



T E X A S
Real. Texas. Service.

PLANNING AND ZONING DIVISION

FILE NUMBER: Z1120-0158
REQUEST FOR: Conditional Use Permit with Modifications
CASE MANAGER: Garrett Langford, AICP

PUBLIC HEARINGS

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

GENERAL INFORMATION

Applicant: Zeeshan Ali, Grab N Go
Requested Action: Rezone from “GR,” General Retail to “GR,” Retail with a Conditional Use Permit to allow a Coin-operated Amusement Gameroom with a modification to have one customer restroom instead of the required one customer restroom each for male and female.
Location: 1430 N. Galloway Ave. (Attachment 1)

PLANNING AND ZONING ACTION

Decision: On December 14, 2020, the Planning and Zoning Commission voted 6-1 to recommend denial of the rezoning request.

SITE BACKGROUND

Platting: Galloway Place Retail
Size: 0.7160
Zoning: GR - General Retail
Future Land Use: Neighborhood Retail
Zoning History: 1951: Annexed into City of Mesquite, Zoned Residential.
1960: Rezoned to LR – Local Retail
1973: Rezoned to Special Permit to allow Gas Sales
1973: Rezoned to General Retail

Surrounding Zoning and Land Uses (see attachment 3):

	<u>ZONING</u>	<u>EXISTING LAND USE</u>
NORTH:	PD - Planned Development	Multi-Family
SOUTH:	GR - General Retail	Retail
EAST:	PD - Planned Development	Single Family Residential
WEST:	CV - Civic	Municipal Office / Art Center

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 1430 N. Galloway Avenue with four (4) coin-operated amusement machines. The applicant also operates a convenience store with limited fuel sales (Grab N Go) 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 is a Modification to the Special Conditions 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 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.

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 9. 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. Allowing one customer restroom to serve a 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 MZO requires one parking space for each 250 square feet of the building for a convenience store. The existing building is 1,850 square feet requiring eight parking spaces. Per the MZO, a coin-operated amusement gameroom requires one parking space per each 50 square-foot of public assembly area. The gameroom area in the building is approximately 100 square feet, which requires two parking spaces. The subject property has 12 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 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 December 16, 2020, Staff has received two returned notices opposing the request and one (from property owner) in favor.

CODE CHECK

As of December 10, 2020, the property has not been inspected by the Police Department to determine 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

File No.: Z1120-0158
Conditional Use Permit

6. Application Materials
7. Concept Plan
8. Police Activity Report
9. Returned Property Owner Notices

Aerial Map: Zoning Case Z1120-0158



Request: Conditional Use Permit to allow a Coin-operated Amusement Gameroom with modifications to the Special Conditions.
Applicant: Zeeshan Ali, Grab N Go
Location: 1430 N. Galloway Ave.

