



T E X A S
Real. Texas. Service.

PLANNING AND ZONING DIVISION

FILE NUMBER: Z0321-0187
REQUEST FOR: Conditional Use Permit with Modifications
CASE MANAGER: Lesley Frohberg

PUBLIC HEARINGS

Planning and Zoning Commission: Monday, June 28, 2021
City Council: Monday, July 19, 2021

GENERAL INFORMATION

Applicant: Tuong Nguyen
Requested Action: Rezone from General Retail to General Retail with a Conditional Use Permit to allow a Coin-operated Amusement Gameroom with modifications to the 300-foot separation requirement from a church and to have one customer restroom instead of the required one customer restroom each for male and female.
Location: 704 Gross Road (Attachment 1)

PLANNING AND ZONING ACTION

Decision: On June 28, 2021, the Planning and Zoning Commission unanimously recommended denial of the Conditional Use Permit to allow a coin-operated amusement gameroom, with a modification the 300-foot separation requirement and to have one customer restroom instead of the required one customer restroom each for male and female.

SITE BACKGROUND

Platting: Country Store Addition
Size: +/- 1.38 Acres
Zoning: GR - General Retail
Future Land Use: Neighborhood Retail
Zoning History: 1951: Annexed into City of Mesquite, Zoned Residential
1971: Rezoned to General Retail (Ord. No. 966)

Surrounding Zoning and Land Uses (see attachment 3):

	<u>ZONING</u>	<u>EXISTING LAND USE</u>
NORTH:	A-1 - Multifamily Residential	Apartment Complex
SOUTH:	C - Commercial	Car Wash & Multi-Tenant Building
EAST:	R-3, Single Family Residential	Evans Recreation Center
WEST:	C - Commercial	Family Dollar

CASE SUMMARY

On October 19, 2020, the City Council amended (Ordinance No. 4820) the Mesquite Zoning Ordinance (MZO) regarding coin-operated amusement machines. Ordinance No. 4820 recognizes that coin-operated amusement machines can have adverse effects on nearby properties, compromising the quality of life, property values and the character of surrounding neighborhoods. To address these concerns, the amendment reduced the number of coin-operated amusement machines permitted as an accessory use from four to two and established 300-ft separation requirements from churches, schools, or hospitals. The new ordinance also prohibited coin-operated amusement machines as an accessory use with convenience stores. Under the new ordinance, the MZO classifies having three or more coin-operated amusement machines as a primary use called Coin-operated Amusement Gameroom, which is permitted through a Conditional Use Permit (CUP).

The applicant is requesting a CUP to allow a Coin-operated Amusement Gameroom at 704 Gross Road with four (4) coin-operated amusement machines. The applicant also operates a convenience store with limited fuel sales (Expressway Food Store) as a primary use at the same location. Coin-operated amusement machines are not permitted as an accessory use at a convince store; however, they may be permitted as a primary use (three or more) through a CUP.

Included in the CUP request are Modifications to the Special Conditions to be less than 300-feet from a church and to have one customer restroom instead of the required one customer restroom each for male and female. Special Conditions are special requirements for specific uses noted in Section 3-203 of the Mesquite Zoning Ordinance under "Special Conditions." The MZO further states:

The designated use is permitted only when in compliance with the special conditions listed. When a use is authorized as a conditional use or as a special exception, the authorizing body may approve modification 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 impact on adjacent properties and that it will be compatible with the neighborhood.

Special Conditions for a Coin-operated Amusement Gameroom include the following requirements:

- Customer restroom each for male and female;
- State license; and
- 300-ft separation from church, hospital, or school.

The place of business is not within 300 feet from a hospital and school; however, it is within 300 feet from a church, Family Cathedral of Praise.

MESQUITE COMPREHENSIVE PLAN

The *Mesquite Comprehensive Plan* designates this area as Neighborhood Retail on the Future Land Use Map (see attachment 4). “Neighborhood Retail establishments include a variety of retail and personal service businesses that meet the daily needs of the residents. This development type generally includes small or medium scale development ranging from 1,500 square feet to 45,000 square feet and one to two stories in height.”

STAFF COMMENTS:

The CUP to allow a Coin-operated Amusement Gameroom is not compatible with the *Mesquite Comprehensive Plan*'s Neighborhood Retail designation. A gameroom is an entertainment use that would be more appropriate at a location that would support higher intensity use as opposed to a site developed as a convenience store.

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:

It is staff's opinion that the proposed CUP will be injurious to the convenience store and the surrounding uses. Having a Coin-operated Amusement Gameroom at a convenience store would encourage patrons to remain for an extended period of time. Police records show a number of 911 calls to the subject property, as noted in Attachment 8. Given the small physical size, convenience stores are suited for quick transactions and are not suited for patrons to congregate for an extended period.

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 impact the development or redevelopment of any nearby property negatively.

3. Services

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

STAFF COMMENTS:

The subject property does not have a sufficient number of restrooms for the proposed primary use. The applicant indicated in their application that the business has two restroom facilities; however, only one restroom was found to serve the business when Staff conducted a site visit

on June 17, 2021. Primary use that encourages customers to stay at the location for an extended period is not suitable.

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 structure on the subject site is 16,443 square feet and includes a multi-tenant building with nine (9) suites. There are currently eight (8) businesses occupying the site and there is one (1) suite vacant. The existing businesses include a convenience store with limited fuel sales, laundromat, nail salon, donut shop, barbershop, bail bonds, insurance agency, and cell phone store. Per the parking requirements found in the MZO, seventy-two (72) parking spaces are required for the proposed uses. The existing parking lot has fifty-five (55) parking spaces, which does not accommodate the required parking.

Per the MZO, the parking standard for buildings over 10,000 square feet include 40 parking spaces plus 1 space for each 200 square feet of floor area in excess of 10,000 square feet. Per the MZO, a coin-operated amusement gameroom requires one parking space per each 50 square feet of public assembly area. The gameroom area in the building is approximately 72 square feet, which requires one parking space.

