

FILE NUMBER: Z0123-0283
REQUEST FOR: Conditional Use Permit to allow an Alternative Financial Establishment with modifications
CASE MANAGER: Jalyn Porchay, Planner

PUBLIC HEARINGS

Planning and Zoning Commission: Monday, February 27, 2023
City Council: Monday, March 20, 2023

GENERAL INFORMATION

Applicant: James McCoy, McCoy Law Firm
Requested Action: Rezone from General Retail to General Retail with a Conditional Use Permit to allow an alternative financial establishment with modifications to requirement that permit it to (1) be located within 200 feet of any lot zoned or used for residential purposes, (2) be co-located within the same structure as other uses, and (3) be located within 1,000 feet of any lot containing another alternative financial establishment.
Location: 3301 Gus Thomasson Rd

PLANNING AND ZONING ACTION

Decision: On February 27, 2023, the Planning and Zoning Commission voted 5 to 2 to recommended approval of the Conditional Use Permit to allow an alternative financial establishment with modifications to requirements to permit it to (1) be located within 200 feet of any lot zoned or used for residential purposes, (2) be co-located within the same structure as other uses, and (3) to be located within 1,000 feet of another lot which contains an alternative financial establishment, located at 3301 Gus Thomasson Rd. In addition, the Planning and Zoning Commission included the following stipulation in their decision:

1. The alternative financial establishment shall be limited to check cashing, money transfers, and any other lawful general retail activities, and shall not include payday advance or other financial loan services included in the MZO definition of “alternative financial establishment.”
2. The alternative financial establishment must be associated with and incidental to a grocery store.

SITE BACKGROUND

Platting: East Town Plaza, Block 1, Lot 3
Size: 1.78 acres/77,354.43 square feet
Zoning: General Retail (GR)
Future Land Use: Neighborhood Retail
Zoning History: March 3, 1969 – Approved zoning change from R-2 Single Family Residential to GR – General Retail (FKA Local Retail)

Surrounding Zoning and Land Uses (see attachment 3):

	<u>ZONING</u>	<u>EXISTING LAND USE</u>
NORTH:	GR - General Retail	Commercial Improvement
SOUTH:	R-3, Single Family Residential	Single Family Residences
EAST:	C - Commercial	Religious Organization
WEST:	GR - General Retail	Vacant Lot

CASE SUMMARY

The applicant is requesting a Conditional Use Permit (CUP) for an alternative financial establishment located at 3301 Gus Thomasson Rd. The services provided by the applicant include money transfers, bill payment processing, lottery sales, phone card sales, and pre-paid debit cards. The applicant's business differs from a traditional bank or financial institution where one would open an account to deposit money. As defined by the Mesquite Zoning Ordinance (MZO), an alternative financial establishment is, "A check cashing business, payday advance or loan business, money transfer business or car title loan business." The MZO further defines check cashing and money transfer as follows:

Money transfer business: An establishment, other than a bank or financial institution, that engages in or facilitates the transmission of funds to or from a location outside the United States and its territories for a fee.

Check cashing and money transfer as the primary use of a business is an alternative financial establishment under the MZO. Check cashing is permitted as an incidental use within a pawnshop, grocery store, or gas station without a CUP. Alternative financial establishments require a CUP that should be considered in accordance with the Mesquite Comprehensive Plan and MZO. Although the proposed use will be located in a grocery store, it will do so under a separate business entity. As such, a CUP is required. The MZO was amended in 2008, establishing land use regulations (see Section 3-505 below) for alternative financial establishments to mitigate against adverse secondary impacts of the location, clustering, and nature of operation of such businesses. A report on Check Cashing that accompanied the 2008 zoning amendment summarized the negative impacts of alternative financial establishments in the following way:

The main concerns about the concentration, location and certain characteristics associated with alternative financial establishments can be summarized with the following list:

- 1) Perception that area is in economic decline.
- 2) Negative effect on property value growth.
- 3) Displacement of full-service banking institutions.
- 4) Prey on the financially irresponsible and credit challenged.
- 5) Unaesthetic business appearances with aggressive advertisements, and bold and contrasting colors.

