

**FILE NO.:** Z0419-0090

**P&Z HEARING DATE:** May 28, 2019  
**COUNCIL DATE:** June 3, 2019

#### GENERAL INFORMATION

**APPLICANT:** Mike Tolleson, CiCi's Pizza

**REQUESTED ACTION:** Conditional Use Permit (CUP) to allow the expansion of a "Coin-Operated Amusement Game Room" with up to 50 game machines. Consideration of the request also includes a modification to allow a coin-operated game room within 100 feet of a residential district, as stated in Section 3-200 of the Mesquite Zoning Ordinance.

**LOCATION:** 1200 E. Davis St., Suite 122

#### SITE BACKGROUND

**EXISTING LAND USE AND SIZE:** The approximately 4.8-acre site is developed with a multi-tenant retail strip center with a host of different uses from restaurants and fitness centers to retail and medical offices.

**SURROUNDING LAND USE AND ZONING (see attached map):**

- North: GR, General Retail; restaurant, self-storage facility
- South: R-3, Single Family; Mesquite Highlands single family subdivision
- East: GR, General Retail; restaurant, MISD Mesquite Learning Center
- West: R-3, Single Family; Mesquite Highlands single family subdivision

**ZONING HISTORY:**

- 1954: Annexed and zoned Residential
- 1961: Zoning change to Local Retail
- 1973: Zoning change to General Retail
- 1993: CUP to allow coin-operated game machines

**PLATTING:** Mesquite Highlands Rep, Block 10, Lot 2

**GENERAL:** The applicant has been operating the existing CiCi's Pizza and coin-operated game room at the subject property for over 26 years. In 1993,

the applicant opened the restaurant and received approval of a Conditional Use Permit (CUP) to operate a coin-operated amusement game room in association with the restaurant, with more than 4 coin-operated game machines, not to exceed 25 game machines.

The applicant is now proposing to remodel the existing CiCi's Pizza and expand the amusement game room and coin operated game machines to the adjacent 3,850 square foot suite which is currently vacant. The applicant has indicated uncertainty of the number of game machines, but anticipates that the establishment will include a maximum of 50 game machines. As part of the remodel, the applicant proposes to demolish internal walls that currently separate the two suites. According to the applicant's letter of intent, the game room will be a Dave and Buster style game room, where every child wins at every game.

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#### **STAFF COMMENTS**

##### **Mesquite Comprehensive Plan**

The subject property is located within the Community Areas future land use designation which consists of Community Business Areas and Neighborhoods. Community Business Areas are for predominately medium-sized business centers, often anchored by a grocery store; smaller areas may provide convenience services used by the immediately surrounding residents. The Neighborhoods designation is for low density residential products.

Specifically, the property is located within the *Community Business-South* designation, which accommodates a wide variety of nonresidential uses serving the surrounding communities. In addition to retail, personal service and office uses, *Business* areas accommodate light commercial-type uses including business, commercial and automotive services and trade contractors where no outdoor storage is involved. The designation is not appropriate for highway-related uses, entertainment/recreational uses.

##### **Staff Comment**

Although the coin-operated game room is considered an amusement/recreation service and is not recommended by the Comprehensive Plan at the subject property, the game room has been in operation and in association with a restaurant for over 26 years in its current location. It serves customers from the surrounding sector of the community and provides amusement to nearby residents and to children in nearby schools. Expansion of the existing use will be contained within the building and will not involve outdoor activity that may conflict with surrounding uses, including outdoor storage or outdoor display. Staff does not anticipate any negative impacts with the expansion of the existing use, as proposed. Staff is unaware of any complaints regarding operation of the game room since it's been in operation for over 26 years.

**Mesquite Zoning Ordinance, Section 3-203, SIC Code 7993**

Pursuant to the above section of the MZO, a “Coin-operated Amusement Game Room” with more than 4 coin-operated machines requires approval of a CUP and the following special conditions:

1. Buildings must be located at least 300 feet from any church, school, or hospital and 100 feet from any residential district;
2. One customer restroom each for male and female; and
3. Licensing is required.

