



TEXAS
Real. Texas. Service.

PLANNING AND ZONING DIVISION

FILE NUMBER: Z1222-0280
REQUEST FOR: Zoning Change from “GR,” General Retail to “C”, Commercial
CASE MANAGER: John Cervantes, Planner

PUBLIC HEARINGS

Planning and Zoning Commission: Monday, February 27, 2023
Case was postponed from February 13, 2023
City Council: Monday, March 6, 2023

GENERAL INFORMATION

Applicant/Owner: Ana Cuevas Niño & Gerardo Niño
Requested Action: Zoning Change from “GR,” General Retail to “C”, Commercial
Location: 1601 W. Bruton Rd.

PLANNING AND ZONING ACTION

Decision: On February 27, 2023, the Planning and Zoning Commission voted unanimously to recommend approval of a zoning change from General Retail to Planned Development – General Retail on property located at 1601 West Bruton Road to allow for an auto body repair business subject to stipulations outlined in Staff’s recommendation.

SITE BACKGROUND

Platting: Hickory Heights, Block A PT Lot 25 & 23
Size: 0.3427 +/- acres
Current Zoning: “GR,” General Retail
Future Land Use: Neighborhood Retail
Zoning History: 1951: Annexed and zoned Residential
1964: Zoning changed to Light Retail
1984: Conditional Use Permit to allow a carwash
2022: Conditional Use Permit to allow a carwash

Surrounding Zoning and Land Uses (see Attachment 2):

	<u>ZONING</u>	<u>EXISTING LAND USE</u>
NORTH:	PD-TH, Planned Development - Townhomes	Single-Family Residence
EAST:	R-3, Single Family Residential	Single-Family Residence
SOUTH:	GR - General Retail	Convenience Store/Gasoline Sales
WEST:	GR - General Retail	Undeveloped

CASE SUMMARY

The Planning and Zoning Commission considered this case at their meeting on February 13, 2023. The Commission postponed this case to February 27, 2023, meeting to allow Staff to draft possible language for a Planned Development – General Retail to allow collision services on the property. The following sections in the staff report have not changed; however, the suggested language for the Planned Development is in the recommendation section.

The subject property is a self-service carwash on a 0.347-acre lot located on the northwest corner of the W. Bruton Rd and Almond Drive intersection. On September 19, 2022, a Conditional Use Permit (CUP) was approved in the name of the previous owner, John LeFevers, to allow the self-service carwash on the subject property to reopen after it became nonconforming for being closed for more than six continuous months. However, the former property owner never reopened the carwash and instead sold the property the on November 30, 2022. The new property owners, Ana Cuevas Niño & Gerardo Niño, propose to use the property for an automobile repair shop, including collision services. The current General Retail zoning of the property allows for minor auto repair but does not permit major auto repair or collision services. The applicants are requesting to rezone the property to Commercial zoning to allow major auto repair and/or collision services. It should be noted, rezoning to Commercial zoning would allow any uses permitted under the Commercial district. This action would increase the number of permitted uses on the property significantly. Commercial zoning allows for contractor, limited manufacturing, and business service uses which are not allowed in General Retail. Although it is not all inclusive, the table below shows the types of uses that are permitted in Commercial but are not permitted in General Retail.

SIC CODE	USE DESCRIPTION	O	GR	LC	THN #20 NGTC I	CV	MU	CB	SS	C	I	PKNG STND	SPECIAL CONDITIONS
15	BUILDING CONTRACTORS									P*	P*	4	Requires compliance with 3-600 for outdoor storage
16	HEAVY CONSTRUCTION CONTRACTORS									P*	P*	4	
52	BUILDING MATERIALS, HARDWARE, GARDEN SUPPLY			P			P	P		P	P	1	Requires compliance with 3-600 for outdoor storage.
521	Lumber, Other Building Materials												
72	PERSONAL SERVICES									P*	P*	1	(Conditional Use Permit required in TERRA only, for facilities larger than 3,500 square ft.)
721	Laundry, Cleaning, Garment Svcs												
	7211 Power Laundries, Family &												
734	Services to Buildings			P*			P*	P*		P*	P*	4	
	7342 Disinfecting, Exterminating			P*			P*	P*		P*	P*	4	
	7349 Building Maintenance Services, NEC												
735	Miscellaneous Equipment Rental, Leasing			P			P	P		P	P	4	
	7352 Medical Equipment Rental												
734	Services to Buildings			P*			P*	P*		P*	P*	4	
	7342 Disinfecting, Exterminating			P*			P*	P*		P*	P*	4	
	7349 Building Maintenance Services, NEC												
753	Automobile Repair Shops		P	P			P	P	P	P	P	6	See definitions.
	a. Minor Automobile Repair												
	b. Major Automobile Repair							P*		P*	P*	6	See definitions; Requires enclosed building located at least 50 feet from any residential district; Requires compliance with 3-600.
	c. Collision Services							C*		P*	P*	6	

769 Miscellaneous Repair Shops						P*		P*	P*	4	Requires enclosed building located at least 100 feet from any residential district.
7692 Welding Shops						P*		P*	P*	4	
7694 Armature Rewinding Shops						P		P	P	4	
7699 Repair Shops, Services, NEC (except)											

If the rezoning is approved, the applicants will need to go through the development process and bring the site in conformance with the current development standards, such as landscaping, parking, screening, etc., to convert the existing carwash structure into an auto repair facility.

