

FILE NO.: Z0618-0049

P&Z HEARING DATE: July 23, 2018

COUNCIL DATE: August 20, 2018

GENERAL INFORMATION

APPLICANT: Maxwell Fisher, Masterplan

REQUESTED ACTION: Rezone from Commercial to Planned Development – Commercial.

LOCATION: 3711 Gus Thomasson

SITE BACKGROUND

EXISTING LAND USE AND SIZE: The subject property is an approximately 2,750-square foot lease space located in a retail strip center that is zoned Commercial.

SURROUNDING LAND USE AND ZONING (see attached map):

	Land Use	Zoning
North	Apartment Homes	Multifamily - Planned Development "MF-PD" No. 1872
South	Shopping Center	"C" Commercial
East	Shopping Center	"GR" General Retail
West	Undeveloped	"C" Commercial

ZONING HISTOY:
1954: Annexed and zoned Residential
1956: Zoning changed to Local Business
1964: Zoning changed to Commercial

PLATTING: Casa Ridge Addition, Lot 4, Block A

GENERAL: The applicant is requesting a rezoning to Planned Development – Commercial (PD-C) to make an existing pawnshop (Uncle Dan’s Pawn) a conforming use and thereby allowing it to expand. Pawnshops are permitted by right only within the Industrial Zoning District. Uncle Dan’s Pawn is proposing to expand into an adjacent 2,750 square-foot lease space that has recently become vacant. The proposed expansion would result in a total of 5,500 square-feet of floor area.

According to the applicant’s letter of intent, Uncle Dan’s Pawn provides in-store and online retail sales and purchase of items such as jewelry, high-end electronics, firearms and sporting good equipment, musical instruments, tools and other collectibles. Uncle Dan’s Pawn also offers short-term pawn loans. The applicant currently employ’s five people and the expansion will expand employment by two or three. The hours of operation will remain as is: Monday to Friday, 9 a.m. – 7 p.m., Saturday 9 a.m. – 6 p.m., and closed on Sunday’s. The lease space is located in a retail strip center among multiple tenant occupancies of varying retail uses.

STAFF COMMENTS

Mesquite Comprehensive Plan

The Mesquite Comprehensive Plan designates the subject property as Retail and Business Services. The Plan describes the intent of the Retail and Business designations in the Development Areas as follows:

The General Business designation is utilized in both the Community Areas and the Development Areas to designate areas primarily providing services to residents of the surrounding sectors of the City. In the Development Areas, this designation is used to indicate locations where business use is appropriate, but where the relationship to neighborhoods warrants a more limited business scope. The designation is generally assigned along the fringe of the Development Areas, indicating that goods and services should be oriented to the surrounding community, although some regional services may be included. The community orientation means that certain types of uses acceptable in other parts of the Development Areas will not be appropriate in these locations. Uses which are generally not appropriate in these locations include entertainment/recreation, highway related uses, outdoor display lots and outdoor storage yards.

Zoning Ordinance Sec. 3-101: Nonresidential Districts Established and Purpose

The Mesquite Zoning Ordinance (MZO) describes the purpose of the Commercial designation:

The Commercial district is established to accommodate a wide variety of commercial uses and to have general application as a highway service district.

Zoning Ordinance Sec. 1-302: Nonconforming Uses

A. CONTINUATION

A nonconforming use may be continued as it exists, unless it is terminated under the provisions of 1-304, but shall not be changed or improved unless otherwise authorized herein, provided however that minor repairs, alteration, renovation, or reconstruction shall be permitted to keep the property in sound condition. No enlargement, extension or major reconstruction shall be permitted.

Analysis

State law states that cities must designate pawnshops, which have been licensed to transact business by the Consumer Credit Commissioner under Chapter 371, Finance Code, as a permitted use in one or more zoning classifications. Cities may not impose a conditional use permit requirement or any requirement similar in effect to a conditional use permit requirement on a pawnshop. This law was first enacted in 1991. In response to this state action, in March of 1992, City Council amended MZO to allow pawnshops by-right in every non-residential zoning district except Office. In September of 1992, the ordinance was amended again to restrict pawnshops to Industrial zoning districts. Then in November of that year, the nonconforming section of the MZO was amended to provide an exception to allow expansion of nonconforming pawnshops. In August 2008, the provision to allow nonconforming pawnshops to expand was removed from the MZO.

