

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

DEPARTMENT: City Development Department, Planning Division

AGENDA DATE: Introduction: May 27, 2014
Public Hearing: June 17, 2014

CONTACT PERSON/PHONE: Arturo Rubio, (915) 541-4633, rubioax@elpasotexas.gov

DISTRICT(S) AFFECTED: 7

SUBJECT:

An Ordinance releasing all conditions placed on property by Ordinance No. 7591 dated September 14, 1982, which changed the zoning of a portion of Lot 1 and Portion of Lot 2, Block 1, Las Flores Subdivision, Unit 4, 8825 North Loop Drive, City of El Paso, El Paso County, Texas and Ordinance No. 15816 dated June 15, 2004, which changed the zoning of a portion of Lot 1 and portion of Lot 2, Block 1, Las Flores Subdivision, Unit 4, 8825 North Loop Drive, City of El Paso, El Paso County, Texas. The penalty is as provided for in Chapter 20.24 of The El Paso City Code. Property owner: Verde Paso Partners, LP, Location: 8825 North Loop Drive, **PZCR14-00003 (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 (7-0 vote)

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

LEGAL: (if required) N/A

FINANCE: (if required) N/A

DEPARTMENT HEAD:

Mathew S. McElroy
Director, City Development Department

APPROVED FOR AGENDA:

CITY MANAGER: _____

DATE: _____

ORDINANCE NO. _____

AN ORDINANCE RELEASING ALL CONDITIONS PLACED ON PROPERTY BY ORDINANCE NO. 7591 DATED SEPTEMBER 14, 1982, WHICH CHANGED THE ZONING OF A PORTION OF LOT 1 AND PORTION OF LOT 2, BLOCK 1, LAS FLORES SUBDIVISION, UNIT 4, 8825 NORTH LOOP DRIVE, CITY OF EL PASO, EL PASO COUNTY, TEXAS AND ORDINANCE NO. 15816 DATED JUNE 15, 2004, WHICH CHANGED THE ZONING OF A PORTION OF LOT 1 AND PORTION OF LOT 2, BLOCK 1, LAS FLORES SUBDIVISION, UNIT 4, 8825 NORTH LOOP, CITY OF EL PASO, EL PASO COUNTY, TEXAS. THE PENALTY IS AS PROVIDED FOR IN CHAPTER 20.24 OF THE EL PASO CITY CODE.

WHEREAS, the zoning of the property described as a portion of lot 1 and portion of lot 2, block 1, Las Flores Subdivision, Unit 4, 8825 North Loop Drive, City of El Paso, El Paso County, Texas, was changed by Ordinance No. 7591 approved by City Council on September 14, 1982 and Ordinance No. 15816 approved by City Council on June 15, 2004 and,

WHEREAS, the rezoning was subject to certain zoning conditions, and

WHEREAS, placement of such conditions were necessitated by and attributable to the increased intensity of use generated by the change of zoning; and,

WHEREAS, the owner (applicant) submitted an application requesting the removal all of the conditions because these conditions have been satisfied or are current requirement of the City Code; and,

WHEREAS, a public hearing regarding removal of the conditions was held before the City Plan Commission, and the Commission recommended approval of the release of all conditions; and,

WHEREAS, the City Council of the City of El Paso has determined that the release of all conditions will protect the best interest, health, safety, and welfare of the public in general.

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

That all of the zoning conditions imposed by Ordinance No. 7591 approved by City Council on September 14, 1982 and Ordinance No. 15816 approved by City Council on June 15, 2004 on the portion of land identified in Exhibit "A" be released because the conditions have been satisfied, are no longer necessary, and/or are current requirements of the City Code.

Conditions to be released are identified in Exhibits "B" and "C"

PASSED AND APPROVED this _____ day of _____, 2014

ORDINANCE NO. _____

PZCR14-00003

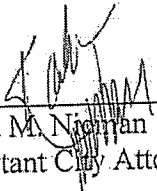
THE CITY OF EL PASO

Oscar Leeser
Mayor

ATTEST:

Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:



Karla M. Nicholson
Assistant City Attorney

APPROVED AS TO CONTENT:

Mathew S. McElroy, Director
City Development Department

ORDINANCE NO. _____

PZCR14-00003

#288871/14-1007-1045/ 8825 North Loop Dr. Condition Release
KMN

PREPARED FOR: MIMCO
A PORTION OF LOT 1 AND PORTION OF LOT 2, BLOCK 1
LAS FLORES SUBDIVISION UNIT 4,
CITY OF EL PASO
EL PASO COUNTY, TEXAS
AUGUST 27, 2008
W.O.# 072903-12B

EXHIBIT "A"

PROPERTY DESCRIPTION

Description of a 9.0718 acre parcel of land being a Portion of Lot 1, and Portion of Lot 2, Block 1, Las Flores Subdivision, Unit 4, City of El Paso, El Paso County, Texas, being more particularly described by metes and bounds as follows:

Beginning at a Texas Department of Transportation brass cap monument located at the Easterly Right of Way line of North Loop Drive said point also being the Southwesterly corner of Lot 1, Block 2, Las Palmeras Addition common to the Northwest corner of Lot 2, Block 1, Las Flores Subdivision, Unit 4;

Thence North 54° 31' 00" East a distance of 385.40 feet, unable to set;

Thence South 35° 27' 07" East a distance of 85.00 feet to a set 5/8" diameter rebar with plastic cap stamped Roe Engineering L.C. 2449;

Thence North 34° 10' 00" East a distance of 126.63 feet to a set 5/8" diameter rebar with plastic cap stamped Roe Engineering L.C. 2449;

Thence South 34° 10' 00" East a distance of 389.96 feet to a set 5/8" diameter rebar with plastic cap stamped Roe Engineering L.C. 2449;

Thence South 38° 57' 00" East a distance of 343.55 feet to a set PK Nail;

Thence South 40° 18' 00" West a distance of 126.44 feet to a set PK Nail;

Thence South 49° 42' 00" East a distance of 179.27 feet to a set found 5/8" diameter rebar with KECO Cap;

Thence North 84° 03' 00" West a distance of 190.61 feet to a found nail & shiner;

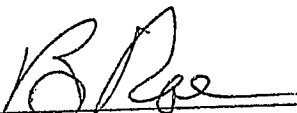
Thence North 05° 57' 00" East a distance of 74.91 feet to a set 5/8" diameter rebar with plastic cap stamped Roe Engineering L.C. 2449;

Thence North 84° 03' 00" West a distance of 193.57 feet to a set nail;

Thence South 35° 27' 07" East a distance of 99.87 feet to a found PK nail;

Thence North 84° 03' 00" West a distance of 276.21 feet to a found 5/8" diameter rebar with plastic cap stamped Roe Engineering L.C. 2449 along the easterly row line of North Loop Drive;

Thence along said Easterly Right Of Way line, North 35° 27' 07" West a distance of 629.30 feet back to the "True Point of Beginning" of said parcel and containing in all 395,166.72 square feet or 9.0718 acres of land more or less.


BRADLEY ROE, R.P.L.S. TX 2449
ROE ENGINEERING, L.C.
601 N. Cotton St. Suite No.6
El Paso, Tx, 79902



7591
7591

EXHIBIT "B"

AN ORDINANCE CHANGING THE ZONING OF
TRACTS 12B, 13A AND 13B, BLOCK 6,
YSALETA GRANT, 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 Tracts 12B, 13A and 13B, Block 6, Ysaleta Grant, as more particularly described below, be changed to P-C (Planned Commercial) District within the meaning of the zoning ordinance, and the zoning map of the City be revised accordingly:

A parcel of land within Tracts 12B, 13A, and 13B in Block 6, Ysaleta Grant, El Paso County, Texas and being more particularly described by metes and bounds as follows:

Beginning at the City Monument at the centerlines of Moralla Way and North Loop Road,

Thence, S 35°29' E along said North Loop Road Centerline a distance of 664.27 feet;

Thence, N 54°31' E a distance of 25.00 feet to a #4 rebar in the westerly corner and Point of Beginning of this parcel;

Thence, along a fence line the following courses: N 54°00' 47" E a distance of 261.63 feet to a pipe fence corner, N 44°30'06" E a distance of 358.97 feet to a pipe fence corner in the northerly corner of this parcel;

Thence, S 40°14'11" E along a fence line a distance of 180.15 feet to a pipe fence corner;

Thence S 16°17'11" W along a fence line a distance of 435.80 feet to a #4 rebar in the easterly corner of this parcel;

Thence N 84°16'33" W along a fence line and wall and the northerly right of way of the Juan De Herrera Lateral a distance of 382.46 feet to a #4 rebar in the southerly corner of this parcel;

Thence N 35°29' W along the northerly right of way of said North Loop Road a distance of 132.53 feet to the said westerly corner and Point of Beginning of this parcel.

Said parcel contains 3.94 acres more or less.

PASSED AND APPROVED this 14th day of September, 1982.

ATTEST:

Contract

[Signature]
City Clerk

APPROVED AS TO FORM:

[Signature]
Assistant City Attorney

[Signature]
Mayor

APPROVED AS TO CONTENT:

[Signature]
Planning Department

82-4793
DEPARTMENT

7591

RESOLUTION

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

That the Mayor be authorized to execute a contract with
ALGIN FELDER, et al., placing certain restrictions, conditions
and covenants on the property being rezoned by Ordinance No.

7591

ADOPTED this 14th day of September, 1982.

ATTEST:

Joseph W. Prew
Mayor

William L. Prew
City Clerk

APPROVED AS TO FORM:

Samuelson
Assistant City Attorney

82-4793

CONTRACT

THIS CONTRACT, made this 14th day of September, 1982,
by and between MSC PROPERTIES, A TEXAS GENERAL PARTNERSHIP COMPOSED
OF GERALD J. RUBIN AND IRVING I. RUBIN, First Parties, and the
CITY OF EL PASO, Second Party, witnesseth:

Application has been made to the City of El Paso for rezoning
of Tracts 12B, 13A and 13B, Block 6, Ysleta Grant, City of El Paso,
El Paso County, Texas, such property being more particularly
described in Ordinance No. 7591 now pending before the City
Council of the City of El Paso, a copy of which is attached hereto,
marked Exhibit "A" and made a part hereof by reference. To remove
certain objections to such rezoning, First Parties covenant that
if the property is rezoned to P-C (Planned 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 package store, unless operated with supermarkets,
drugstores or other retail operation, or any establishment whose
principal purpose is the serving or selling of alcoholic beverages
without food service, by the drink for consumption on the premises
shall be allowed on the property. This shall not be construed to
prohibit the operation of a restaurant which sells alcoholic beverages
in connection with food service.

