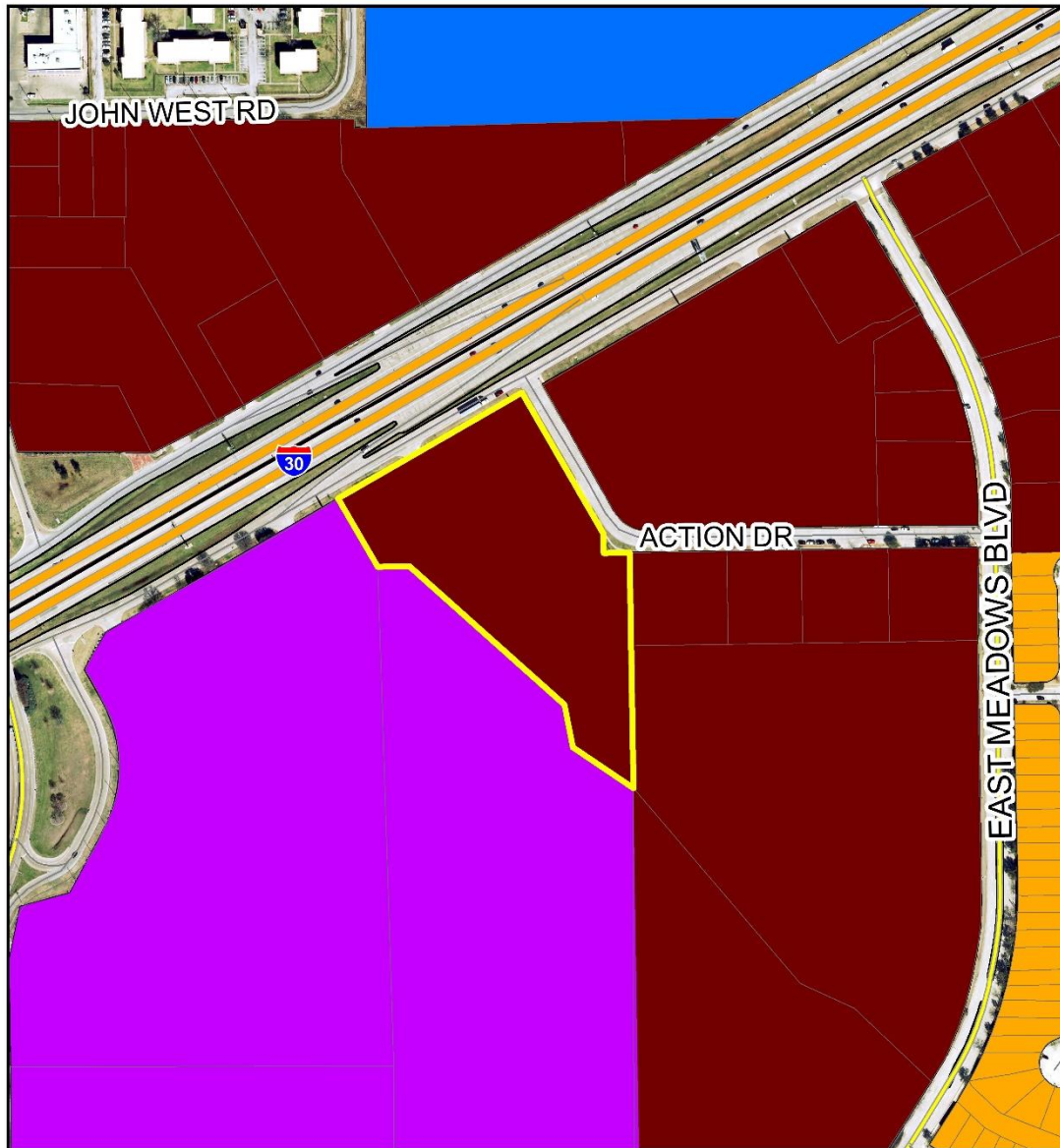


### Legend

☐ Subject Property

ATTACHMENT 4 – FUTURE LAND USE MAP

## Future Land Use Map



**Land Use**

 Commercial	 Public/Semi-Public
 Medium Density Residential	 Light Industrial
 Subject Property	

0 160 320 640 960 Feet



## ATTACHMENT 5 – SITE PHOTOS



Subject property facing southeast, from IH-30 Frontage Road (June 1, 2020).