ZONING RECLASSIFICATION

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It was determine in 1992 that pawnshops shall be only permitted the Industrial Zoning District away from our neighborhoods and shopping district where they would have the least negative impact on the community. Nonconforming pawnshops are entitled to continue in perpetuity, so long as the use is not discontinued. But they should not be permitted to expand and consume retail space better suited to meeting the needs and services of the surrounding area. Furthermore, the applicant's request of utilizing a Planned Development as a land use variance does not meet the integrity of what a PD is intended for. The applicant is not offering amenities or other benefits to the surrounding community within their request.

RECOMMENDATIONS

Staff recommends denial of the request to make the existing pawnshop conforming and to allow it to expand.

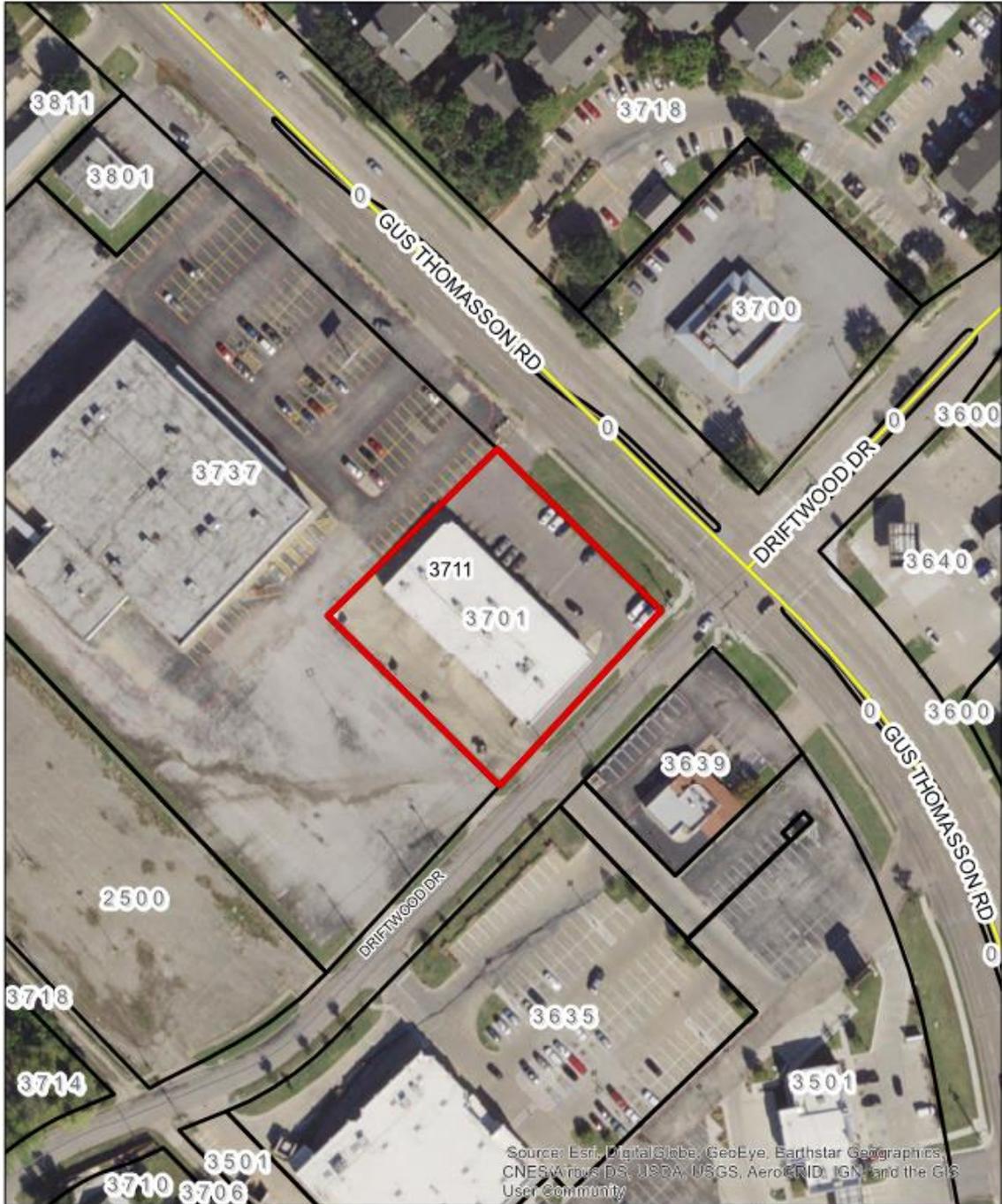
PUBLIC NOTICE

Notices were mailed to property owners within 200 feet of the property. As of the date of this writing, staff has not received any returned notices from property owners within 200 feet of the subject properties.