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 anticipates disturbances to neighboring businesses or residences as a result of the request. Operating a coin-operated amusement gameroom at a property that is not designed for such a use, as evident by not meeting the required number of or restrooms, and a use that encourages loitering may create a nuisance.

CONCLUSIONS

It is City staff's opinion that the request does not meet the criteria for a CUP.

PUBLIC NOTICE

Staff mailed notices to all property owners within 200 feet of the subject property. As of June 23, 2021, Staff has received one returned notice in favor of the request.

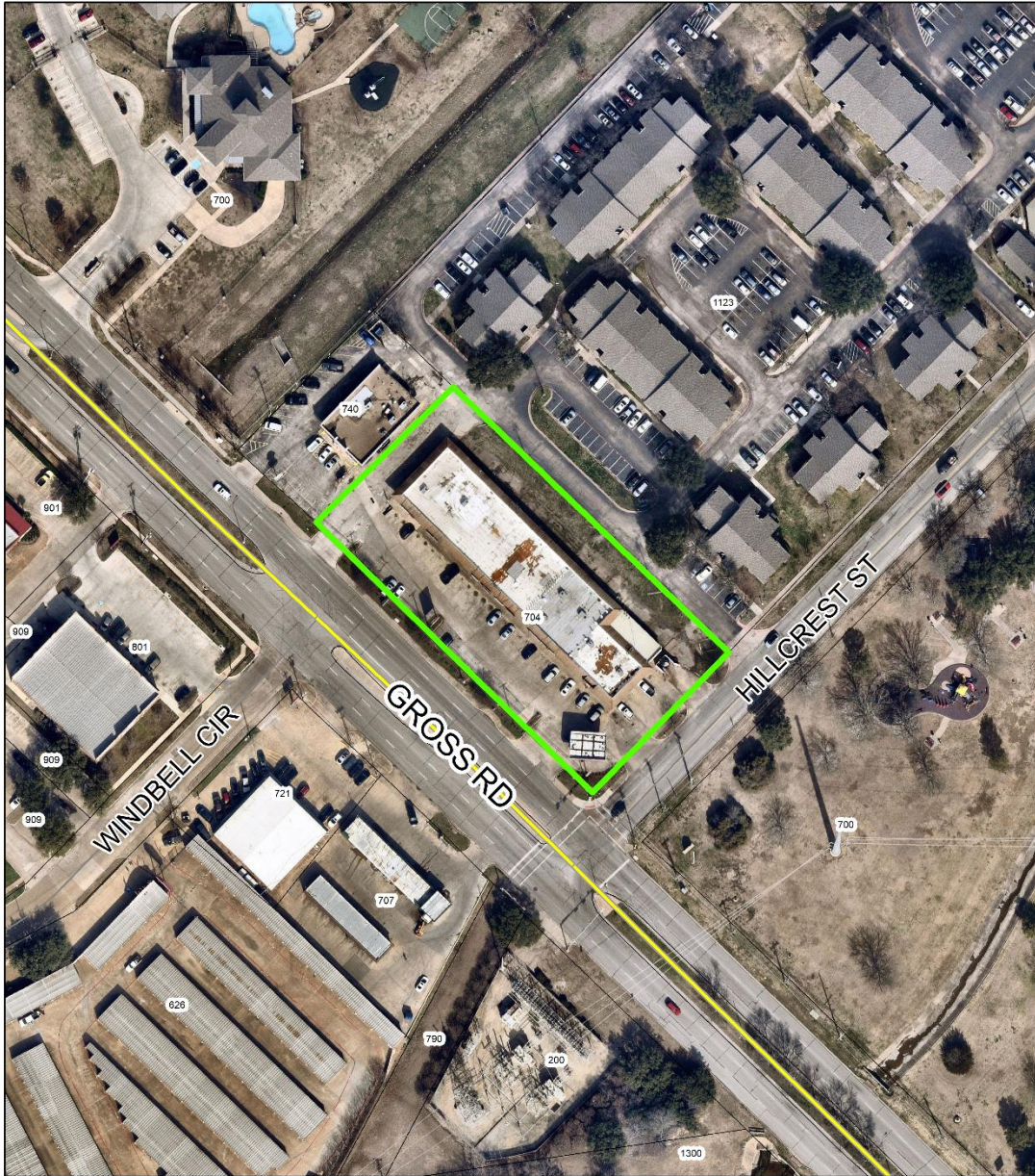
CODE CHECK

As of March 16, 2021, the property has been inspected by the Police Department and Building Inspections and it was determined that the business was in compliance with the Convenience Store and Late Hour Business Regulations in Chapter 8 of the City Code.

ATTACHMENTS

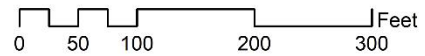
1. Aerial Map
2. Public Notification Map
3. Zoning Map
4. Future Land Use Map
5. Site Pictures
6. Application Materials
7. Concept Plan
8. Police Activity Report
9. Returned Property Owner Notice

