

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

**DEPARTMENT:** Planning and Inspections Department - Planning Division  
**AGENDA DATE:** Regular Agenda  
Public Hearing: July 14, 2015  
**CONTACT PERSON/PHONE:** Carlos Gallinar, (915) 212-1559, gallinarrc@elpasotexas.gov  
**DISTRICT(S) AFFECTED:** 8

**SUBJECT:**

Discussion and action on a request from Ernest Eisenberg, on behalf of Judah Reed, LLC, for City Council to grant an exception from the prohibition of the sale of alcoholic beverages within three hundred feet of a day-care center for the property located at 2211 E. Missouri Avenue, and legally described as Lots 30-32, Block 117, Bassett Addition, and Lots 1-32 together with the closed alley in Block 5, Cotton Addition, City of El Paso, El Paso County, Texas pursuant to Title 20 Zoning, Section 20.10.060B of the El Paso City Code.

**BACKGROUND / DISCUSSION:**

Exception is for onsite storage and online sales only.

**PRIOR COUNCIL ACTION:**

N/A

**AMOUNT AND SOURCE OF FUNDING:**

N/A

**BOARD / COMMISSION ACTION:**

N/A

\*\*\*\*\*REQUIRED AUTHORIZATION\*\*\*\*\*

**LEGAL:** (if required) N/A

**FINANCE:** (if required) N/A

**DEPARTMENT HEAD:** \_\_\_\_\_

Larry F. Nichols, Planning and Inspections Department, Director

**APPROVED FOR AGENDA:** \_\_\_\_\_

**CITY MANAGER:** \_\_\_\_\_ **DATE:** \_\_\_\_\_

**MOTION**

Motion made, seconded, and carried by City Council to grant an exception from the prohibition of the sale of alcoholic beverages within 300 feet of a church, school, commercial day care or public hospital requested from Ernest Eisenberg, on behalf of Judah Reed, LLC, for the property located at 2211 E. Missouri Avenue and legally described as Lots 30-32, Block 117, Bassett Addition, and Lots 1-32 together with the closed alley in Block 5, Cotton Addition, City of El Paso, El Paso County, Texas.

City Council grants this exception after notice and public hearing. The exception to the prohibition of the sale of alcoholic beverages within 300 feet of a commercial day care is warranted because the sale of alcohol from 2211 E. Missouri Avenue will be exclusively limited to online sales. Based on this reason, City Council and makes the following determination that the enforcement of the prohibition in this particular instance:

1. Is not in the best interest of the public;
2. Constitutes waste or the inefficient use of land or other resources;
3. Creates an undue hardship on an applicant;
4. Does not serve its intended purpose;
5. Is not effective or necessary; or
6. After consideration of the healthy, safety, and welfare of the public and the equities of the situation, determines is in the best interest of the community.

**PASSED** on this \_\_\_\_ day of \_\_\_\_\_, 2015.

**THE CITY OF EL PASO:**

\_\_\_\_\_  
Oscar Leeser, Mayor

**ATTEST:**

\_\_\_\_\_  
Richarda Duffy Momsen, City Clerk

**APPROVED AS TO FORM:**

**APPROVED AS TO CONTENT:**

\_\_\_\_\_  
Karla M. Nieman  
Assistant City Attorney

\_\_\_\_\_  
Larry Nichols, Director  
Planning & Inspections Department

## MEMORANDUM

**DATE:** June 9, 2015  
**TO:** The Honorable Mayor and City Council  
Tommy Gonzalez, City Manager  
**FROM:** Carlos Gallinar, Deputy Director - Planning  
**SUBJECT:** **Appeal of Prohibition of Sale of Alcoholic Beverages**

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The applicant is requesting an exception from City Council to permit alcohol sales and storage for a package liquor store located at 2211 E. Missouri Avenue, legally described as Lots 30-32, Block 117, Bassett Addition, and Lots 1-32 together with the closed alley in Block 5, Cotton Addition, City of El Paso, El Paso County, Texas.