2. No billiard hall or skill or pleasure coin-operated
machine establishment shall be permitted on the property.

- (a) "Billiard hall" as used in this paragraph shall
mean a place at which a billiard table or tables
are provided to be played on for compensation.
- (b) "Billiard table" as used in this paragraph means
any table (whether coin-operated or not) surrounded
by a ledge or cushion with or without pockets,
upon which balls are impelled by a stick or cue.
- (c) The term "skill or pleasure coin-operated machine
establishment" as used in this paragraph means
any place where five or more skill or pleasure
coin-operated machines are maintained or made
available for use or operation.
- (d) The term "skill or pleasure coin-operated machine"
means every machine or device of any kind or char-

82-4793

...er whatsoever which is operated by or with coins, currency, metal slugs, tokens or checks, when such machine dispenses, uses or is capable of being used or operated for any purpose other than dispensing or vending of merchandise, music, or service exclusively. "Skill or pleasure coin-operated machine" shall include, but not be limited to the following: marble machines, marble table machines, marble shooting machines, miniature racetrack machines, miniature football machines, miniature golf machines, miniature bowling machines, pinball machines, and all other coin-operated machines, which dispense or afford skill or pleasure. Every machine or device of and kind or character which dispenses or vends merchandise, commodities or confections or plays music in connection with or in addition to such games or dispensing of pleasure or skill shall be considered a "skill or pleasure coin-operated machine."

3. No adult bookstore, adult motion picture theater or nude live entertainment club shall be permitted on the property.

- (a) "Adult bookstore" as used in this paragraph shall mean an establishment having as a substantial or significant portion of its stock in trade, books, magazines and other periodicals, and "peep shows" or film strips which are distinguished or characterized by their emphasis on pictorial or photographic representations of "specified sexual activities" or "specified anatomical areas" (as defined herein) or an establishment with a segment or section devoted to the sale or display of such material.

A "significant or substantial portion" shall mean more than one-third of the stock in trade or sales of the described material in excess of \$5,000 retail value per year.

- (b) "Adult motion picture theater" as used in this paragraph shall mean an enclosed building or outdoor screen presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" (as defined herein) for observation by patrons of such establishments, and which offers such materials for at least any 120 days in any 12-month period.
- (c) "Nude live entertainment club" as used in this paragraph shall mean any bar, club, theater, lounge or establishment which offers live nude entertainment by dancers, models, actors, actresses, players, waitresses or waiters. "Nude live entertainment" shall mean live human dancers, models, actors, actresses, players, waitresses or waiters whose public area, buttock or genitals are exposed to the view of patrons at any time.
- (d) "Specified sexual activities" as used in this paragraph shall mean:

- (1) human genitals in a state of actual or simulated sexual stimulation or arousal;
- (2) acts of human masturbation, sexual intercourse or sodomy;
- (3) fondling or other erotic touching of human genitals, pubic region, buttock, or female breast;
- (4) "sexual intercourse," "sexual contact," or deviate sexual intercourse" as defined in Sec. 31.01, Texas Penal Code.
- (e) "Specified anatomical areas" as used in this paragraph shall mean less than completely covered human genitals, pubic region, buttock, and female breast below a point immediately above the top of the areola.

4. No certificates of occupancy and compliance shall be issued for any building constructed on the property until First Parties have, at no cost to the City, done the following:

- (a) Installed a concrete sidewalk along the boundary of the property which is adjacent to North Loop Drive.
- (b) Constructed a deceleration lane along North Loop Drive including grading, paving, curbing and gutters.

Such improvements shall be done in accordance with specifications to be approved by the City Engineer of the City of El Paso; in addition, plans and specifications for the deceleration lane to be constructed and installed under paragraph 4(b) above must be approved by the Director of Traffic and Transportation of the City of El Paso. The City Engineer and the Director of Traffic and Transportation must certify that such improvements have been satisfactorily installed before certificates of occupancy and compliance shall be issued.

5. First Parties shall, at no cost to the City, execute and deliver to the City a written instrument dedicating to the City a strip of right of way varying in width from a maximum of 35 feet to a minimum of approximately 30 feet for the future widening of North Loop Drive. A legal description will be furnished by the City.

This contract is a restriction, condition and covenant running with the land and a charge and servitude thereon, and shall bind First Parties and their successors in title. Any future conveyance of the land shall embody this contract 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.

WITNESS THE FOLLOWING SIGNATURES AND SEAL:

MSG PROPERTIES
A TEXAS GENERAL PARTNERSHIP

BY Gerald J. Rubin
Gerald J. Rubin

BY Irving I. Rubin
Irving I. Rubin

THE CITY OF EL PASO

BY Mayor
Mayor

ATTEST:

City Clerk
City Clerk

APPROVED AS TO FORM:

Assistant City Attorney
Assistant City Attorney

APPROVED AS TO CONTENT:

Planning Department
Planning Department

THE STATE OF TEXAS)
COUNTY OF EL PASO)

This instrument was acknowledged before me this 15 day
of September, 1982 by GERALD J. RUBIN and IRVING I. RUBIN.

My Commission Expires:
CAROLYN CAMPBELL, Notary Public
in and for the County of El Paso, Texas
My commission expires 11/12/85

Carolyn Campbell
Notary Public
State of Texas

THE STATE OF TEXAS)
COUNTY OF EL PASO)

This instrument was acknowledged before me this 19th day
of October, 1982, by JONATHAN W. ROGERS, as Mayor of
the City of El Paso.

My Commission Expires:

11/12/85

Notary Public
Notary Public
State of Texas

ORDINANCE NO. 15816

AN ORDINANCE CHANGING THE ZONING OF PARCEL 1: LOT 2 AND A PORTION OF LOT 1, BLOCK 1, LAS FLORES SUBDIVISION UNIT 4, EL PASO, EL PASO COUNTY, TEXAS FROM P-C/SC (PLANNED COMMERCIAL DISTRICT/SPECIAL CONTRACT) TO C-2/SC (COMMERCIAL/SPECIAL CONTRACT); AND PARCEL 2: A PORTION OF LOT 1, BLOCK 1, LAS FLORES SUBDIVISION UNIT 4, EL PASO, EL PASO COUNTY, TEXAS FROM P-C/SC (PLANNED COMMERCIAL DISTRICT/SPECIAL CONTRACT) TO C-2/SC (COMMERCIAL/SPECIAL CONTRACT). THE PENALTY BEING AS PROVIDED IN CHAPTER 20.68 OF THE EL PASO MUNICIPAL CODE.

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

That the zoning of Parcel 1: *Lot 2 and a portion of Lot 1, Block 1, Las Flores Subdivision Unit 4, El Paso, El Paso County, Texas*, as more particularly described by metes and bounds in the attached Exhibit "A", be changed from P-C/sc (Planned Commercial District/special contract) to C-2/sc (Commercial/special contract); and Parcel 2: *A portion of Lot 1, Block 1, Las Flores Subdivision Unit 4, El Paso, El Paso County, Texas*, as more particularly described by metes and bounds in the attached Exhibit "B", be changed from P-C/sc (Planned Commercial District/special contract) to C-2/sc (Commercial/special contract); within the meaning of the zoning ordinance, and that the zoning map of the City of El Paso be revised accordingly; and

That Parcels 1 and 2 be subject to the following conditions which are necessitated by and attributable to the increased intensity of use generated by the change of zoning from P-C/sc (Planned Commercial District/special contract) to C-2/sc (Commercial/special contract) for Parcel 1, and from P-C/sc (Planned Commercial District/special contract) to C-2/sc (Commercial/special contract) for Parcel 2, in order to protect the health, safety and welfare of adjacent property owners and the residents of this city:

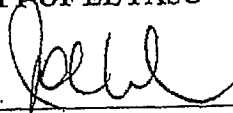
That a Detailed Site Development Plan be reviewed and approved pursuant to the El Paso Municipal Code prior to the issuance of any building permits, and that the site development plan submitted with this rezoning application be accepted to meet this requirement.

ORDINANCE NO. 15816

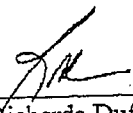
These conditions run with the land, are a charge and servitude thereon, and bind the current property owner and any successors in title. The City may enforce these conditions by injunction, by rescission of the zoning which is made appropriate as a result of these conditions, or by any other legal or equitable remedy. The City Council of the City of El Paso may amend or release the above conditions in its discretion without the consent of any third person who may be benefitted thereby, and without affecting the validity of this ordinance.

PASSED AND APPROVED this 15th day of June, 2004.


THE CITY OF EL PASO

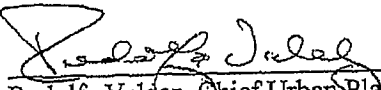

Joe Wardy, Mayor

ATTEST:


Richarda Duffy Momsen, City Clerk

APPROVED AS TO CONTENT:


Fred Lopez, Zoning Coordinator
Planning, Research & Development

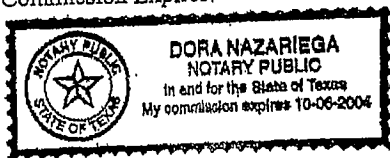

Rodolfo Valdez, Chief Urban Planner
Planning, Research & Development

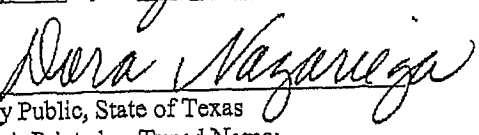
Acknowledgment

THE STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument is acknowledged before me on this 21st day of June, 2004,
by JOE WARDY as MAYOR of THE CITY OF EL PASO.

