

**FILE NO.:** Z1018-0072

**P&Z HEARING DATE:** November 12, 2018

**COUNCIL DATE:** December 3, 2018

#### **GENERAL INFORMATION**

**APPLICANT:** Todd Nichols

**REQUESTED ACTION:** Change zoning from CB, Central Business to Central Business with a Conditional Use Permit to allow sales of used automobiles

**LOCATION:** 511 W. Davis

#### **SITE BACKGROUND**

**EXISTING LAND USE AND SIZE:** The site is approximately 0.121 acres in size. It is currently paved and is being used as an outdoor display lot for Moore's Car Corner, a used car dealership located in the adjacent property at 108 S. Walker St.

**SURROUNDING LAND USE AND ZONING (see attached map):**

<b>North:</b>	CB, Automotive Shop, VFW, Sewing Shop
<b>South:</b>	CB, Residence and Office Building
<b>West:</b>	C, A-1 Rent A Car, Used Car Dealership
<b>East:</b>	CB, Church

**ZONING HISTORY:**

2013:	CUP to allow sale of used automobiles
1949:	Part of the Original Town of Mesquite and zoned as Central Business

**PLATTING:** Original Town of Mesquite, Block 6, Part of Lot 7 and Part of Lot 8

**GENERAL:** The applicant is requesting a new Conditional Use Permit (CUP) to allow the continuation of outdoor display and sale of used automobiles. The applicant was granted a CUP (Ordinance No. 4292) in 2013 to allow the sale of used cars with the following conditions.

1. Prices shall not be written on windshields.
2. All vehicles shall be in good and operable condition.
3. This CUP is valid only where this property is used in conjunction with a used car business located on adjacent property. Use of the subject property as a stand-alone used car dealership is prohibited.
4. This CUP expires five years from issuance of the certificate-of-occupancy. The user may apply for a new CUP at that time, subject to the procedural requirements of a zoning change.

Building Inspections issued a Certificate of Occupancy in November of 2013. The applicant has applied for a new CUP to stay in operation on the subject property. If the request for a new CUP is not approved, then the applicant will no longer be able to sale/display used cars on the property.

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**STAFF COMMENTS**

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**Mesquite Comprehensive Plan**

The subject property is located in an area that the Mesquite Comprehensive Plan identifies as the “Downtown Square Area.” The Plan refers to the Downtown Enhancement Plan, which was an earlier Planning document. The Comprehensive Plan did not offer any other additional direction for the Downtown area. However, the City has recently completed the Downtown Infrastructure Plan, and on October 25, 2018, the Texas Historical Commission announced that they would designate Mesquite’s Downtown as part of Texas Main Street program in 2019. The redevelopment of the Downtown area is a major priority for City Council. Additional planning efforts for the Downtown area regarding appropriate land uses and zoning will be forthcoming soon.

**Mesquite Zoning Ordinance Sec. 5-303: Review Criteria for Conditional Use Permits** *(Staff comments are provided below each criteria.)*

**1. Existing Uses**

*That the Conditional Use will not be injurious to the use and enjoyment of other property in the immediate area for purposes already permitted, nor substantially diminish and impair property values within the immediate vicinity.*

Since the site is surrounded on three sides by used automobile dealerships already, the proposed use is not likely to be injurious to existing uses in the area.

**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.*

Although just on the boundary, the property is within the area defined by the Downtown Mesquite Plan. The proposed use is not compatible with the intent of the Downtown Plan. However, the CB zoning allows the use with the approval of a Conditional Use Permit. Even though the use is not compatible with the intent of the Downtown Plan, the expansion of the existing business is negligible. If the business were expanding into another block and/or constructing a new site it would have more of an impact on downtown as a whole.

**3. Services**

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

Adequate utilities, access roads and drainage facilities exist for the site and are sufficient for accommodating the demands associated with the request for conditional use permit.

**4. Parking**

*Adequate measures have been or will be taken to provide sufficient off-street parking and loading spaces to serve the proposed uses.*

Sufficient off-street parking is provided at the site.

**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 disturbance to neighboring properties will result.*

Staff has no record that within in the last five years that the sale of used cars has created disturbances to neighboring properties.

**Analysis**

It is staff's opinion that an automobile-oriented use such as an outdoor display lot is not a use that contributes to a walkable Downtown environment that is envisioned by the City. However, in this case, the property has been used as a car dealership, is very small, and is surrounded by used car sales. Continuing the use for a set period of time should not negate the City's long-term plans for Downtown.

