

CITY OF EL PASO, TEXAS
AGENDA ITEM DEPARTMENT HEAD'S SUMMARY FORM

DEPARTMENT: Planning and Inspections Department, Planning Division

AGENDA DATE: Introduction: March 17, 2015
Public Hearing: April 7, 2015

CONTACT PERSON/PHONE: Arturo Rubio, (915) 212-1613, rubioax@elpasotexas.gov

DISTRICT(S) AFFECTED: 7

SUBJECT:

An Ordinance granting special permit No. PZST14-00031, to allow for a 44 percent parking reduction on the property described as a portion of Lot 1, Block, 2, Yarbrough Village, 544 Yarbrough Drive, City of El Paso, El Paso County, Texas, pursuant to Section 20.14.070 parking reductions of the El Paso City Code. The penalty is as provided for in Chapter 20.24 of The El Paso City Code. Property Owner: Alejandro Reyes-Torres, Location: 544 Yarbrough Drive, **PZST14-00031 (District 7)**

BACKGROUND / DISCUSSION:

Staff report attached.

PRIOR COUNCIL ACTION:

AMOUNT AND SOURCE OF FUNDING:

N/A

BOARD / COMMISSION ACTION:

City Plan Commission (CPC) – Approval Recommendation (5-1)

*****REQUIRED AUTHORIZATION*****

LEGAL: (if required) N/A

FINANCE: (if required) N/A

DEPARTMENT HEAD: Mathew S. McElroy
Director, Planning and Inspections Department

APPROVED FOR AGENDA:

CITY MANAGER: _____

DATE: _____

ORDINANCE NO. _____

AN ORDINANCE GRANTING SPECIAL PERMIT NO. PZST14-00031, TO ALLOW FOR A 44 PERCENT PARKING REDUCTION ON THE PROPERTY DESCRIBED AS A PORTION OF LOT 1, BLOCK 2, YARBROUGH VILLAGE, 544 YARBROUGH DRIVE, CITY OF EL PASO, EL PASO COUNTY, TEXAS, PURSUANT TO SECTION 20.14.070 PARKING REDUCTIONS OF THE EL PASO CITY CODE. THE PENALTY BEING AS PROVIDED FOR IN CHAPTER 20.24 OF THE EL PASO CITY CODE.

WHEREAS, Alejandro Reyes-Torres has applied for a Special Permit for a 44 percent parking reduction under Section 20.14.070 of the El Paso City for a Restaurant and,

WHEREAS, a report was made to the City Plan Commission and a public hearing was held regarding such application; and,

WHEREAS, the City Plan Commission has recommended approval of the subject Special Permit; and,

WHEREAS, the subject Special Permit has been submitted to the City Council of the City of El Paso for review and approval; and,

WHEREAS, the City Council of the City of El Paso finds that the application conforms to all requirements of Sections 20.04.320 and 20.14.070 of the El Paso City Code.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

1. That the property described as follows is in a C-1/sc (Commercial/special contract) Zone District:

A portion of Lot 1, Block 2, Yarbrough Village, 544 Yarbrough Drive, City of El Paso, El Paso County, Texas and as more particularly described by metes and bounds on the attached Exhibit "A"; and,

2. That the City Council hereby grants a Special Permit under Sections 20.04.320 and 20.14.070 of the El Paso City Code, to allow a 44 percent parking reduction for a Restaurant and,
3. That this Special Permit is issued subject to the development standards in the C-1/sc (Commercial/special contract) District regulations and is subject to the approved Detailed Site Development Plan, signed by the Applicant, the City Manager and the Executive Secretary to the City Plan Commission. A copy of this plan is attached hereto as Exhibit "B" and incorporated herein by reference for all purposes; and,

ORDINANCE NO. _____

PZST14-00031

4. That if at any time the Owners fail to comply with any of the requirements of this Ordinance, Special Permit No. PZST14-00031 shall automatically terminate, and construction shall stop or occupancy shall be discontinued, until any such violation ceases; and,
5. That the Owners shall sign an Agreement incorporating the requirements of this Ordinance. Such Agreement shall be signed and filed with the Zoning Administrator and the Executive Secretary of the City Plan Commission before building permits are issued.

ADOPTED this _____ day of _____, 2015.

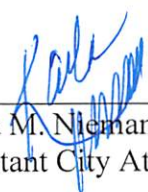
THE CITY OF EL PASO

Oscar Leeser
Mayor

ATTEST:

Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:



Karla M. Nieman
Assistant City Attorney

APPROVED AS TO CONTENT:

Mathew S. McElroy, Director
Planning and Inspections Department

ORDINANCE NO. _____

PZST14-00031

EXHIBIT "A"

544 Yarbrough Dr.
METES AND BOUNDS

Description of a parcel of land being a portion of lot 1, Block 2, Yarbrough Village, City of El Paso, El Paso County, Texas. Such parcel of land is more particularly described by metes and bounds as follows to wit:

Commencing at the center line intersection of Mauer Road and Yarbrough Drive, Thence Thence South 19 degrees 06 minutes 39 seconds East along the center line of Yarbrough Drive, a distance of 50.00 feet to a point; Thence North 70 degrees 53 minutes 21 seconds East a distance of 60.00 feet to a point that lies on the Easterly Right-of-Way line of Yarbrough Drive, said point being the **point of beginning of this description**;


Thence 31.42 feet along the arc of a curve to the right whose radius is 20.00 feet, whose interior angle is 90 degrees and whose chord bears North 64 degrees 06 minutes 39 seconds East, a distance of 28.28 feet to a point that lies on the Southerly Right of Way line of Mauer Road,

Thence North 70 degrees 53 minutes 21 seconds East along said Mauer Road Right-of-Way line, a distance of 130.00 feet to a point;

Thence South 19 degrees 06 minutes 39 seconds East, a distance of 100.00 feet to a point;

Thence South 70 degrees 53 minutes 21 seconds West, a distance of 150.00 feet to a point that lies on the Easterly Right-of-Way line of Yarbrough Drive;

Thence North 19 degrees 06 minutes 39 seconds West along said Easterly Right-of-Way line of Yarbrough Drive, a distance of 80.00 feet to the **point of beginning of this description point**. Said parcel of land contains 14914 square feet or 0.3424 acres of land more or less.


Enrique A. Rey
RPLS TX 3505



El Paso, Texas, Monday, October 27, 2014

MEMORANDUM

DATE: March 10, 2015

TO: The Honorable Mayor and City Council
Tommy Gonzalez, City Manager

FROM: Arturo Rubio, Lead Planner

SUBJECT: PZST14-00031

The City Plan Commission (CPC), on December 18, 2015, voted 5-1 to recommend **approval** of the special permit to allow for a 44 percent parking reduction.

The CPC found that the special permit is in conformance with the Plan El Paso Comprehensive Plan. The CPC also determined that the special permit protects the best interest, health, safety and welfare of the public in general; that the proposed use is compatible with adjacent land uses; and the special permit will have no negative effects on the natural environment, social economic conditions, and property values in the vicinity and the city as a whole.

The Planning Division did not receive any communication in support or opposition from the public on the special permit request.

Property Owner: Alejandro Reyes-Torres
Representative: Jesus Jaime

Attachment:
Staff Report



City of El Paso – City Plan Commission Staff Report

Case No: PZST14-00031
Application Type: Special Permit and Detailed Site Development Plan
CPC Hearing Date: December 18, 2014
Staff Planner: Arturo Rubio, (915) 212-1613, rubioax@elpasotexas.gov

Location: 544 Yarbrough Drive
Legal Description: A portion of Lot 1, Block 2, Yarbrough Village, City of El Paso, El Paso County, Texas
Acreage: 0.34-acre
Rep District: 7
Zoning: C-1/sc (Commercial/special contract)
Existing Use: Vacant building
C/SC/SP/ZBA/LNC: Special Contract Ordinance No. 7422 dated February 10, 1982
Special Contract Ordinance No. 4528 dated December 8, 1970
Request: Special permit to allow for a 44 percent parking reduction
Proposed Use: Restaurant

Property Owner: Alejandro Reyes-Torres
Representative: Jesus Jaime

SURROUNDING ZONING AND LAND USE

North: C-1/sc (Commercial/special contract) retail shopping center
South: C-1/sc (Commercial/special contract) retail shopping center
East: C-1 (Commercial) / Vacant / C-1/sc (Commercial/special contract) / EPWU/PSB Utility Facility
West: A-2/sc (Apartment/special contract) / Multi-family dwellings

PLAN EL PASO DESIGNATION: G-3, Post-War (Mission Valley Plan Area)

NEAREST PARK: E.L William Park (714 feet)

NEAREST SCHOOL: Hillcrest Middle School (1,711 feet)

NEIGHBORHOOD ASSOCIATIONS

Lomaland Neighborhood Association
Mission Valley Civic Association

NEIGHBORHOOD INPUT

Notice of a Public Hearing was mailed to all property owners within 300 feet of the subject property on December 1, 2014. The Planning Division has not received any communication from the public in support or opposition to the special permit request.