Legend
 Area of Request



ATTACHMENT 2 – PUBLIC NOTIFICATION MAP

Notification Map: Zoning Case Z1120-0158

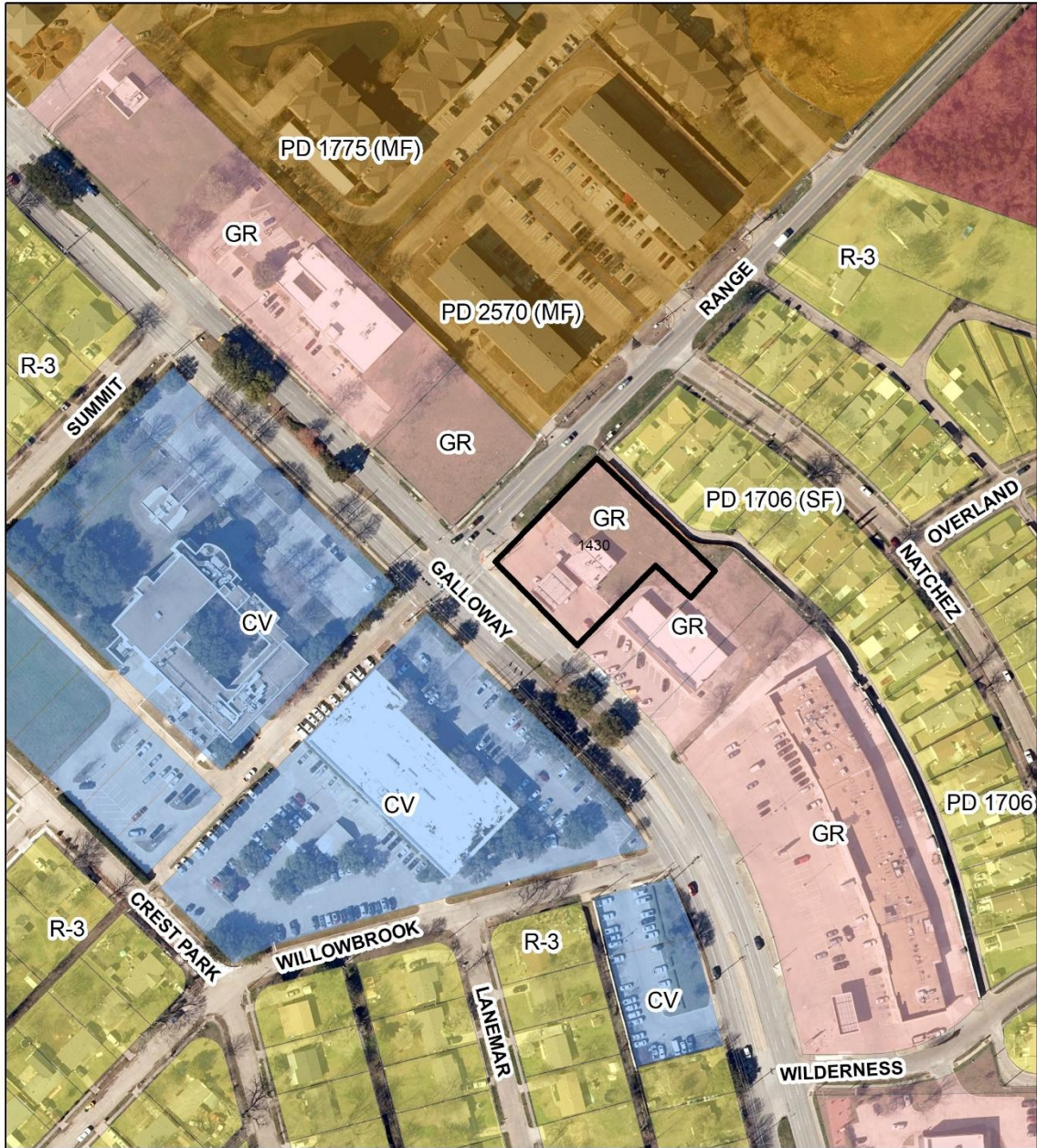


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Location: 1430 N. Galloway Ave.