Subject property facing northeast, in the front parking lot (June 1, 2020).



## ATTACHMENT 5 – SITE PHOTOS



Subject property facing southeast, in the front parking lot (June 1, 2020).



Old refuse container enclosure and property entrance, facing southwest (June 1, 2020).



## ATTACHMENT 5 – SITE PHOTOS



Display area and entrance into storage area, facing south (June 1, 2020).



Display area and storage area, facing southeast (June 1, 2020).



**ATTACHMENT 5 – SITE PHOTOS**



**Rear storage area from Action Drive, facing south (June 1, 2020).**



**Front of business from Action Drive, facing southwest (June 1, 2020).**



**ATTACHMENT 5 – SITE PHOTOS**



Restriped front parking area of subject property, facing northeast (July 10, 2020).



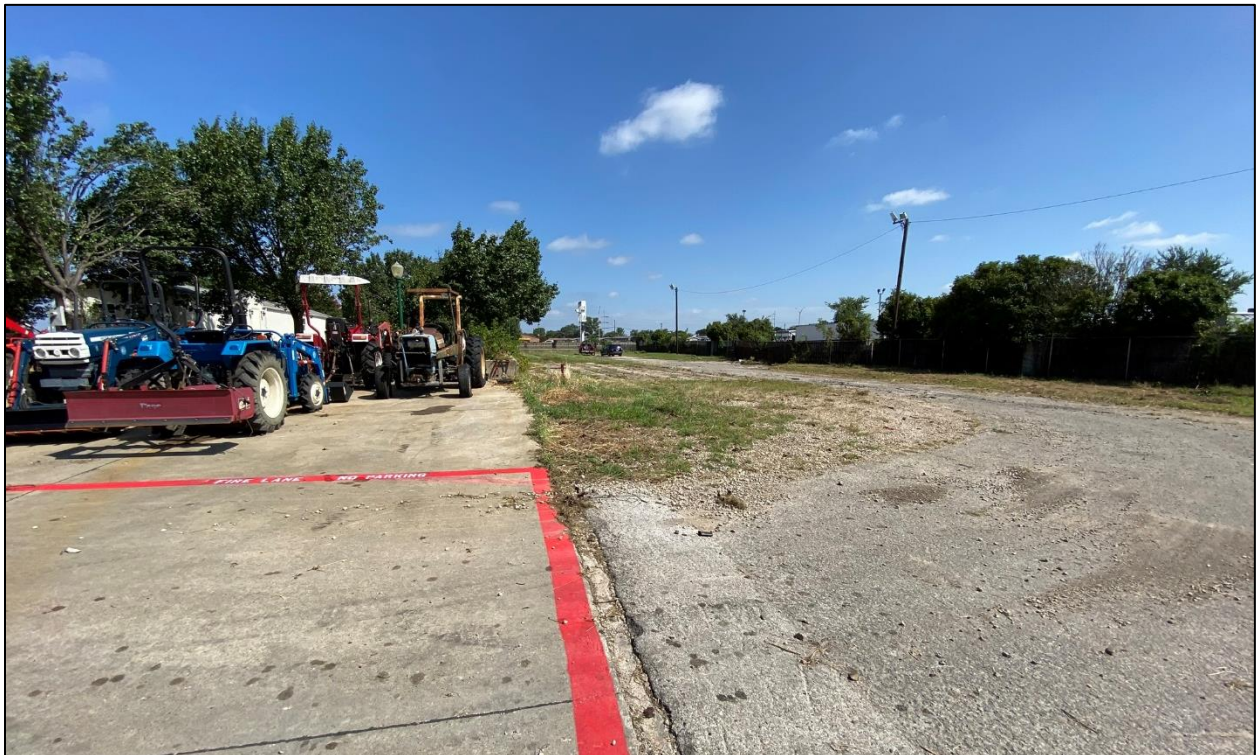
Updated refuse container enclosure and property entrance, facing southwest (July 10, 2020).