Aerial Map



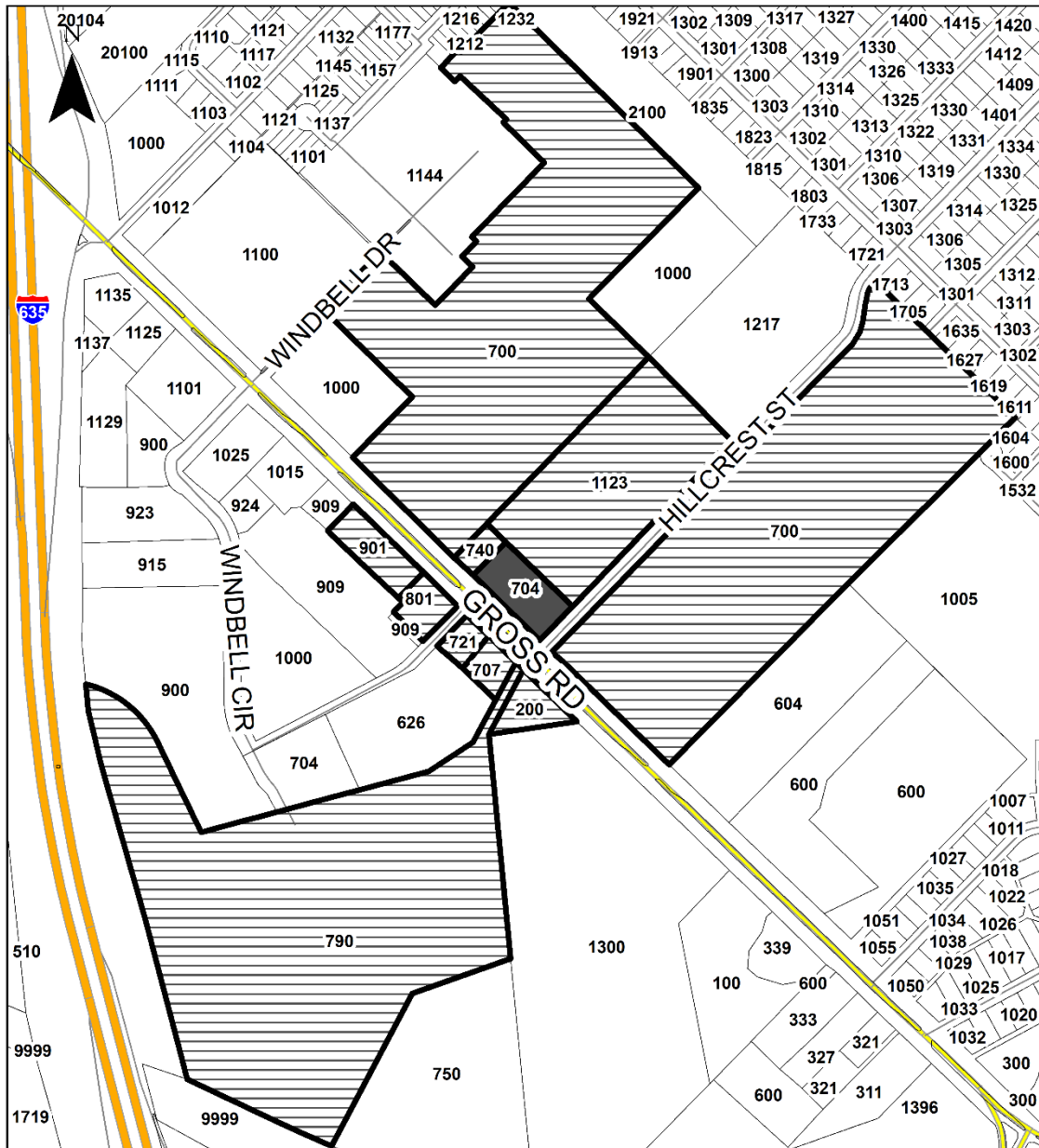
Legend

 Subject Property



ATTACHMENT 2 – PUBLIC NOTIFICATION MAP

Notification Map





Request: Conditional Use Permit to allow a coin-operated amusement gameroom with modifications.