**Staff Comment**

While the location of the property does not meet the separation requirements as stated above, the proposed conditional use in association with a restaurant is appropriate at the subject property and was originally approved in 1993. Additionally, Section 3-200, Use Regulations of the MZO authorizes modifications of special conditions by the approving board, provided that the proposed modifications are identified in the required property owner notices as part of the request. Modifications may be approved if it is determined that the use can be accommodated under modified conditions without creating adverse impacts on adjacent properties and that it will be compatible with the neighborhood. The proposed modifications were identified in the property owner notices as part of the request.

**Mesquite Zoning Ordinance, Section 5-303.B, Review Criteria for Conditional Use Permits**

In reviewing a request for approval of a Conditional Use Permit, the Planning and Zoning Commission and City Council shall consider:

**Existing Uses**

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

**Staff Comment**

The Conditional use will not be injurious to the use and enjoyment of other property in the immediate area for purposes already permitted, nor substantially diminish and impair property values within the immediate vicinity. The proposed use will be contained within the multi-tenant building and will not involve outdoor activity that may conflict with surrounding uses, including outdoor storage or outdoor display. The owner has been operating the business at this location for over 26 years and proposes to expand the game room to an adjacent suite.

**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 Comment**

The proposed use currently occupies a lease space within the existing strip center and the owner is proposing to expand to the adjacent suite. A CUP was approved in 1993 to operate a coin-operated game room with up to 25 coin-operated game machines. The applicant is proposing to add another 25 coin-operated game machines for a total of 50, but has indicated uncertainty of the actual number of coin-operated game machines proposed. It is not anticipated that the proposed use will impede the normal and orderly development and improvement of surrounding properties.

**Services**

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

**Staff Comment**

Adequate utilities, access roads, drainage and other necessary facilities have been provided and are sufficient to accommodate the demands associated with the request for approval of a Conditional Use Permit to allow indoor recreation.

**Parking**

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

**Staff Comment**

The subject property has adequate parking facilities to support the proposed use and existing uses located within the strip center.

**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 disturbance to neighboring properties will result.*

**Staff Comment**

It is not anticipated that expansion of the existing game room at the subject property will constitute a nuisance of any kind.

**Mesquite Zoning Ordinance, Section 3-200. E, Special Conditions**

Pursuant to Section 3-200.E of the Mesquite Zoning Ordinance, when a use is authorized as a CUP or as a Special Exception, the authorizing body may approve modifications of the special conditions by specifying the allowed modification in its approval, provided that proposed modifications must be identified in the required notices as part of the request. Modifications may be approved if it is determined that

the use can be accommodated under modified conditions without creating adverse impacts on adjacent properties and that it will be compatible with the neighborhood.

**Staff Comment**

Pursuant to Section 3-203 of the Mesquite Zoning Ordinance, coin-operated amusement game rooms include Special Conditions which state they must be located 300 feet from any church, school, hospital and 100 feet from any residential district. The subject building is located approximately 42 feet from a residential subdivision to the west and approximately 53 feet to a residential subdivision to the south. In 1993, modifications were approved by a CUP to allow the building to operate up to 25 coin-operated game machines within 100 feet of a residential district. In 1993 and currently, the proposed modification was identified in the required notices to property owners as well as newspaper notices. Staff does not anticipate any adverse impacts on adjacent properties.

**RECOMMENDATION**

Staff recommends approval of the Conditional Use Permit to allow for the expansion of a *Coin-Operated Amusement Game Room* in association with the existing CiCi's Pizza restaurant. Staff also recommends approval of the proposed modification to allow for the expansion of the aforementioned use within 100 feet of residential districts to the west and south.

**PUBLIC NOTICE**

Notices were mailed to property owners within 200 feet of the property. As of the date of this writing, Staff received 1 notice in opposition to the request and 1 notice, both in favor and in opposition to the request.