Based on the determination by Building Inspector Sonya Cahalan

- The subject property located at 2211 E. Missouri Avenue is approximately 230 feet to a day-care center (2101 Wyoming); and,
- The location does not qualify for the license under any Legal Non-Conforming “grandfathering” provisions in the El Paso City Code.

The applicant was informed that the Code allows an exception to be granted by City Council from the prohibition of the sale of alcoholic beverages within 300 feet of a day-care center after making certain determinations listed in Title 20, Zoning, Supplemental Use Regulations, Alcoholic beverages, Section 20.10.060 B.7.:

*The city council may grant an exception from prohibition of the sale of alcoholic beverages within three hundred feet of a church, school, commercial day care or public hospital after notice and public hearing if the council determines that the enforcement of the prohibition in a particular instance:*

- a. Is not in the best interest of the public;*
- b. Constitutes waste or the inefficient use of land or other resources;*
- c. Creates an undue hardship on an applicant;*
- d. Does not serve its intended purpose;*
- e. Is not effective or necessary; or*
- f. For any other reason the city council, after consideration of the health, safety, and welfare of the public and the equities of the situation, determines is in the best interest of the community.*

The subject property is approximately 230 feet to a day-care center (measurement is property line to property line). There are no schools, churches, or public hospitals within 300 feet of the subject property.

### **Attachments**

Exhibit A, pages 1: Appeal letter from appellant



American Finance & Investment Co., INC.

2211 E. Missouri Ave., Ste. 200, El Paso, Texas 79903 • Telephone (915) 532-1625 • Fax (915) 532-0517

May 23, 2015

Re: Appeal Representation - Denial of Alcoholic Beverages Zoning Approval  
Application

To Whom It May Concern:

I, Ernest Eisenberg, Managing Member of Judah Reed, LLC, such entity being the owner of the real property located at 2211 E. Missouri, El Paso, Texas 79903 designate Richard Steven Randazzo Jr., representing BeerRun, to appeal the denial of the Sale of Alcoholic Beverages Zoning Approval Application to the El Paso City Council on my behalf.

Thank you in advanced for your consideration and assistance.

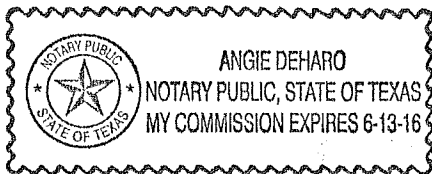
Judah Reed, LLC  
a Texas limited liability company

By: *Ernest A. Eisenberg*  
Ernest Eisenberg, Managing Member

State of Texas  
County of El Paso

This instrument was acknowledged before me on May 26, 2015 by Ernest Eisenberg as Managing Member of Judah Reed, LLC.

*Angie DeHaro*  
Notary Public





# Recommendation/Public Input

- City Council has sole authority in granting exceptions for the sale of alcohol, per Title 20 Zoning Code, Section 20.10.



# ALCOHOL SALES RESTRICTION EXCEPTION REQUEST – 2211 E. Missouri

- Chapter 20.10 Supplemental Use Regulations
- Section 20.10.060 B. (1), (7) - Alcoholic Beverages, Restrictions, Exceptions



# RESTRICTIONS

20.10.060

## B. Restrictions.

1. The sale, storage or handling of alcoholic beverages for the purpose of sale is not permitted in any zoning district where the place of business is located within three hundred feet of a church, public or private school, or public hospital unless expressly granted an exception pursuant to the requirements of this section.



