

**FILE NUMBER:** Z1120-0162  
**REQUEST FOR:** Conditional Use Permit with Modifications  
**CASE MANAGER:** Johnna Matthews, Principal Planner

## **PUBLIC HEARINGS**

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Planning and Zoning Commission: Monday, December 14, 2020  
City Council: Monday, January 4, 2021

## **GENERAL INFORMATION**

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**Applicant:** Roberto Nunez, Alchemi Development Partners  
**Requested Action:** Rezone from "GR," General Retail to "GR," General Retail with a Conditional Use Permit to allow a Coin-operated Amusement Game room with a modification to have one customer restroom instead of the required one customer restroom each for male and female.  
**Location:** 2411 N. Galloway Ave., Suite 126 (Attachment 1)

## **PLANNING AND ZONING ACTION**

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**Decision:** On December 14, 2020, the Planning and Zoning Commission unanimously recommended denial of the Conditional Use Permit to allow a Coin-operated Amusement Game room, with modifications to have one customer restroom instead of the required one customer restroom each for male and female.

## **SITE BACKGROUND**

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**Platting:** Willow Glen 4, Block 10, Lot 38  
**Size:** 1.54 acres  
**Zoning:** GR - General Retail  
**Future Land Use:** Neighborhood Retail  
**Zoning History:** 1951: Annexed into City of Mesquite, Zoned Residential  
1973: Rezoned to GR – General Retail

Surrounding Zoning and Land Uses (see attachment 3):

	<u><b>ZONING</b></u>	<u><b>EXISTING LAND USE</b></u>
<b>NORTH:</b>	R-3, Single Family Residential	Single family
<b>SOUTH:</b>	C - Commercial	Pep Boys
<b>EAST:</b>	GR - General Retail	Race Way
<b>WEST</b>		Vacant/Undeveloped

## **CASE SUMMARY**

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On October 19, 2020, the City Council amended the Mesquite Zoning Ordinance (MZO) via Ordinance No. 4820 regarding coin-operated amusement machines. The ordinance recognizes that coin-operated amusement devices can have adverse effects on nearby properties, compromising the quality of life, property values and the character of surrounding neighborhoods. To address the aforementioned concerns, the amendment reduced the number of coin-operated amusement machines permitted as an accessory use from four to two, and it established a 300-ft. separation from churches, schools, and hospitals. The amendment also prohibits coin-operated amusement machines as an accessory use with convenience stores and tobacco stores. Having three or more coin-operated amusement machines is now classified as a primary use identified as a Coin-operated Amusement Game room and is permitted with approval of a Conditional Use Permit (CUP).

The applicant is requesting a Conditional Use Permit (CUP) to allow a Coin-operated Amusement Game room at 2411 N. Galloway Ave., Suite 126. as a primary use with six (6) coin-operated amusement machines. The applicant also operates a tobacco store (Tobacco Corner) at the same location. While coin-operated amusement machines are not permitted as an accessory use at a tobacco store, coin-operated amusement machines may be permitted at the location as a primary use with the approval of a CUP.

Included in the request for the CUP is a Modification to the Special Conditions to have one customer restroom instead of the required one customer restroom each for males and females. Special Conditions are special requirements for specific uses noted in Section 3-203 of the MZO 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 impacts on adjacent properties and that it will be compatible with the neighborhood.”

Special Conditions for Coin-operated Amusement Game rooms include the following requirements:

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

The coin-operated amusement machines have a current state license, and the place of business is at least 300 feet from any church, hospital, or school. The applicant is requesting a total of six coin-operated amusement machines.

## MESQUITE COMPREHENSIVE PLAN

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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 Game room is not compatible with the *Mesquite Comprehensive Plan's* Neighborhood Retail designation. A game room is an entertainment use that would be more appropriate at a location that supports higher intensity uses as opposed to a site developed as a retail strip center.

## 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:

It is City staff's opinion that the proposed CUP will be injurious to the existing use of the tobacco store. Having a coin-operated amusement game room at a tobacco store would encourage patrons to remain for extended periods. Given the small physical size of the store, it is more 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 negatively impact the normal and orderly development and improvement of surrounding vacant properties.

#### 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. Allowing one customer restroom to serve multiple primary uses and uses that encourage customers to stay at the location for extended periods of time 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 subject tobacco store is located within a retail strip center with sufficient parking spaces.

**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 such as offensive odors, fumes, dust, noise or vibration due to the operation of a game room. Disturbances to neighboring properties may result; however, due to the operation of a game room which may cause customers to remain at the business for extended periods of time.

## **CONCLUSIONS**

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The request does not meet the criteria for approval of a CUP.