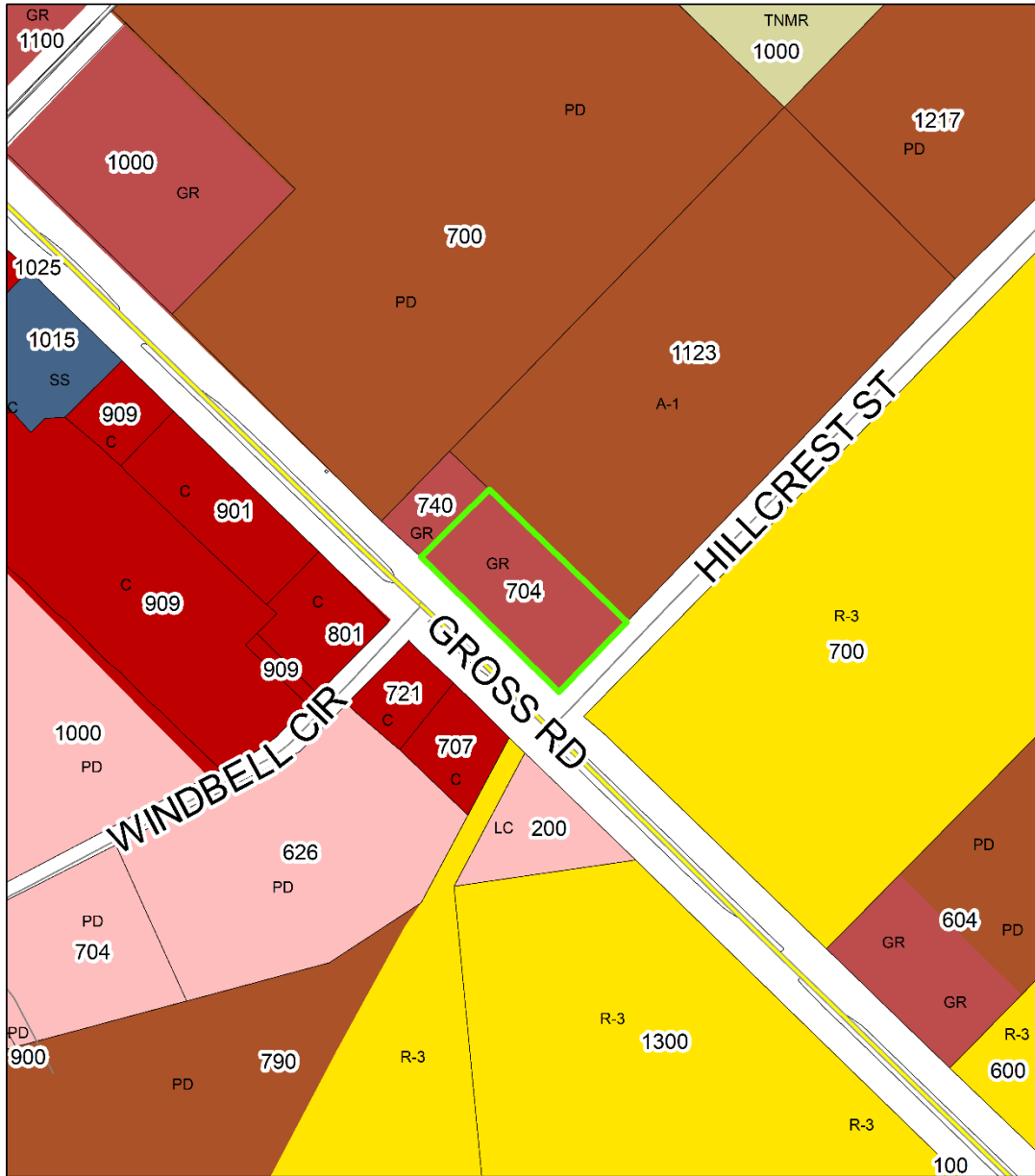
Applicant: Tuong Nguyen

Location: 704 Gross Road


Legend

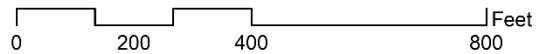
-  Notified Properties
-  Subject Property

Zoning Map



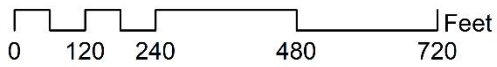
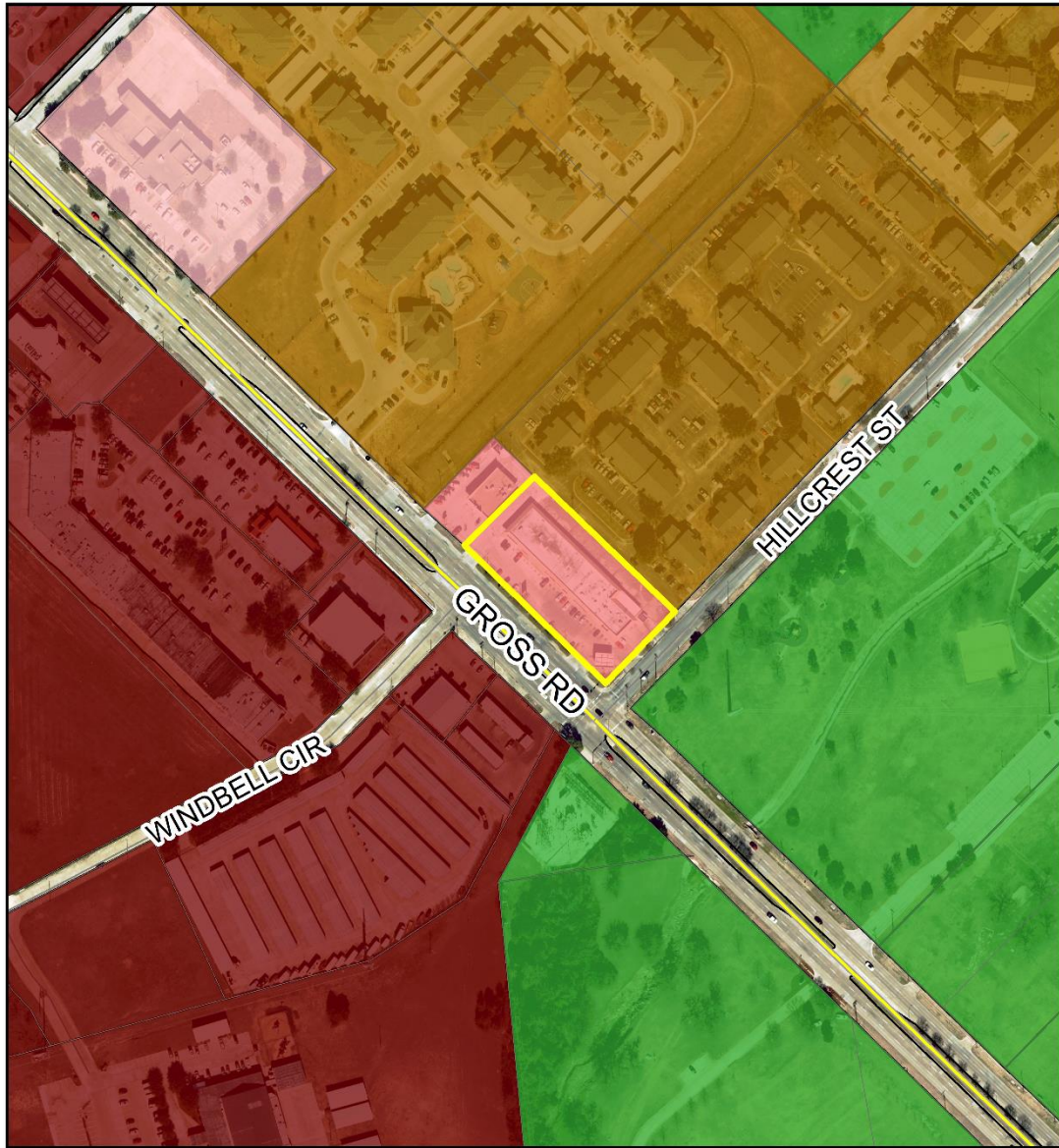
Legend