My Commission Expires:




Notary Public, State of Texas
Notary's Printed or Typed Name:

Dora Nazariega

2

6/16/2004

ORDINANCE NO. 15818

Zoning Case No. ZON04-00050

Exhibit "A"

Prepared For: Mr. Bruce Duncan
Being a Portion of Lot 1 and All of Lot 2, Block 1
Las Flores Subdivision Unit 4
Save and Except Parcel 2, Wendy's Hamburgers Restaurant
City of El Paso, El Paso County, Texas
WO: 072903-12A
Date: March 9, 2004

PROPERTY DESCRIPTION

Description of a 14.7352 acre parcel of land being all of Lot 2 and a Portion of Lot 1, Save and Except that portion of Wendy's Parcel more particularly describe by Metes and Bounds attached hereto; Block 1, Las Flores Subdivision, Unit 4, City of El Paso, El Paso County, Texas, being more particularly described by metes and bounds as follows:

Beginning at a Texas Department of Transportation brass cap monument located at the Easterly Right of Way line of North Loop Drive, said point also being the Southwesterly corner of Lot 1, Block 2, Las Palmeras Addition common to the Northwest corner of Lot 2, Block 1, Las Flores Subdivision Unit 4, and the "True Point of Beginning";

Thence North 54° 31' 00" East a distance of 748.99 feet to a 5/8" diameter rebar with plastic cap stamped Roe Engineering L.C., Tx. 2449, said point being on the Westerly Property line of Mesa Drain;

Thence, along said Westerly Property line, South 34° 10' 00" East a distance of 470.57 feet to a 5/8" diameter rebar with plastic cap stamped KECOA;

Thence, continuing along said Westerly Property line, South 38° 57' 00" East a distance of 402.07 feet to a 5/8" diameter rebar with plastic cap stamped KECOA, said point being on the Westerly Property line of Mesa Drain and Juan De Herrera Lateral;

Thence, leaving said Westerly Property line and continuing on the Westerly Juan De Herrera Lateral Property line, South 02° 25' 00" West a distance of 262.62 feet to a 5/8" diameter rebar with plastic cap stamped Roe Engineering L.C., Tx. 2449, said point being on the Southwesterly Right-Of-Way line of Zaragoza Road;

Thence, along said Southwesterly Right-Of-Way line, South 40° 18' 00" West a distance of 110.10 feet to a 5/8" diameter rebar with plastic cap stamped Roe Engineering L.C., Tx. 2449, said point being on the Northerly Property line of the Juan De Herrera Lateral;

Thence, along said Northerly Property line, North 48° 03' 00" West a distance of 291.80 feet to a 5/8" diameter rebar with plastic cap stamped Roe Engineering L.C., Tx. 2449;

Thence, continuing along said Northerly Property line, South 16° 23' 00" West a distance of 10.10 feet to a 5/8" diameter rebar with plastic cap stamped Roe Engineering L.C., Tx. 2449;

Thence, continuing along said Northerly Property line, North 84° 03' 00" West a distance of 81.39 feet to a 5/8" diameter rebar with plastic cap stamped Roe Engineering L.C., Tx. 2449 and a point for corner;

Exhibit "B"

Prepared For: Mr. Bruce Duncan
Being a Portion of Lot 1, Block 1
Las Flores Subdivision Unit 4
City of El Paso, El Paso County, Texas
WO: 072903-12A
Date: March 9, 2004

PROPERTY DESCRIPTION (Parcel 2)

Description of a 1.4011 acre parcel of land being a Portion of Lot 1, Block 1, Las Flores Subdivision, Unit 4, City of El Paso, El Paso County, Texas, being more particularly described by metes and bounds as follows:

Beginning at a Texas Department of Transportation brass cap monument located at the Easterly Right of Way line of North Loop Drive said point also being the Southwesterly corner of Lot 1, Block 2, Las Palmeras Addition common to the Northwest corner of Lot 2, Block 1, Las Flores Subdivision, Unit 4;

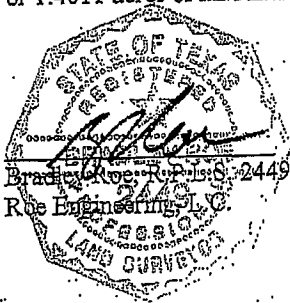
Thence South $35^{\circ} 27' 07''$ East a distance of 479.31 feet along said Easterly Right of Way line to a set 5/8" diameter rebar with plastic cap stamped Roe Engineering L.S. 2449 being the "True Point of Beginning";

Thence, leaving said Easterly Right of Way line, North $54^{\circ} 32' 53''$ East a distance of 207.19 feet, to a 5/8" diameter rebar with plastic cap stamped Roe Engineering L.S. 2449;

Thence, South $35^{\circ} 27' 07''$ East a distance of 385.91 feet to a set bridge nail in pavement;

Thence North $84^{\circ} 03' 00''$ West a distance of 276.21 feet to a 5/8" diameter rebar with plastic cap stamped Roe Engineering L.S. 2449 on the Easterly Right of Way line of North Loop Drive;

Thence, along said Easterly Right Of Way line, North $35^{\circ} 27' 07''$ West a distance of 203.24 feet back to the "True Point of Beginning" of said parcel and containing in all 61,031.17 square feet or 1.4011 acres of land more or less.



Thence, leaving said Northerly Property line, North 35° 27' 07" West a distance of 385.91 feet to a 5/8" diameter rebar with plastic cap stamped Roe Engineering L.C., Tx. 2449 and a point for corner;

Thence, South 54° 32' 53" West a distance of 207.19 feet to a 5/8" diameter rebar with plastic cap stamped Roe Engineering L.C., Tx. 2449 said point being on the Easterly Right-Of-Way line of North Loop Drive;

Thence, along said Easterly Right-Of-Way line, North 35° 27' 07" West a distance of 479.31 feet back to the "True Point of Beginning" of said parcel and containing in all 641,864.86 square feet or 14.7352 acres, Save and Except 0.9025 acres as described by the following Metes and Bounds:

Save and Except Wendy's Parce
PROPERTY DESCRIPTION
(Wendy's Hamburger Restaurant Parcel)

Description of a 0.9025 acre parcel of land being a portion of Lot 1, Block 1, Las Flores Subdivision, Unit 4, City of El Paso, El Paso County, Texas, being more particularly described by metes and bounds as follows:

Beginning at a Texas Department of Transportation brass cap monument located at the Easterly Right-Of-Way line of North Loop Drive, said point also being the Southwesterly corner of Lot 1, Block 2, Las Palmas Addition common to the Northwest corner of Lot 2, Block 1, Las Flores Subdivision Unit 4;

Thence, along said Easterly Right-Of-Way line, South 35° 27' 07" East a distance of 629.31 feet; Thence, leaving said Easterly Right-Of-Way line, South 84° 03' 00" East a distance of 594.35 feet to a 5/8" diameter rebar with plastic cap stamped KECO and the "True Point of Beginning";

Thence North 49° 42' 00" West a distance of 179.27 feet to a 5/8" diameter rebar with plastic cap stamped Roe Engineering L.C., Tx. 2449;

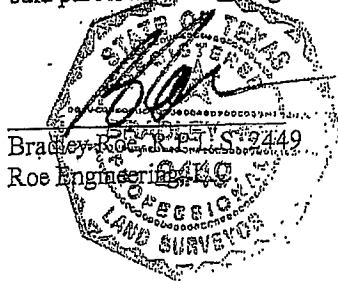
Thence North 40° 18' 00" East a distance of 171.00 feet to a 5/8" diameter rebar with plastic cap stamped KECO;

Thence South 49° 42' 00" East a distance of 208.00 feet to a 5/8" diameter rebar with plastic cap stamped Roe Engineering L.C., Tx. 2449;

Thence South 02° 25' 00" West a distance of 55.75 feet to a 5/8" diameter rebar with plastic cap stamped Roe Engineering L.C., Tx. 2449;

Thence South 40° 18' 00" West a distance of 83.97 feet to a 5/8" diameter rebar with plastic cap stamped KECO;

Thence North 84° 03' 00" West a distance of 76.26 feet back to the "True Point of Beginning" of said parcel and containing in all 39,314.16 square feet or 0.9025 acres of land more or less.



MEMORANDUM

DATE: May 20, 2014

TO: The Honorable Mayor and City Council
Joyce A. Wilson, City Manager

FROM: Arturo Rubio, Senior Planner

SUBJECT: PZCR14-00003

The City Plan Commission (CPC), on May 22, 2014, voted 7-0 to recommend **approval** of the Condition Release Request for the subject property.

The CPC found that the condition release is in conformance with Plan El Paso. The CPC also determined that the condition release 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 condition release will have no negative effects on the natural environment, social economic conditions, and property values in the vicinity and the city as a whole.

There was no communication received in support or opposition to the request.

Property Owner: Verde Paso Partners, LP
Representative: Mimco/Charlie Gomez

Attachments: Staff Report



City of El Paso – City Plan Commission Staff Report

Case No: PZCR14-00003
Application Type: Zoning Condition Release
CPC Hearing Date: May 22, 2014
Staff Planner: Arturo Rubio, 915-212-1613, rubioax@elpasotexas.gov

Location: 8825 North Loop Drive
Legal Description: A portion of Lot 1, and portion of Lot 2, Block 1, Las Flores Subdivision, Unit 4, City of El Paso, El Paso County, Texas
Acreage: 9.07
Rep District: 7
Zoning: C-2/c/sc (Commercial/condition/special contract)
Existing Use: Community Shopping Center
C/SC/SP/ZBA/LNC: Conditions/Special Contract, Ordinance Nos. 15816 and 7591
Request: Release all conditions imposed by Special Contract Ordinance No. 7591, dated September 14, 1982 and Rezoning Ordinance No. 15816, dated June 15, 2004
Proposed Use: Ballroom/Banquet Hall

Property Owner: Verde Paso Partners, LP
Representative: Mimco/Charlie Gomez

SURROUNDING ZONING AND LAND USE

North: R-3 (Residential) / Single-family dwellings
South: C-1/sc (Commercial/special contract) / Retail/Car wash
East: C-2/c/sc (Commercial/condition/special contract / P-C/sc (Planned Commercial/special contract) / Self-storage warehouse
West: R-F (Ranch and Farm) / Single-family dwellings / C-1 (Commercial) Light Retail / C-3/c (Commercial/conditions)

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

NEAREST PARK: Pecan Grove Park #1 (4,386 feet)

NEAREST SCHOOL: Mission Valley Elementary School (798 feet)

NEIGHBORHOOD ASSOCIATIONS

There are no registered neighborhood associations in the area. This was verified through community development department data on recognized neighborhood associations.

NEIGHBORHOOD INPUT

Notice of a Public Hearing was mailed to all property owners within 300 feet of the subject property on May 5, 2014. The Planning Division has not received any letters or phone calls in opposition or support to the condition release request.