**ATTACHMENT 5 – SITE PHOTOS**




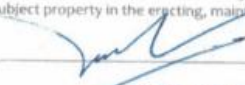
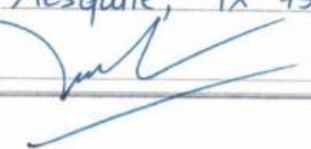
**Updated screening fence along south property line, facing northwest (July 10, 2020).**



**East side of property cleared of storage and brush, facing northeast (July 10, 2020).**



ATTACHMENT 6 – APPLICATION MATERIALS

<b>CITY OF MESQUITE ZONING APPLICATION</b>		Receipt No.: Fee: Case Manager:	Date Stamp:
<b>REQUESTED ACTION:</b>			
Change District Classification to: <u>No Change</u>	Conditional Use Permit for: <u>Farmer Equipment</u>	Amend Special Conditions of Ordinance # _____ <small>(Explain Below)</small>	
Additional explanation of requested action: <u>Add a Sale of refurbished and used equipment</u>			
<b>SITE INFORMATION/GENERAL LOCATION:</b>		<b>LOCATION/LEGAL DESCRIPTION:</b>	
Current Zoning Classification: _____		Complete one of the following:	
Site Size: <u>6.551</u> (Acres or Square Feet)		1. Platted Property	
Address (if available): <u>4340 IH 30</u>		Addition: <u>East Meadows Addition</u>	
General Location Description: <u>Commercial</u>		Block: <u>A</u> Lot: <u>13</u>	
		2. Unplatted Property:	
		Abstract: <u>34</u> Tract: _____	
<b>APPLICANT INFORMATION:</b>			
Contact: <u>Daniel Santos</u>		Phone: <u>(214) 869-1864</u>	
Company: <u>DES Construction Support</u>		Fax: ( ) _____	
Address: <u>2426 Fruitland Ave</u>		E-mail: _____ <small>(Required)</small>	
<u>F.B TX 75234</u>			
Signature: 		Owner <input type="checkbox"/> Representative <input checked="" type="checkbox"/> Tenant <input type="checkbox"/> Buyer <input type="checkbox"/>	
<b>OWNER AUTHORIZATION AND ACKNOWLEDGEMENTS:</b>			
<p>1. I hereby certify that I am the owner or duly authorized agent of the owner, of the subject property for the purposes of this application.</p> <p>2. I hereby designate the person named above as applicant, if other than myself, to file this application and to act as the principal contact person with the City of Mesquite in the processing of this application.</p> <p>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 1) Erecting, maintaining, or removing "Change of Zoning" signs, which indicate that a zoning amendment is under consideration and which indicate how further information may be obtained, and 2) 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 the erecting, maintaining, or removal of said signs or the taking of said photographs.</p>			
Owner: 		Phone: <u>(214) 418-0209</u>	
Address: <u>4340 I-30</u>		Fax: ( ) _____	
<u>Mesquite, TX 75150</u>		E-mail: <u>LILITH@FARMEREQUIPMENTLLC.COM</u>	
Signature: 			

**ATTACHMENT 6 – APPLICATION MATERIALS**

**FARMER EQUIPMENT**

4340 IH 30 Mesquite, TX 75150

5/11/2020

**To whom it may concern:**

**Statement of intent and purpose**

-Description of project uses,

Farmer Equipment is a company dedicated to the sale of rebuilt, new, used heavy machinery and parts to repair it.

Farmer Equipment is committed to not damaging the property nor will it impede the development and order of the merchants around.