 Subject Property



ATTACHMENT 4 – FUTURE LAND USE MAP

Future Land Use Map



ATTACHMENT 5 – SITE PHOTOS

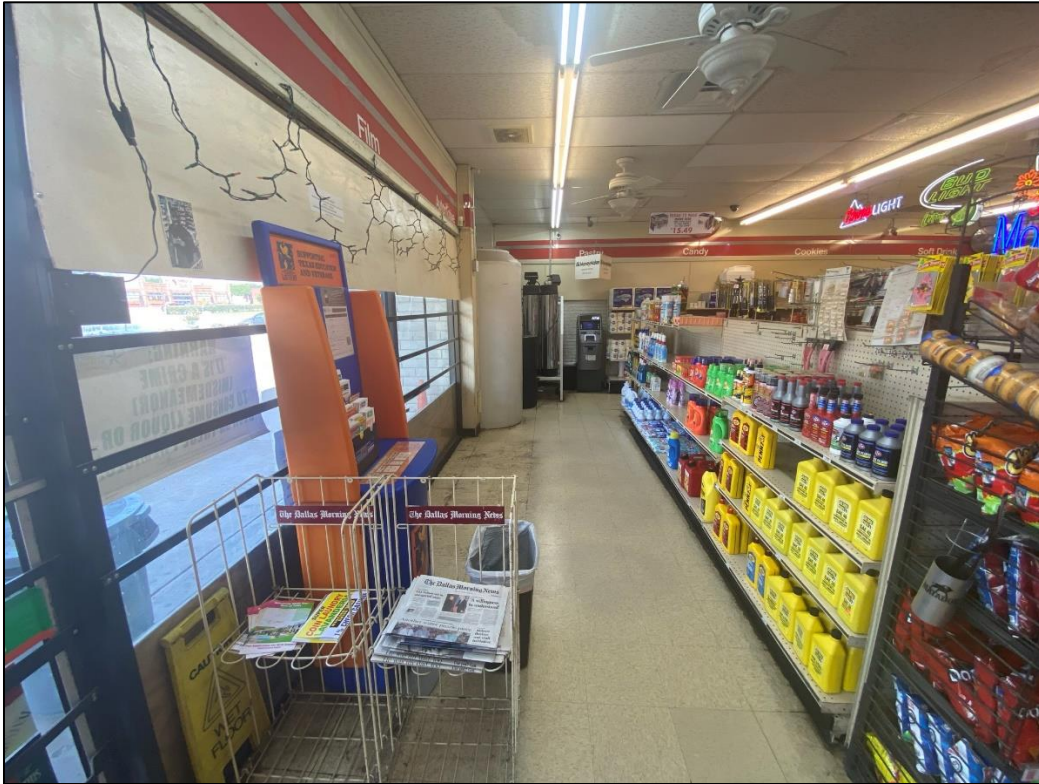


Subject property facing northeast from parking lot.

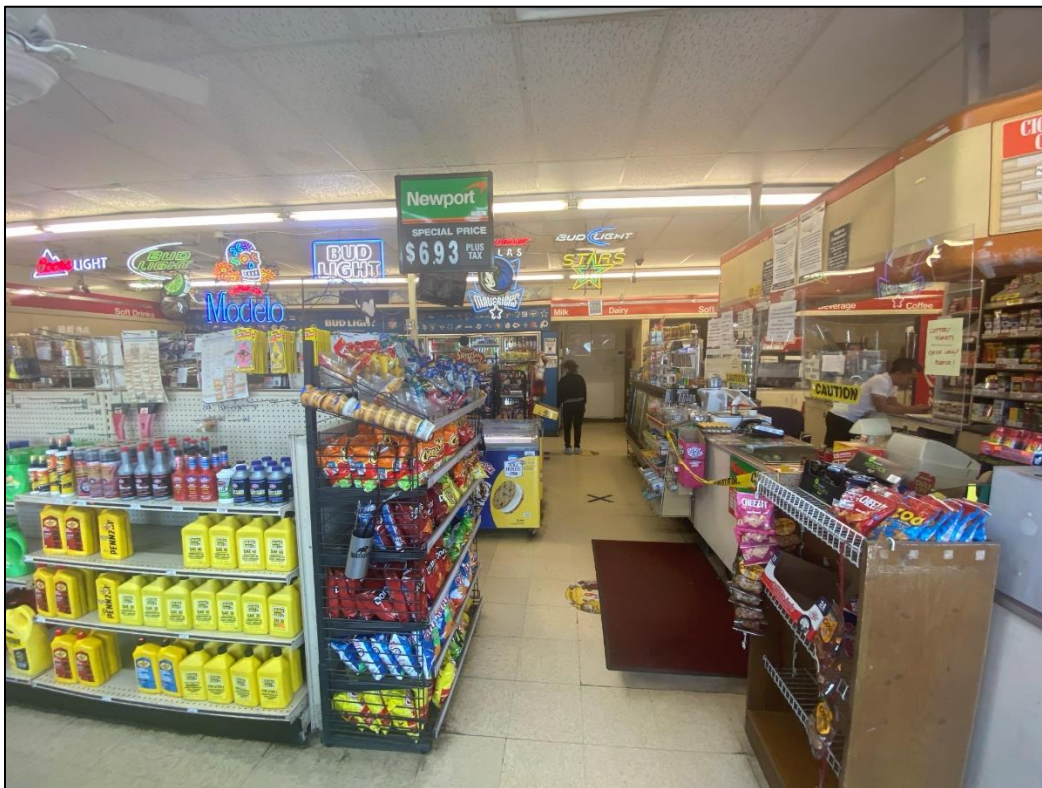


Subject property parking lot, facing southeast.

ATTACHMENT 5 – SITE PHOTOS



Coin-operated amusement device area inside business.



Entrance of convenience store. Coin-operated amusement devices are proposed to be located to the left.

ATTACHMENT 5 – SITE PHOTOS



Entrance of convenience store, facing southeast.