## **PUBLIC NOTICE**

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Staff mailed notices to property owners within 200 feet of the subject property. As of the date of this writing, one notice was returned in opposition to the request.

## **CODE CHECK**

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N/A

## **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. Floor Plan
8. Returned Notices

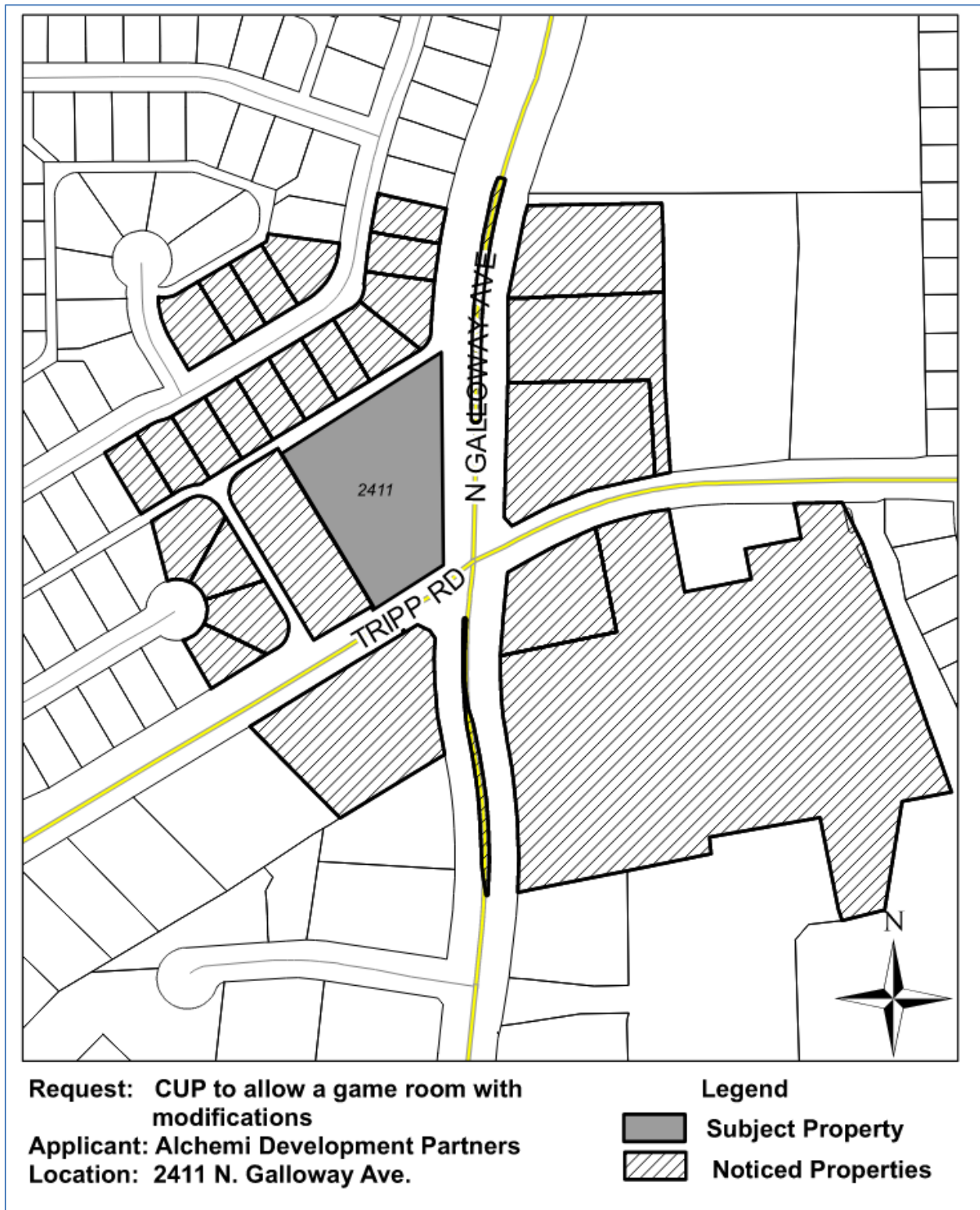
## ATTACHMENT 1 – AERIAL MAP



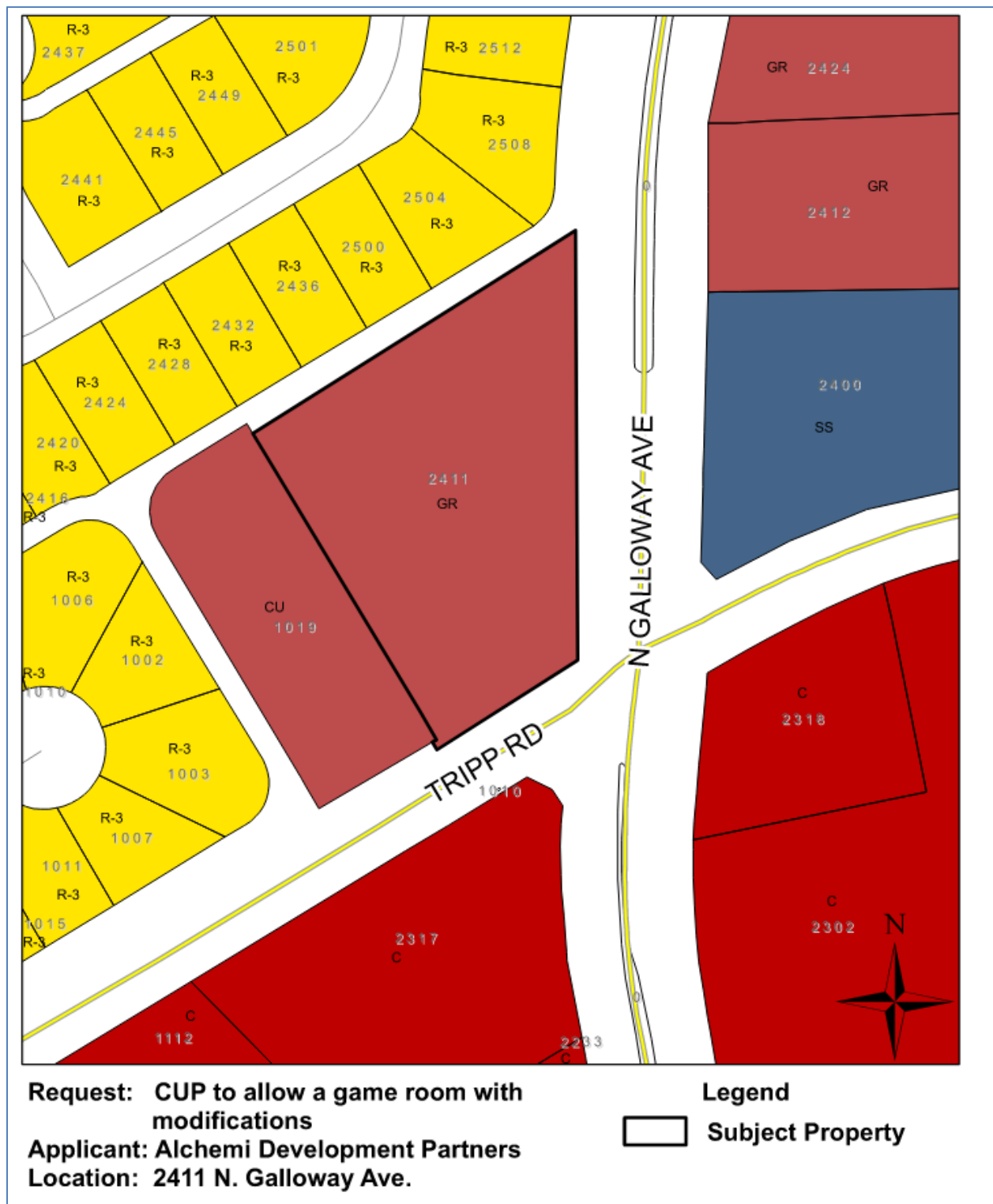
**Request:** CUP to allow a game room with modifications  
**Applicant:** Alchemi Development Partners  
**Location:** 2411 N. Galloway Ave.