APPLICATION DESCRIPTION

The applicant is requesting a special permit and detailed site development plan review to allow for a 44 percent parking reduction. The detailed site development plan shows an existing 3,789 sq. ft., one-story building proposed to be converted to a restaurant. The restaurant use is permitted in the the C-1 (Commercial) zone district; however, the lot does not meet the required parking requirements for the proposed use. Restaurant use for the subject property requires 32 parking spaces. The applicant is providing 18 parking spaces equivalent to 56 percent of the required parking and needs 14 spaces for a 44 percent parking reduction and is providing 3 bicycle parking spaces as required. The applicant is not proposing any new development, further additions, or major improvements other than the conversion improvements inside the existing structure. The Detailed Site Development Plan complies with all other density and dimensional standards and landscaping requirements. Access to the subject property is proposed from Yarbrough Drive.

There are two special contracts on the property, Special Contract Ordinance No. 7422 dated February 10, 1982 and Special Contract Ordinance No. 4528 dated December 8, 1970, imposing conditions on prohibition of adult bookstores, restricting alcohol sales and storage and the construction of sidewalks curve and gutter. The applicant was advised and decided not to pursue a condition release or amendment as he does not plan to sell or store any type of alcohol or have any of the other prohibited uses. The remaining conditions relate to sidewalks and curve and gutter which have been satisfied or released (see attachments 4-5, pg. 10-23).

PLANNING DIVISION RECOMMENDATION

The Planning Division recommends approval of the requests for special permit and detailed site development plan review for a 44 percent parking reduction as it complies with Sections 20.14.070, Parking Reduction; 20.04.320, Special Permit, and 20.04.150, Detailed Site Development Plan.

ANALYSIS

20.14.070 Parking reductions.

The amount of off-street parking required for a specific use may be reduced below the minimum required in Section 20.14.050 C., if a special permit is approved by city council, as provided in this section:

A. Existing development. Up to a one hundred percent reduction for a use involving an existing structure(s) located within an older neighborhood of the city that is proposed through the rehabilitation, alteration or expansion of the existing structure(s). The applicant shall satisfactorily demonstrate compliance with all of the following conditions:

1. That the structure(s) is located in an older neighborhood of the city that has been legally subdivided and developed for at least thirty years;
2. That the structure(s) does not extend into an area within the property which was previously used to accommodate off-street parking;
3. That the off-street parking required for the proposed use of the structure(s) cannot be reasonably accommodated on the property due to the building coverage, whether due to the existing structure or due to a proposed expansion of the existing structure; and
4. That no vacant areas exist within three hundred feet of the property where the proposed use is to be located that can be reasonably developed to accommodate the off-street parking requirements.

The new proposed use is within an existing structure and complies with all of the requirements for a parking reduction.

- C. Parking Reduction Application Procedures. An applicant requesting consideration of a parking reduction shall comply with all of the following:
1. A special permit application for an off-street parking reduction shall not be construed as an automatic approval by the city and shall require the review and approval of the city council as set forth herein;
 2. The applicant shall submit adequate documentation to ensure compliance with the provisions of this section. City council shall make the final determination following a recommendation of the city plan commission and may impose conditions and safeguards necessary to protect the public welfare and to conserve and protect property;
 3. A completed special permit application for an off-street parking reduction shall be submitted to the planning official, and shall be accompanied with all of the following:
 - a. One copy of a completed application signed by the property owner(s), and
 - b. Eight copies of a detailed site plan of the subject property and all properties within three hundred feet adjoining the subject property, drawn to scale and showing the following:
 - i. Legal description,

- ii. Property lines with dimensions,
 - iii. Location and arrangement of existing and proposed structures,
 - iv. Location and arrangement of existing and proposed off-street parking areas,
 - v. Location and arrangement of existing and proposed on-street parking areas within a three hundred radius from the perimeter of the lot of the facility requesting the reduction,
 - vi. Calculation of the number of minimum off-street parking spaces for the existing and proposed use(s) of the property.
 - vii. Off-street loading and unloading berths, where applicable,
 - viii. Off-street parking spaces and driveways not subject to reduction, if applicable,
 - ix. Streets abutting the property, including the location and dimensions of sidewalks, and
 - x. Areas within the property where landscaping is provided, if any,
 - c. One copy of a parking reduction impact study or of the letter from the city engineer waiving the parking reduction impact study, and
 - d. One copy of a letter from the Director of Sun Metro indicating that the main entrance to the property is within one thousand feet of a mass transit system route,
 - e. One copy of a proof of ownership document, and
 - f. One copy of a current tax certificate sealed and having the signature of the city tax assessor/collector, for each parcel of property described in the application for an off-street parking reduction;
4. An off-street parking reduction granted pursuant to this section shall be particular to the use for which it was granted. A change in use that results in a change of parking requirements or hours of operation shall automatically terminate the off-street parking reduction;
 5. Structure(s) for which an off-street parking reduction has been granted shall be in accordance with all other applicable codes;
 6. An application for an off-street parking reduction shall demonstrate that all of the following circumstances apply:
 - a. That a reduction in the off-street parking requirement will not result in the unreasonable parking or loading of vehicles on public streets in such a manner as to interfere with the free flow of traffic on the streets, as demonstrated by findings of a parking reduction impact study where required by the city engineer. A parking reduction impact study, where required, shall be prepared in accordance with the standards required by the city engineer,
 - b. That a reduction in the off-street parking requirement will not create a safety hazard or other condition inconsistent with the objectives of this title,
 - c. That the property where the proposed use is to be located has sidewalks and the main entrance is within one thousand feet of a mass transit system route, as determined by the director of Sun Metro, and
 - d. That off-street parking not subject to a reduction shall comply with all other city ordinances governing off-street parking, including accessibility for the disabled.

The applicant has submitted a complete application including a verified parking study for the area that shows sufficient on-street parking to satisfy the off-street parking requirements.

20.04.320 Special permit approvals.

- A. Building and occupancy permits shall not be issued to any building or use identified in this title as requiring a special permit until after approval of such special permit by the city council.
- B. Building and occupancy permits shall not be issued for any building or use identified in this title as requiring an approved detailed site development plan as required by Article III, until such approval has been granted.
- C. No building or occupancy permit may be granted for the erection, rehabilitation, enlargement or demolition of any building in a designated historic area or for any building that is a designated historic landmark until prior approval has been granted by the historic landmark commission.
- D. The city council, after hearing and report by the city plan commission, may approve a special permit upon a finding that the proposed development meets the following minimum requirements necessary to protect the public health, safety and general welfare of the community:

1. The proposed development complies, except to the extent waived, varied or modified pursuant to the provisions of this title, with all of the standards and conditions applicable in the zoning district in which it is proposed to be located; complies with any special standards applicable to the particular type of development being proposed, or to the particular area in which the development is proposed; complies with any special approvals required in connection with such development or area;
 2. The proposed development is in accordance with and in furtherance of the plan for El Paso, any special neighborhood plans or policies adopted by the city regarding the development area, or any approved concept plan;
 3. The proposed development is adequately served by and will not impose an undue burden upon the public improvements and rights-of-way by which it will be served or benefited, or which exist or are planned for installation within its boundaries or their immediate vicinity. A traffic impact study may be required to determine the effects of the proposed development on the public rights-of-way;
 4. Any impacts of the proposed development on adjacent property are adequately mitigated with the design, proposed construction and phasing of the site development;
 5. The design of the proposed development mitigates substantial environmental problems;
 6. The proposed development provides adequate landscaping and/or screening where needed to reduce visibility to adjacent uses;
 7. The proposed development is compatible with adjacent structures and uses;
 8. The proposed development is not materially detrimental to the enjoyment or valuation of the property adjacent to the site.
- E. The applicant may request that the city plan commission waive one or more of the criteria based on its no applicability to the proposed development. The city plan commission, upon a recommendation of the planning official, shall make a determination on the no applicability of the criteria and shall render a finding based on such determination, and shall forward their recommendation to city council for final review and approval.

The application meets the requirements for special permit.

20.04.140 When required.

Except as stated herein, a detailed site development plan is required prior to development in a special purpose district or with a special permit application and may be required if a zoning condition exists on a particular piece of property. Detailed site development plans are not required for any projects for development in the Mixed Use District (RMU, GMU and IMU) or for any other projects other than those located in special purpose districts or as otherwise required herein.

Detailed Site Development Plan review is required as part of the special permit application.

20.04.150 Procedure.

- D. City plan commission approval. Pursuant to this Code, the city plan commission, in addition to the powers and duties identified in this chapter, shall have final authority on approval of all other detailed site development plans, unless a zoning condition, contract provision, other city code provision or state law require the detailed site development plan to be approved by city council.
1. The planning division shall make its recommendations to the city plan commission within thirty days after a complete application is submitted.
 2. The city plan commission shall hold a public hearing at its regular meeting that is within thirty days from receipt of department recommendations.
 3. The commission shall consider the following information when approving a proposed detailed site development plan: the boundaries of the tract proposed for development; location and arrangement of structures; determine if the use conforms to applicable zoning regulations, determine if historic landmark commission approval has been granted for architectural design

of all structures if located in a historic district and the design conforms to such approval; location of utility rights-of-way and easements and storm water drainage; vehicular and pedestrian ways; on-site parking areas; location of open spaces and landscape planted areas.

4. In no instance shall the city plan commission have authority to vary the yard standards applicable to the district.
5. The city plan commission shall approve the plan if it complies with all applicable code provisions.