Legend
■ Area of Request
▨ Noticed Properties



Zoning Map: Zoning Case Z1120-0158



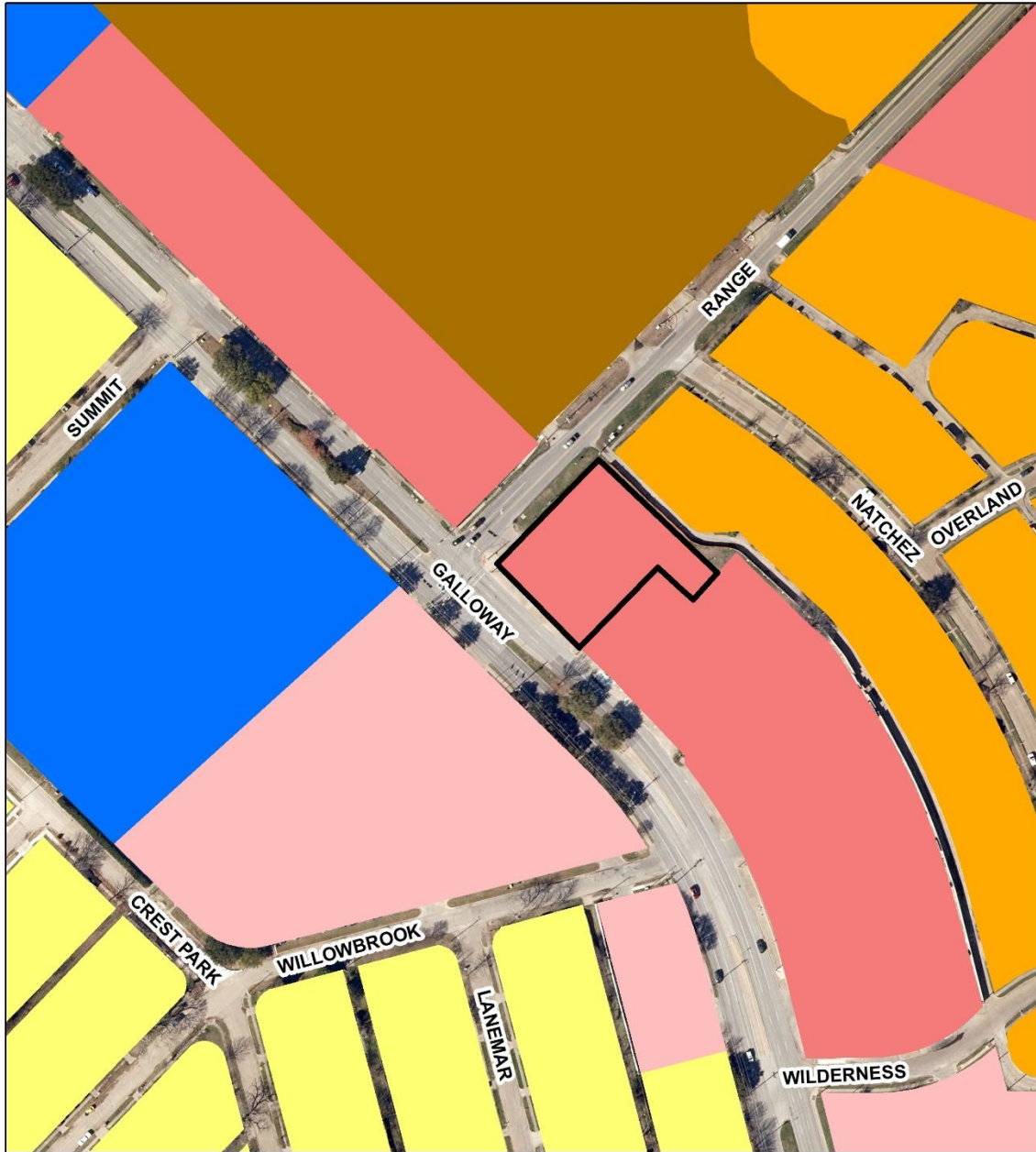
Legend

- | | |
|------------------|---------------------------------|
| Area of Request | MULTIFAMILY RESIDENTIAL |
| CIVIC | OFFICE |
| GENERAL RETAIL | SINGLE FAMILY RESIDENTIAL |
| LIGHT COMMERCIAL | TRADITIONAL NEIGHBOR. MIXED RES |



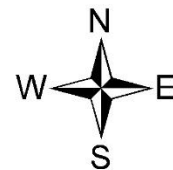
ATTACHMENT 4 – FUTURE LAND USE MAP

Future Land Use Map: Zoning Case Z1120-0158



Legend

- | | |
|----------------------------|--------------------------|
| Area of Request | High Density Residential |
| Land Use | Office |
| Low Density Residential | Neighborhood Retail |
| Medium Density Residential | Public/Semi-Public |



ATTACHMENT 5 – SITE PHOTOS



Subject property facing southeast from N. Galloway Ave and Range Dr.



Subject property facing northeast from N. Galloway Ave



Location of the amusement machines





Location of the unisex restroom

ATTACHMENT 6 – APPLICATION MATERIALS

Letter of Intent

Zeeshan Ali
1430 N Galloway Ave
Mesquite, TX 75149

To Whom It May Concern:

Hi my name is Zeeshan Ali and I am the owner of the small mom and pop store (Texaco Gas Station) across from the City of Mesquite. I have been here for 6 years. We have had 4 amusement machines in the store since I have owned the store. We have not had any issues arising from the machines in the store. The machines have helped me build ties with the community and the friends that frequent my store due to the machines. The machines help drive revenue in the store especially in these tough pandemic times. Also due to the heavy competition in the gas station market with corporate competitors such as 7 11 and Murphy, every little income goes a long ways for us small business owners. If I do not have these machines I may not be able to make ends meet and lose my store. Hopefully you will help us small businesses stay in business.