**Legend**  
 **Subject Property**

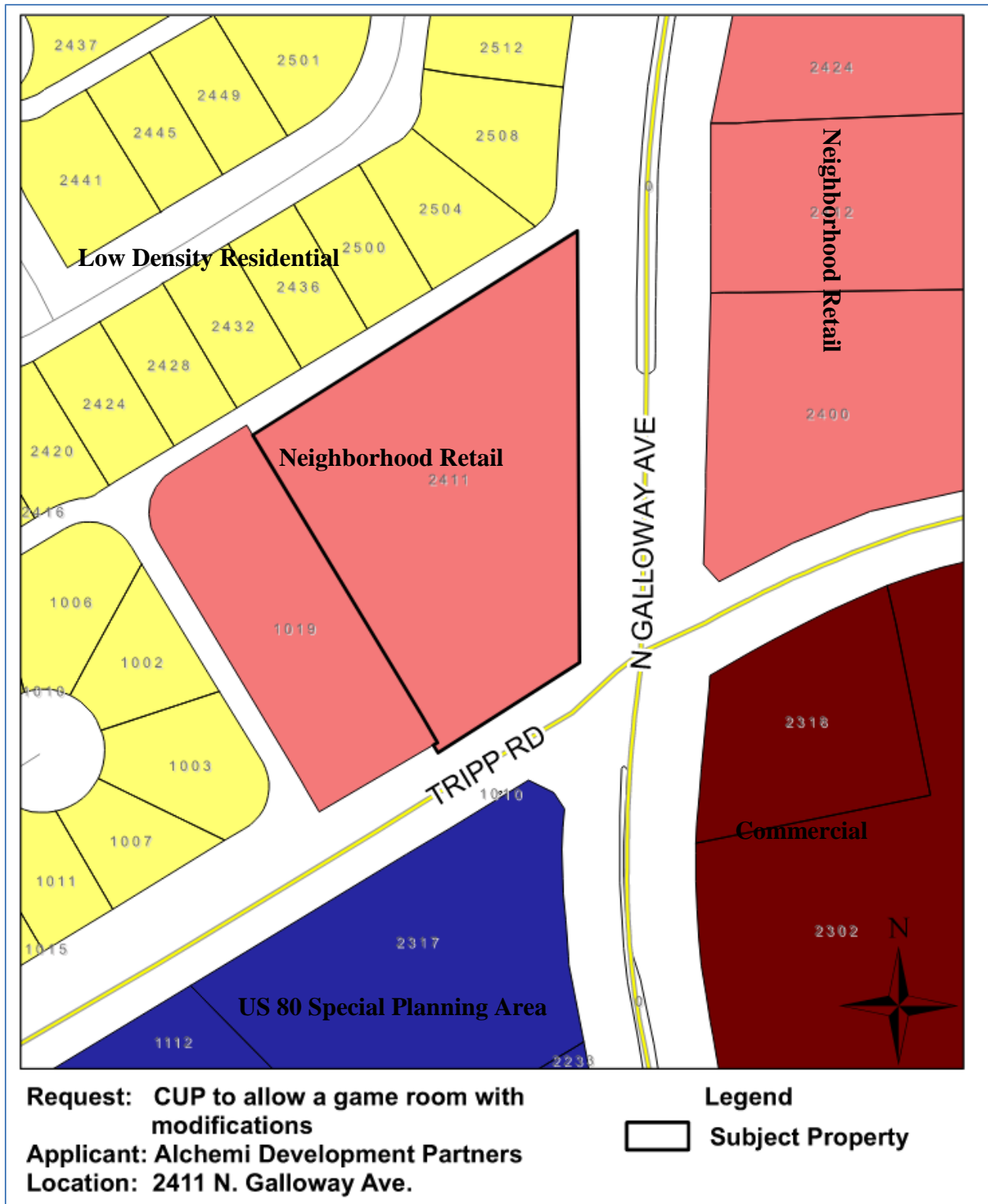
**ATTACHMENT 2 – PUBLIC NOTIFICATION MAP**



**ATTACHMENT 3 – ZONING MAP**



**ATTACHMENT 4 – FUTURE LAND USE MAP**



## ATTACHMENT 5 – SITE PHOTOS



View of Tobacco Corner, Suite 126.