**ATTACHMENTS**

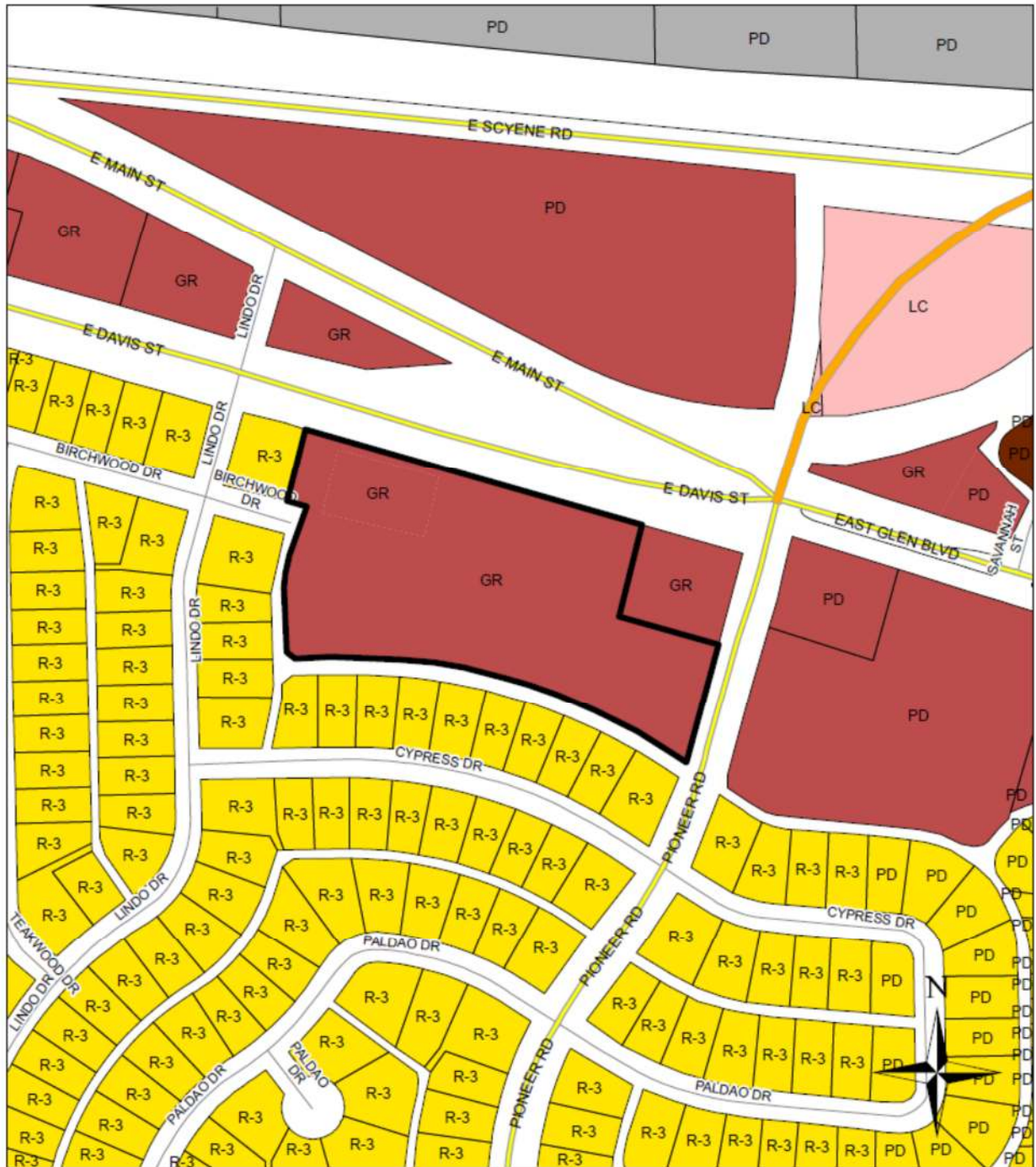
- 1 – Aerial Map
- 2 – Zoning Map
- 3 – Public Notification Map
- 4 – Application & Supporting Documents
- 5 – Site Photos
- 6 – Returned Notices