MESQUITE COMPREHENSIVE PLAN

The Mesquite Comprehensive Plan designates the future land use of the subject property as Neighborhood Retail. The Neighborhood Retail land use designation represents a variety of retail and personal services. Developments in this category range from small to medium scale developments between 1,500 and 45,000 square feet. Neighborhood retail should be located on arterial roadways. This land use should 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. Neighborhood retail provides a transitional land use between residential uses and higher intensity commercial land uses. Compatible land use types for this area include retail, restaurant, and personal services.

STAFF COMMENTS:

The CUP to allow an alternative financial establishment may be compatible with the Mesquite Comprehensive Plan's Neighborhood Retail designation. Personal services are more appropriate in areas near arterial roadways such as Town East Blvd. and Gus Thomasson Rd. provided that the criteria for a Conditional Use Permit are met. As noted above, there is a concern with allowing an alternative financial establishment adjacent to a residential district.

MESQUITE ZONING ORDINANCE

SECTION 3-505: ALTERNATIVE FINANCIAL ESTABLISHMENTS

In addition to requiring a conditional use permit, an alternative financial establishment, as defined in section 6-102, shall comply with the following regulations:

- A lot containing an alternative financial establishment shall be located at least one thousand (1,000) feet from any lot containing another alternative financial establishment, as measured in a straight line between the nearest points of one (1) lot to the other lot.
- A lot containing an alternative financial establishment shall be located at least two hundred (200) feet from any lot zoned or used for residential purposes, as measured in a straight line between the nearest points of one (1) lot to the other lot.
- No lot containing an alternative financial establishment shall be located within five hundred (500) feet of the rights-of-way of U.S. Highway 80, I-30, I-20 or I-635.
- No alternative financial establishment shall be permitted within the Town East Retail and Restaurant Overlay District (TERRA), the Mesquite Arena/Rodeo Entertainment District, the Military Parkway-Scyene Corridor Overlay District or the Sherwood Forest Overlay District.
- Alternative financial establishments shall be situated only within a freestanding building and shall not be co-located in the same structure as other uses.

The above are established in the permitted use table as Special Conditions which are special requirements for specific uses noted in 3-203 Section 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.

The above allows applicants to request modifications as part of the Conditional Use Permit application to deviate from the special conditions. In this case, the applicant is requesting modifications from two of the requirements for alternative financial establishments.

STAFF COMMENTS:

The subject property is not located within 500 feet of the rights-of-way U.S. Highway 80, I-30, I-20 or I-635. Additionally, an overlay district does not exist over 3301 Gus Thomasson Rd. However, the property is located adjacent to a single-family residential area to the south property line. It's also located within 1,000 feet of another lot containing another alternative financial establishment. Lastly, it is located within an already existing business in a free-standing building. As such, this CUP request would require modifications to all 3 requirements.

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:

Allowing an alternative financial establishment could be injurious to the use and enjoyment of other property in the immediate area for the purposes already permitted, and substantially diminish and impair property values within the immediate vicinity. As stated previously in this report, the City established regulations for alternative financial establishments to mitigate secondary negative impacts such uses may have on the community, especially when the proposed application does not meet the separation requirements from a residential use.

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:

The property to the immediate west is vacant. Staff does not foresee any impediments on the current or future use of the property.

3. Services

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

STAFF COMMENTS:

The proposed alternative financial establishment would exist within an existing property. There are no additional utilities, access roads, drainage, and other necessary facilities required.

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 53 square feet. Per the parking requirements found in the MZO, a total of one (1) parking space is required for the proposed use. Staff finds that there is adequate parking for the proposed use on the lot.

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:

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.

CONCLUSIONS

As noted in this report, special conditions for alternative financial establishments were established to mitigate against potential secondary negative impacts of such uses on an area and the larger community. It is staff's opinion that modifications could create an adverse impact on adjacent properties.

RECOMMENDATION

Staff recommends denial of the Conditional Use Permit to allow an alternative financial establishment. However, Staff recommends the following stipulations should the Planning & Zoning Commission wish to recommend approval of the Conditional Use Permit with modifications to allow an alternative financial establishment:

1. The alternative financial establishment shall be limited to check cashing and money transfers and shall not include payday advance or other alternative financial loan services.
2. The alternative financial establishment must be associated with and incidental to a grocery store.