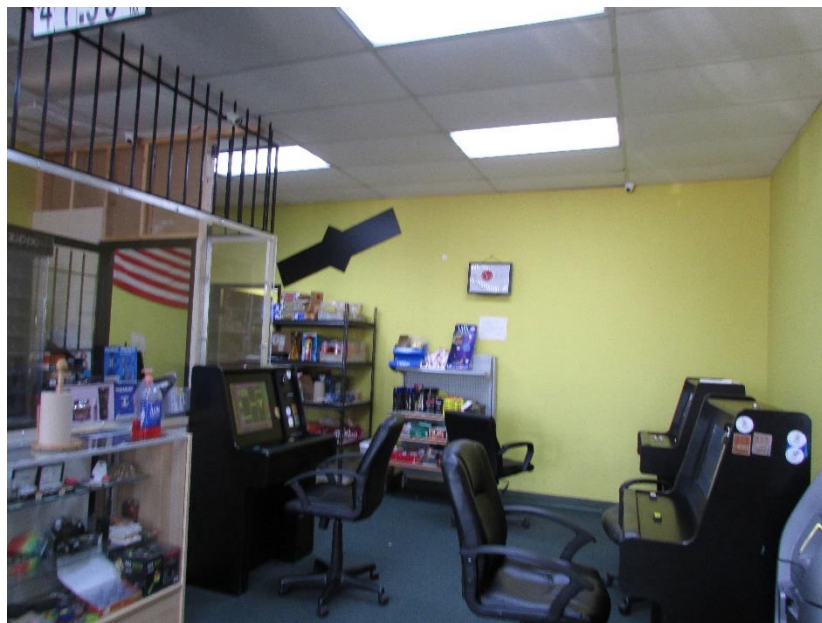
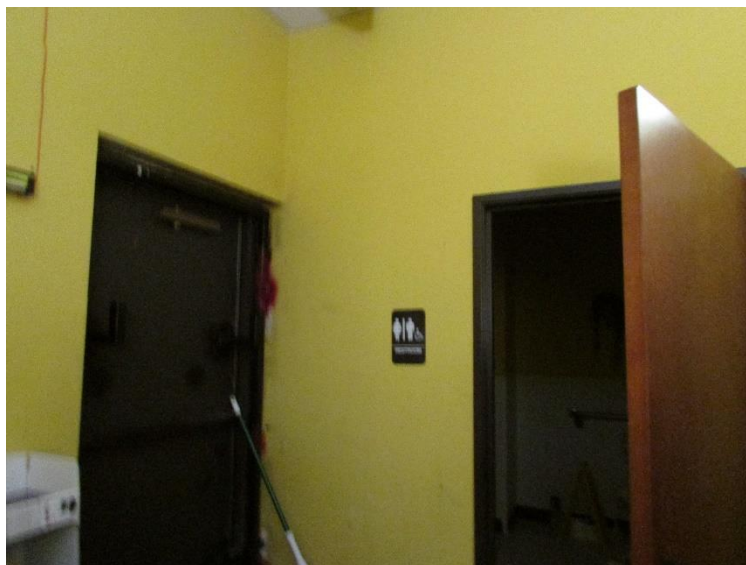


Photo of amusement machines.

**ATTACHMENT 5 – SITE PHOTOS**



**Photo of amusement machine.**



**Photo of restroom.**

## ATTACHMENT 6 – APPLICATION MATERIALS



**Alchemi Development Partners, LLC**  
**Dallas – Ft Worth**

November 14, 2020

To: City of Mesquite

**RE: Proposed Conditional Use Permit for Coin operated machines**

**Project: 2411 N Galloway Mesquite, Texas 75149**

Dear City of Mesquite Planning Department

We are applying for the Conditional Use Permit for the coin operated machines. Our proposal includes adding a total of 6 machines to continue to operate. Please let us know what other documents are required.

The property is currently developed and operating, the businesses operating as a convenient store and is not changing any of the current business practices. Our request is only to allow 6-coin operated machines as they are currently operating.

Signed by Roberto Nunez  
Alchemi Development Partners  
806.570.4867

A handwritten signature in black ink, appearing to be 'R N', with a long horizontal stroke extending to the right.



ATTACHMENT 8 – RETURNED NOTICES

MESQUITE

1 1 x # 5  
R. L. T. S. S. S. S.

CITY OF MESQUITE  
PLANNING AND ZONING COMMISSION  
NOTICE OF PUBLIC HEARING

**LOCATION:** 2411 Galloway Ave., Suite 126  
**FILE NUMBER:** Z1120-0162  
**APPLICANT:** Roberto Nunez, Alchemi Development Partners  
**REQUEST:** From: General Retail Zoning District  
To: General Retail District Zoning District, with a Conditional Use Permit to allow a game room, with six (6) coin-operated game machines. The request also includes a modification 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 Zoning Change/Conditional Use Permit would allow for the operation of a game room and any other uses permitted within the General Retail 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 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 if the one requested is for a residential use or vice versa.

**LEGAL DESCRIPTION**

Willow Glen 4, Block 10, Lot 38

**PUBLIC HEARINGS**

The Planning and Zoning Commission will hold a public hearing on this request at 7:00 p.m. on Monday, December 14, 2020, at 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, January 4, 2021, at City Hall 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 p.m. on December 9th to be included in the Planning and Zoning Commission packet and by 5 p.m. on December 30th to be included in the City Council packet. All notices received after the listed dates will 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.

Zoning Case: Z1120-0162

I am in favor of this request

I am opposed to this request

Name: (required) Joe & Glenda Aguirre  
Address of 2449 Trenton Dr  
Noticed Property:  
Owner Signature: Glenda Aguirre Date: 12-6-2020

Reasons (optional):

Coin-operated game machines need their own district. Create a gaming district & open it up there, away from our neighborhoods!

Please respond by returning to:

PLANNING DIVISION  
JOHNS MATTHEWS  
CITY OF MESQUITE  
PO BOX 8817  
MESQUITE, TX 75181-8817