**ATTACHMENT 1: AERIAL MAP**

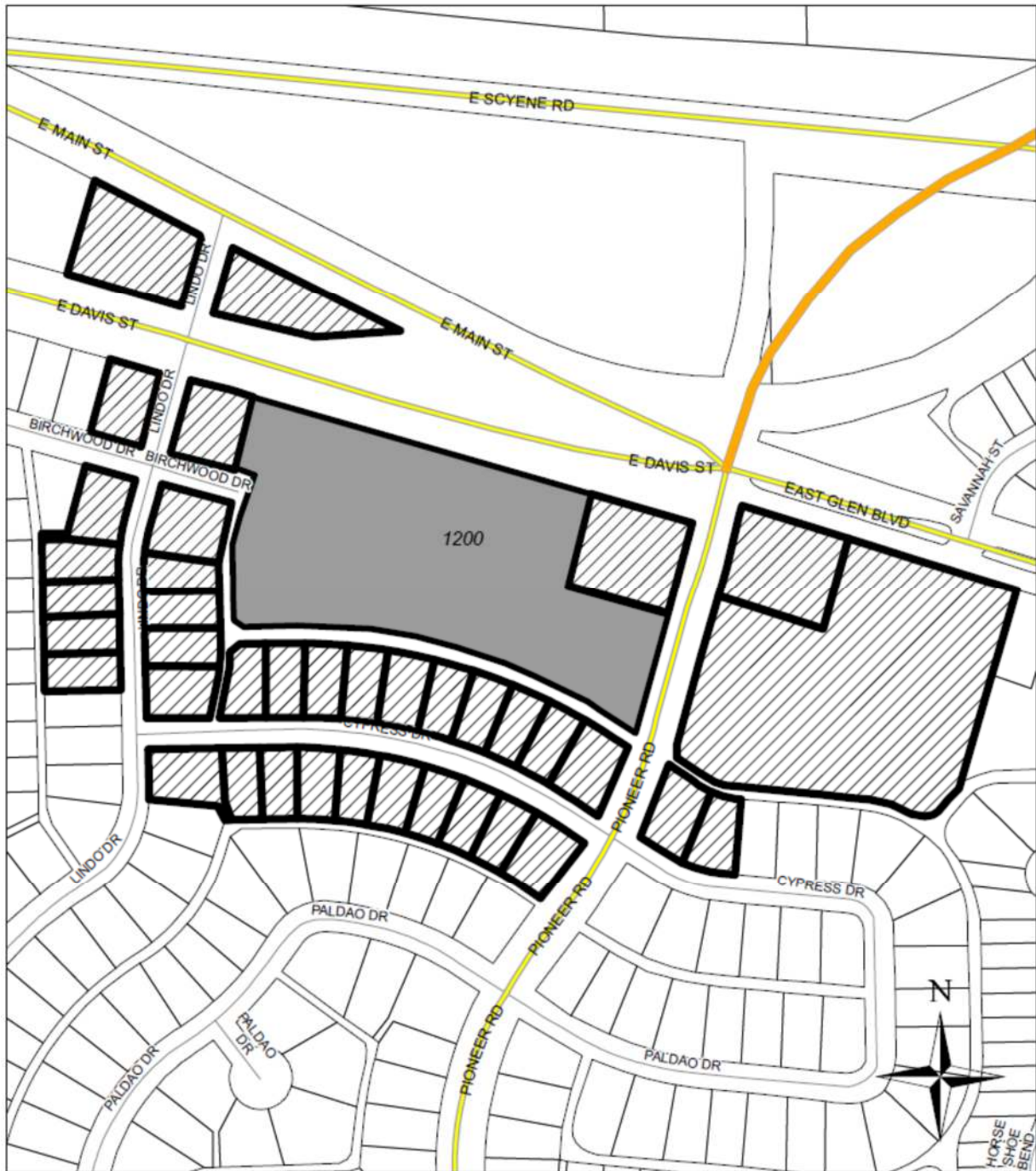




**ATTACHMENT 2: ZONING MAP**



**ATTACHMENT 3: PUBLIC NOTIFICATION MAP**





**ATTACHMENT 4: APPLICATION & SUPPORTING DOCUMENTS**

<b>CITY OF MESQUITE ZONING APPLICATION</b>		20419-0090 Receipt No. _____ Fee: _____ Case Manager: _____	Date Stamp: _____
P12-5/13 CC-6/3			
<b>REQUESTED ACTION:</b>			
Change District Classification to: _____	Conditional Use Permit for: <u>Game Room</u>	Amend Special Conditions of Ordinance # _____ <small>(Explain Below)</small>	
Additional explanation of requested action: <u>We are remodeling C.C.'s Pizza (Pioneer &amp; Davis). Expanding to game room to 3800 sq ft in adjoining lease space (layout on Prints)</u> <span style="float: right;"><i>Submitted</i></span>			
<b>SITE INFORMATION/GENERAL LOCATION:</b>		<b>LOCATION/LEGAL DESCRIPTION:</b>	
Current Zoning Classification: <u>General Retail</u> Site Size: <u>3800 sq ft</u> (Acres or Square Feet) Address (if available): _____ General Location Description: <u>1200 E. Davis Mesquite</u>		Complete one of the following: 1. Platted Property Addition: _____ Block: _____ Lot: _____ 2. Unplatted Property: Abstract: _____ Tract: _____	
<b>APPLICANT INFORMATION:</b>			