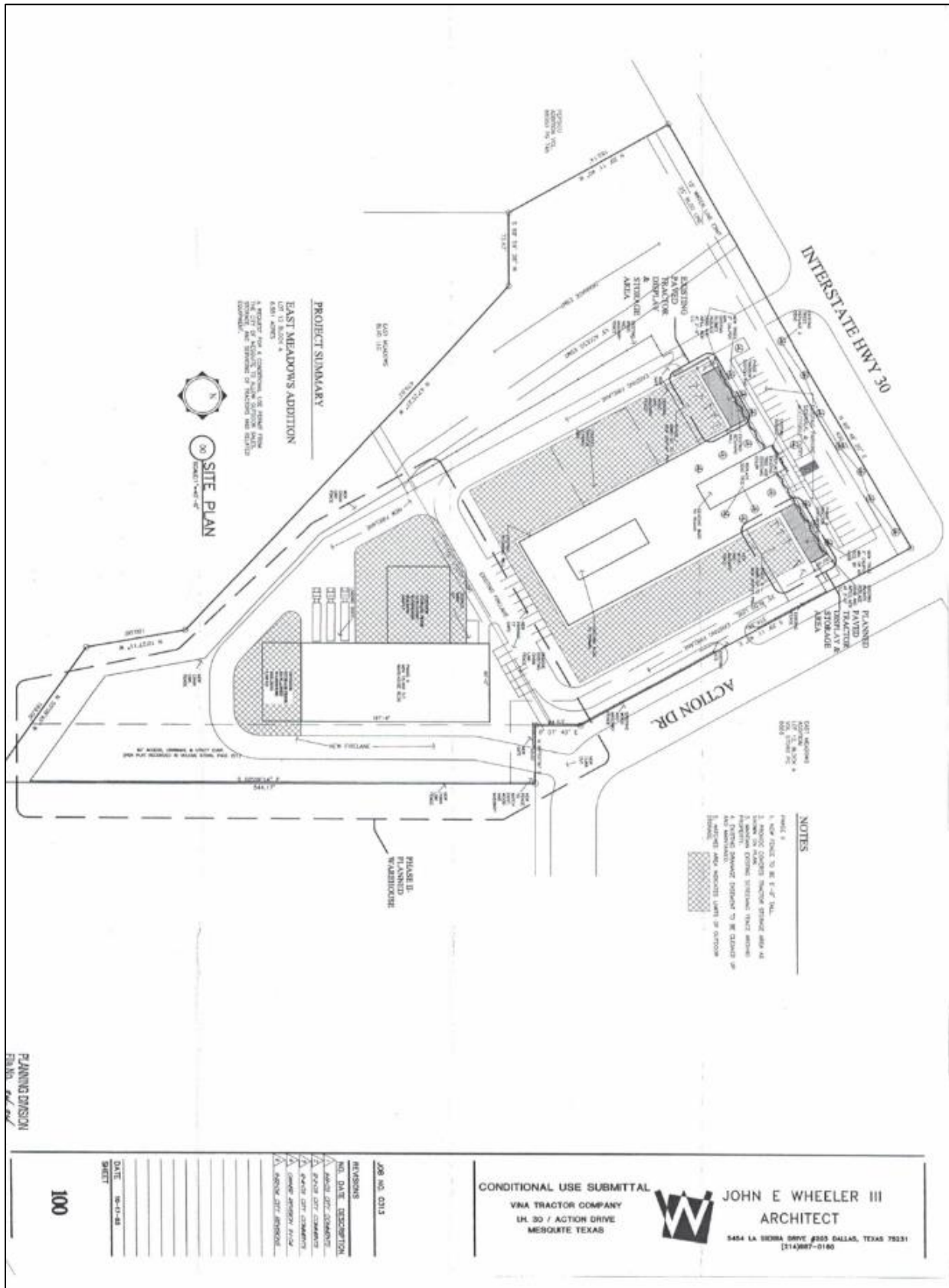
All our utilities (drains, access roads and others) have been planned, reviewed and are working correctly.