ATTACHMENTS

- 1 – Aerial Map
- 2 – Public Notification Map
- 3 – Zoning Map
- 4 – Letter of Intent
- 5 – Property Owner Consent Letter & PD Conditions
- 6 – Site Plan
- 7 – Site Pictures

Attachment 1 – Aerial Map

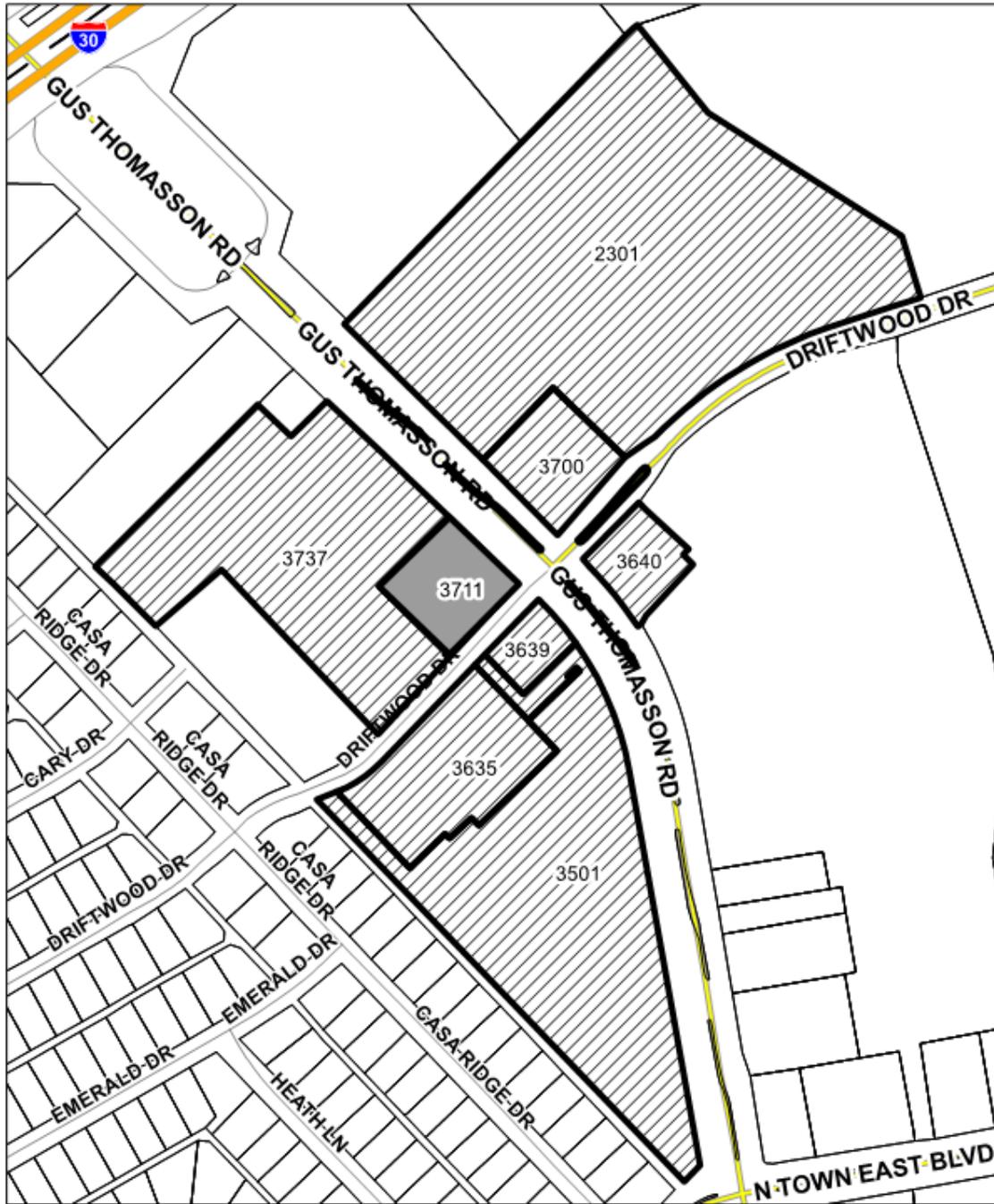


Request: Rezoning from Commercial to Planned Development - Commercial to allow a pawn shop.
Applicant: Maxwell Fisher
Location: 3711 Gus Thomasson Rd.