Contact: <u>Mike Tolleson</u> Company: <u>CiCi's Pizza</u> Address: <u>142 Paschall Rd.</u> <u>Sunnyvale, Tx 75182</u> Signature: <u>[Signature]</u>		Phone: <u>(214) 212-6547</u> Fax: ( ) _____ E-mail: <u>miketolleson@AOL.com</u> <small>(Required)</small> Owner <input type="checkbox"/> Representative <input type="checkbox"/> Tenant <input checked="" type="checkbox"/> Buyer <input type="checkbox"/>	
<b>OWNER AUTHORIZATION AND ACKNOWLEDGEMENTS:</b>			
<small>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. 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. 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.</small>			
Owner: <u>Farhan Rajani</u> Address: <u>515 W. Main St. #104</u> <u>Allen, Tx 75013</u> Signature: <u>[Signature]</u>		Phone: <u>(469) 226-5342</u> Fax: ( ) _____ E-mail: <u>farhanrajani@yahoo.com</u>	



4-1-2019

Planning Dept.  
City of Mesquite

RE: remodel of existing restaurant plus addition of gameroom  
\* Prints emailed to Garrett Langford

20.45 ISS

We have been in the lease space of 1200 E. Davis. Since 1993. We are remodeling/reimagining the Cici's Pizza restaurant. (Prints have been emailed). We are leasing an additional 3850 ~~sq~~ of vacant space which adjoins the existing restaurant. We are requesting a CUP to add a "Dave & Buster Style Gameroom" with a redemption center. Every child wins every game concept. ~~We have~~ I have owned this restaurant for 32 years and it remains in the top 3 volume restaurants in the Cici's chain nationwide.

Thank you for your consideration.