Our business offers our clients a suitable and safe parking for their visits and equipment load.


Farmer Equipment it's free of contaminants, noise, smoke or dust that can damage the zone.

If you have any question or concern please contact Daniel Santos (214) 869 1864

ATTACHMENT 7 – CONCEPT PLAN



ATTACHMENT 8 – RETURNED PROPERTY OWNER NOTICE



**MESQUITE**  
T E X A S  
Real. Texas. Service.

CITY OF MESQUITE  
PLANNING AND ZONING COMMISSION  
NOTICE OF PUBLIC HEARING

**LOCATION:** 4340 Interstate Highway 30  
(See attached map for reference)

**CASE NUMBER:** Z0520-0140

**APPLICANT:** Daniel Santos, DBS Construction Support, LLC

**REQUEST:**  
From: "C" – Commercial with Conditional Use Permits, Ordinance No.'s 3691 & 3866, to allow for outdoor sales, display, and storage of new tractors.  
To: "C" – Commercial with a Conditional Use Permit to allow for outdoor sales, display, and storage of used farm equipment.

The requested Conditional Use Permit would allow the sale, display, and storage of used farm 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](http://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**  
Action Commercial, Block A, Lot 1

**PUBLIC HEARINGS**  
The Planning and Zoning Commission will hold a public hearing on this request at 7:00 p.m. on Monday, **June 8, 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, **July 6, 2020**, at 757 N. Galloway Ave.

Questions pertaining to this case may be directed to the Planning Division at (972) 216-6346 or [lfrohberg@cityofmesquite.com](mailto:lfrohberg@cityofmesquite.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 **June 4<sup>th</sup>** to be included in the Planning and Zoning Commission packet and by 5:00 pm on **June 18<sup>th</sup>** 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.

<b>Case Number:</b> Z0520-0140	<b>Name (required):</b> Barnett Signs, Inc.
I am <u>in favor</u> of this request <u>X</u>	<b>Address of Noticed Property:</b> 4340 Action Drive, Mesquite 75140
I am <u>opposed</u> to this request _____	<b>Owner Signature:</b> [Signature] <b>Date:</b> 06/02/2020

Reasons (optional):  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Please respond by returning to: PLANNING DIVISION  
Lesley Frohberg  
CITY OF MESQUITE  
PO BOX 850137  
MESQUITE TX 75185-0137



## ATTACHMENT 9 – EXISTING CUP ORDINANCES

ORDINANCE NO. 3691

File No. 34-34

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 CONDITIONAL USE PERMIT ON PROPERTY ZONED COMMERCIAL THEREBY ALLOWING OUTDOOR SALES, DISPLAY AND STORAGE OF TRACTORS SUBJECT TO CERTAIN STIPULATIONS; REPEALING ALL ORDINANCES IN CONFLICT WITH THE PROVISIONS OF THIS ORDINANCE; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY NOT TO EXCEED TWO THOUSAND DOLLARS (\$2,000.00) 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 conditional use permit on property zoned Commercial thereby allowing outdoor sales, display and storage of tractors subject to the following stipulations:

1. Traffic circulation, parking, screening, landscaping and display and outdoor storage areas shall be in conformance with the approved concept plan (the "Plan"), including a detailed landscaping and screening plan submitted with the conditional use application and attached hereto as Exhibit "A." Screening and landscaping shall comply with the Mesquite Zoning Ordinance.
2. Outdoor display shall be limited to 18 tractors on two display pads shown on the Plan.
3. Outdoor storage shall be limited to the areas designated as such on the Plan.
4. Prior to outdoor storage of tractors and related equipment on the site, a screening fence (wood with masonry columns) must be installed as indicated on the Plan.