MESQUITE COMPREHENSIVE PLAN

The Mesquite Comprehensive Plan designates the future land use of the subject property as Neighborhood Retail. Neighborhood Retail was established to include a variety of retail and personal service businesses that meet the daily needs of residents. Development types generally include small or medium scale developments ranging from 1,500 square feet to 45,000 square feet, one to two stories in height. The Comprehensive Plan recommends land uses to be located on arterial or collector roadways and serve as a buffer from roadways for residential areas. A combination of screening increased rear setbacks, and enhanced landscaping should be used to ensure adequate buffering from adjacent residential areas. In addition, neighborhood retail should be used to provide a transitional land use between residential uses and higher intensity commercial land uses.

CONCLUSIONS

ANALYSIS

While many characteristics of the Mesquite Comprehensive Plan are amicable to the request to rezone the subject property from General Retail to Commercial, it is staff's opinion that the current General Retail zoning is more appropriate. The future land use designation of Neighborhood Retail encourages the propagation of retail, restaurants, personal services, and supporting offices. In contrast, Commercial zoning typically supports uses of higher intensity. Higher intensity uses are accompanied by density and the promotion of large-scale development projects. Commercially zoned land uses are more commonly populated with big box retailers, hotels, or automotive centers. Commercial zoning should be buffered by medium or high-density housing. A large consideration of the appropriate zoning district should be the cohesion of the surrounding residents and neighboring businesses. The subject property is surrounded by low density single family residential on both the northern and eastern property lines. Properties zoned General Retail can be found on the western property line and across W Bruton Rd. Rezoning the subject property into a Commercial district creates what planners refer to as spot zoning. Spot zoning is the process of designating a parcel of land into a land use that is different from all the surrounding properties. Spot zoning is frequently frowned upon because externalities, such as traffic, noise, odors, or light pollution, may arise at the expense of neighboring property owners. Spot zoning should not be considered without reasonable support from the community.

RECOMMENDATION

Staff recommends denial of the request to rezone the subject property from General Retail to Commercial or to rezone to a Planned Development – General Retail to allow major auto repair and/or collision services.

The suggested stipulations are listed below should the Planning & Zoning Commission and City Council wish to approve rezoning the Property to a Planned Development – General Retail.

1. **Permitted Land Uses.** The permitted uses on the Property include the permitted uses in the General Retail District classification (“GR”) as set out in the Mesquite Zoning Ordinance (MZO), and those permitted uses on the Property are subject to the same requirements as set out in the MZO.
 - a. The permitted uses requiring a conditional use permit (“CUP”) as set out in the Mesquite Zoning Ordinance (MZO), also require a CUP for the use to be permitted on the Property.
 - b. The following uses are allowed on the Property in addition to those permitted in the MZO along with the requirement to adhere to any special conditions listed:
 - i. SIC Code 753b: Major Auto Repair
 - j. SIC Code 753c: Automobile Collision Services
2. **Development Standards.** In addition to the requirements of the GR base zoning district, the Planned Development is subject to the following.
 - a. Replatting of the entirety of Property is required before issuance of a Certificate of Occupancy, including the undeveloped portion of the Property to the north.
 - b. All services and storage of vehicles shall occur within an enclosed building.
 - c. A ten (10) foot wide landscape strip and buffer tree line along the property line parallel to Almond Dr shall be provided.
 - d. Any fencing erected shall be six (6) to eight (8) feet in height and shall be constructed of wrought iron with a maximum picket spacing of six (6) inches, a long-span precast concrete decorative screening wall, brick, stone or vinyl. Fencing in the front and exterior side yards shall comply with the Fence Ordinance (City Code Chapter 5, Article V), provided that, a wrought iron fence up to six feet in height may be constructed within the exterior side setback

PUBLIC NOTICE

Notices were mailed to property owners within 200 feet of the property and mailed a courtesy notice within 400 feet of the property. As of February 27, 2023, Staff has received two responses in favor.