My Best Always,  
mbl

Mike Tolleson - Owner  
214 212 6547 mbl

142 Paschall Road @ Sunnyvale, Texas 75182 ☎ 972-226-4010 Office ☎ 972-226-0202 Fax

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**ATTACHMENT 5: SITE PHOTOS**



**Photo of entrance into restaurant.**



**Existing amusement game room.**





**Existing dining area looking at wall to be removed.**



**Photo taken in additional dining area looking at walls to be removed.**



**Adjacent suite where expansion is proposed.**



**Interior of adjacent suite where expansion is proposed.**



**ATTACHMENT 5: RETURNED NOTICE**



**CITY OF MESQUITE**  
**PLANNING AND ZONING COMMISSION**  
**NOTICE OF PUBLIC HEARING**

**LOCATION:** 1200 E. Davis, Suite 122  
(A map is attached for reference)

**FILE NUMBER:** Z0419-0090

**APPLICANT:** Mike Tolleson, CiCi's Pizza

**REQUEST:** From: "GR" General Retail with a Conditional Use Permit (CUP) to allow a "Coin Operated Amusement Gameroom," with more than 4 game machines  
To: "GR" General Retail with a CUP to allow for the expansion of a "Coin Operated Amusement Gameroom"

The requested Zoning Change would allow for the expansion of a coin operated gameroom, in addition to other uses allowed in the GR, General Retail zoning district. 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 zoning 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 requested district is for a residential use or vice versa.

**LEGAL DESCRIPTION**  
Mesquite Highlands Rep, Block 10, Lot 2

**PUBLIC HEARINGS**  
The Planning and Zoning Commission will hold a public hearing on this request at 7:00 p.m. on **Monday, May 13, 2019** 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, June 3, 2019** 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) 329-8523 or [jmatthews@cityofmesquite.com](mailto:jmatthews@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 pm on **May 8, 2019** to be included in the Planning and Zoning Commission packet and by 5 pm on **May 29, 2019** 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.

**Zoning Case: Z0419-0090**

I am in favor of this request

I am opposed to this request

Reasons (optional):

Name (required)

Address (required)

JOHN W. SUGGS  
1101 BIRCHWOOD DR.  
MESQUITE, TX 75149

TOO CLOSE TO MY HOUSE. IT WILL CAUSE  
A LOT OF PROBLEMS.

Please respond by returning to: PLANNING DIVISION  
Johnna Matthews  
CITY OF MESQUITE  
PO BOX 850137  
MESQUITE, TX 75185-0137

**ZONING RECLASSIFICATION****FILE NO.: Z0419-0090****Page 16**

CITY OF MESQUITE  
PLANNING AND ZONING COMMISSION  
NOTICE OF PUBLIC HEARING  
**AMENDED NOTICE**

**LOCATION:** 1200 E. Davis, Suite 122  
(A map is attached for reference)

**FILE NUMBER:** Z0419-0090

**APPLICANT:** Mike Tolleson, CiCi's Pizza

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To: "GR" General Retail with a CUP to allow for the expansion of a "Coin Operated Amusement Gameroom"

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The requested Zoning Change would allow for the expansion of a coin operated game room, in addition to other uses allowed in the GR, General Retail zoning district. 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 zoning 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 requested district is for a residential use or vice versa.

**LEGAL DESCRIPTION**

Mesquite Highlands Rep, Block 10, Lot 2

**PUBLIC HEARINGS**

The Planning and Zoning Commission will hold a public hearing on this request at 7:00 p.m. on **Tuesday, May 28, 2019** 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, June 3, 2019** 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) 329-8523 or [jmatthews@cityofmesquite.com](mailto:jmatthews@cityofmesquite.com).

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(Complete and return)

Do not write on the reverse side of this form.

**Zoning Case: Z0419-0090**

I am in favor of this request ☒

I am opposed to this request ☒

Reasons (optional):

Too much violence and drug traffic and criminal activities

Name (required): Kevin Albarran  
Address (required): 1220 E. Davis

Mesquite, TX 7549

Please respond by returning to:

PLANNING DIVISION  
Jenna Matthews  
CITY OF MESQUITE  
PO BOX 850117  
MESQUITE, TX 75064-0117