Planning Staff has reviewed the detailed site development plan, and it meets all requirements of Sections 20.14.070, Parking Reduction, 20.04.320, Special Permit, and 20.04.150 Detailed Site Development Plan.

Plan El Paso-Future Land Use Map Designation

All applications for special permit shall demonstrate compliance with the following criteria:

G-3 Post-War: This sector applies to transitional neighborhoods typically developed from the 1950s through the 1980s. Streets were laid out with curvilinear patterns without alleys and shopping centers are located at major intersections behind large parking lots. This sector is generally stable but would benefit from strategic suburban retrofits to supplement the limited housing stock and add missing civic and commercial uses.

The purpose of the C-1 (Commercial) district is to serve the needs of surrounding residential neighborhoods by providing compatible neighborhood convenience goods and services that serve day-to-day needs. The regulations of the districts will permit location of business and professional offices and retail category uses within adjacent residential areas of medium and high densities.

COMMENTS:

Planning and Inspections – Planning Division - Transportation

No objections: Confirmed parking study showing sufficient off-street parking available.

Note:

All existing / proposed paths of travel (accessible sidewalks, wheelchair access curb ramps and driveways) within public rights-of-way shall be in compliance with current ADA/TAS rules and regulations and the current City of El Paso Design Standards for Construction.

Planning and Inspections – Plan Review

No comments received

Planning and Inspections - Landscaping Section

No comments received

Planning and Inspections - Land Development

No comments received

Fire Department

Recommend approval

Police Department

No comments from PD on this case.

Sun Metro

Sun Metro does not oppose this request. A letter was provided to applicant noting that two bus stops are located well within 1,000 feet for site. Both are serviced by Route 67 travelling along Yarbrough.

El Paso Water Utilities

EPWU does not object to this request.

Water:

1. 2. There is an existing 8-inch diameter water main extending along Yarbrough Drive that is available for service, the water main is located approximately 41-ft east from the center line of the right-of-way.
2. EPWU records indicate a vacant water service connection (inactive meter) serving the subject property. The address for this service is 544 N. Yarbrough Dr.
3. Previous water pressure from fire hydrant #5829 located approximately 425-ft north of Mauer Road has yield a static pressure of 90 (psi), a residual pressure of 85 (psi), and a discharge of 1,113 gallons per minute.
4. The owner should, for his own protection and at his own expense, install at the discharge side of each water meter a pressure regulator, strainer and relief valve, to be set for pressure as desired by the customer. The Lot owner shall be responsible for the operation and maintenance of the above-described water pressure regulating device.

Sanitary Sewer:

There is an existing 8-inch diameter sanitary sewer main extending along Yarbrough Drive that is available for service, the sewer main is located approximately 50.5-ft east from the center line of the right-of-way.

General:

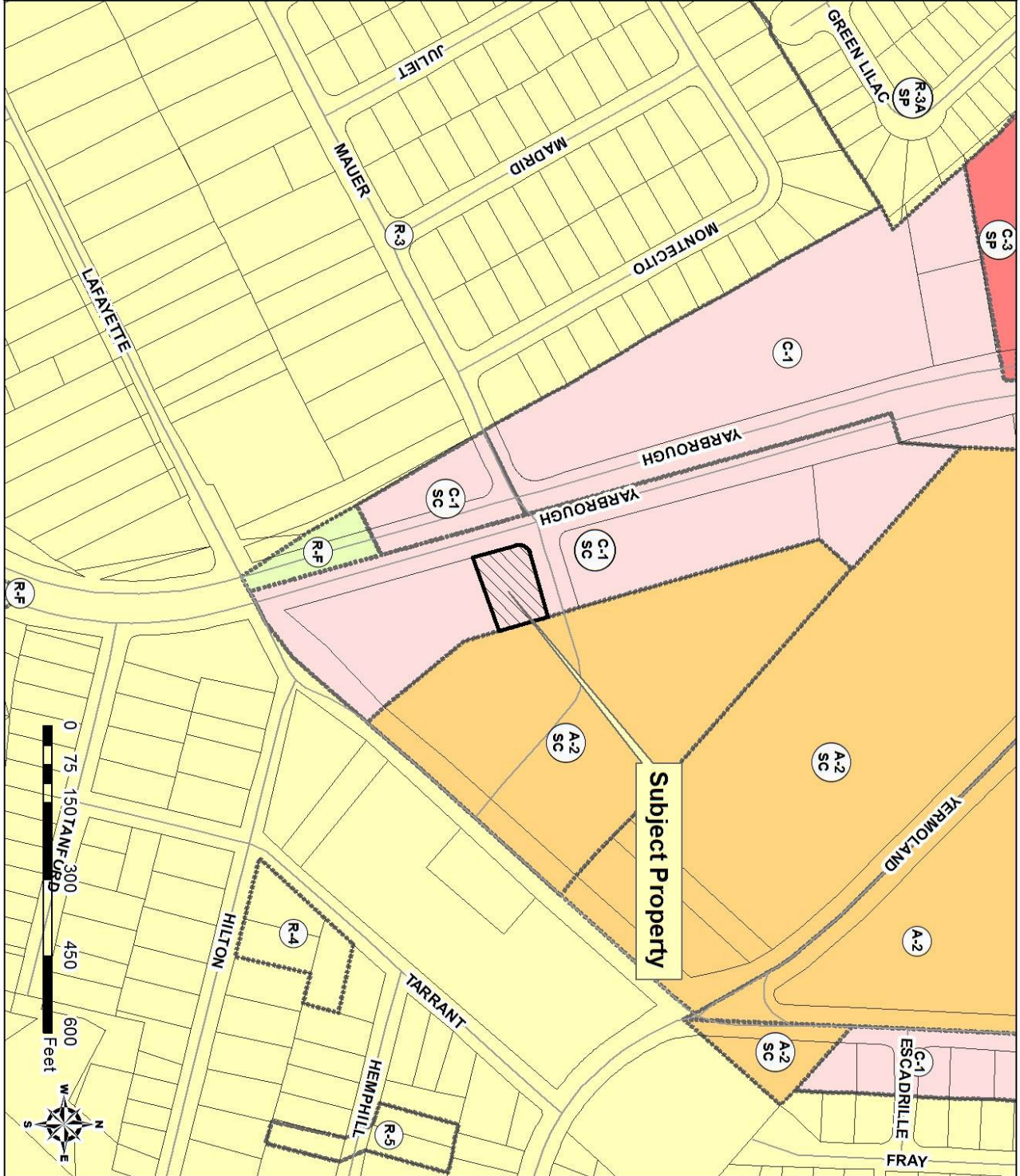
EPWU requires a new service application to provide service to the property. New service applications are available at 1154 Hawkins, 3rd floor and should be made 6 to 8 weeks in advance of construction to ensure water for construction work. A site plan, utility plan, grading and drainage plans, landscaping plan, the legal description of the property and a certificate-of-compliance are required at the time of application. Service will be provided in accordance with the current EPWU – PSB Rules and Regulations. The applicant is responsible for the costs of any necessary on-site and off-site extensions, relocations or adjustments of water and sanitary sewer lines and appurtenances.

Attachments

1. Zoning Map
2. Aerial Map
3. Detailed Site Development Plan
4. Special Contract Ordinance No. 7422 dated February 10, 1982
5. Special Contract Ordinance No. 4528 dated December 8, 1970
6. Parking Study

ATTACHMENT 1: ZONING MAP

PZST14-00031



ATTACHMENT 2: AERIAL MAP

PZST14-00031



ATTACHMENT 4: SPECIAL CONTRACT ORDINANCE NO. 7422 DATED FEBRUARY 10, 1982

AN ORDINANCE CHANGING THE ZONING OF
A PORTION OF TRACT 2C5, BLOCK 6,
ASCARATE GRANT SURVEYS, THE PENALTY
BEING AS PROVIDED IN SECTION 25-96
OF THE EL PASO CITY CODE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the zoning of a portion of Tract 2C5, Block 6, Ascarate Grant Surveys, as more particularly described below, be changed to C-1 (Commercial) District within the meaning of the zoning ordinance and the zoning map of the City be revised accordingly:

The parcel of land herein described is a portion of Tract 2C5, Block 6, Ascarate Grant, El Paso, El Paso County, Texas, and is more particularly described by metes and bounds as follows:

Commencing at a point, said point being an existing city monument lying on the centerline intersection of Willamette Drive and Yarbrough Drive; Thence, south 10°08'57" east, a distance of 648.90 feet to a point; Thence, north 70°53'21" east, a distance of 60.00 feet to a point lying on the north-easterly right of way line of Yarbrough Drive, said point being the TRUE POINT OF BEGINNING of this description;

THENCE, north, 02°33'42" east, along the boundary line of Block 34, Sageland Addition, Section 2, Second Replat, a distance of 143.42 feet to a point for a corner, said point lying on the southwesterly boundary line of Tract 2C, Block 6, Ascarate Grant;

THENCE, south 51°29'00" east, along said boundary line, a distance of 316.56 feet to a point for a corner;

THENCE, south 38°31'00" west, a distance of 85.79 feet to a point for a corner;

THENCE, south 19°06'39" east, a distance of 714.34 feet to a point for a corner;

THENCE, south 41°09'33" east, a distance of 205.00 feet to a point for a corner;

THENCE, south 38°31'00" west, a distance of 261.58 feet to a point for a corner;

THENCE, north 60°22'00" west, a distance of 9.15 feet to a point for a corner, said point lying on the northeasterly right of way line of Yarbrough Drive;

THENCE, north 19°06'39" west, along said right of way line, a distance of 1217.54 feet to the TRUE POINT OF BEGINNING of this description.