BACKGROUND HISTORY

On September 14, 1982, the City Council approved a rezoning to P-C (Planned Commercial) through Ordinance No. 7591 and imposed conditions by special contract. The conditions prohibited establishments which sell alcohol, billiard halls and adult book stores and theaters. In addition, conditions were imposed requiring the construction of sidewalks and a deceleration lane along North Loop Drive. The prohibited uses are currently not permitted in the C-2 zone district with the exception of alcohol sales, which is a permitted use in the C-2 zone district with City code regulations prohibiting the location of alcohol use or storage within 300 feet proximity of schools, churches and day cares. The conditions requiring sidewalks and deceleration lanes have been satisfied.

On June 15, 2004, the City Council approved a rezoning request from P-C/sc (Planned Commercial/special

contract) to C-2/c/sc (Commercial/condition/special contract) and imposed a condition for the submittal of a detailed site development plan at the time of rezoning. The condition has been satisfied and is no longer necessary.

APPLICATION DESCRIPTION

The applicant is requesting to release all conditions imposed by Special Contract Ordinance No. 7591 dated September 14, 1982 (see Attachment 4, pgs. 7-10). The conditions imposed by the rezoning special contract no longer apply to the subject property or have been satisfied.

The applicant is also requesting a condition release for the condition imposed by rezoning Ordinance No. 15816 dated June 15, 2004 (see Attachment 5, pgs. 11-12) as the condition has been satisfied.

CITY DEVELOPMENT DEPARTMENT-PLANNING DIVISION RECOMMENDATION

The Planning Division recommends **approval** of the condition release request, as the conditions no longer apply or have been satisfied.

Plan El Paso- Future Land Use Map Designation

All applications for a condition release review 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 stale 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-2 (Commercial) district is to accommodate establishments providing goods or rendering services which are used in support of the community's trade and service establishments and serving multi-neighborhoods within a planning area of the city. The regulations of the districts will permit intensities designed to be compatible with each other and to provide for a wide range of types of commercial activity, including light automobile related uses.

City Development Department – Building and Development Permitting

Recommend approval of condition release.

City Development Department – Planning Division - Transportation

No objections.

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.

City Development Department – Land Development

No comments received

Sun Metro

No comments received

EPWU

EPWU does not object to this request.

EPWU-PSB Comments

Water:

1. 2. There is an existing 8-inch diameter water main that extends along a 20-foot wide PSB easement located on the eastern portion of the property. Also, there is an existing 8-inch diameter water main that extends along the private access road located south of the property. These water mains are available for service.
2. There is an existing 8-inch diameter water main that extends along North Loop Drive, approximately 13-feet west of and parallel to the eastern North Loop right-of-way line. This main dead-ends 300-feet north of the Juan de Herrera Lateral. Also, there is an existing 8-inch diameter water main that extends along North Loop Drive and that dead-ends 150-feet south of Muralla Way. These water mains are available for service.

General:

1. EPWU-PSB records indicate several active water meters serving the retail shopping center
2. Previous water pressure readings from fire hydrant number 8132 located approximately 500 feet north of the intersection of Zaragoza Road and North Loop Drive have yielded a static pressure of 98 pounds per square inch (psi), residual pressure of 34 psi and a discharge of 1661 gallons per minute (gpm). 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.

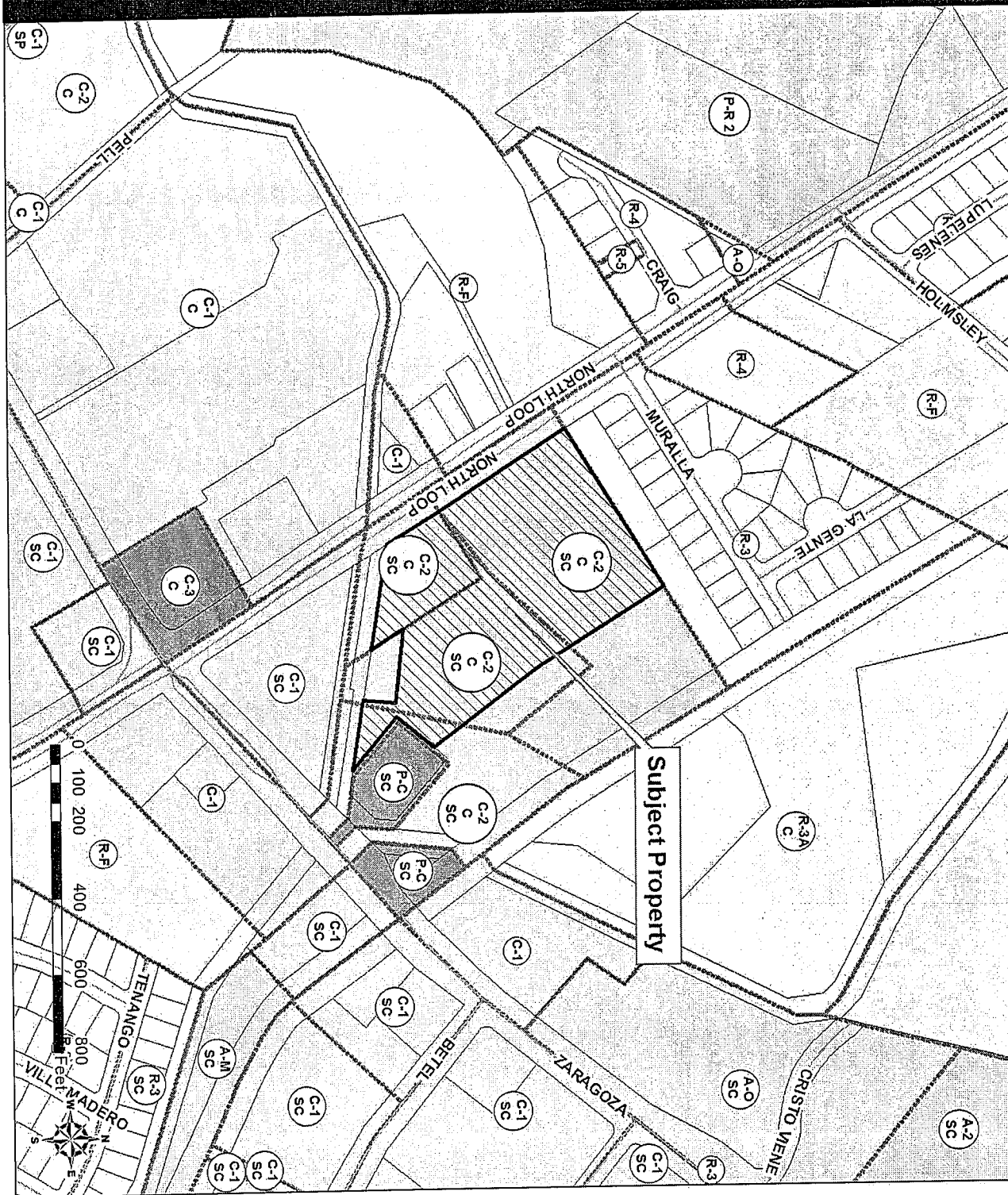
Sanitary Sewer:

1. There is an existing 8-inch diameter sewer main that extends along the private access road located south of the property. This main dead-ends approximately 500-feet west of Zaragoza Road. This main is available for service.
2. There is an existing 8-inch diameter sewer main that extends along North Loop Drive, approximately 21-feet west of and parallel to the eastern North Loop right-of-way line. This main dead-ends 260-feet north of the Juan de Herrera Lateral.
3. North Loop Dr. is a Texas Department of Transportation (TxDOT) right-of-way. All proposed utility work to be performed within the North Loop Dr. right-of-way requires written permission from TxDOT.
4. All easements dedicated for public water and sanitary sewer facilities shall comply with the EPWU-PSB Easement Policy. No buildings or other structures shall be constructed or maintained on the above referenced easements. EPWU-PSB requires access to the water and sanitary sewer facilities within the easements 24 hours a day, seven days a week.
5. EPWU requires a new service application to provide additional services. 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.