## ATTACHMENT 9 – EXISTING CUP ORDINANCES

Zoning/File No. 34-34/November 15, 2004  
Page 2 of 3

5. Outdoor storage shall not include storage of parts or disassembled tractors.
6. All tractors and equipment placed outside shall be on an approved paved surface, as described in the Mesquite Zoning Ordinance, Section 3-600.
7. All repair, assembly and servicing of tractors and related equipment shall be conducted inside an enclosed structure.
8. All structures shall meet all applicable City codes.
9. No caretakers or personnel may live on site for any period of time.
10. A preliminary plat must be approved prior to obtaining a building permit. A final plat must be recorded with Dallas County prior to obtaining a Certificate of Occupancy.

That the subject property is located at 4340 Interstate Highway 30 further described as a 10.75-acre tract being Tract 17, Page 245 of Abstract 34, 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 are 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 Mesquite City Code.

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, firm or corporation violating any of the provisions or terms of this ordinance shall be deemed to be guilty of a Class C Misdemeanor and upon conviction in the Municipal Court, shall be punished by a fine not to exceed Two Thousand Dollars (\$2,000.00) for each 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.

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**ATTACHMENT 9 – EXISTING CUP ORDINANCES**


Zoning/File No. 34-34/November 15, 2004  
Page 3 of 3


DULY PASSED AND APPROVED by the City Council of the City of Mesquite, Texas,  
on the 15th day of November, 2004.

  
Mike Anderson  
Mayor

ATTEST:

APPROVED:

  
Judy Womack  
City Secretary

  
B. J. Smith  
City Attorney





## ATTACHMENT 9 – EXISTING CUP ORDINANCES

ORDINANCE NO. 3866

File No. 34-41

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, AMENDING THE MESQUITE ZONING ORDINANCE ADOPTED ON SEPTEMBER 4, 1973, AND RECODIFIED ON NOVEMBER 21, 1988, BY AMENDING THE CONDITIONAL USE PERMIT APPROVED BY ORDINANCE NO. 3691 BY AMENDING THE FENCING REQUIREMENTS WITH CERTAIN STIPULATIONS ON PROPERTY LOCATED AT 4340 INTERSTATE HIGHWAY 30; REPEALING ALL ORDINANCES IN CONFLICT WITH THE PROVISIONS OF THIS ORDINANCE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY NOT TO EXCEED TWO THOUSAND DOLLARS (\$2,000.00) 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 all 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 Conditional Use Permit approved by Ordinance No. 3691 by amending the fencing requirements subject to the following stipulations on the property located at 4340 Interstate Highway 30:

1. The existing wood and wrought iron fence currently located in the front of the property be repaired to good condition.
2. The proposed fence is erected at a height no higher than five feet.
3. The proposed fence must be of wrought iron material (no chain link fencing).

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 are 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.

**ATTACHMENT 9 – EXISTING CUP ORDINANCES**

Zoning Ordinance/File No. 34-41/May 7, 2007  
Page 2 of 2

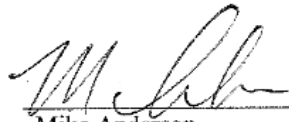
SECTION 4. That the foregoing change shall be, and it is, granted subject to any development of the land herein being developed in conformity with the requirements of current and/or future drainage improvement ordinances of the City of Mesquite, including Ordinance No. 3042, codified in Chapter 11 of the Mesquite City Code.

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, firm or corporation violating any of the provisions or terms of this ordinance shall be deemed to be guilty of a Class C Misdemeanor and upon conviction in the Municipal Court, shall be punished by a fine not to exceed Two Thousand Dollars (\$2,000.00) for each offense.

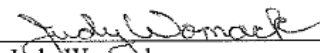
SECTION 7. That the property described in Section 1 of this ordinance requires that it be given the above classification in order to permit its proper development and in order to protect the public interest, comfort and general welfare of the City of Mesquite, creates an urgency and emergency for the 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 7th day of May, 2007.

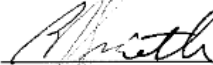


Mike Anderson  
Mayor

ATTEST:

  
Judy Wornack  
City Secretary

APPROVED:

  
B. J. Smith  
City Attorney