Said parcel of land contains 4.61663 acres (201,100.37 sq. ft.) of land more or less.

PASSED AND APPROVED this 2nd day of MARCH, 1982.

ATTEST:

City Clerk
City Clerk

81-4723

Mayor

APPROVED AS TO FORM:

City Clerk

APPROVED AS TO CONTENT:

City Council

3-8-82
3-8-82
3-8-82
3-8-82
City Inspection
Referentially

I certify that the zoning map has been revised to reflect the amendment of ordinance # 7422 Date 3-8-82 Referentially

no amendment effect
Referentially

R E S O L U T I O N

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:


That the Mayor be authorized to sign a contract by and between the City of El Paso and Rubin Investments, a Texas General Partnership and Surety Savings Association, placing certain restrictions, conditions and covenants on the property being rezoned by Ordinance No. 7422.

ADOPTED this 2nd day of March, 1982.



Mayor

ATTEST:



City Clerk

81-4723

MAR 3 1982

CONTRACT

THIS CONTRACT, made this 10 day of Feb., 1982,
by and between RUBIN INVESTMENTS, a Texas general partnership composed
of LOUIS J. RUBIN, GERALD J. RUBIN, BYRON H. RUBIN, IRVIN I. RUBIN,
and JAY M. RUBIN, First Party, SURETY SAVINGS ASSOCIATION, Second
Party, and the CITY OF EL PASO, Third Party, witnesseth:

Application has been made to the City of El Paso for rezoning
of a portion of Tract 2C5, Block 6, Ascarate Grant Surveys, City
of El Paso, El Paso County, Texas, such property being more parti-
cularly described in Ordinance No. 7422, now pending before the
City Council of the City of El Paso, a copy of which is attached
hereto and made a part hereof by reference. To remove certain
objections to such rezoning, First Party covenants that if the
property is rezoned to C-1 (Commercial) District within the meaning
of the zoning ordinance of the City of El Paso, it shall be subject
to the following restrictions, conditions and covenants:

1. No building permits shall be issued for the property
until a subdivision plat of the property has been approved by the
City Plan Commission and filed for record.
2. No bar, private club or other establishment where alcoholic
beverages are sold for consumption on the premises shall be permitted
on the property.
3. No adult bookstore, adult motion picture theater or nude
live entertainment club shall be permitted on the property.
4. No certificates of occupancy and compliance shall be
issued by the City for any building constructed on the property
until First Party has, at no cost to the City, done the following:
 - (a) Installed curbs, gutters and asphalt paving on both
sides of Lafayette Drive adjacent to First Party's
property.
 - (b) Installed concrete sidewalks along the boundary of
the property which is adjacent to Yarbrough Drive.
5. All such curbs, gutters, paving and sidewalks shall be
installed and constructed in accordance with plans and specifica-
tions to be approved by the City Engineer of the City of El Paso

81-4723

and the City Engineer must certify that such improvements have been satisfactorily completed before certificates of occupancy and compliance shall be issued.

This contract is a restriction, condition and covenant running with the land and a charge and servitude thereon, and shall bind First Party and its successors in title. Any future conveyance of the land shall contain these restrictions, conditions and covenants and shall embody this agreement by express reference.

The City may enforce this agreement by injunction or any other legal or equitable remedy. The City Council of the City of El Paso may release the above restrictions, conditions and covenants in its discretion without the consent of any third person who may be benefited thereby.

Second Party is the owner and holder of recorded liens on the above described property and consents to this contract.

WITNESS the following signatures and seals:

RUBIN INVESTMENTS, a Texas general partnership

By *Gerald J. Rubin*
Gerald J. Rubin, Managing Partner

SURETY SAVINGS ASSOCIATION

By *R. T. Dempsey*
President
R. T. DEMPSEY

ATTEST:

Barbara Saunders
Asst Secretary

THE CITY OF EL PASO

By *W. Boyd*
Mayor

ATTEST:

W. Kregg
City Clerk

APPROVED AS TO FORM:

Howden
Assistant City Attorney

81-4723

THE STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me on this 10th day of February, 1982 by GERALD J. RUBIN, Managing Partner, on behalf of RUBIN INVESTMENTS, a Texas general partnership.

My Commission Expires:

12-31-84

J. S. Mays
Notary Public, State of Texas

THE STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me on this 10th day of February, 1982 by R. T. DEMPSEY, President of SURETY SAVINGS ASSOCIATION, a corporation.

My Commission Expires:

CARRIE L. FOOTE, Notary Public
in and for the State of Texas
My commission expires Feb. 4, 1984

Notary Public, State of Texas

THE STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me on this _____ day of _____, 1982 by JONATHAN W. ROGERS, as Mayor of the CITY OF EL PASO.

My Commission Expires:

6/30/84

Billie Jean Branham
Notary Public, State of Texas

81-4723

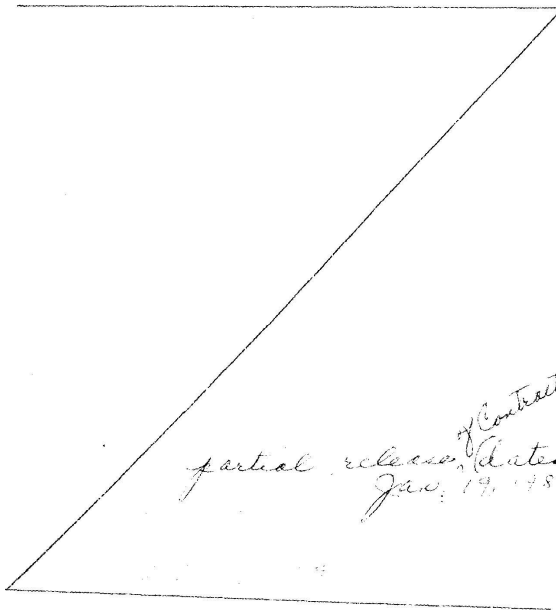
ATTACHMENT 5: SPECIAL CONTRACT ORDINANCE NO. 4528 DATED DECEMBER 8, 1970

4528

AN ORDINANCE CHANGING THE ZONING OF PORTIONS OF BLOCK 6, ASCARATE GRANT AND PORTIONS OF SAGELAND 2ND REPLAT, THE PENALTY BEING AS PROVIDED IN SECTION 25-10 OF THE EL PASO CITY CODE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the zoning of the following described portions of Block 6, Ascarate Grant and portions of Sageland 2nd Replat be changed to A-2 and C-1 as indicated, within the meaning of the Zoning Ordinance, and the zoning map of the City be revised accordingly:



Special Contract

*partial release of Contract
(dated
Jan. 19, 1982)*



RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the mayor be authorized to execute a ~~partial release~~
of restrictions placed on Tracts 2C5, 2A1B, and 2B1B, Block 6,
Ascarate Grant, El Paso County, Texas by contract dated Dec. 10,
1970 between Joe K. Foster and the City of El Paso.

ADOPTED this 19th day of JANUARY, 1982.

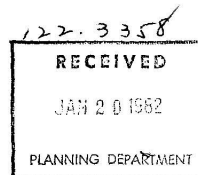
ATTEST:

Jonathan W. Rojas
Mayor

W. H. [unclear]
City Clerk

APPROVED AS TO FORM:

L. [unclear]
Assistant City Attorney



Contract dated 12/10/70
Ord. 4528

THE STATE OF TEXAS)
)
COUNTY OF EL PASO)

C O N T R A C T

This Contract, made this 5th day of December,
1970, by and between JOE K. FOSTER, First Party, and the CITY OF EL
PASO, Second Party,

W I T N E S S E T H :

Application has been made to the City of El Paso for rezoning of Tracts 2C5, 2A1B, and 2B1B, Block 6, Ascarate Grant, El Paso County, Texas, as more fully set forth and described in Exhibit "A" attached hereto. In order to remove certain objections to such rezoning, First Party covenants that if said property, which is described in Exhibit "A" attached hereto, is rezoned from F-R to A-2, as more particularly described in Ordinance # AS 28, that First Party will not construct more than 20 apartment units per acre, will maintain a parking ratio of two to one and will not construct or permit to be constructed any curb cuts on Yarbrough Drive, which abuts the property to be zoned A-2, and which is described in Exhibit "A" attached hereto.

This agreement is a restriction, condition and covenant running with the land and a charge and servitude thereon, and shall bind First Party and his successors in title. Any future conveyance of the land shall contain this restriction, condition and covenant and shall embody this agreement by express reference.

The City may enforce this agreement by injunction or any other legal or equitable remedy. The City Council of the City of El Paso may release the above restriction, condition and covenant in its discretion without the consent of any third person who may be benefited thereby.