Legend
 Subject Property

Attachment 2 – Public Notification Map



Request: Rezoning from Commercial to Planned Development - Commercial to allow a pawn shop.
Applicant: Maxwell Fisher, Masterplan
Location: 3711 Gus Thomasson Rd.



Legend
[Solid Grey Box] Subject Property
[Hatched Box] Noticed Properties

Attachment 3 – Zoning Map



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Legend
[Yellow outline box] Subject Property

ATTACHMENT 4 – Letter of Intent



DATE: 25 June 2018

TO: Garrett Langford, AICP, City of Mesquite

FROM: Maxwell J. Fisher, AICP *MJ*

RE: Change of Zoning Application for Planned Development District – Uncle Dan’s Pawn Shop

On behalf of Uncle Dan’s Pawn Shop, Masterplan requests approval of a change of zoning from Commercial District to a Planned Development District for Commercial District uses and Pawn Shop to accommodate expansion of Uncle Dan’s Pawn Shop (Uncle Dan’s) at 3711 Gus Thomasson Road. The existing business operates out of a 2,750-square foot space.

The proposed expansion would be to utilize an additional 2,750-square foot contiguous end space for a total of 5,500 square feet of floor area. Refer to the attached site plan for existing and proposed location of the business. The Mesquite location employs five people and the expansion will expand employment by two or three. The days and hours of operation are Monday to Friday 9AM to 7PM, Saturday 9AM to 6PM, and closed on Sundays.

Uncle Dan’s, established over 30 years ago, is one of the largest independently owned pawnbrokers in North Texas. Uncle Dan’s provides in-store and online retail sales and purchase of items such as jewelry, high-end electronics, firearms and sporting good equipment, musical instruments, tools and other collectibles. Uncles Dan’s also offers short-term pawn loans. Uncle Dan’s employs nearly 50 people at seven DFW locations. As a DFW industry leader in DFW, Uncle Dan’s has exceptional business practices, as demonstrated by high online review scores of 4.7 to 4.9 out of 5.0 stars.

Pawn shops, although unequivocally retail in nature, are allowed only in the Industrial District. As such, the current facility, in a Commercial District, is non-conforming. The request for a zoning change is necessary to allow the business and expansion by right. The PD would carry forward all the existing uses and rights allowed by the Commercial District.

We look forward to working with the city on this endeavor. Please do not hesitate to contact me at maxwell@masterplanconsultants.com or at 214.761.9197.

ATTACHMENT 5 – Property Owner Consent Letter & PD Conditions

Consent Form

Project Name: Uncle Dan's Pawn Expansion Submittal Date: June 25, 2018

Application Type (check all that apply)

- | | | |
|---|--|---|
| <input type="checkbox"/> Rezoning | <input type="checkbox"/> Site Plan | <input type="checkbox"/> Residential Replat |
| <input checked="" type="checkbox"/> Planned Development | <input type="checkbox"/> Preliminary Plat | <input type="checkbox"/> Amending Plat |
| <input type="checkbox"/> Regulating Plan | <input type="checkbox"/> Short Form Final Plat | <input type="checkbox"/> Variance |
| <input type="checkbox"/> Conditional Use Permit (CUP) | <input type="checkbox"/> Final Plat | <input type="checkbox"/> Special Exception |

I hereby certify that I am the owner or duly authorized agent of the owner, of the subject property for the purposes of this application. I hereby give CONSENT to Maxwell Fisher of Masterplan (or colleague) (type, stamp or print clearly full name of agent/representative) to act on my behalf, to submit or have submitted this application and all required material and documents, and to attend and represent me at all meetings and public hearings pertaining to the application(s) indicated above. Furthermore, I hereby give consent to the party designated above to agree to all terms and conditions which may arise as part of the approval of this application.

I hereby certify I have full knowledge of the property I have an ownership interest in is the subject of this application. I further certify the statements or information made in any paper or plans submitted herewith are true and correct to the best of my knowledge. I understand this application, related material and all attachments become official records of the City of Mesquite, Texas, and will not be returned. I understand that any false, inaccurate or incomplete information provided by me or my agent/representative will result in the denial, revocation or administrative withdrawal of this application, request, approval or permit. I acknowledge that additional information may be required to process this application. I further agree to all terms and conditions, which may be imposed as part of the approval of this application.