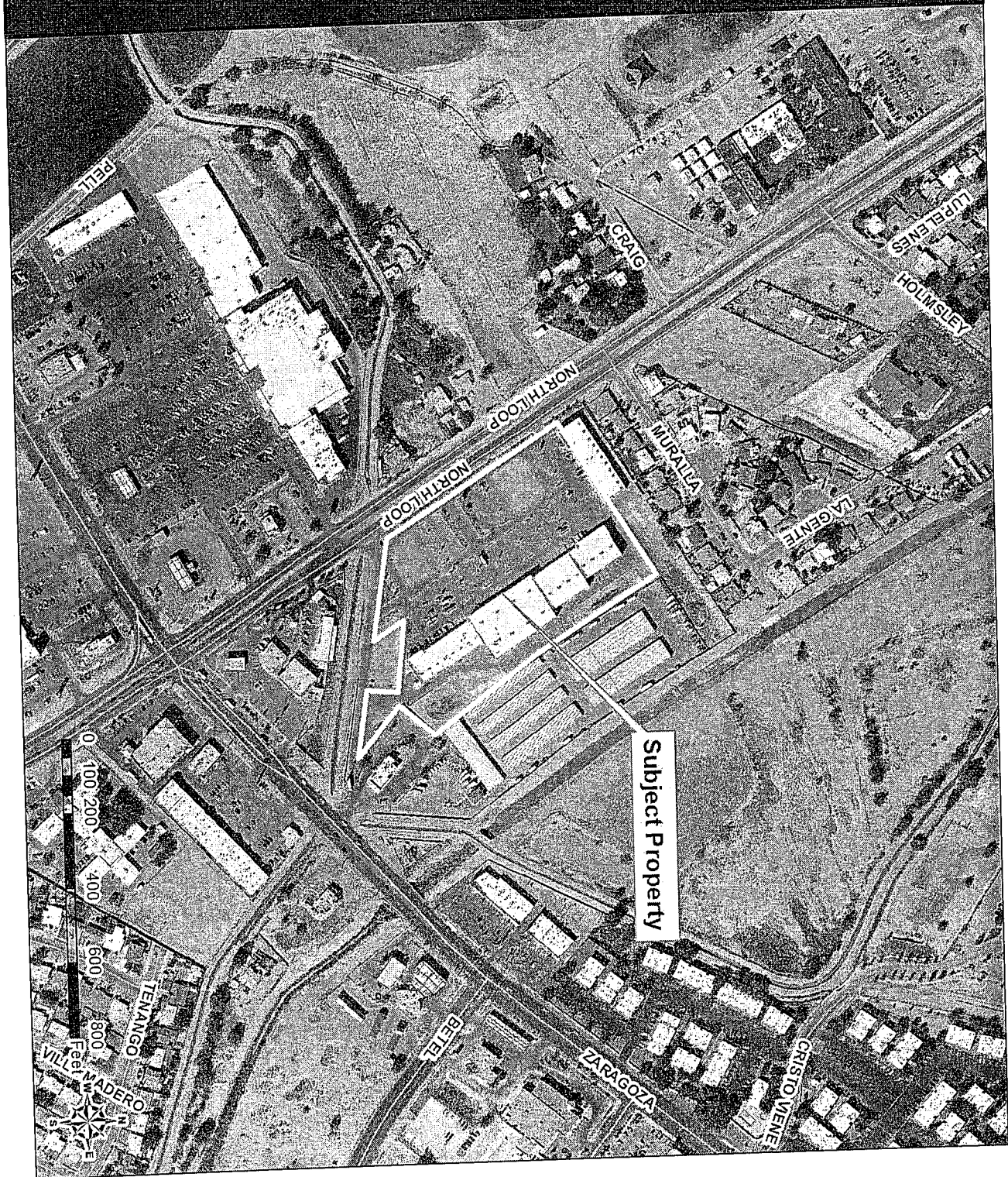
Attachments

1. Location Map
2. Aerial Map
3. Detailed Site Plan
4. Special Contract Ordinance No. 7591 dated September 14, 1982
5. Rezoning Ordinance No. 15816 dated June 15, 2004

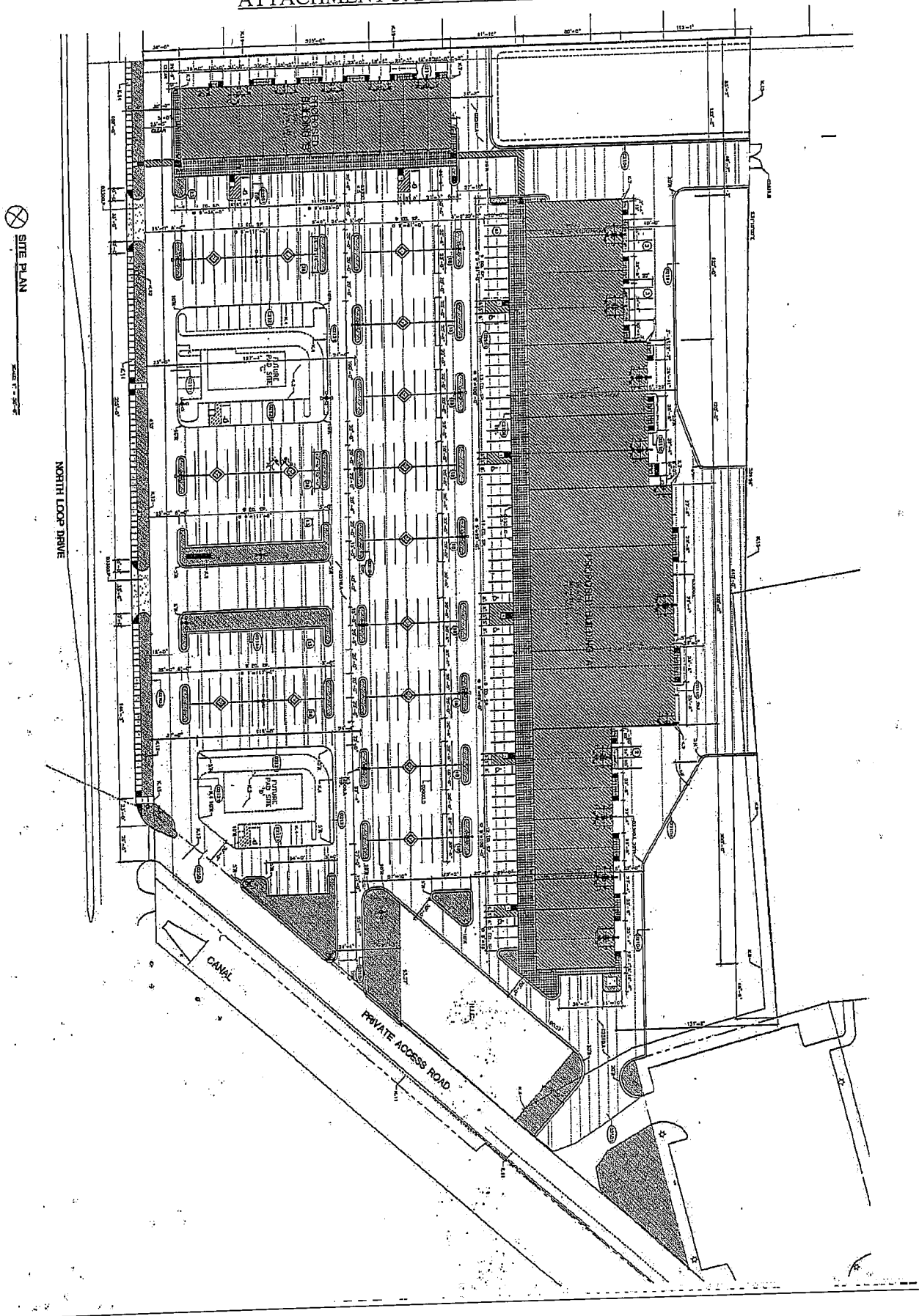
PZCR14-00003



PZCR14-00003



ATTACHMENT 3: DETAILED SITE PLAN



CONTRACT

THIS CONTRACT, made this 14th day of September, 1982,
by and between MSG PROPERTIES, A TEXAS GENERAL PARTNERSHIP COMPOSED
OF GERALD J. RUBIN AND IRVING I. RUBIN, First Parties, and the
CITY OF EL PASO, Second Party, witnesseth:

Application has been made to the City of El Paso for rezoning
of Tracts 12B, 13A and 13B, Block 6, Ysleta Grant, City of El Paso,
El Paso County, Texas, such property being more particularly
described in Ordinance No. 7591, now pending before the City
Council of the City of El Paso, a copy of which is attached hereto,
marked Exhibit "A" and made a part hereof by reference. To remove
certain objections to such rezoning, First Parties covenant that
if the property is rezoned to P-C (Planned 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 package store, unless operated with supermarkets,
drugstores or other retail operation, or any establishment whose
principal purpose is the serving or selling of alcoholic beverages
without food service, by the drink for consumption on the premises
shall be allowed on the property. This shall not be construed to
prohibit the operation of a restaurant which sells alcoholic beverages in connection with food service.

2. No billiard hall or skill or pleasure coin-operated
machine establishment shall be permitted on the property.

- (a) "Billiard hall" as used in this paragraph shall mean a place at which a billiard table or tables are provided to be played on for compensation.
- (b) "Billiard table" as used in this paragraph means any table (whether coin-operated or not) surrounded by a ledge or cushion with or without pockets, upon which balls are impelled by a stick or cue.
- (c) The term "skill or pleasure coin-operated machine establishment" as used in this paragraph means any place where five or more skill or pleasure coin-operated machines are maintained or made available for use or operation.
- (d) The term "skill or pleasure coin-operated machine" means every machine or device of any kind or char-

82-4793

RECEIVED
CITY OF EL PASO

acter whatsoever which is operated by or with coins, currency, metal slugs, tokens or checks, when such machine dispenses, uses or is capable of being used or operated for any purpose other than dispensing or vending of merchandise, music, or service exclusively. "Skill or pleasure coin-operated machine" shall include, but not be limited to the following: marble machines, marble table machines, marble shooting machines, miniature racetrack machines, miniature football machines, miniature golf machines, miniature bowling machines, pinball machines, and all other coin-operated machines, which dispense or afford skill or pleasure. Every machine or device of and kind or character which dispenses or vends merchandise, commodities or confections or plays music in connection with or in addition to such games or dispensing of pleasure or skill shall be considered a "skill or pleasure coin-operated machine."

3. No adult bookstore, adult motion picture theater or nude live entertainment club shall be permitted on the property.

- (a) "Adult bookstore" as used in this paragraph shall mean an establishment having as a substantial or significant portion of its stock in trade, books, magazines and other periodicals, and "peep shows" or film strips which are distinguished or characterized by their emphasis on pictorial or photographic representations of "specified sexual activities" or "specified anatomical areas" (as defined herein) or an establishment with a segment or section devoted to the sale or display of such material.

A "significant or substantial portion" shall mean more than one-third of the stock in trade or sales of the described material in excess of \$5,000 retail value per year.

- (b) "Adult motion picture theater" as used in this paragraph shall mean an enclosed building or outdoor screen presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" (as defined herein) for observation by patrons of such establishments, and which offers such materials for at least any 120 days in any 12-month period.
- (c) "Nude live entertainment club" as used in this paragraph shall mean any bar, club, theater, lounge or establishment which offers live nude entertainment by dancers, models, actors, actresses, players, waitresses or waiters. "Nude live entertainment" shall mean live human dancers, models, actors, actresses, players, waitresses or waiters whose pubic area, buttock or genitals are exposed to the view of patrons at any time.
- (d) "Specified sexual activities" as used in this paragraph shall mean:

CH 10-112
DEPARTMENT
OF HEALTH

- (1) human genitals in a state of actual or simulated sexual stimulation or arousal;
- (2) acts of human masturbation, sexual intercourse or sodomy;
- (3) fondling or other erotic touching of human genitals, pubic region, buttock, or female breast;
- (4) "sexual intercourse," "sexual contact," or deviate sexual intercourse" as defined in Sec. 31.01, Texas Penal Code.
- (e) "Specified anatomical areas" as used in this paragraph shall mean less than completely covered human genitals, pubic region, buttock, and female breast below a point immediately above the top of the areola.

4. No certificates of occupancy and compliance shall be issued for any building constructed on the property until First Parties have, at no cost to the City, done the following:

- (a) Installed a concrete sidewalk along the boundary of the property which is adjacent to North Loop Drive.
- (b) Constructed a deceleration lane along North Loop Drive including grading, paving, curbing and gutters.