WITNESS the following signatures and seals:

Joe K. Foster
Joe K. Foster

THE CITY OF EL PASO

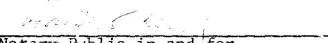
Attest: [Signature]
City Clerk

By [Signature]
Mayor

THE STATE OF TEXAS)
)
COUNTY OF EL PASO)

BEFORE ME, the undersigned, a Notary Public in and for said County and State, on this day personally appeared JOE K. FOSTER, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 5 day of December, A.D. 1970.

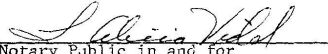


Notary Public in and for
El Paso County, Texas

THE STATE OF TEXAS)
)
COUNTY OF EL PASO)

BEFORE ME, the undersigned authority, on this day personally appeared Peter A. Weiler, Mayor of the City of El Paso, known to me to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged before me in my County aforesaid that he had executed the same for the purposes and consideration and in the capacity therein stated, and as the act of and deed of the City of El Paso.

GIVEN UNDER MY HAND AND OFFICIAL SEAL this 10th day of December, A.D. 1970.



Notary Public in and for
El Paso County, Texas
L. ALICIA VIDAL, Notary Public
in and for El Paso County, Texas
My commission expires June 1, 1971

A-2 ZONING

PROPERTY DESCRIPTION

BEING the description of Tracts 2A1B, 2B1B, and 2C5 of Block 6, Ascarate Grant, El Paso County, Texas and being more particularly described by metes and bounds as follows:

BEGINNING at a point, said point being the point of intersection of the centerline of Yarbrough Drive and the centerline of Williamette Avenue;

THENCE along the centerline of Yarbrough Drive to the south a distance of 651.54 feet along the arc of a curve to the left whose central angle is $17^{\circ} 55' 27''$, whose radius is 2082.70 feet and whose long chord bears South $10^{\circ} 08' 56''$ East a distance of 648.39 feet to a point;

THENCE North $70^{\circ} 53' 20''$ East a distance of 60.00 feet to a point in the easterly right of way line of Yarbrough Drive;

THENCE South $19^{\circ} 06' 40''$ East a distance of 22.20 feet along the easterly right of way line of Yarbrough Drive to the Point of Beginning of the parcel being described;

THENCE North $0^{\circ} 18'$ West a distance of 164.25 feet to a point;

THENCE South $51^{\circ} 29'$ East a distance of 1101.56 feet to a point in the northwesterly right of way line of Lafayette Drive;

THENCE South $38^{\circ} 31'$ West a distance of 763.45 feet along the northwesterly right of way line of Lafayette Drive to a point;

THENCE North $60^{\circ} 22'$ West a distance of 29.39 feet to a point in the easterly right of way line of Yarbrough Drive;

THENCE North $19^{\circ} 06' 40''$ West a distance of 1195.34 feet along the easterly right of way line of Yarbrough Drive to the Point of Beginning of the parcel being described and containing 11.045 acres of land, more or less.

C-1 Zoning

NOTE: LEGAL DESCRIPTION ~~ERRONEOUS~~
BLOCK # IS TECHNICALLY WRONG.
PORTION OF BLOCK 34, SAGELAND ADDITION,
SECOND REPLAT, SECT. TWO, HAS BEEN
REPLATTED TO LOT 4, MUNICIPAL CENTER ADDN
OF WHICH NO MENTION IS MADE HEREIN.
RPT. 12-26-81

BEING the description of a parcel of land lying in and being a portion of Block 34 of SageLand Addition, Second Replat. Section two, city of El Paso, El Paso County, Texas and being more particularly described by metes and bounds as follows:

BEGINNING at a point, said point being the point of intersection of the center line of Yarbrough Drive and the center line of Williamette Avenue;

THENCE along the center line of Yarbrough Drive to the South a distance of 651.54 feet along the arc of a curve to the left whose central angle is $17^{\circ} 55' 27''$, whose radius is 2032.70 feet and whose long chord bears South $10^{\circ} 08' 56''$ East a distance of 648.89 feet to a point;

THENCE North $70^{\circ} 53' 20''$ East a distance of 60.00 feet to a point in the easterly Right of Way line of Yarbrough Drive, said point being the Point of Beginning of the parcel herein being described;

THENCE along the easterly Right of Way line of Yarbrough Drive to the North a distance of 559.05 feet along the arc of a curve to the right whose central angle is $15^{\circ} 50' 09''$, whose radius is 2022.70 feet and whose long chord bears North $11^{\circ} 11' 36''$ West a distance of 557.27 feet to a point;

THENCE a distance of 32.45 feet along the arc of a curve to the right whose central angle is $22^{\circ} 58' 31''$, whose radius is 20.00 feet and whose long chord bears North $43^{\circ} 12' 45''$ East a distance of 29.01 feet to a point;

THENCE North $89^{\circ} 42'$ East a distance of 92.50 feet to a point in the boundary line between Blocks 5 and 6 Ascarate Grant El Paso County, Texas;

THENCE along said boundary line between Blocks 5 and 6 Ascarate Grant, South $0^{\circ} 18'$ East a distance of 589.28 feet to a point;

THENCE along the easterly Right of Way line of Yarbrough Drive North $19^{\circ} 06' 40''$ West a distance of 22.20 feet to the Point of Beginning of the parcel herein being described and containing 0.970 acres of ground more or less.

THE STATE OF TEXAS)
)
COUNTY OF EL PASO)

Before me, the undersigned authority, on this day personally appeared PEARL KAIWI, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same for the purposes and consideration therein expressed.

Given under my hand and official seal this 3rd day of December, 1970.

Barbara Bills
Notary Public in and for El Paso County,
Texas.

THE STATE OF TEXAS)
)
COUNTY OF EL PASO)

Before me, the undersigned authority, on this day personally appeared O. T. PARKER, TRUSTEE, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

Given under my hand and official seal this 3rd day of December, 1970.

Barbara Bills
Notary Public in and for El Paso County,
Texas.

THE STATE OF TEXAS)
)
COUNTY OF EL PASO)

Before me, the undersigned authority, on this day personally appeared JOHN H. JOHNSTON, TRUSTEE, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

Given under my hand and official seal this 3rd day of December, 1970.

Barbara Bills
Notary Public in and for El Paso County,
Texas.

THE STATE OF TEXAS)
COUNTY OF EL PASO)

PARTIAL RELEASE

WHEREAS, by contract dated December 10, 1970 between JOE K. FOSTER and the CITY OF EL PASO, recorded in Book 321 at Page 0005 of the Deed Records of El Paso County, Texas, certain restrictions, conditions and covenants were placed on Tracts 2C5, 2A1B, and 2B1b, Block 6, Ascarate Grant, El Paso County, Texas; and

WHEREAS, the City Council of the City of El Paso has determined that the restriction prohibiting the construction of curb cuts on Yarbrough Drive which abuts the property to be rezoned A-2, is no longer necessary and should be released;

NOW THEREFORE, the City of El Paso has released and by these presents hereby releases JOE K. FOSTER, his successors and assigns, and the above described property from the restriction, condition and covenant described above.

Except as herein released, all other terms of the above-described contract shall remain in full force and effect.

WITNESS the following signatures and seal this 19th day of January, 1982:

THE CITY OF EL PASO

ATTEST:

By

J.W. Foster
Mayor

W. H. Coe
City Clerk

APPROVED AS TO FORM:

J. J. Jensen
Assistant City Attorney

THE STATE OF TEX.)
COUNTY OF EL PASO)

I certify that the zoning map has been revised to reflect the amendment of Resolution 1-19-82 effective 1-25-82
By [Signature] Date 1-25-82

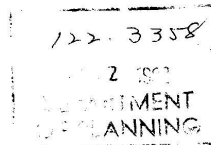
This instrument was acknowledged before me on this 19th day of January, 1982 by JONATHAN W. ROGERS, as Mayor of the CITY OF EL PASO.

My Commission Expires:

6-30-84

Billie Jean Bonobono
Notary Public, State of Texas

Contract dated 12/10/70
Ord. 4528



ATTACHMENT 6: PARKING STUDY

<i>PARKING COUNT ON OCTOBER 20, 2014</i>				
LEGAL DESCRIPTION	TIME	EAST MAUER ST. (8 AVAILABLE)	WEST MAUER ST. (7 AVAILABLE)	TOTAL (15 AVAILABLE)
2 YARBROUGH VILLAGE N. PT. OF 1 (130' ON N- 80' ON W- 150' ON S- 100' ON E)	8:00 AM	0 OCCUPIED	0 OCCUPIED	0 OCCUPIED
	9:00 AM	0 OCCUPIED	0 OCCUPIED	0 OCCUPIED
	10:00 AM	0 OCCUPIED	0 OCCUPIED	0 OCCUPIED
	11:00 AM	0 OCCUPIED	0 OCCUPIED	0 OCCUPIED
	12:00 PM	0 OCCUPIED	0 OCCUPIED	0 OCCUPIED
	1:00 PM	0 OCCUPIED	0 OCCUPIED	0 OCCUPIED
	2:00 PM	0 OCCUPIED	0 OCCUPIED	0 OCCUPIED
	3:00 PM	0 OCCUPIED	0 OCCUPIED	0 OCCUPIED
	4:00 PM	0 OCCUPIED	0 OCCUPIED	0 OCCUPIED
	5:00 PM	0 OCCUPIED	0 OCCUPIED	0 OCCUPIED
	6:00 PM	0 OCCUPIED	0 OCCUPIED	0 OCCUPIED
	7:00 PM	0 OCCUPIED	0 OCCUPIED	0 OCCUPIED
	8:00 PM	0 OCCUPIED	0 OCCUPIED	0 OCCUPIED





Recommendation/Public Input

- Planning Division recommendation: Approval
- CPC Vote: Approval Recommendation (5-1)
- Public Input: No communications received in support or opposition to the rezoning request.