CODE CHECK

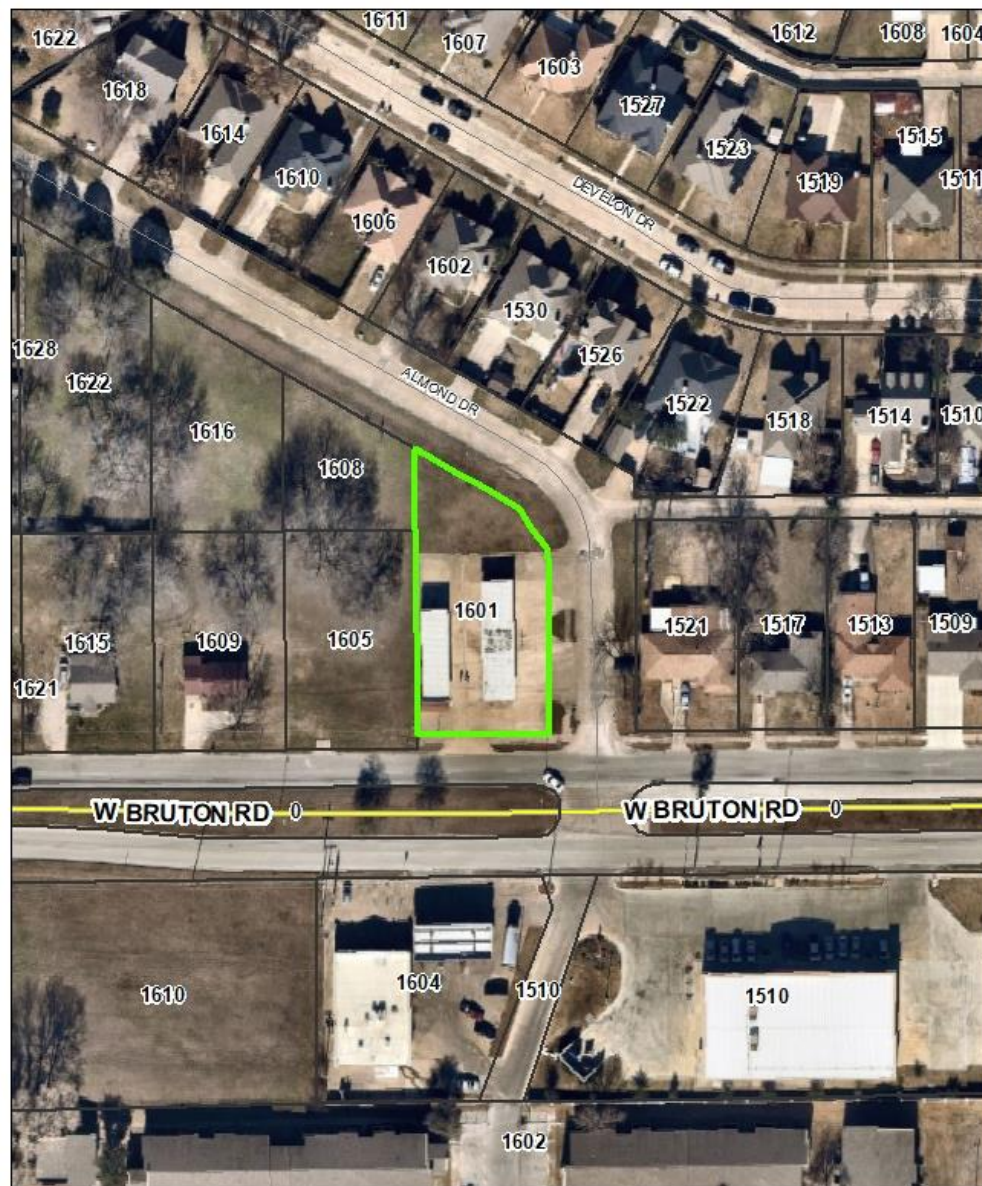
No active code cases.

ATTACHMENTS

1. Aerial Map
2. Zoning Map
3. Future Land Use Map
4. Notification Map
5. Site Pictures
6. Application Materials
7. Concept Plan
8. Returned Notices


ATTACHMENT 1 – AERIAL MAP

Aerial Map



Applicant: Ana Cuevas Nino & Gerardo Nino
Location: 1601 W Bruton Rd
Request: Zoning Change from "GR" General Retail
to "C" Commercial