PUBLIC NOTICE

Notices were mailed to property owners within 200 feet of the property and mailed with a courtesy notice for properties within 400 feet. As of February 24, 2023, Staff has received one response in opposition to the request.

CODE CHECK

As of February 23, 2023, there is one active code case for an Illegal Sign.

ATTACHMENTS

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

ATTACHMENT 1 – AERIAL MAP

Aerial Map

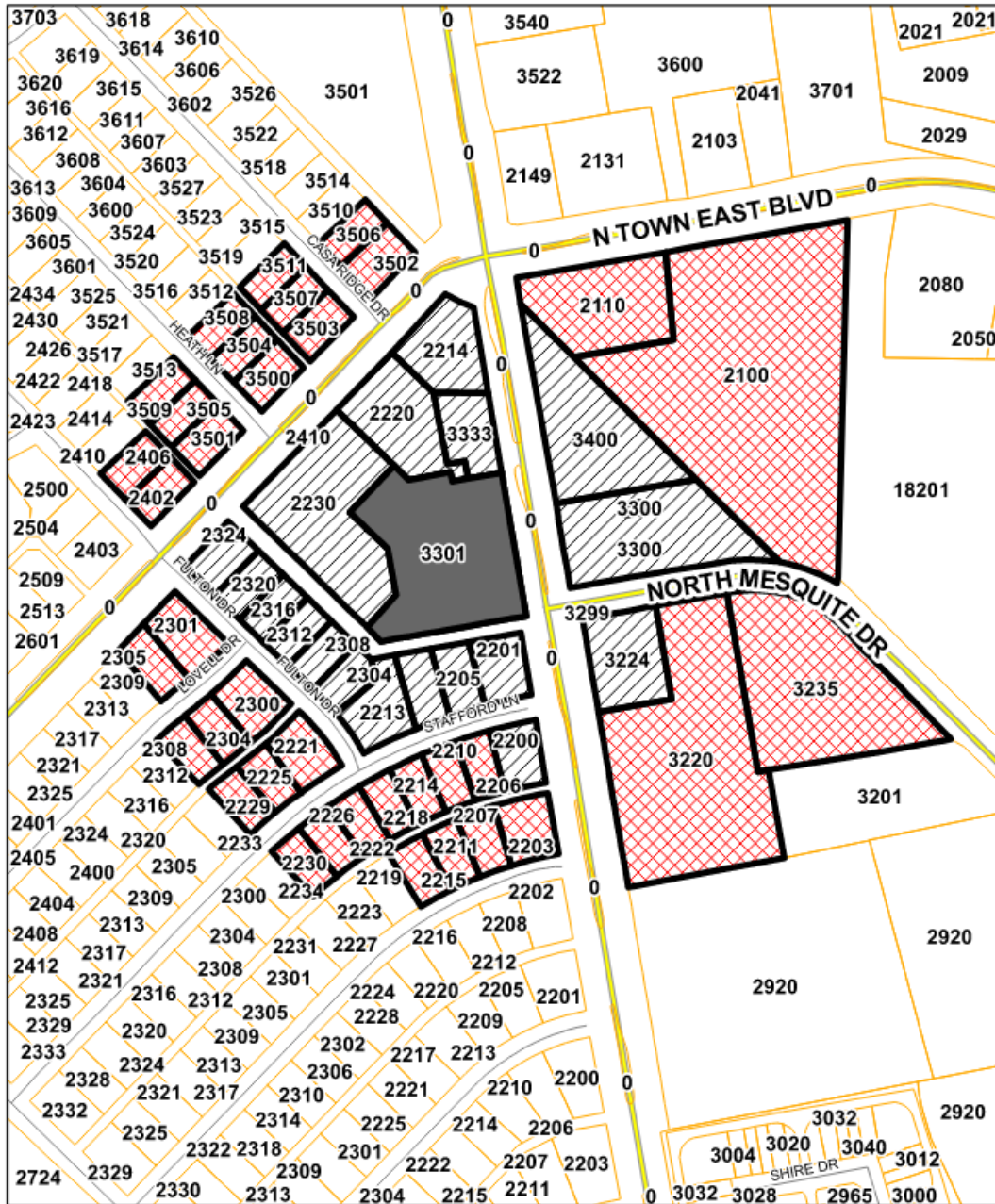


Applicant: James McCoy, McCoy Law Firm
Location: 3301 Gus Thomasson Rd
Request: Conditional Use Permit for an
Alternative Financial Establishment with
modifications.