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**RECOMMENDATIONS**

Staff recommends approval of the conditional use permit with the following conditions:

1. Prices shall not be written on windshields.
2. All vehicles shall be in good and operable condition.
3. This CUP is valid only where this property is used in conjunction with a used car business located on adjacent property. Use of the subject property as a stand-alone used car dealership is prohibited.
4. This CUP expires five years from issuance of the certificate-of-occupancy. The user may apply for a new CUP at that time, subject to the procedural requirements of a zoning change.

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**PUBLIC NOTICE**

Notices were mailed to property owners within 200 feet of the property. As of the date of this writing, staff has received two returned notices in favor of the request.

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**ATTACHMENTS**

- 1 – Aerial Map
- 2 – Public Notification Map
- 3 – Zoning Map
- 4 – Application Materials
- 5 – Returned Notices
- 6 – Site Pictures



**Request:** Conditional Use Permit to allow  
the sale of used cars.  
**Applicant:** Todd Nichols  
**Location:** 511 W. Davis St.

**Legend**

 Subject  
Property



**Request:** Conditional Use Permit to allow the sale of used cars.

**Applicant:** Todd Nichols

**Location:** 511 W. Davis St.

**Legend**

-  Subject Property
-  Notified Properties





**Request:** Conditional Use Permit to allow the sale of used cars.  
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**Legend**

 Subject Property

**ZONING RECLASSIFICATION****FILE NO.: Z1018-0072****Page 7**

<b>CITY OF MESQUITE ZONING APPLICATION</b>	Receipt No.	666235	Date Stamp: <b>RECEIVED</b> <b>OCT 02 2018</b> <b>PLANNING AND ZONING</b>
	Fee:	800	
	Case Manager:		

**REQUESTED ACTION:**

Change District Classification to:	Conditional Use Permit for: <u>Sale of USED CARS</u>	Amend Special Conditions of Ordinance # _____ <small>(Explain Below)</small>
Additional explanation of requested action: <u>Renewal of Existing Certificate of Occupancy</u>		

**SITE INFORMATION/GENERAL LOCATION:****LOCATION/LEGAL DESCRIPTION:**

Current Zoning Classification: <u>LB- CUP for Used Cars</u>	Complete one of the following:
Site Size: <u>800 SF</u> (Acres or Square Feet)	1. Platted Property
Address (if available): <u>511 W. Davis St.</u>	Addition: <u>Original Town of Mesquite</u>
General Location Description: <u>Located behind</u>	Block: <u>6</u> Lot: <u>PT 718</u>
<u>108 So Walker St.</u>	2. Unplatted Property:
	Abstract: _____ Tract: _____

**APPLICANT INFORMATION:**

Contact: <u>Todd Nichols</u>	Phone: (972) 216 - 1296
Company: <u>CURTIS E MOORE JR, INC</u>	Fax: (972) 329 - 2429
Address: <u>108 So. Walker St</u>	E-mail: <u>MooreCE@prodigy.net</u> <small>(Required)</small>
<u>Mesquite, TX 75149</u>	
Signature: <u>Todd Nichols</u>	Owner <input type="checkbox"/> Representative <input checked="" type="checkbox"/> Tenant <input type="checkbox"/> Buyer <input type="checkbox"/>

**OWNER AUTHORIZATION AND ACKNOWLEDGEMENTS:**

1. 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.	
2. I hereby designate the person named above as applicant, if other than myself, to file this application and to act as the principal contact person with the City of Mesquite in the processing of this application.	
3. 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.	
Owner: <u>CURTIS E MOORE JR INC</u>	Phone: (972) 216 - 1296
Address: <u>108 So. Walker St.</u>	Fax: (972) 329 - 2429
<u>Mesquite, TX 75149</u>	E-mail: <u>MooreCE@prodigy.net</u>
Signature: <u>Connie Moore</u>	

**ZONING RECLASSIFICATION**

**FILE NO.: Z1018-0072**

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**FIELD NOTES**

BEING all that certain lot, tract or parcel of land situated in the Town of Mesquite, Dallas County, Texas, being a part of Lots 7 and 8, in Block 6, and part of an abandoned 20 foot alley in Block 6, according to the Map of said Town, recorded in Volume U, Page 70, Deed Records, Dallas County, Texas and according to Ordinance of Abandonment and Quit Claim Deed by the City of Mesquite, Texas, recorded in Volume 1965, Page 327, Deed Records, Dallas County, Texas and being all of a called 82 feet by 60 feet tract described in a deed from TPC Properties, LLC to Curtis E. Moore, Jr., Inc. as recorded in Instrument No. 2010-00216101, Deed Records of Dallas County, Texas, being more particularly described as follows:

BEGINNING at the southwest corner of Lot 9, Block 6 of the town of Mesquite;

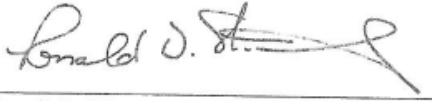
THENCE N 06°08' E with the west line of Lot 9, a distance of 82.00 feet to a 1/2 inch iron rod found, for a corner;

THENCE N 83°52' W departing the west line of Lot 9, crossing the 20' abandoned alley and across Lot 7 a total distance of 60.00 feet to a point, for a corner;

THENCE S 06°08' W across Lot 7 and across Lot 8 a total distance of 82.00 feet to a point in the south line of Lot 8, for a corner;

THENCE S 83°52' E along the south line of Lot 8 and along the south line of said alley a total distance of 60.00 feet to the POINT OF BEGINNING and containing 0.113 acres (4920.00 sq. ft.) of land.

I, Ronald D. Wimberley, Registered Professional Land Surveyor, State of Texas, do certify that the field notes hereon are a true, correct and accurate representation of the property as determined by an on the ground survey conducted on May 22, 2011, under my supervision.



Ronald D. Wimberley, R.P.L.S. No. 6005

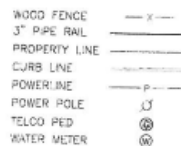
DATE: May 31, 2011  
JOB NO. 11030



WIMBERLEY SURVEYING PROFESSIONALS  
P.O. BOX 9237  
GREENVILLE, TEXAS 75404  
903-450-8100

Site Name: Moore's Car Corner





PLAT SHOWING BLOCK 6, THE ORIGINAL TOWN  
DALLAS COUNTY, TEXAS.



ATTACHMENT 5 – RETURNED NOTICES



CITY OF MESQUITE  
PLANNING AND ZONING COMMISSION  
NOTICE OF PUBLIC HEARING

**LOCATION:** 511 W. Davis Street  
(a map is attached for reference)

**FILE NUMBER:** Z1018-0072

**APPLICANT:** Todd Nichols

**REQUEST:** From: CB, Central Business  
To: CB, Central Business, with a Conditional Use Permit to allow the sale of used cars.

**LEGAL DESCRIPTION**

Original Town Mesquite, Block 6, E PT, Lots 7 & 8 PT

**PUBLIC HEARINGS**

The Planning and Zoning Commission will hold a public hearing on this request at 7:00 p.m. on Monday, November 12, 2018, 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, December 3, 2018, 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) 216-8543 or [hcarrasco@cityofmesquite.com](mailto:hcarrasco@cityofmesquite.com)

**REPLY FORM**

As a property owner within 200 feet of the property, you are urged to attend the public hearing to give your opinion on the zoning request. Any owner of property subject to a proposed rezoning or affected by the proposed rezoning may protest the rezoning by filing a written protest with Planning and Development Services. The protest must be received by 5 pm on November 7<sup>th</sup> to be included in the Planning and Zoning Commission packet and by 5 pm on November 28<sup>th</sup> to be included in the City Council packet. The protest shall object to the zoning map amendment and be signed by the owner of the property. 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. This form should be returned to the Planning Division.

(Complete and return)

Do not write on the reverse side of this form.

Zoning Case: Z1018-0072

I am in favor of this request ☒

Name (required)

Address (required)

Todd Nichols  
108 So. Walker Mesquite, Tx 75149

I am opposed to this request ☐

Reasons (optional):

EXISTING property has been used and maintained.  
Would not be used in any way to harm  
the appearance of the city. We maintain our  
property to appear clean, orderly & serve this city & beyond.

Please respond by returning to:

PLANNING DIVISION  
Hannah Carrasco  
CITY OF MESQUITE  
PO BOX 850137  
MESQUITE TX 75185-0137

Thank You,  
Todd Nichols

**RECEIVED**  
**NOV 07 2018**  
**PLANNING AND ZONING**



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

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Zoning Case: Z1018-0072

I am in favor of this request ☒

Name (required)

Address (required)

Ronnie McAdams owner  
506 W. Main St. Mesa. 75149

I am opposed to this request ☐

Reasons (optional):

I believe there is no better purpose for  
this property than for auto sales

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



**ATTACHMENT 6 – SITE PHOTOS**



**View from S. Walker St.**



**View from W. Davis St.**



**View from W. Main St.**