ATTACHMENT 5 – SITE PHOTOS



Storage area entrance to access restroom facility. "Bathroom Out of Order" sign on the door.

ATTACHMENT 5 – SITE PHOTOS



Storage area with restroom facility on the right (Unisex restroom).

ATTACHMENT 5 – SITE PHOTOS



Utility closet identified as second restroom facility on floorplan.

ATTACHMENT 6 – APPLICATION MATERIALS



Please print legibly. This application can also be completed online at
<https://www.cityofmesquite.com/DocumentCenter/View/17383/Conditional-Use-Permit-Application>

Application Checklist

- Completed Application
- Statement of Intent and Purpose
- Zoning Exhibits A & B
- Owner Authorization (page 6)
- Application Fee*

**Fee will be assessed at time of application submittal (\$800/\$1,000).*

Property Information

General Location: COUNTRY STORE ADDITION
Physical Address: 704 Gross Rd City, State: Mesquite, Texas
Zip Code: 75149
Platted: Yes No (If yes, fill in information below)
Subdivision: COUNTRY STORE Block: _____ Lot: _____

Applicant Information – The person filling out the application

First Name: TUONG Last Name: NGUYEN
Phone Number: 214-695-7123 Email Address: [REDACTED]
Company Name: _____

Property Owner(s) Information – The owner of the property listed as physical address

Same as Applicant: Yes No (If no, fill in information below)
First Name: _____ Last Name: _____
Phone Number: _____ Email Address: _____
Mailing Address: 8432 GARLAND ROAD City, State: DALLAS
(If different from physical address)
Zip Code: 75218

ATTACHMENT 6 – APPLICATION MATERIALS

Requested Action

Existing district classification: (Select all that apply)

Residential Zoning Districts

- AG – Agricultural R-1 – Single Family R-1A – Single Family R-2 – Single Family
 R-2A – Single Family R-3 – Single Family D – Duplex Multifamily (less than 25 units)
 Traditional Neighborhood Mixed Residential (TNMR)
 Other: _____

Non-Residential Zoning Districts

- O – Office GR – General Retail LC – Light Commercial MU – Mixed Use
 CB – Central Business SS – Service Station C – Commercial I – Industrial
 CV – Civic
 Other: _____

Describe the proposed Conditional Use Permit and the purpose of the request using the space below. You may use a separate sheet if necessary. The following should be included:

1. Description of project uses.
2. If the property is currently developed, list all active businesses on the property with a brief description of each.
3. Address how the requested conditional use permit complies with the [Mesquite Comprehensive Plan](#).

The Conditional Use Permit will be used to install 4 coin-operated arcade games for customers at the grocery food store. The property is currently developed and operates as a grocery food store. The Country Store Shopping Center includes a laundromat, nail salon, donuts, barber shop, metroPCS, and insurance agency.

ATTACHMENT 6 – APPLICATION MATERIALS

OWNER AUTHORIZATION

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.
4. I have read and understand the information contained in the City of Mesquite Conditional Use Permit Application.

Property Owner: TUONG NGUYEN Phone Number: 214-695-7123
Address: 8432 Garland Rd
Dallas, TX 75218 Email Address: [REDACTED]
Signature: *Tuong Nguyen*

Each property owner must complete a separate authorization form

ATTACHMENT 6 – APPLICATION MATERIALS

EXHIBIT "B"

LEGAL DESCRIPTION

Being a tract or parcel of land situated in the City of Mesquite, Dallas County, Texas; and being a part of the Daniel Tanner Survey, Abstract 1462, and also being a part of a 45.66 acre tract conveyed to M. L. Canfield on August 22, 1952, and recorded in the Deed Records of Dallas County, Texas; and being more particularly described as follows:

BEGINNING at a point for corner in the intersection of the northwesterly line of Hillcrest Street (50 feet wide) and the northeasterly line of Gross Road (120 feet wide);

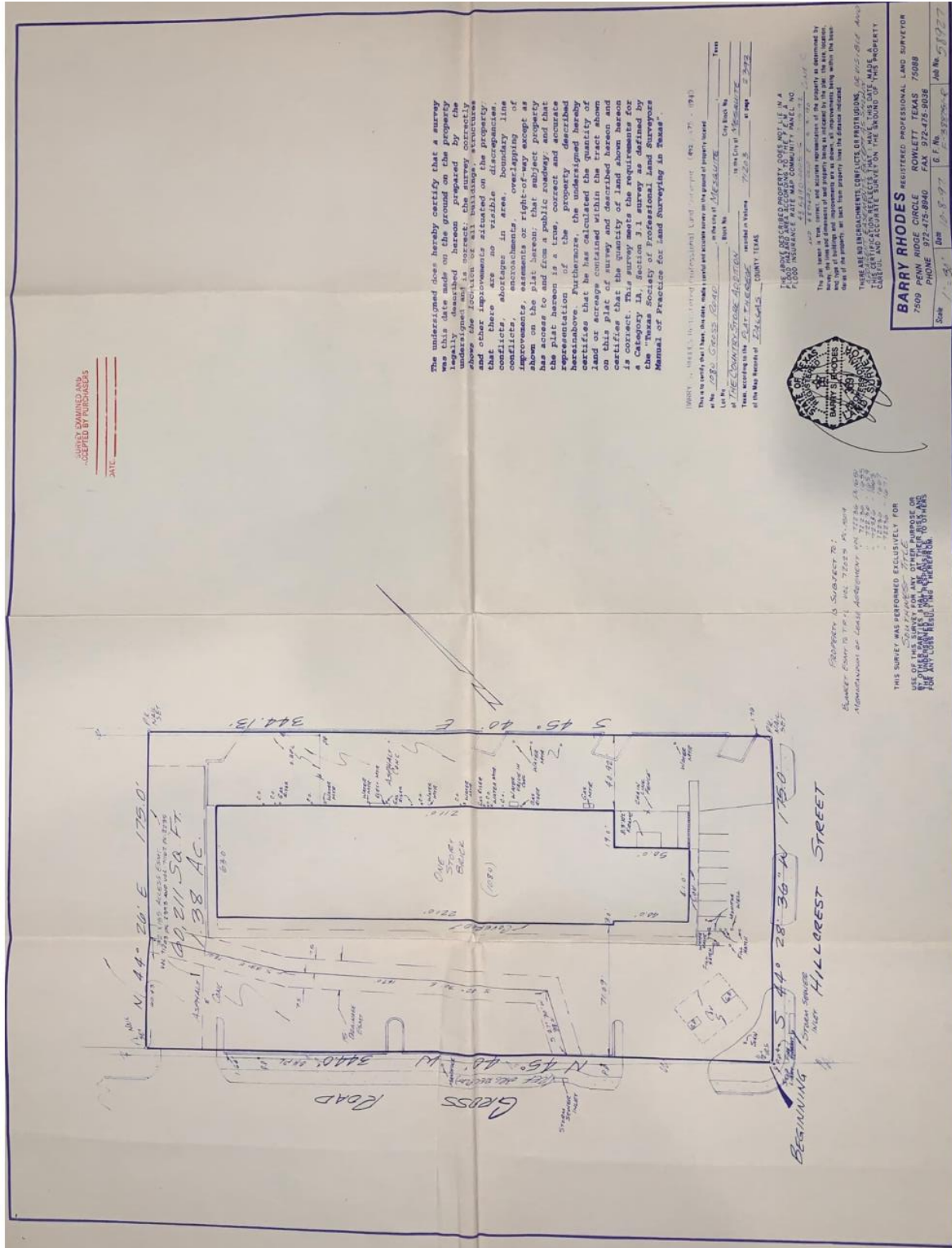
THENCE North $45^{\circ} 39'$ West along the northeasterly line of Gross Road a distance of $95'8''$ to a point for corner, said point being the most westerly corner of said Canfield tract;