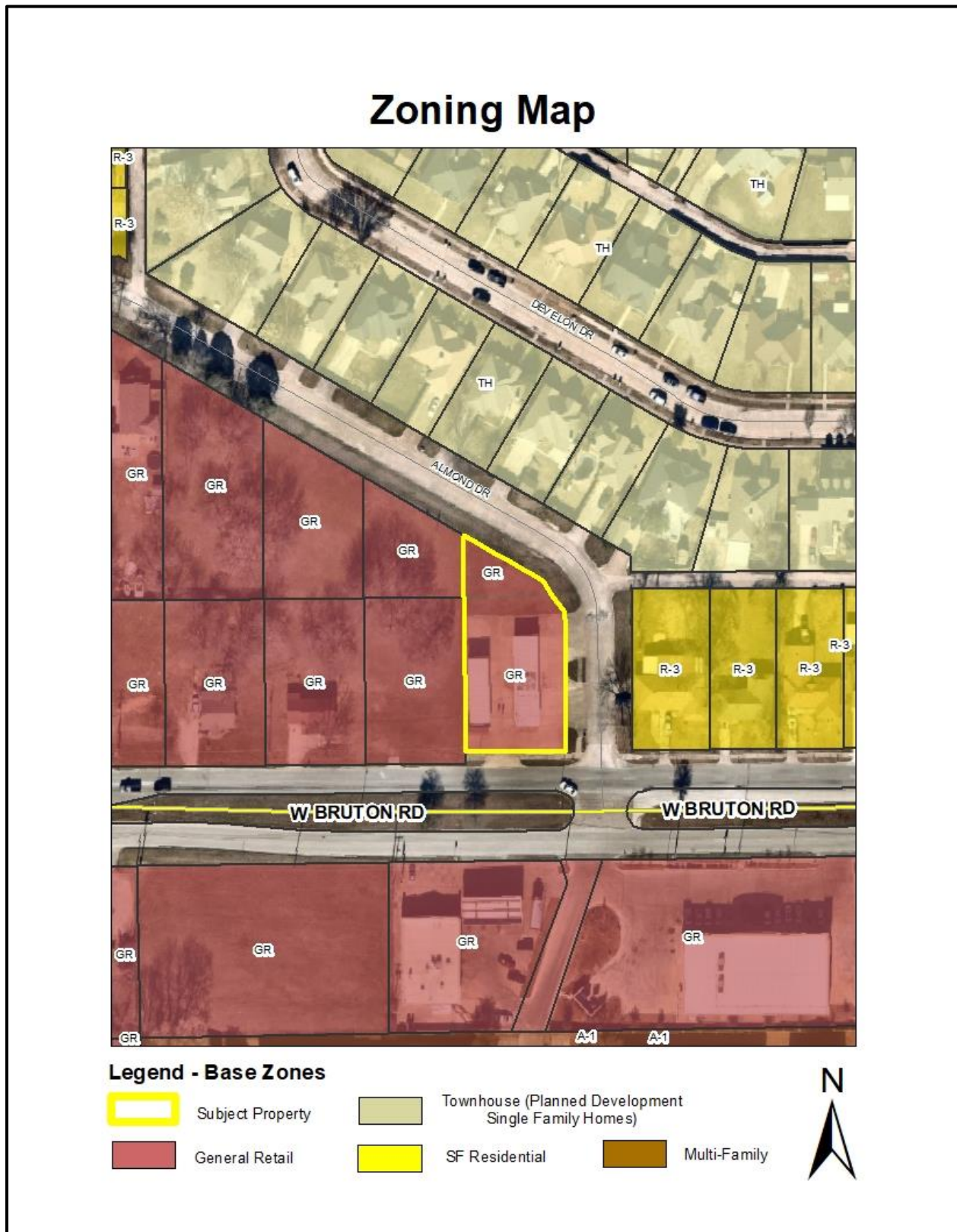
Legend

 Subject Property

0 25 50 100 150 200 Feet

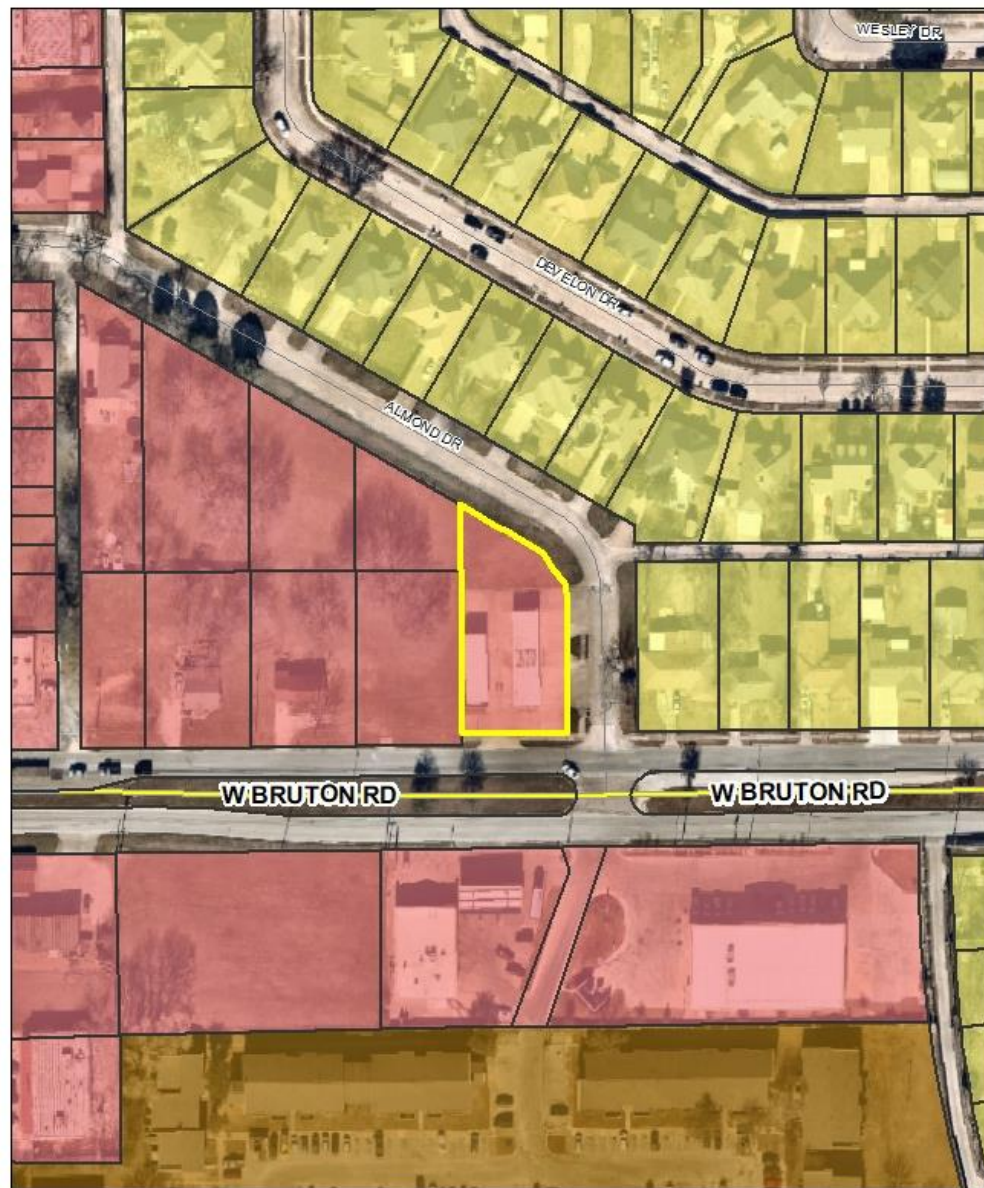


ATTACHMENT 2 – ZONING MAP



ATTACHMENT 3 – FUTURE LAND USE MAP

Future Land Use Map

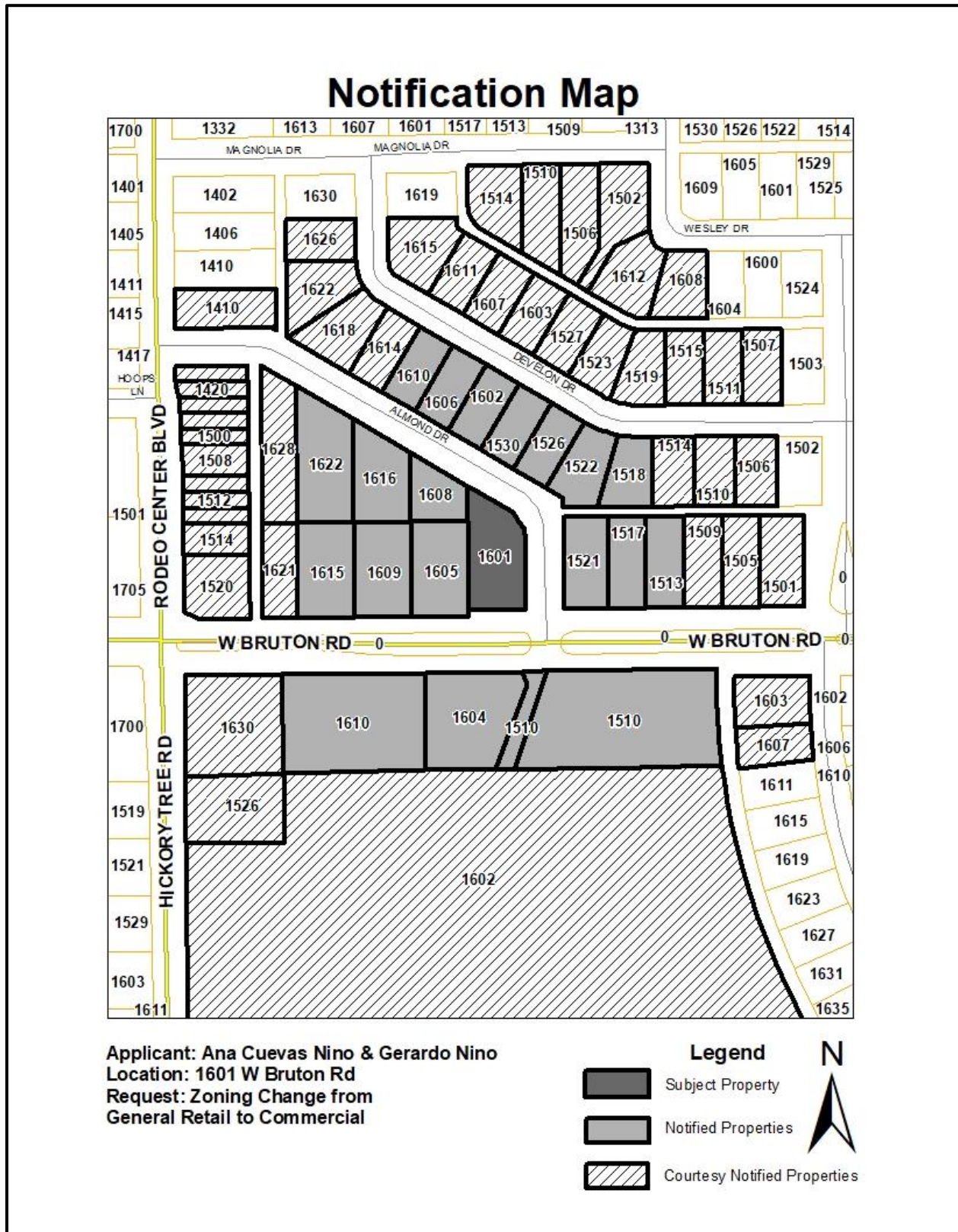


Legend

	Subject Property		High Density Residential
	Neighborhood Retail		SF Residential



ATTACHMENT 4 – NOTIFICATION MAP



ATTACHMENT 5 – SITE PHOTOS



Street View of Subject Property on Bruton Road.



Street View of Subject Property on Almond Drive.