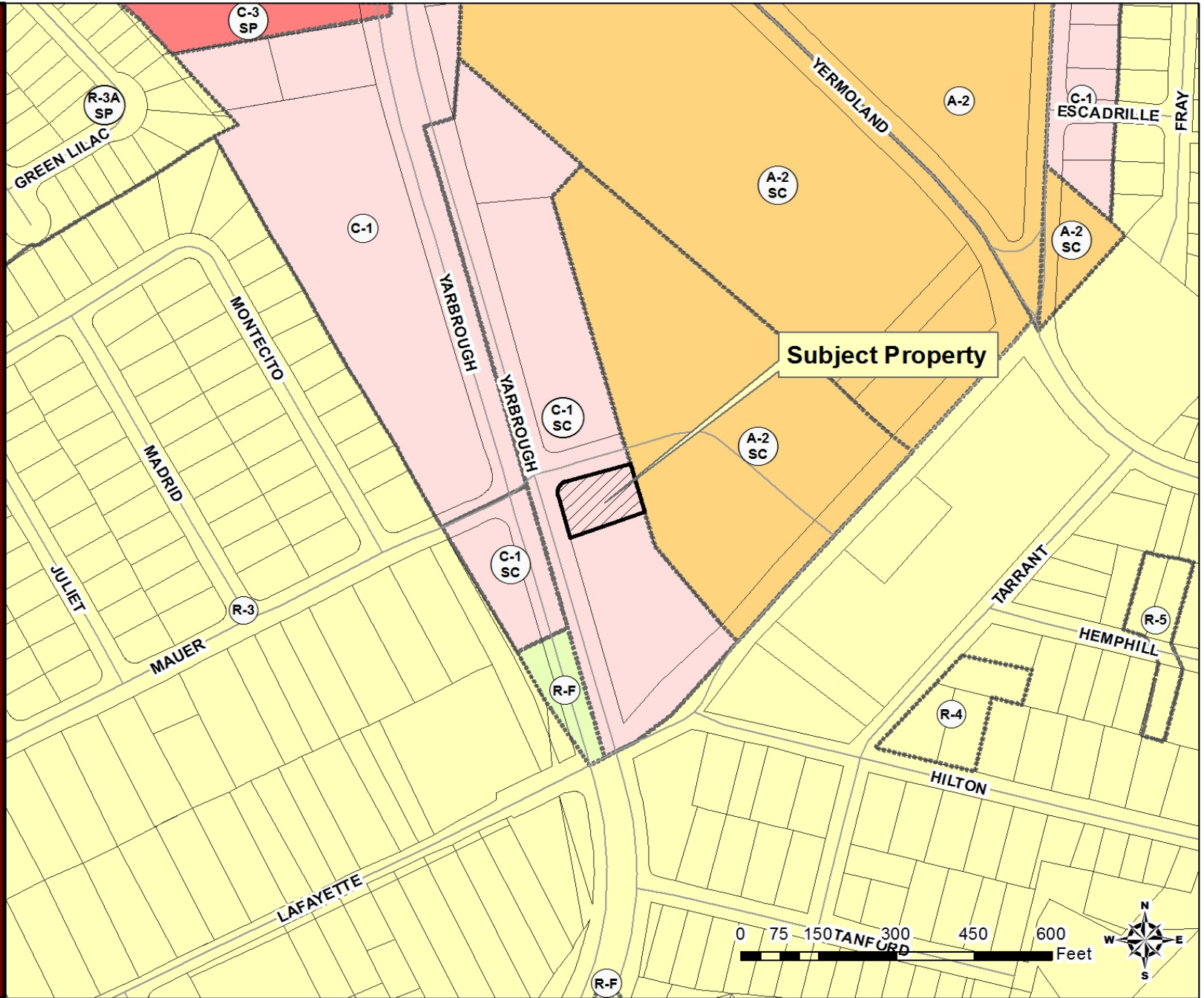
Strategic Goal #3 Promote the Visual Image of El Paso