Such improvements shall be done in accordance with specifications to be approved by the City Engineer of the City of El Paso; in addition, plans and specifications for the deceleration lane to be constructed and installed under paragraph 4(b) above must be approved by the Director of Traffic and Transportation of the City of El Paso. The City Engineer and the Director of Traffic and Transportation must certify that such improvements have been satisfactorily installed before certificates of occupancy and compliance shall be issued.

5. First Parties shall, at no cost to the City, execute and deliver to the City a written instrument dedicating to the City a strip of right of way varying in width from a maximum of 35 feet to a minimum of approximately 30 feet for the future widening of North Loop Drive. A legal description will be furnished by the City.

This contract is a restriction, condition and covenant running with the land and a charge and servitude thereon, and shall bind First Parties and their successors in title. Any future conveyance of the land shall embody this contract 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.

WITNESS THE FOLLOWING SIGNATURES AND SEAL:

MSG PROPERTIES
A TEXAS GENERAL PARTNERSHIP

BY Gerald J. Rubin
Gerald J. Rubin

BY Irving I. Rubin
Irving I. Rubin

THE CITY OF EL PASO

BY John F. Rogers
Mayor

ATTEST:

William A. Rogers
City Clerk

APPROVED AS TO FORM:

David S. Brown
Assistant City Attorney

APPROVED AS TO CONTENT:

Planning Department

THE STATE OF TEXAS)
COUNTY OF EL PASO)

This instrument was acknowledged before me this 15 day of September, 1982 by GERALD J. RUBIN and IRVING I. RUBIN.

My Commission Expires:
CAROLYN CAMPBELL, Notary Public
in and for the County of El Paso, Texas
My commission expires 12/15/85

Carolyn Campbell
Notary Public
State of Texas

THE STATE OF TEXAS)
COUNTY OF EL PASO)

This instrument was acknowledged before me this 19th day of October, 1982, by JONATHAN W. ROGERS, as Mayor of the City of El Paso.

My Commission Expires:

11/12/85

John E. Brown
Notary Public
State of Texas

221

ORDINANCE NO. 15816

AN ORDINANCE CHANGING THE ZONING OF PARCEL 1: LOT 2 AND A PORTION OF LOT 1, BLOCK 1, LAS FLORES SUBDIVISION UNIT 4, EL PASO, EL PASO COUNTY, TEXAS FROM P-C/SC (PLANNED COMMERCIAL DISTRICT/SPECIAL CONTRACT) TO C-2/SC (COMMERCIAL/SPECIAL CONTRACT); AND PARCEL 2: A PORTION OF LOT 1, BLOCK 1, LAS FLORES SUBDIVISION UNIT 4, EL PASO, EL PASO COUNTY, TEXAS FROM P-C/SC (PLANNED COMMERCIAL DISTRICT/SPECIAL CONTRACT) TO C-2/SC (COMMERCIAL/SPECIAL CONTRACT). THE PENALTY BEING AS PROVIDED IN CHAPTER 20.68 OF THE EL PASO MUNICIPAL CODE.

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

That the zoning of Parcel 1: *Lot 2 and a portion of Lot 1, Block 1, Las Flores Subdivision Unit 4, El Paso, El Paso County, Texas*, as more particularly described by metes and bounds in the attached Exhibit "A", be changed from **P-C/sc (Planned Commercial District/special contract)** to **C-2/sc (Commercial/special contract)**; and Parcel 2: *A portion of Lot 1, Block 1, Las Flores Subdivision Unit 4, El Paso, El Paso County, Texas*, as more particularly described by metes and bounds in the attached Exhibit "B", be changed from **P-C/sc (Planned Commercial District/special contract)** to **C-2/sc (Commercial/special contract)**; within the meaning of the zoning ordinance, and that the zoning map of the City of El Paso be revised accordingly; and

That Parcels 1 and 2 be subject to the following conditions which are necessitated by and attributable to the increased intensity of use generated by the change of zoning from P-C/sc (Planned Commercial District/special contract) to C-2/sc (Commercial/special contract) for Parcel 1, and from P-C/sc (Planned Commercial District/special contract) to C-2/sc (Commercial/special contract) for Parcel 2, in order to protect the health, safety and welfare of adjacent property owners and the residents of this city:

That a Detailed Site Development Plan be reviewed and approved pursuant to the El Paso Municipal Code prior to the issuance of any building permits, and that the site development plan submitted with this rezoning application be accepted to meet this requirement.

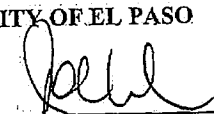
ORDINANCE NO. 15816

Zoning Case No. ZON04-00050

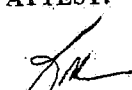
These conditions run with the land, are a charge and servitude thereon, and bind the current property owner and any successors in title. The City may enforce these conditions by injunction, by rescission of the zoning which is made appropriate as a result of these conditions, or by any other legal or equitable remedy. The City Council of the City of El Paso may amend or release the above conditions in its discretion without the consent of any third person who may be benefitted thereby, and without affecting the validity of this ordinance.

PASSED AND APPROVED this 15th day of June, 2004.

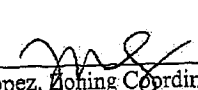
THE CITY OF EL PASO

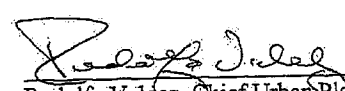

Joe Wardy, Mayor

ATTEST:


Richarda Duffy Momsen, City Clerk

APPROVED AS TO CONTENT:


Fred Lopez, Zoning Coordinator
Planning, Research & Development


Rodolfo Valdez, Chief Urban Planner
Planning, Research & Development

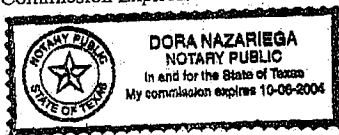
Acknowledgment

THE STATE OF TEXAS)

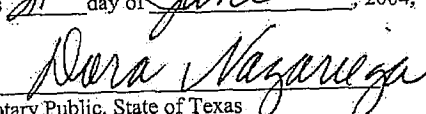
COUNTY OF EL PASO)

This instrument is acknowledged before me on this 21st day of June, 2004,
by JOE WARDY as MAYOR of THE CITY OF EL PASO.

My Commission Expires:



ORDINANCE NO. 15816

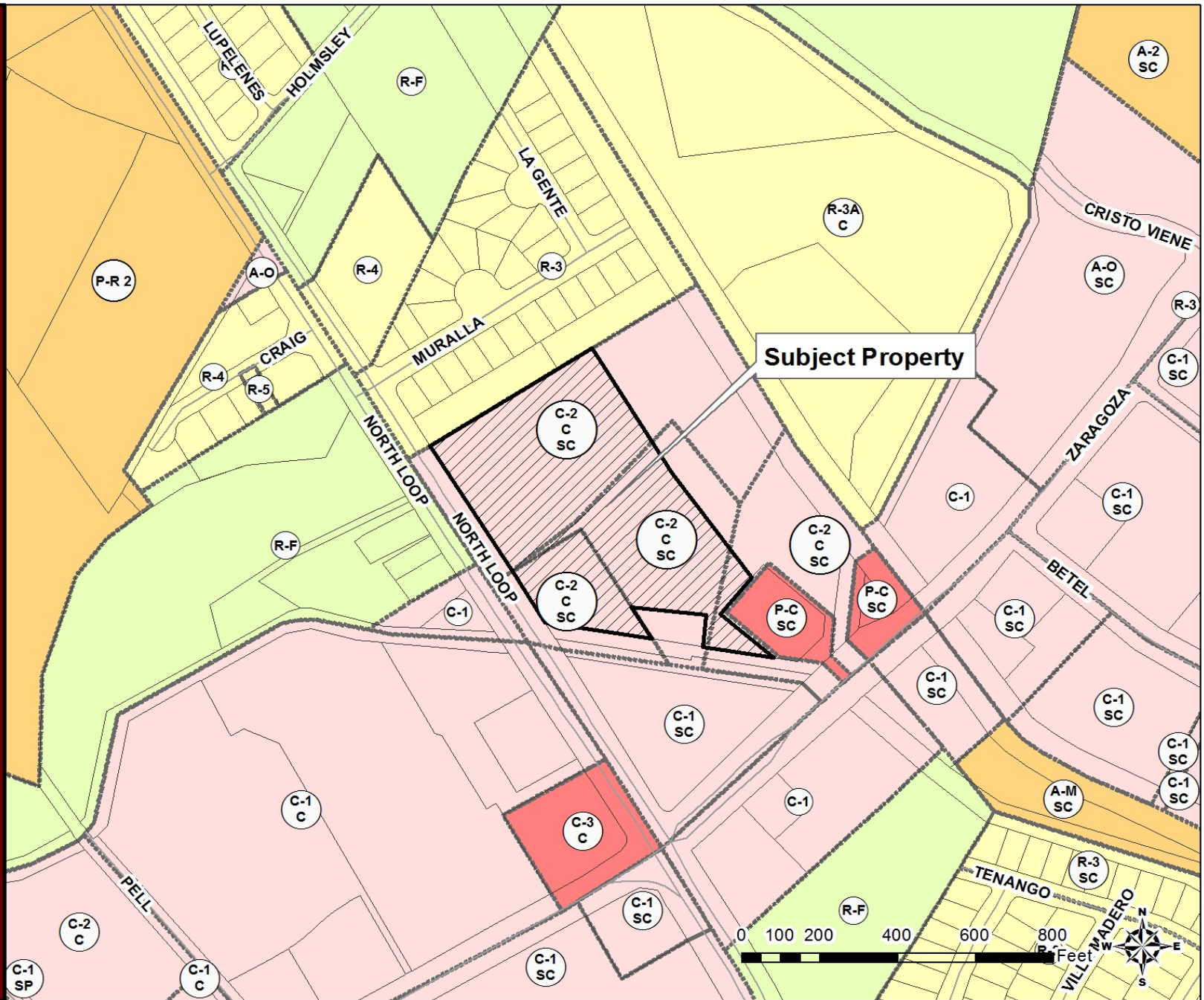

Notary Public, State of Texas
Notary's Printed or Typed Name:
Dora Nazariega

2

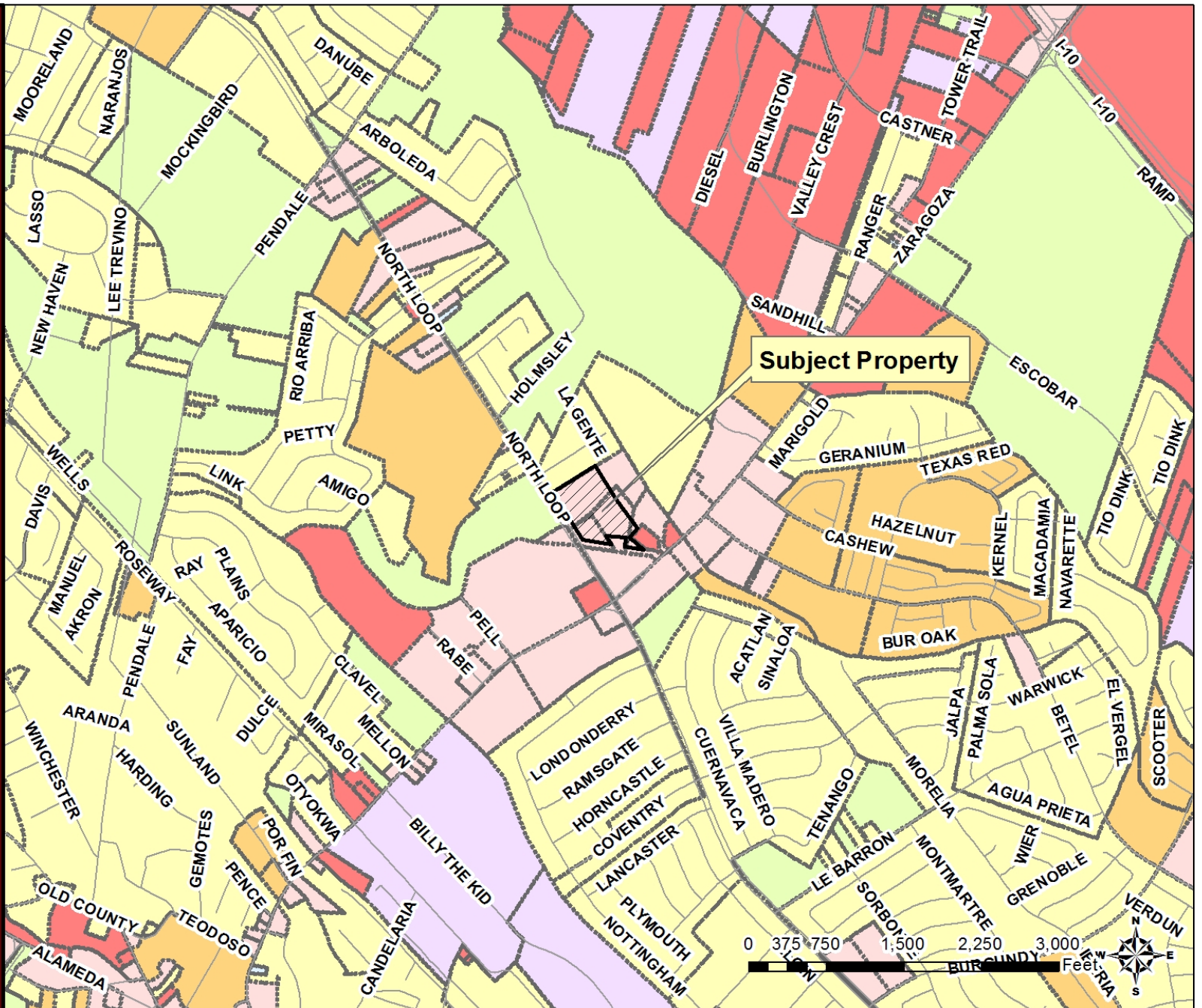
6/16/2004

Zoning Case No. ZON04-00050

PZCR14-000003



PZCR14-00003



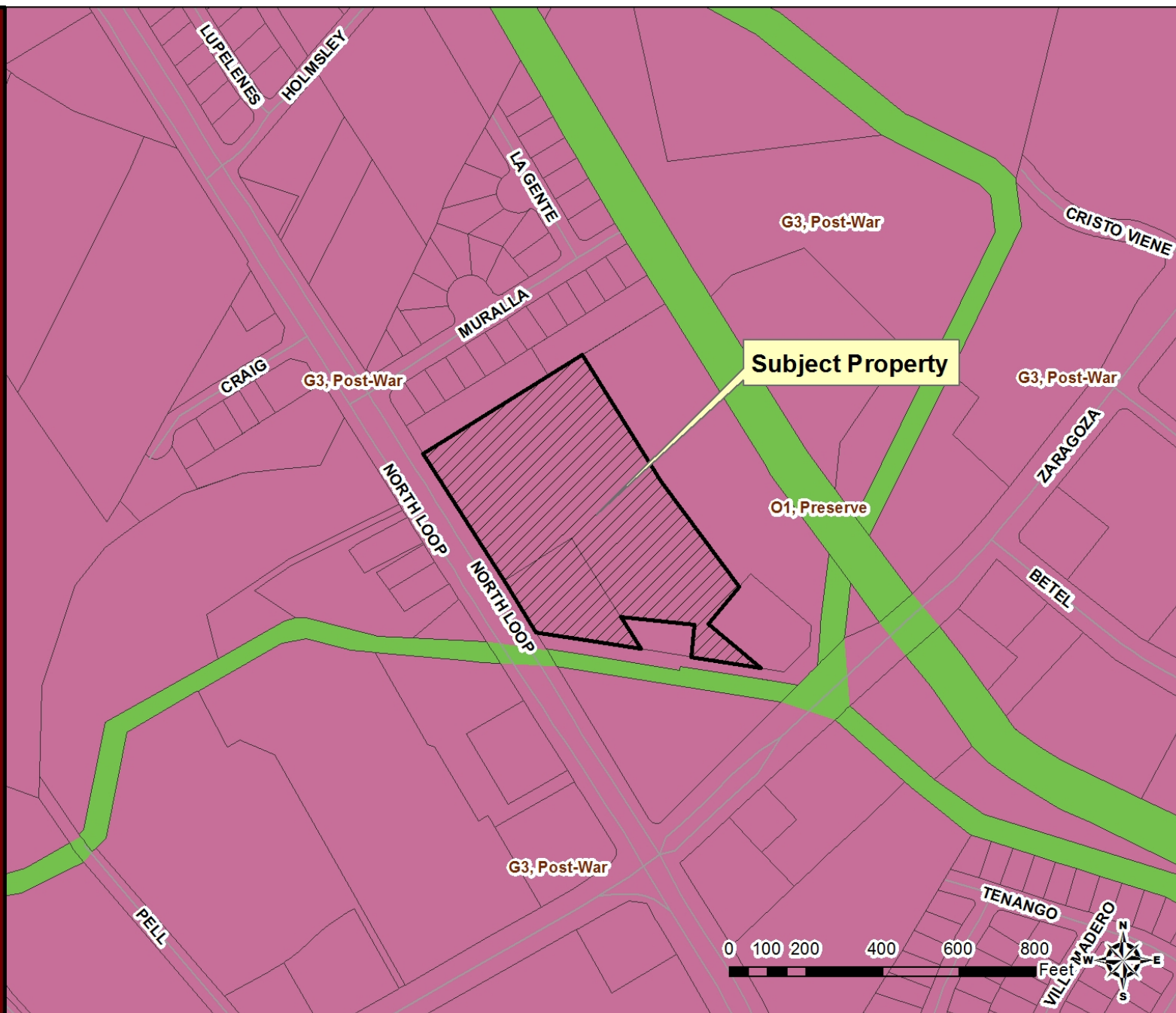
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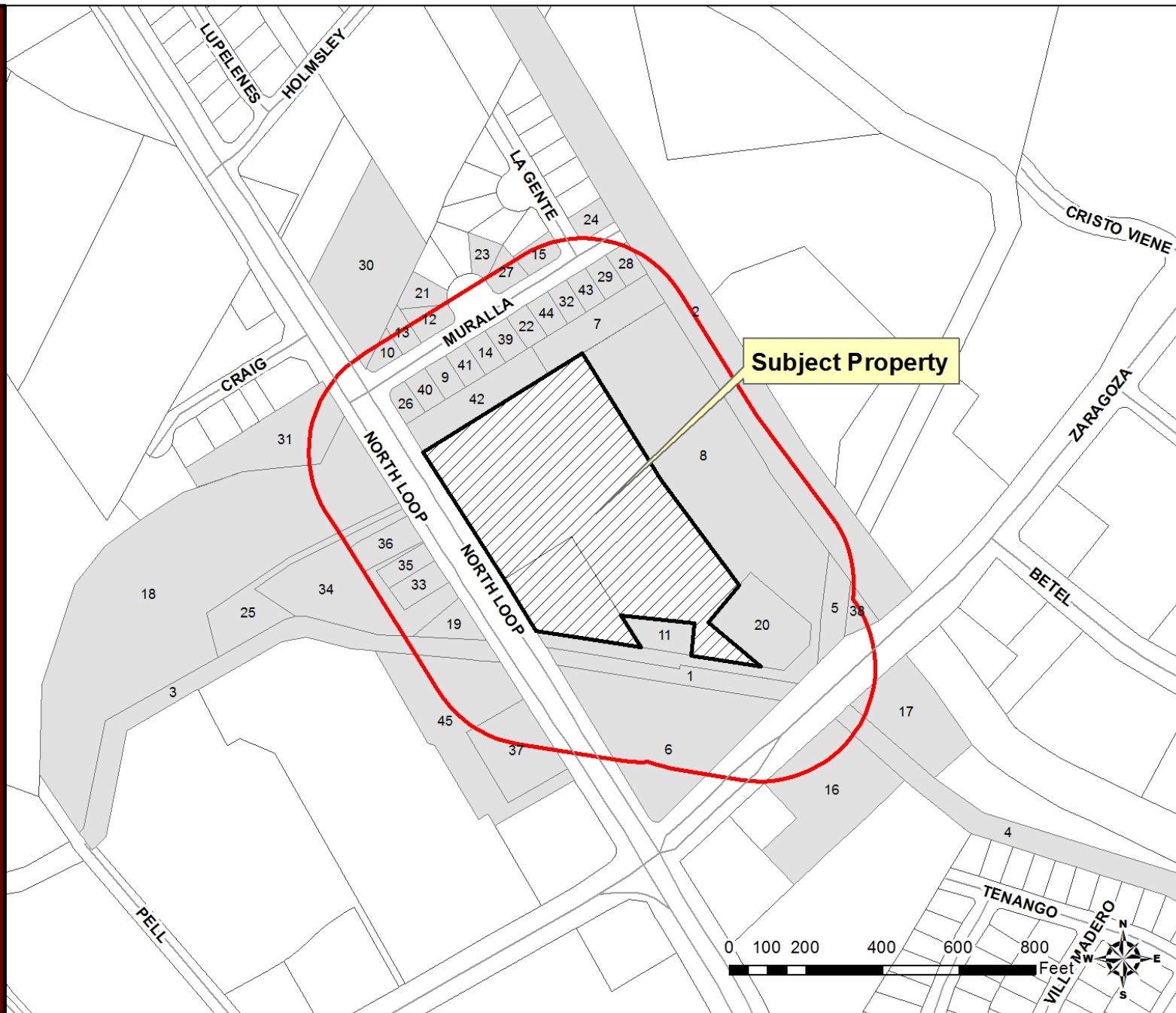
PZCR14-00003