ATTACHMENT 5 – SITE PHOTOS



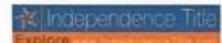



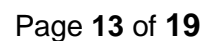
Existing Vacuum Stations



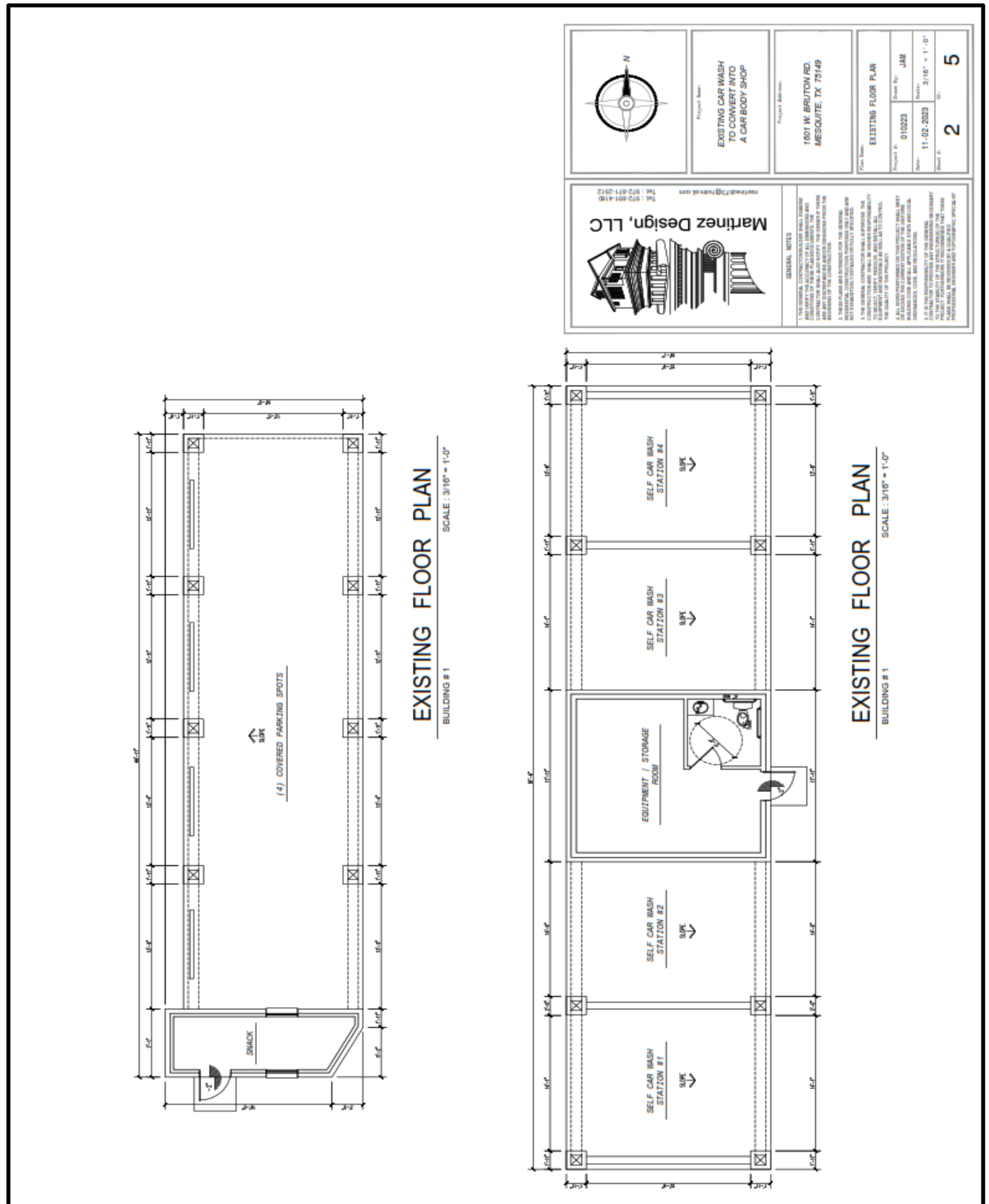
Rear of development looking at undeveloped land.