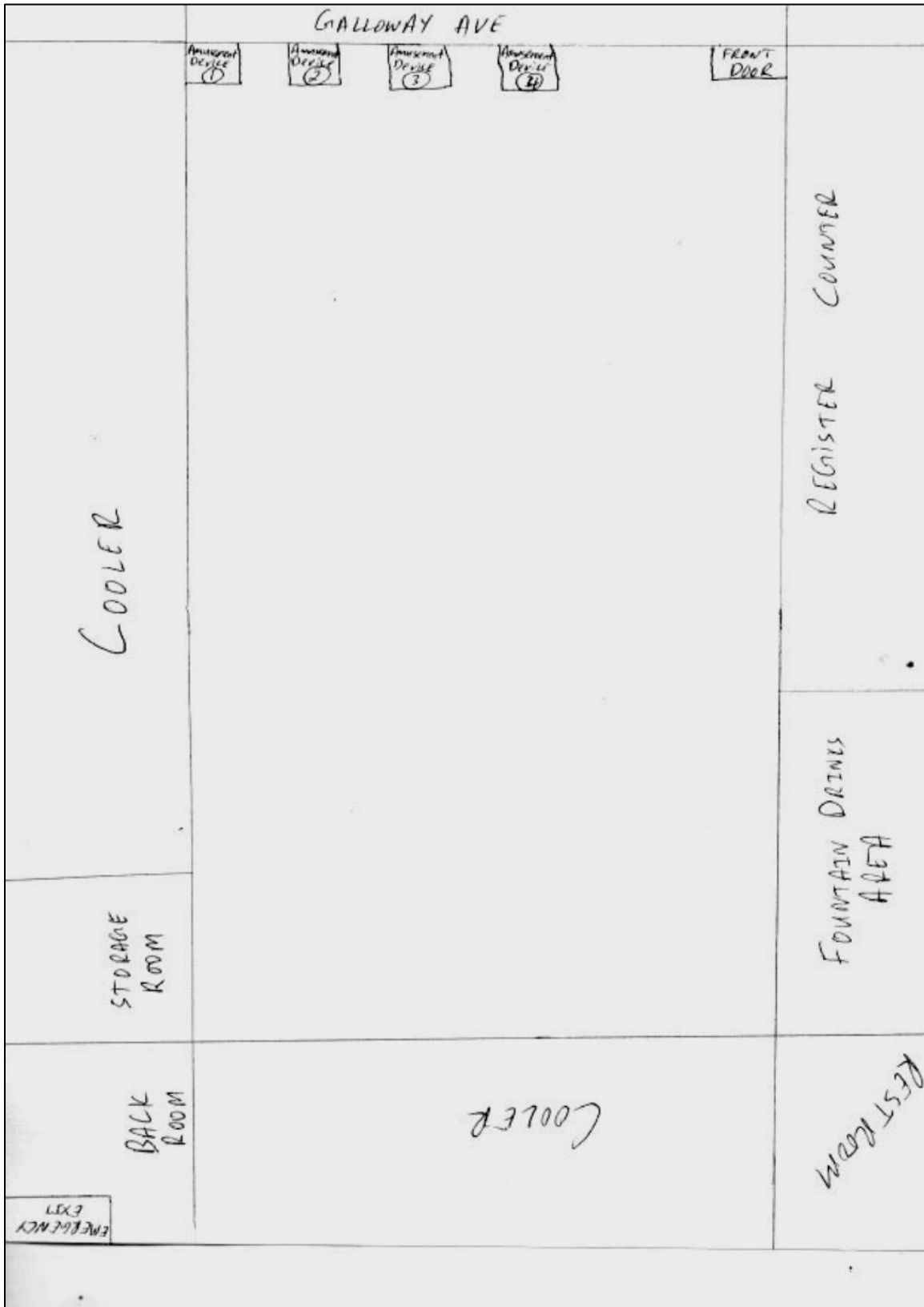
We would like to request a modification to the two-restroom requirement. Currently we only have one but the conditional permit requires two restrooms therefore we kindly request a modification to this requirement.