I hereby authorize the City of Mesquite, its agents or employees, to enter the subject property at any reasonable time for the purpose of 1) Erecting, maintaining, or removing "Change of Zoning" signs, which indicate that a zoning amendment is under consideration and which indicate how further information may be obtained, and 2) 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 the erecting, maintaining, or removal of said signs or the taking of said photographs.

Current Property Owner Information

Name: Four A's Mesquite Signature: Arthur A. Rubin
Address: 3517 Locke Ave. City, State, ZIP: Ft. Worth, TX 76107

Agent/Representative Information

Name: Maxwell Fisher, AICP
Address: 900 Jackson Street, Suite 640 City, State, ZIP: Dallas, TX 75202

PD Conditions

3711 Gus Thomasson Road

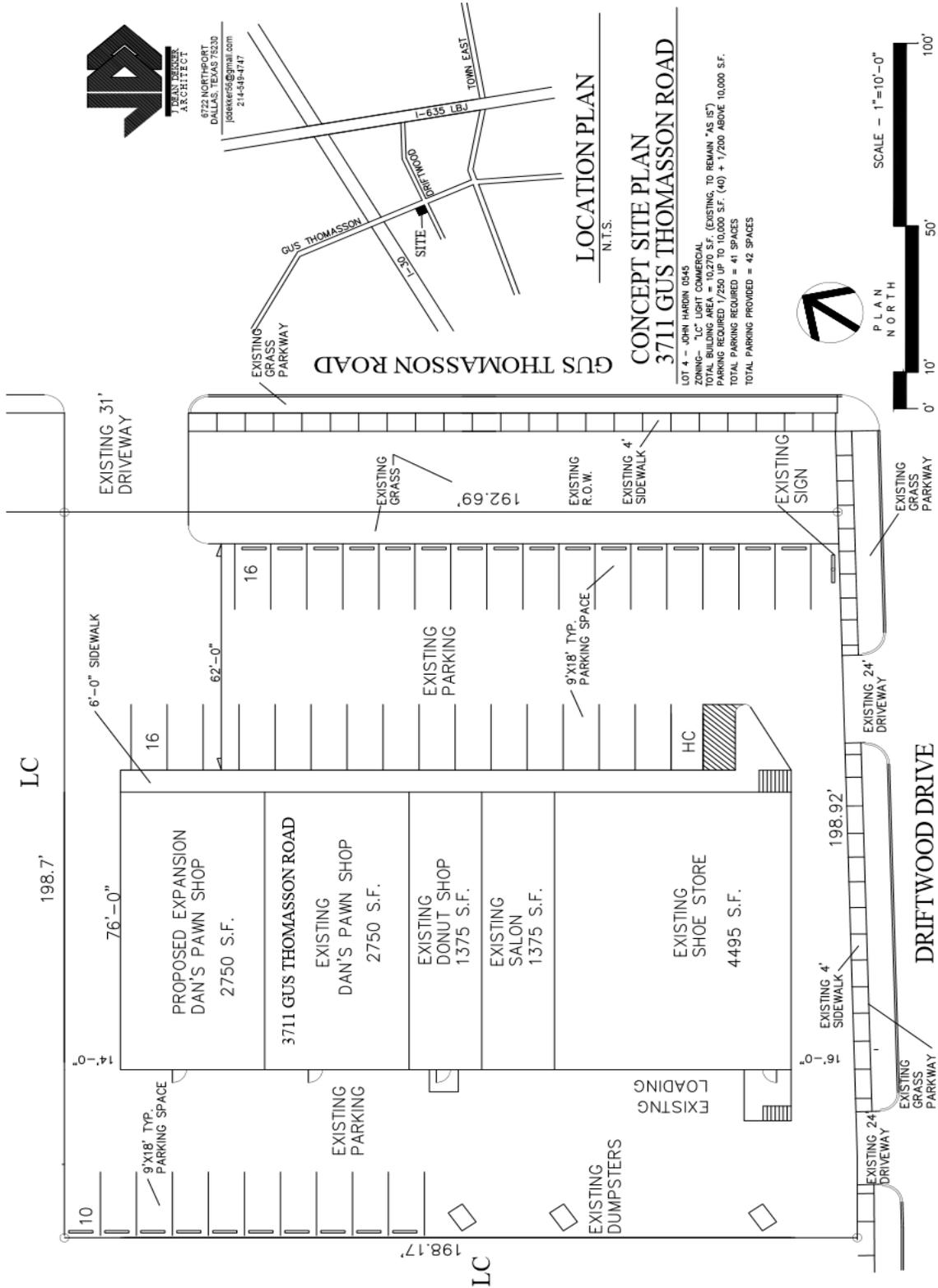
Permitted uses are those allowed in the Commercial District and the following uses:

- Pawn shop

Attachment 6 – Site Plan



TERRY HENNER
 ARCHITECT
 6722 NORTHPORT
 DALLAS, TEXAS 75230
 jshenner@gmail.com
 214-549-4747

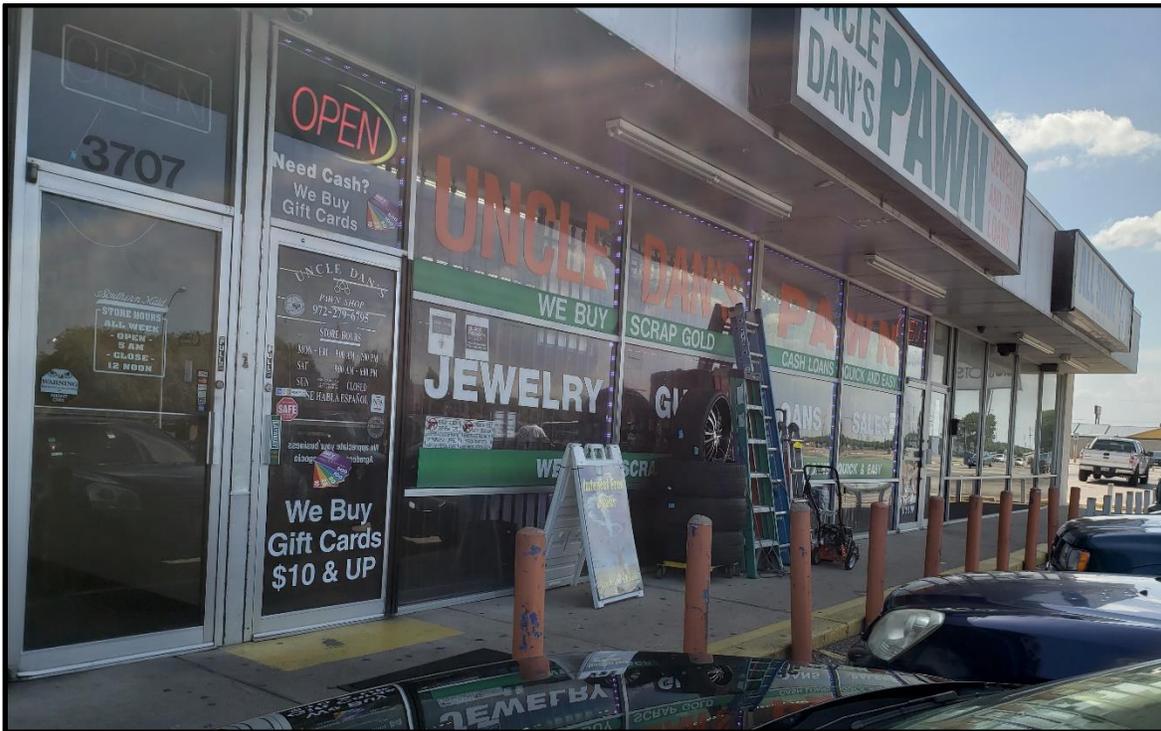


Attachment 7 – Site Pictures

LOCATION PLAN
 N.T.S.

CONCEPT SITE PLAN
3711 GUS THOMASSON ROAD

LOT 4 - JOHN HARDIN 0045
 ZONING - "LC" LIGHT COMMERCIAL
 TOTAL BUILDING AREA = 10,270 S.F. (EXISTING, TO REMAIN "AS IS")
 PARKING REQUIRED 17250 UP TO 10,000 S.F. (40) + 17200 ABOVE 10,000 S.F.
 TOTAL PARKING PROVIDED = 41 SPACES
 TOTAL PARKING PROVIDED = 42 SPACES





Vacant suite/ proposed expansion site