ATTACHMENT 6 – APPLICATION MATERIALS

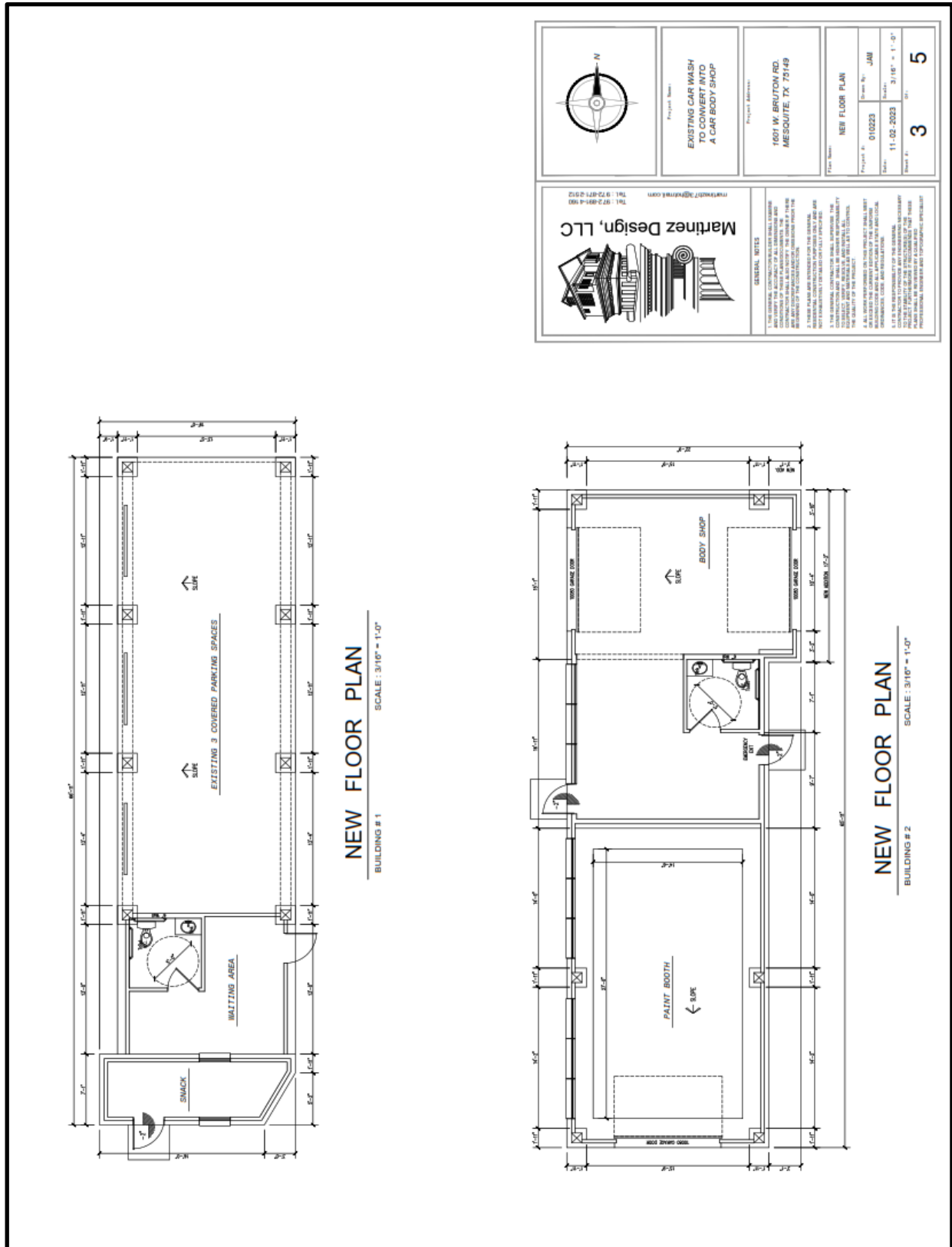
1529 E I-30, STE. 103 GARLAND, TEXAS 75043 FIRM REGISTRATION NO. 10194366	TLTA SURVEY	 BURNS SURVEYING																																								
BARRY S. RHODES Registered Professional Land Surveyor (214) 326-1090																																										
This is to certify that I have, this date, made a careful and accurate survey on the ground of property located at No. <u>1601 W. BRUTON ROAD</u> , in <u>DALLAS COUNTY,</u> Texas.																																										
Being a portion of Lots 23 and 25, Block A of Hickory Heights Subdivision, an Addition to Dallas County, Texas, according to the Map thereof recorded in Volume 12, Page 223, Map Records, Dallas County, Texas (M.R.D.C.T.), being the same land described in deed to Andrew Oakwood Investments, LLC., recorded in Instrument No. 200503583783, Deed Records, Dallas County, Texas (D.R.D.C.T.) and being more particularly described as follows:																																										
BEGINNING at an "X" set at the intersection of the West line of Almond Road and in the North line of W. Bruton Road, at the Southeast corner of said Andrew Oakwood Investments, LLC tract, from which an "X" found for reference bears South 31 degrees 20 minutes 02 seconds West, a distance of 1.19 feet;																																										
THENCE South 89 degrees 33 minutes 06 seconds West, with the said North line of W. Bruton Road, a distance of 90.00 feet to a 1/2 inch yellow capped iron rod set for corner in the East line of Lot 24 of said Block A, from which a 1/2 inch iron rod found for reference bears South 23 degrees 12 minutes 45 seconds West, a distance of 1.21 feet;																																										
THENCE North 00 degrees 26 minutes 54 seconds West, passing a 1/2 inch iron rod found for reference, a distance of 140.00 feet and continuing a total distance of 194.32 feet to a 5/8 inch iron rod found for corner in the South line of said Almond Road, at the Northeast corner of that portion of said Lot 23 described in deed to Jesus B. Ytem, recorded in Volume 2004076, Page 7526 (D.R.D.C.T.);																																										
THENCE South 59 degrees 25 minutes 13 seconds East, with the said South line of Almond Road, a distance of 82.69 feet to a 1/2 inch yellow capped iron rod set for corner, said point being in a curve to the right, having a central angle of 58 degrees 33 minutes 47 seconds, a radius of 40.00 feet and a chord bearing and distance of South 29 degrees 43 minutes 48 seconds East, 39.13 feet;																																										
THENCE in a Southerly direction, with the said curve to the right, an arc distance of 40.88 feet to an "X" set for corner in the said West line of Almond Road;																																										
THENCE South 00 degrees 26 minutes 54 seconds East, with the said West line of Almond Road, a distance of 117.57 feet to the PLACE OF BEGINNING and containing 14,972 square feet or 0.34 of an acre of land.																																										
																																										