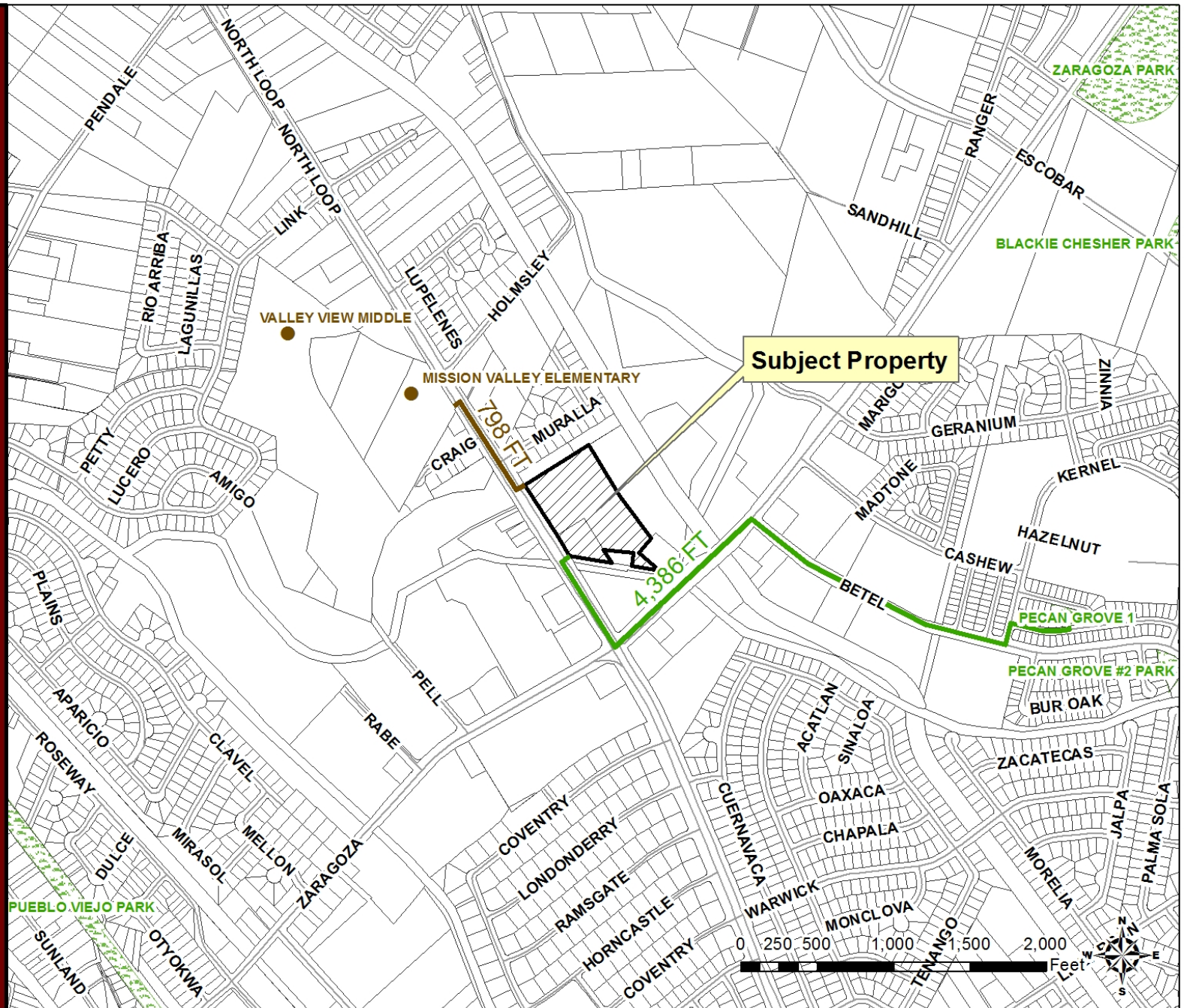
PZCR14-000003



PZCR14-000003



PZCR14-000003





Special Contract Conditions Ordinance No.7591

Dated September 14, 1982

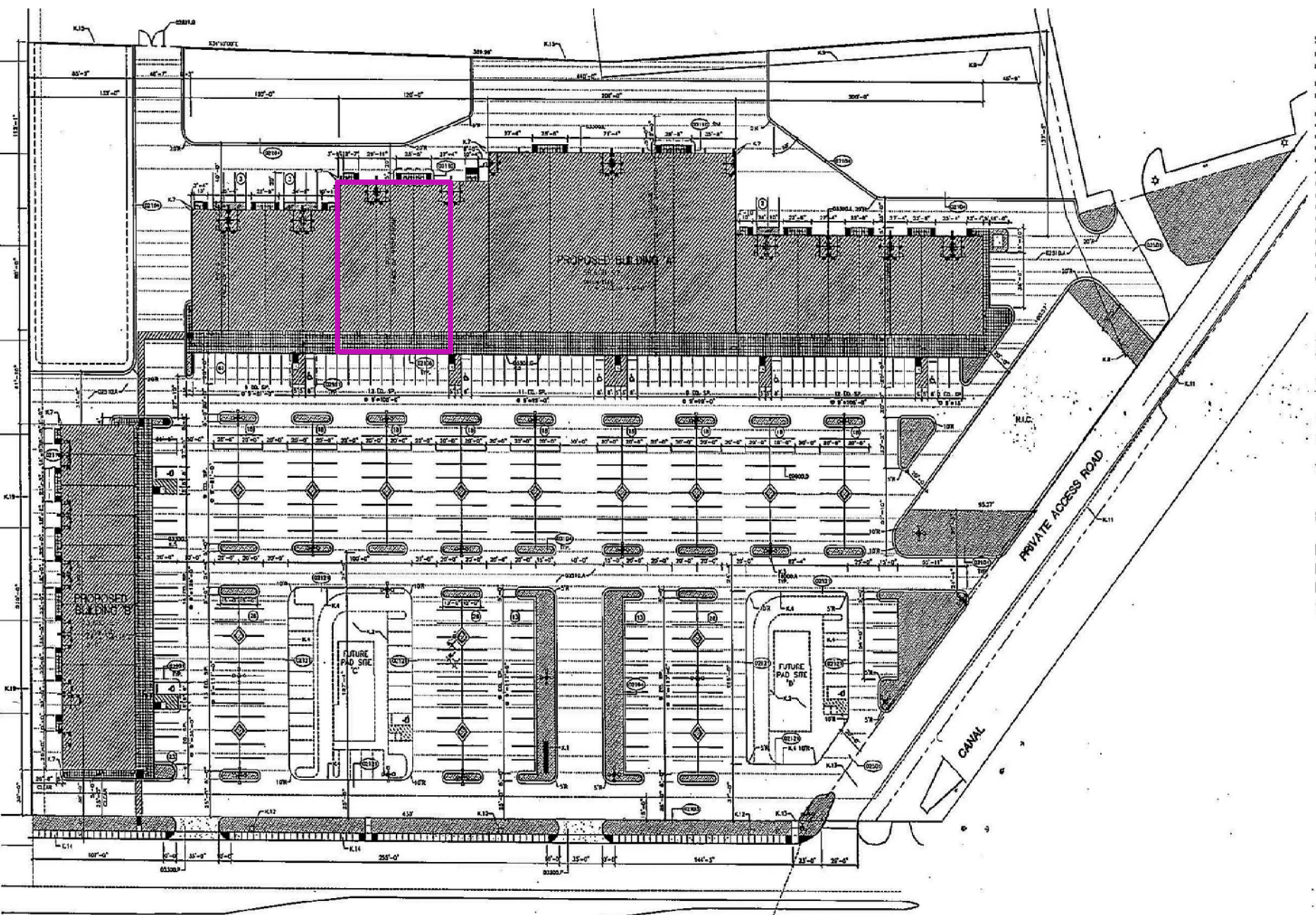
1. The special contract conditions prohibited establishments that sell alcohol, billiard halls, and adult bookstores and theaters.
 - **Adult bookstores and theaters are currently not permitted uses in C-2 zone district. Alcohol sales and storage and billiard halls are all permitted uses in C-2 zone district.**
 - **Alcohol sales and storage are permitted with additional regulations regarding 300 foot proximity to churches, schools and day cares.**
2. Construction of sidewalks and deceleration lane along North Loop Drive.
 - **These conditions have been satisfied and are no longer necessary.**




Rezoning Condition Ordinance No.15816

Dated June 15, 2004

1. The rezoning condition required that a Detailed Site Development Plan be reviewed and approved pursuant to the El Paso Municipal Code prior to the issuance of any building permits, and that the site development plan submitted with this rezoning application be accepted to meet this requirement.
 - **This condition has been satisfied and is no longer necessary.**



NORTH LOOP DRIVE

 SITE PLAN

SCALE: 1" = 30'-0"



Subject Property



Subject Property



South



East



North



West

TE
BLE
O INC.
00
ER
com

Location of Proposed
Special Permit.
Public Hearings are
scheduled.
Please call
915-212-1613

And Release of Zoning Conditions

Ubicación del proyecto
Permiso Especial.
Están programadas.
audiencias públicas.
Por favor llame a:
915-212-1613

y para liberar condiciones zon

VELETA PEDIATRIC
night clinic

PZCR14-00003