THENCE North $44^{\circ} 26'$ East along the northwesterly line of said Canfield tract a distance of $175'$ to a point for corner;

THENCE South $45^{\circ} 39'$ East a distance of $95'8''$ to a point for corner in the northwesterly line of Hillcrest Street;

THENCE South $44^{\circ} 26'$ West along the northwesterly line of Hillcrest Street a distance of 175.00 feet to the place of beginning.

ATTACHMENT 6 – APPLICATION MATERIALS



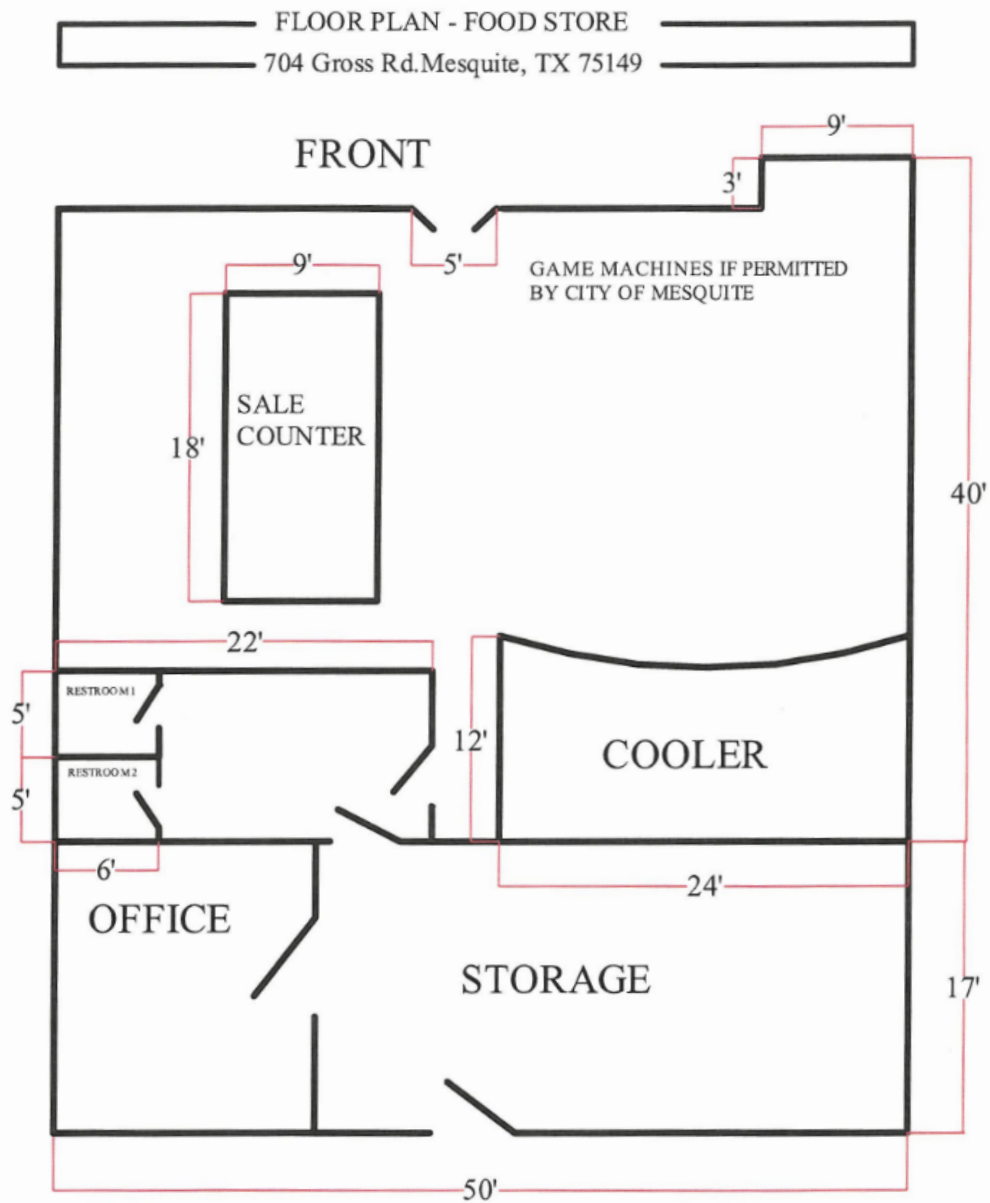
ATTACHMENT 6 – APPLICATION MATERIALS

Parcels - 2,257: COUNTRY STORE SC	
ACCOUNT_NUM	3.80525E+16
ALT_ACCT	3.80525E+16
COMMENT	
MUNIS_ID	P36099
APPRAISAL_YR	2,021
DIVISION_CD	COM
BIZ_NAME	COUNTRY STORE SC
OWNER_NAME_1	NGUYEN TUONG H &
OWNER_NAME_2	PHUONG TRAN
OWNER_CONTACT	
OWNER_ADDRESS	8432 GARLAND RD
OWNER_SUITE	
OWNER_CITY	DALLAS
OWNER_STATE	TEXAS
OWNER_COUNTRY	UNITED STATES OF AMERICA
OWNER_ZIPCODE	752184333
STREET_NUM	704
STREET_HALF_NUM	
FULL_STREET_NAME	GROSS RD
BLDG_ID	
UNIT_ID	
LEGAL1	COUNTRY STORE
LEGAL2	ACS 1.3820
LEGAL3	
LEGAL4	VOL97245/3563 DD121597 CO-DALLAS
LEGAL5	0525000000100 33805250000
DEED_TXFR_DATE	12/16/1997, 6:00 PM
GIS_PARCEL_ID	3.80525E+16
DWEB_ACCT	More info
DWEB_HIST	More info
ADJ_IMAGES	
PLAT_IMAGE	05250-001-01
PLAT_PATH	Link
DWEB_PMAP	More info
CURR_STATE	CUR_ACCT_VALID
COMMENTS	
MST_NUM	704
MST_DIR	
MST_NAME	GROSS
MST_TYPE	RD
MSUITE	
MST_FULL	GROSS RD

ATTACHMENT 6 – APPLICATION MATERIALS

MSADD	704 GROSS RD
MPALIAS	704 GROSS RD
BLDG_STE	
Duplicate	0
EDITOR	VKAHL
SEQUENCE_ID	36,099
XCOORD	2,546,753.65
YCOORD	6,970,692.95
ENERGOV_ID	
ADDRESS_ID	
AREA_SQFT	58,339.46
Acres	1.34

ATTACHMENT 7 – FLOOR PLAN



ATTACHMENT 8 – POLICE ACTIVITY REPORT



MESQUITE POLICE DEPARTMENT

POLICE ACTIVITY REPORT

6/1/2017 - 5/31/2021



704 GROSS RD

CALLS FOR SERVICE

6/1/2017 - 5/31/2021

	2017	2018	2019	2020	2021	TOTAL
ALARM BURGLARY		4		2		6
ALARM HOLD UP		2				2
BURGLARY	1		1	1		3
DELAY CRIM MISC		1				1
DELAY FORGERY	1					1
DELAY THEFT					1	1
DISTURBANCE	3		2	2		7
INFORMATION			1			1
INTOX PERSON				1		1
INVESTIGATION		1		1		2
MINOR MVA FLEET		1				1
PRIVATE TOW				1		1
SUSP ACTIVITY	1	1		2	1	5
WELFARE CHECK		1				1
TOTAL CALLS	6	11	4	10	2	33

REPORTED OFFENSES

6/1/2017 - 5/31/2021

	2017	2018	2019	2020	2021	TOTAL