# EXCEPTION PROCESS

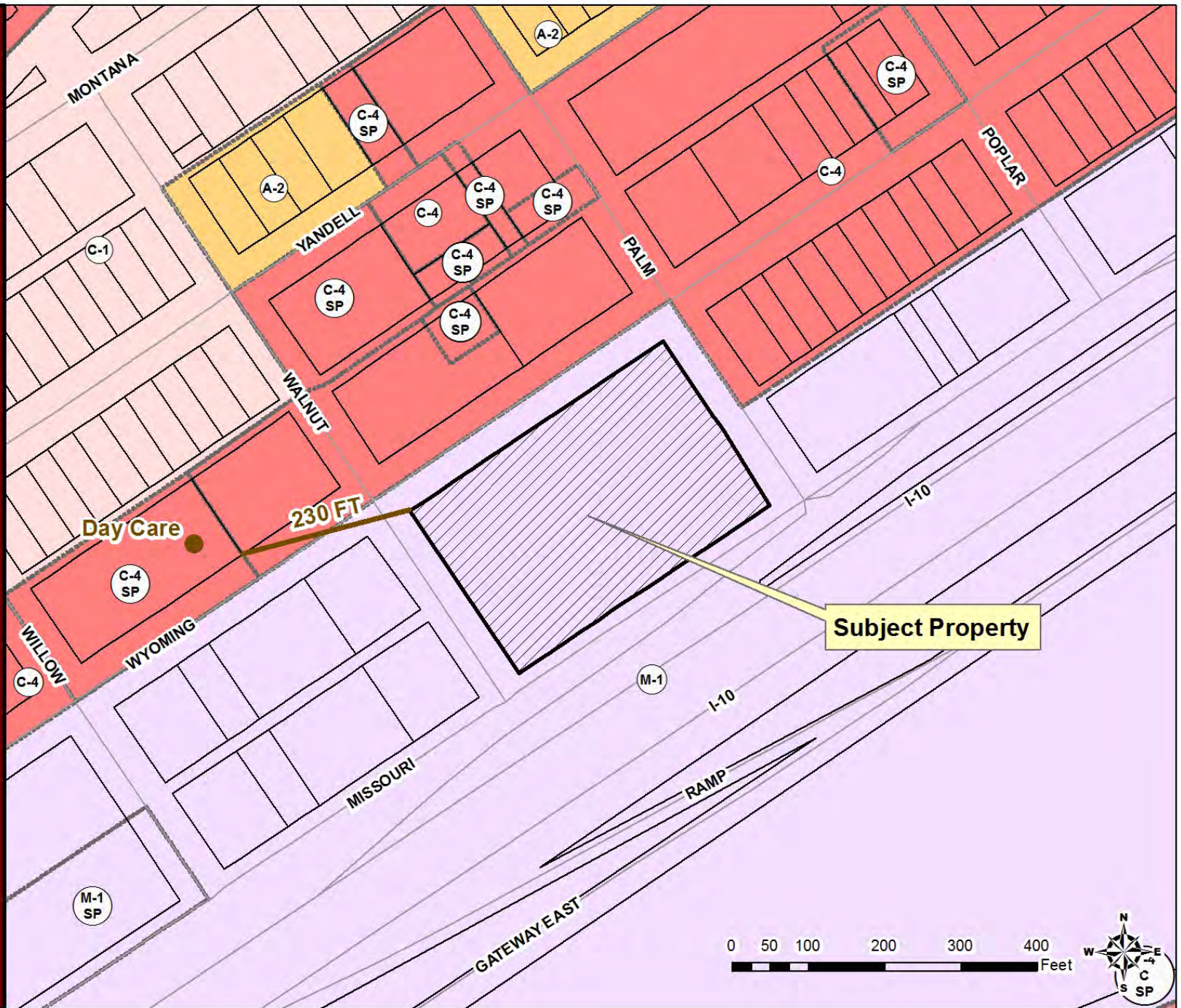
20.10.060

## B. Restrictions

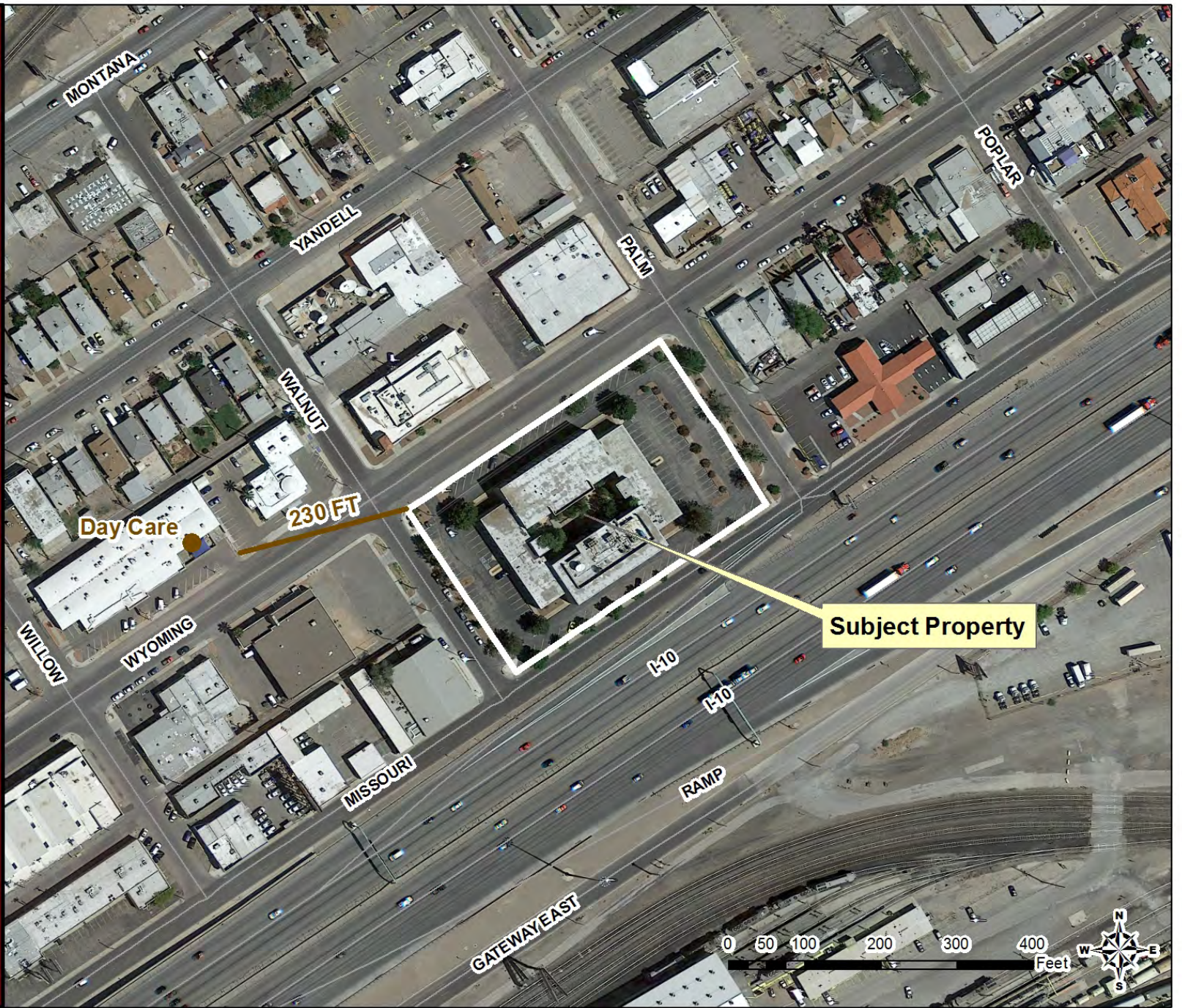
7. The city council may grant an exception from prohibition of the sale of alcoholic beverages within three hundred feet of a church, school, commercial day care or public hospital after notice and public hearing if the council determines that the enforcement of the prohibition in a particular instance:

- a. Is not in the best interest of the public;
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- c. Creates an undue hardship on an applicant;
- d. Does not serve its intended purpose;
- e. Is not effective or necessary; or
- f. For any other reason the city council, after consideration of the health, safety, and welfare of the public and the equities of the situation, determines is in the best interest of the community.