Thank You,



Zeeshan Ali

ATTACHMENT 7 – FLOOR PLAN



ATTACHMENT 8 – POLICE ACTIVITY REPORT



MESQUITE POLICE DEPARTMENT

POLICE ACTIVITY REPORT

12/1/2015 - 11/30/2020

1430 N GALLOWAY AVE							
CALLS FOR SERVICE							
12/1/2015 - 11/30/2020							
	2015	2016	2017	2018	2019	2020	TOTAL
ALARM BURGLARY			1	2			3
ASSIST FD		1	1	2			4
DELAY DISTURB					1		1
DELAY FORGERY			1		1		2
DELAY SUSP ACT			1				1
DELAY THEFT			1				1
DISTURBANCE	1	4	4	2			11
FORGERY				1			1
FOUND PERSON				1			1
INVESTIGATION				1			1
MINOR MVA		1		1		1	3
MINOR MVA HIT R						1	1
ROBBERY				1	1		2
SUICIDE			2				2
SUSP ACTIVITY	1	2		4	4	3	14
THEFT					1		1
WELFARE CHECK			1	1	2		4
TOTAL CALLS	2	8	12	16	10	5	53
REPORTED OFFENSES							
12/1/2015 - 11/30/2020							
	2015	2016	2017	2018	2019	2020	TOTAL
BURGLARY				1			1
COUNTERFEITING OR FORGERY				1			1
INFORMATION REPORT			2		1		3
INTOXICATED PERSON	1		1				2
PROTECTIVE CUSTODY			2				2
ROBBERY				1	1		2
THEFT			1		1		2
WARRANT(S)				1			1
TOTAL OFFENSES REPORTED	1	0	6	4	3	0	14

ATTACHMENT 9 – RETURNED PROPERTY NOTICES



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

LOCATION: 1430 N. Galloway Avenue
(See attached map for reference)
FILE NUMBER: Z1120-0158
APPLICANT: Zeeshan Ali, Grab N Go
REQUEST: From: General Retail
To: General Retail with a Conditional Use Permit with Modifications

The requested Conditional Use Permit would allow a Coin-operated Amusement Gameroom with a Modification to the Special Conditions 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
Galloway Place Retail, 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, **December 14, 2020**, 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**, located at 757 N. Galloway Ave.

Questions may be directed to the Planning Division at (972) 216-6343 or glangford@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 **December 10th** to be included in the Planning and Zoning Commission packet and by 5 pm on **December 17th** 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.

Zoning Case: **Z1120-0158**
I am in favor of this request
I am opposed to this request
Name: (required) RINA KIRI
Address of Noticed Property: 515 W MAIN ST #104 ALLEN TX 75013
Owner Signature: [Signature] Date: 12/9/2020

Reasons (optional): _____

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

RECEIVED
DEC 10 2020
PLANNING AND ZONING



CITY OF MESQUITE
PLANNING AND ZONING COMMISSION
NOTICE OF PUBLIC HEARING

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LEGAL DESCRIPTION

Galloway Place Retail, Block A, Lot 1

PUBLIC HEARINGS

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Zoning Case: Z1120-0158

I am in favor of this request

I am opposed to this request X

Name:(required)

Address of

Noticed Property:

Owner Signature:

Timothy Lehman

1426 N. GALLOWAY AVE

[Signature]

Date: 12-07-2020

Reasons (optional):

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



CITY OF MESQUITE
PLANNING AND ZONING COMMISSION
NOTICE OF PUBLIC HEARING

RECEIVED
DEC 10 2020
PLANNING AND ZONING

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LEGAL DESCRIPTION

Galloway Place Retail, Block A, Lot 1

PUBLIC HEARINGS

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(Complete and return)

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Zoning Case: Z1120-0158

I am in favor of this request

I am opposed to this request

Name (required) michele D. Lyles
Address of Noticed Property: 1409 Natchez Trace 75149
Owner Signature: michele D Lyles Date: 12-7-20

Reasons (optional):

will bring more crime and late night activities to our neighborhood this is not wanted!!

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