3.1 Provide business friendly permitting and inspection processes

3.2 Improve the visual impression of the community

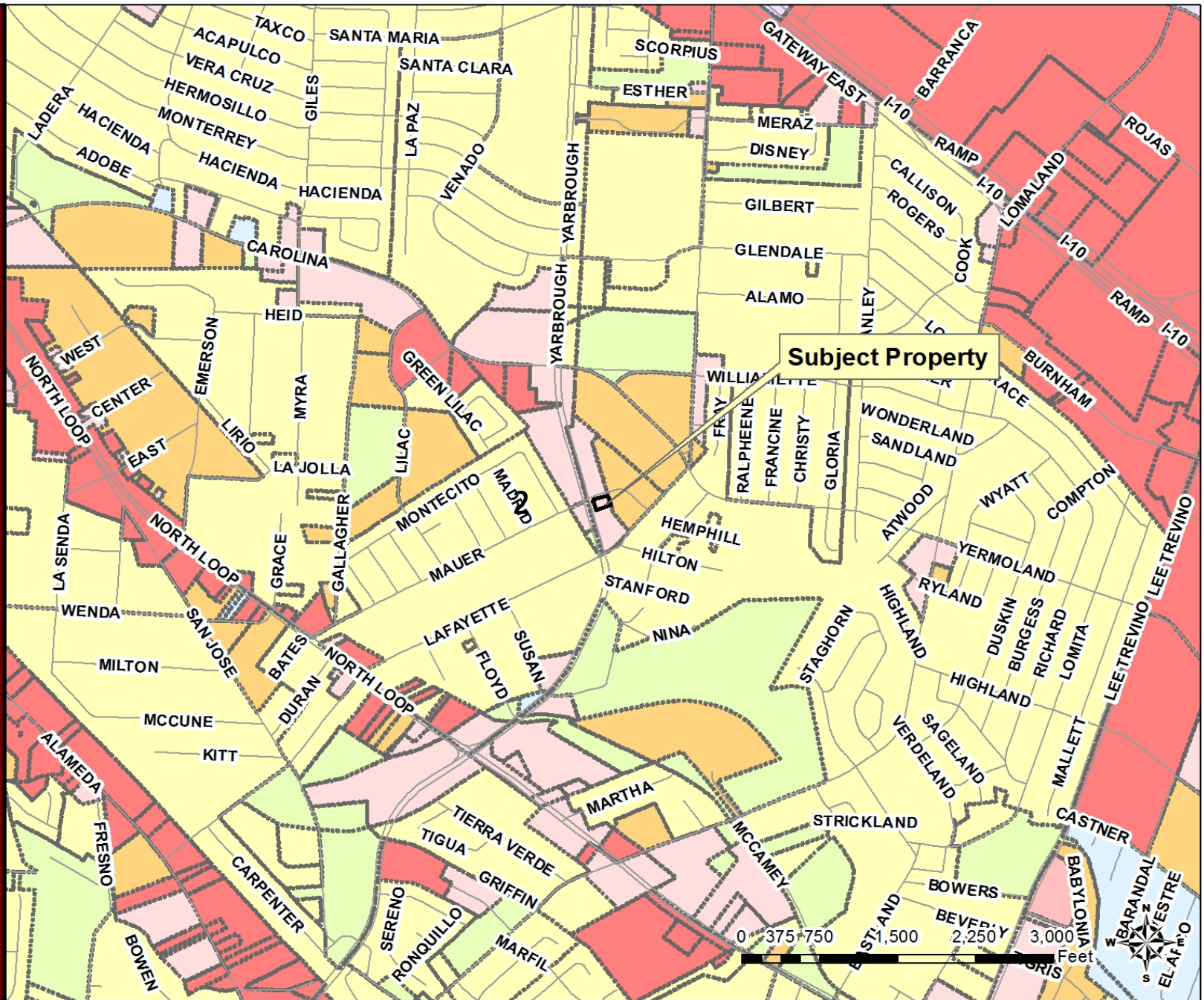
PZST14-00031

2



PZST14-00031

3



PZST14-00031

4



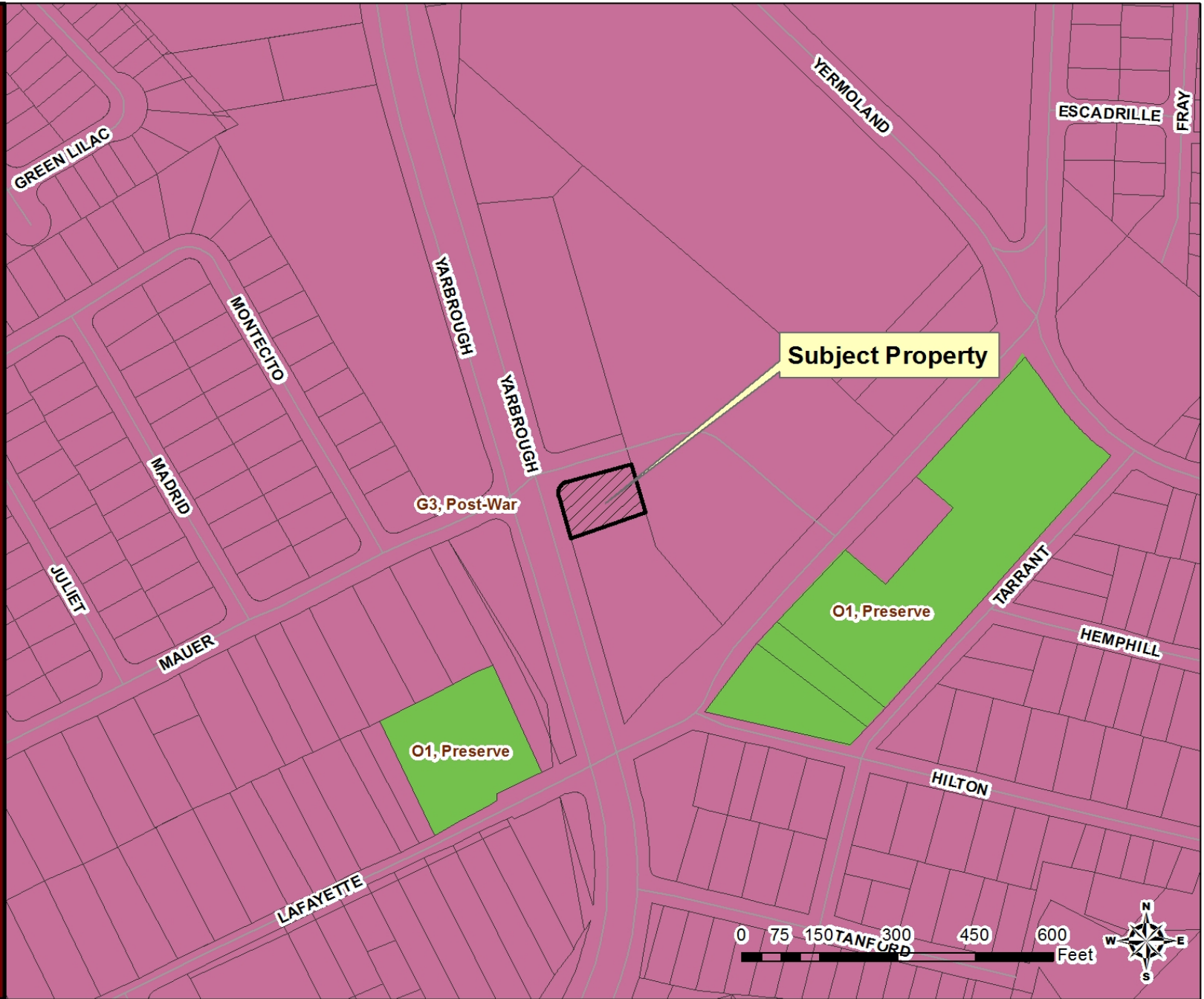
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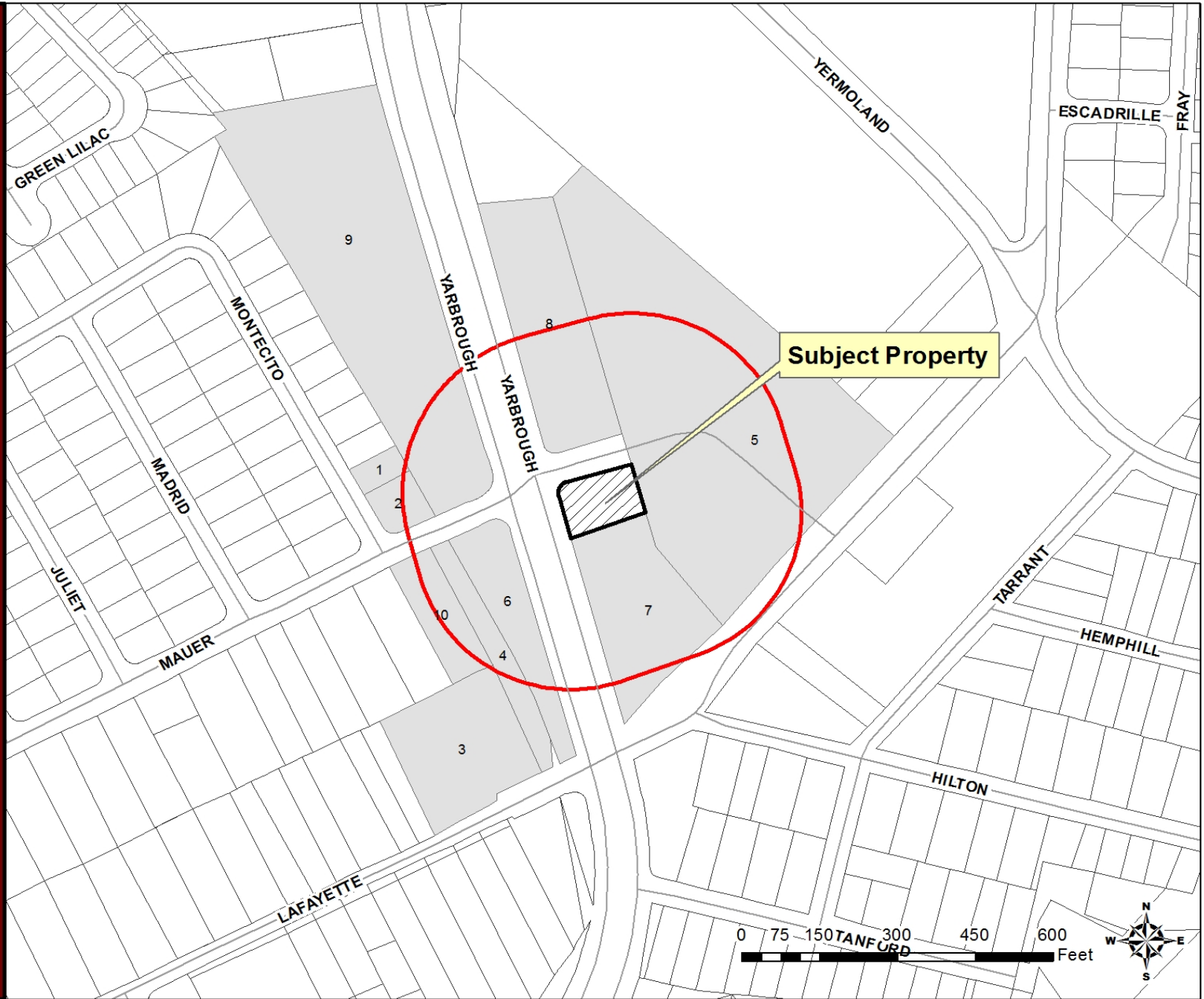
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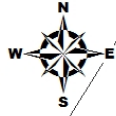
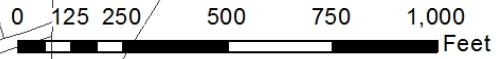
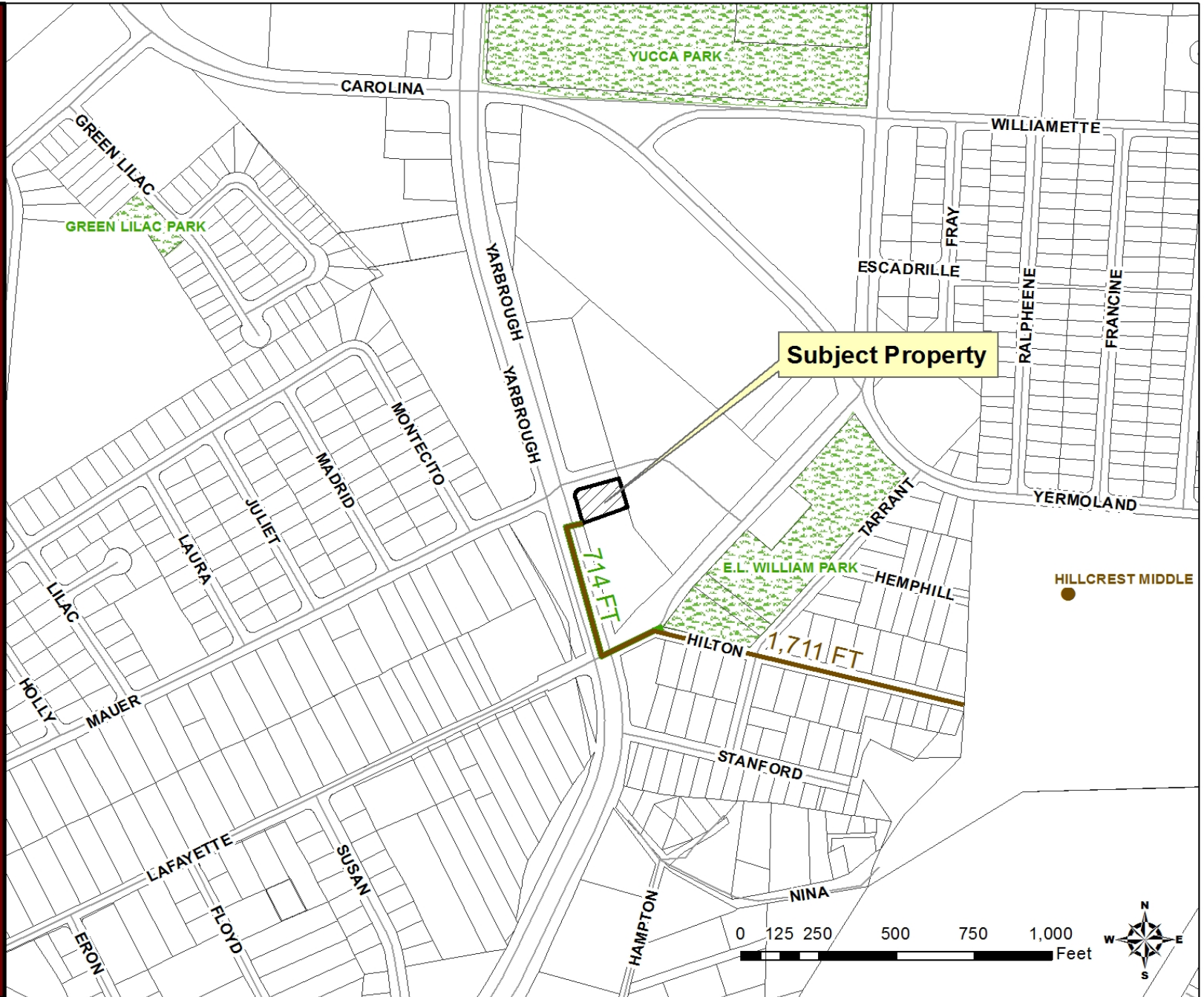
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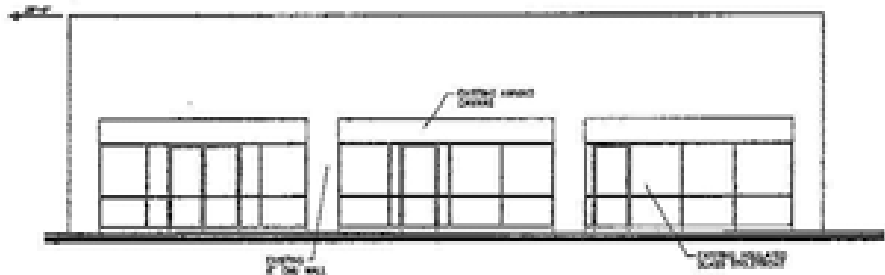
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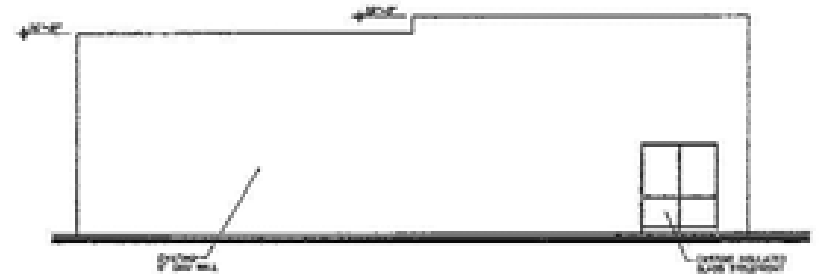
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8