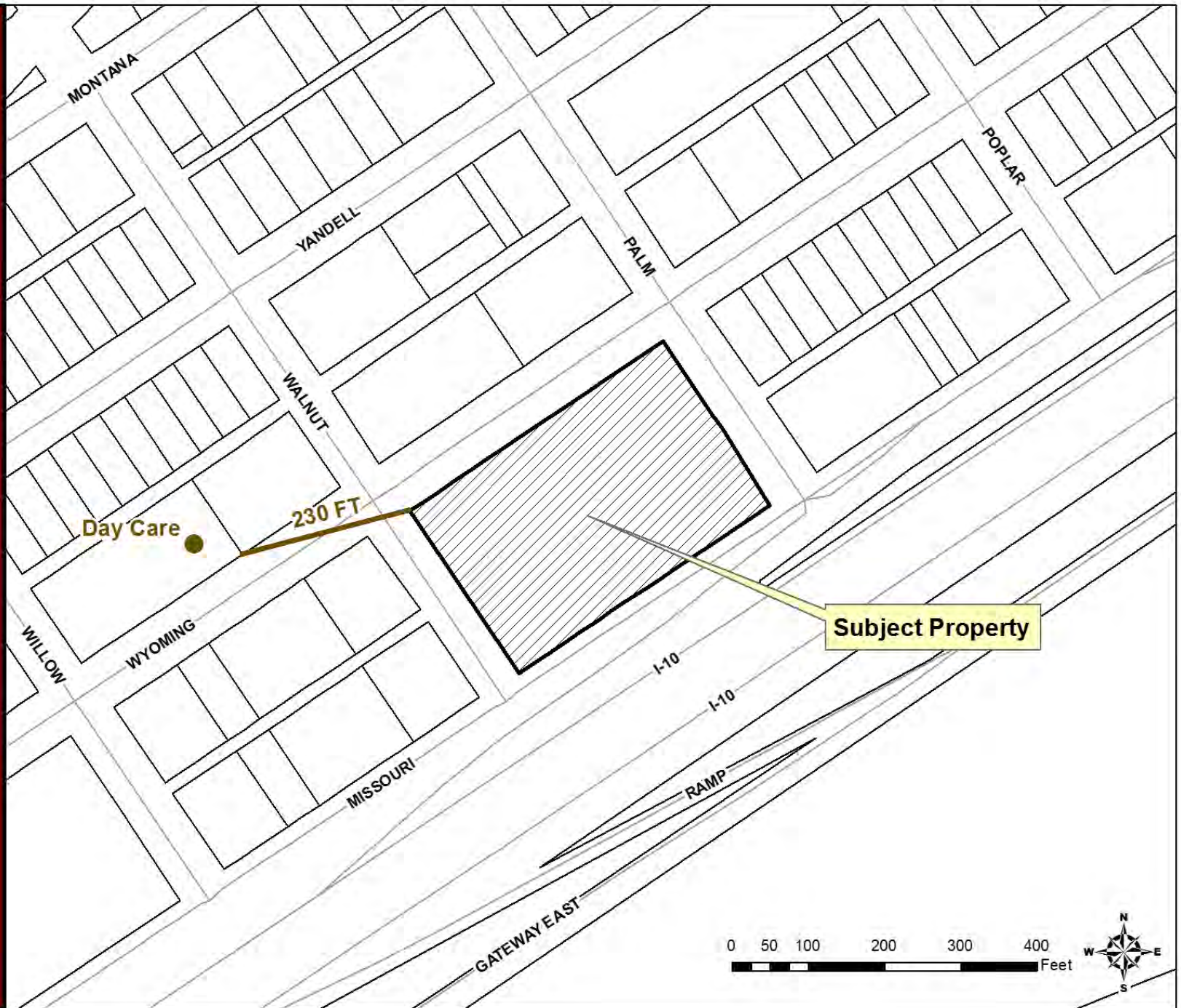
2211 E. Missouri Avenue