ATTACHMENT 2 – PUBLIC NOTIFICATION MAP

Notification Map



Applicant: James McCoy, McCoy Law Firm
Location: 3301 Gus Thomasson Road
Request: Conditional Use Permit for an alternative financial establishment with modifications.

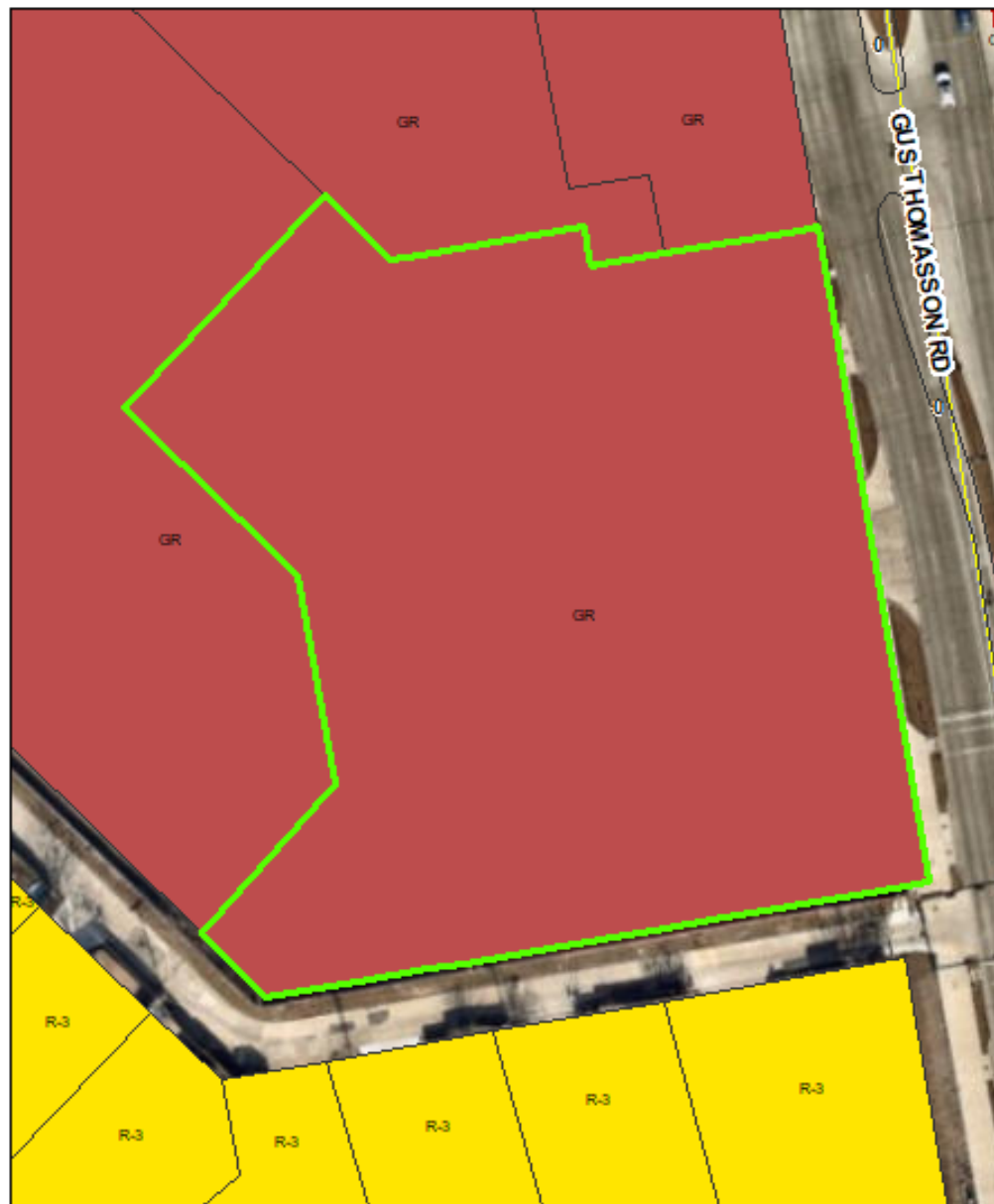
Legend

-  Notified Properties (Required)
-  Subject Property
-  Notified Properties (Courtesy)