CREDIT CARD OR DEBIT CARD ABUSE	1					1
BURGLARY OF BUILDING	1	2		1		4
GRAFFITI PECUNIARY LOSS >=\$100<\$750		1				1
KEEPING A GAMBLING PLACE				1		1
TOTAL OFFENSES REPORTED	2	3	0	2	0	7

ATTACHMENT 9 – RETURNED PROPERTY OWNER NOTICE



CITY OF MESQUITE
PLANNING AND ZONING COMMISSION
NOTICE OF PUBLIC HEARING

RECEIVED

JUN 23 2021

PLANNING AND ZONING

LOCATION: 704 Gross Road
(See attached map for reference)
CASE NUMBER: Z0321-0187
APPLICANT: Tuong Nguyen
REQUEST: From: "GR" – General Retail
To: "GR" – General Retail with a Conditional Use Permit to allow a coin-operated amusement gameroom with four (4) coin-operated game machines with modifications to the 300-foot separation requirement from a church and to have one (1) customer restroom instead of the required one (1) customer restroom for males and one (1) customer restroom for females.

The requested Conditional Use Permit would allow a coin-operated amusement gameroom, including four (4) game machines, inside an existing convenience store with limited fuel sales as a permitted use on the subject property with modifications to the required 300-foot separation requirement from a church and to have one customer restroom instead of the required one customer restroom each for male and female. 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
Country Store Addition

PUBLIC HEARINGS

The Planning and Zoning Commission will hold a public hearing on this request at 7:00 p.m. on Monday, **June 28, 2021**, 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 19, 2021**, 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

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 23rd** to be included in the Planning and Zoning Commission packet and by 5:00 pm on **July 1st** 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.

Case Number: Z0321-0187

Name:(required)

TUONG NGUYEN

I am in favor of this request

Address of
Noticed Property:

704 GROSS RD MESQUITE TX 75149

I am opposed to this request

Owner Signature:

Tu Nguyen

Date: 6/23/2021

Reasons (optional):

The business is very slow, we need little help to survive. Also if player inside store, more secure for us, special on night times

Please respond by returning to:

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