FRONT ELEVATION

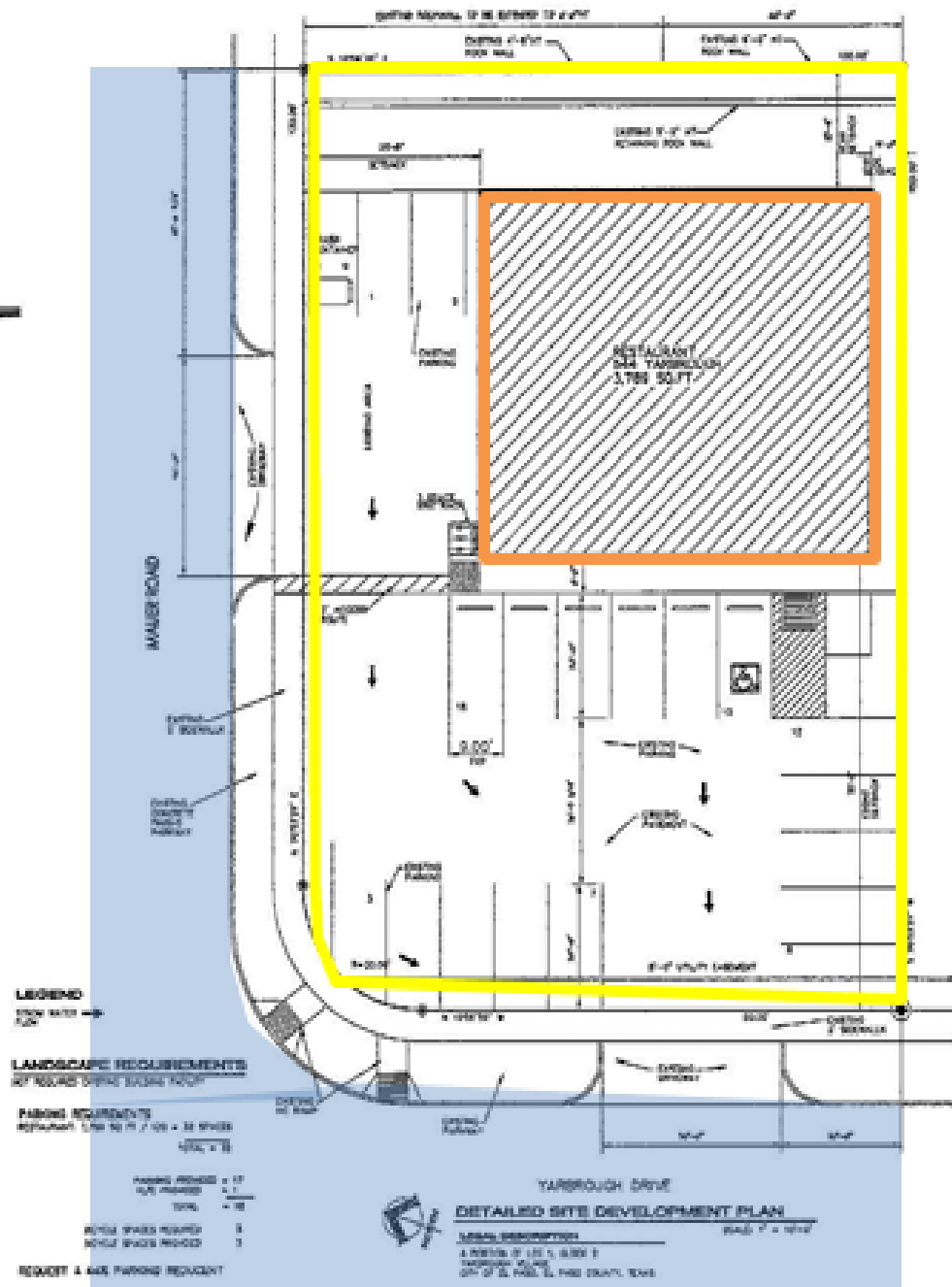


LEFT ELEVATION



Rey PE

12 Nov 2014



LEGEND
ROAD WAY

LANDSCAPE REQUIREMENTS
OF ROADWAY BUFFER ZONE

PARKING REQUIREMENTS
RESTAURANT 1788 SQ FT / 200 = 8.94 SPACES
1000 SQ FT

TOTAL SPACES REQUIRED	9
TOTAL SPACES PROVIDED	9

REQUIRE 4 GAS PARKING SPACES

TARRAGON DRIVE
DETAILED SITE DEVELOPMENT PLAN
SCALE 1/4\"/>

PREPARED BY: [Signature]
DATE: 11/12/14
PROJECT: [Project Name]

Parking Reduction Requested

Parking Requirement	Parking Provided	Parking Reduction
Restaurant Use: 32 Parking Spaces $3,788/120=32$	18 Parking Spaces 56 %	14 parking Spaces 44 %
Restaurant Use: 3 Bicycle Spaces For up to 60 Parking Spaces required=3 Bicycle Spaces	3 Bicycle Spaces 100%	0

PARKING STUDY

PARKING COUNT ON OCTOBER 20, 2014

LEGAL DESCRIPTION	TIME	EAST MAUER ST. (8 AVAILABLE)	WEST MAUER ST. (7 AVAILABLE)	TOTAL (15 AVAILABLE)
2 YARBROUGH VILLAGE N. PT. OF 1 (130' ON N- 80' ON W- 150' ON S- 100' ON E)	8:00 AM	0 OCCUPIED	0 OCCUPIED	0 OCCUPIED
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	5:00 PM	0 OCCUPIED	0 OCCUPIED	0 OCCUPIED
	6:00 PM	0 OCCUPIED	0 OCCUPIED	0 OCCUPIED
	7:00 PM	0 OCCUPIED	0 OCCUPIED	0 OCCUPIED
8:00 PM	0 OCCUPIED	0 OCCUPIED	0 OCCUPIED	



SUBJECT PROPERTY



NORTH

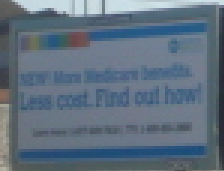


EAST

500 YARBROUGH 500



SOUTH



WEST



PZST14-00031

17