ATTACHMENT 3 – ZONING MAP

Zoning Map



Legend

gis.DBO.ZONE_PROJ_FINAL_ZONING

FULL_ZONE

- COMMERCIAL
- GENERAL RETAIL
- SINGLE FAMILY RESIDENTIAL

Legend

- Subject Property
- 0 15 30 60 90 120 Feet



ATTACHMENT 4 – FUTURE LAND USE MAP

Future Land Use Map



ATTACHMENT 5 – SITE PICTURES



Front view of the subject property

ATTACHMENT 5 – SITE PICTURES



Front view of the proposed Alternative Financial Establishment

ATTACHMENT 6 – APPLICATION MATERIALS

Concept Plan for Barri Money Services BI1222-3745

Below is the drawing for the Barri booth located at 3301 Gus Thomasson Rd. This shows the floor plan of the booth, which is quite small. It is located inside of the grocery store and utilizes parking and other facilities from the grocery store in which it is located.



This drawing shows an overhead view (top drawing) showing the employee chair and desk location. It shows a strong box location ("caja fuerte de pozo") and a cash dispersal machine location ("cajon para arca"). The bottom drawing shows the view walking up to the booth.

ATTACHMENT 6 – APPLICATION MATERIALS

THE MCCOY LAW FIRM

James McCoy, PC
jim@mccoylawpc.com
Phone: (214) 292-2603
Facsimile: (214) 292-2601

12400 Coit Road
Suite 560
Dallas, Texas 75251

January 10, 2023

City of Mesquite
Zoning Department
P.O. Box 850137
Mesquite, Texas 75185-0137

Re: Conditional Use Permit Letter of Intent BI1222-3745, Barri Multi Services, 3301
GUS THOMASSON RD

Dear Zoning Coordinator:

Please accept this as a letter of intent with regard to the above Conditional Use Permit application. I represent Barri Multi Services with regard to this application.

Please accept this as Barri Multi Services' intent to use the above premises for the following uses: Money transfer, wire transfer, bill payments, money orders, lottery sales, phone cards sales, phone cards recharged or reload and Netspend debit cards.

This location is in a small booth inside of a grocery store. I have provided drawings of the booth. The location will utilize facilities and parking for the grocery store located at 3301 Gus Thomasson Rd. The legal description of the property is East Town Plaza, Block 1, Lot 3.

If you require anything further from me, please call. Thank you for your courtesies.

Very truly yours,



James McCoy, PC

ATTACHMENT 7 – RETURNED NOTICES

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: Z0123-0283

I am in favor of this request ☒ I am opposed to this request ☐

Name:(required) Adrenea Hanley

Address of Noticed Property: 2312 Fultor, Mesquite, TX

Owner Signature: Adrenea Hanley Date: 2-20-23

Reasons (optional): see attached reasons -

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

ATTACHMENT 7 – RETURNED NOTICES

I oppose the addition of another “financial institution” located near the intersection of Towneast and Gus Thomasson. 80 Food Mart is the nearest address to the proposed location. If you reference the attached map, there are already six (6) “financial institutions” (not including a pawn shop) which anyone can bank, cash a check, seek a title loan, etc., with a half (0.5) miles from the proposed location; and that is just on Gus Thomasson alone. They include:

1. PLS Check Cashers – 2149 N Towneast
2. Kroger – 3600 Gus Thomasson
3. Speedy Cash – 3501 Gus Thomasson
4. Chase Bank – 3611 Gus Thomasson
5. Loan Star Title Loan – 3639 Gus Thomasson
6. ACE Cash Express – 3801 Gus Thomasson

According to Google Maps, I can walk to every location. Total distance, one (1) mile; twenty two (22) minutes.

I urge you to reconsider placing another “financial institution” in this area.

Thank You

RECEIVED
FEB 24 2023
PLANNING AND ZONING