PROPERTY SUBJECT TO EASEMENTS & RESTRICTIONS Volume 2269, Page 73, Volume 2979, Page 328	ACCEPTED BY: _____																																									
The plat hereon is true, correct, and accurate representation of the property as determined by survey, the lines and dimensions of said property being as indicated by the plat; the size, location and type of building and improvements are as shown, all improvements being within the boundaries of the property, set back from property lines the distance indicated, or visible and apparent easements. TITLE AND ABSTRACTING WORK FURNISHED BY INDEPENDENCE TITLE. THERE ARE NO ENCROACHMENTS, CONFLICTS, OR PROTRUSIONS, EXCEPT AS SHOWN.	Scale: <u>1" = 30'</u> Date: <u>11/01/2022</u> G. F. No.: <u>2244778-MEDA</u> Job no.: <u>202211245</u> Drawn by: <u>CMR</u>	<table border="0"><tr><td colspan="2">LEGEND</td></tr><tr><td>WOOD FENCE ---X---</td><td>IRON FENCE ---X---</td></tr><tr><td>CHAIN LINK ---X---</td><td>WIRE FENCE ---X---</td></tr><tr><td>BOUNDARY LINE ---X---</td><td></td></tr><tr><td colspan="2">EASEMENT DESIGN</td></tr><tr><td>CM --- CONTROLLING MONUMENT</td><td></td></tr><tr><td>MD --- MONUMENTS OF RECORD DIGNITY</td><td></td></tr><tr><td>1/2" IRON ROD FOUND</td><td></td></tr><tr><td>1/2" YELLOW-CAPPED IRON ROD SET</td><td></td></tr><tr><td>SET "Y" FOUND "Y"</td><td></td></tr><tr><td>3/8" IRON ROD FOUND</td><td></td></tr><tr><td>5/8" IRON ROD FOUND</td><td></td></tr><tr><td>PK NAIL FOUND</td><td></td></tr><tr><td>C --- CABLE</td><td>B --- BOLLARD</td></tr><tr><td>CL --- CULVERT</td><td>E --- ELECTRIC</td></tr><tr><td>G --- GAS METER</td><td>PC --- POOL EQUIP</td></tr><tr><td>FI --- FIRE HYDRANT</td><td>P --- POWER POLE</td></tr><tr><td>L --- LIGHT POLE</td><td>T --- TELEPHONE</td></tr><tr><td>M --- MANHOLE</td><td>W --- WATER METER</td></tr><tr><td colspan="2">(UNLESS OTHERWISE NOTED)</td></tr></table> 	LEGEND		WOOD FENCE ---X---	IRON FENCE ---X---	CHAIN LINK ---X---	WIRE FENCE ---X---	BOUNDARY LINE ---X---		EASEMENT DESIGN		CM --- CONTROLLING MONUMENT		MD --- MONUMENTS OF RECORD DIGNITY		1/2" IRON ROD FOUND		1/2" YELLOW-CAPPED IRON ROD SET		SET "Y" FOUND "Y"		3/8" IRON ROD FOUND		5/8" IRON ROD FOUND		PK NAIL FOUND		C --- CABLE	B --- BOLLARD	CL --- CULVERT	E --- ELECTRIC	G --- GAS METER	PC --- POOL EQUIP	FI --- FIRE HYDRANT	P --- POWER POLE	L --- LIGHT POLE	T --- TELEPHONE	M --- MANHOLE	W --- WATER METER	(UNLESS OTHERWISE NOTED)	
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ATTACHMENT 7 – CONCEPT PLAN



ATTACHMENT 7 – CONCEPT PLAN



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ATTACHMENT 8 – RETURNED NOTICES

MESQUITE T E X A S Real. Texas. Service.	
CITY OF MESQUITE PLANNING AND ZONING COMMISSION NOTICE OF PUBLIC HEARING	
LOCATION:	1601 W Bruton Rd Mesquite, TX 75149 (See attached map for reference)
FILE NUMBER:	Z1222-0280
APPLICANT:	Ana Cuevas-Niño & Gerardo Niño
REQUEST:	From: "GR" – General Retail To: "C" – Commercial

RECEIVED
FEB 10 2023
PLANNING AND ZONING

A public hearing will be held to consider a zoning change from "GR" – General Retail to "C" – Commercial. 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
Hickory Heights, Block A PT Lot 25 & 23

PUBLIC HEARINGS

The Planning and Zoning Commission will hold a public hearing on this request at 7:00 p.m. on Monday, **February 13, 2023**, 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, **March 6, 2023**, 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) 216-6344 or jcervantes@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 **February 9th** to be included in the Planning and Zoning Commission packet and by 5 pm on **February 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: Z1222-0280	✓	Name:(required)	JESUS B. YTEM / J.B. YTEM, INC.
I am <u>in favor</u> of this request	✓	Address of	1608 ALMOND DR., MESQUITE, TX 75149
I am <u>opposed</u> to this request	_____	Noticed Property:	
		Owner Signature:	<i>[Signature]</i> Date: 2-4-23

Reasons (optional): _____

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

ATTACHMENT 8 – RETURNED NOTICES



CITY OF MESQUITE
PLANNING AND ZONING COMMISSION
NOTICE OF PUBLIC HEARING

LOCATION: 1601 W Bruton Rd Mesquite, TX 75149 (See attached map for reference)

FILE NUMBER: Z1222-0280

APPLICANT: Ana Cuevas-Niño & Gerardo Niño

REQUEST: From: "GR" – General Retail
To: "C" – Commercial

RECEIVED

FEB 10 2023

PLANNING AND ZONING

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LEGAL DESCRIPTION

Hickory Heights, Block A PT Lot 25 & 23

PUBLIC HEARINGS

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(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: Z1222-0280

I am in favor of this request

I am opposed to this request

Name:(required)

Address of

Noticed Property:

Owner Signature:

Ralph Newsome

1518 Develon Dr

25/2/2023

Date: 2/2/23

Reasons (optional):

My wife and I would rather have the property become a working car wash again than just sit being used as the neighborhood dump.

Please respond by returning to:

PLANNING DIVISION
JOHN CERVANTES
CITY OF MESQUITE
PO BOX 850137
MESQUITE TX 75185-0137