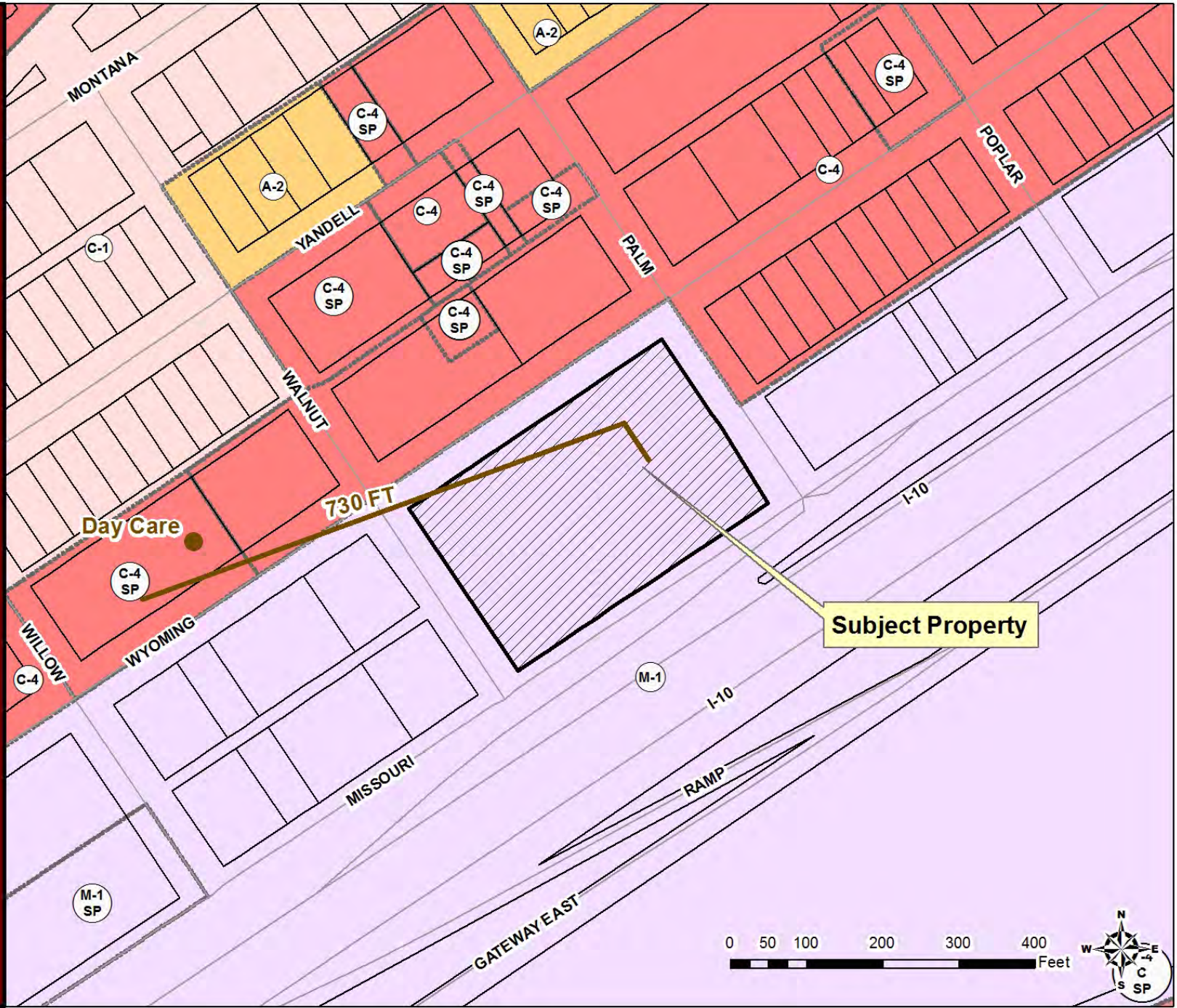
2211 E. Missouri Avenue



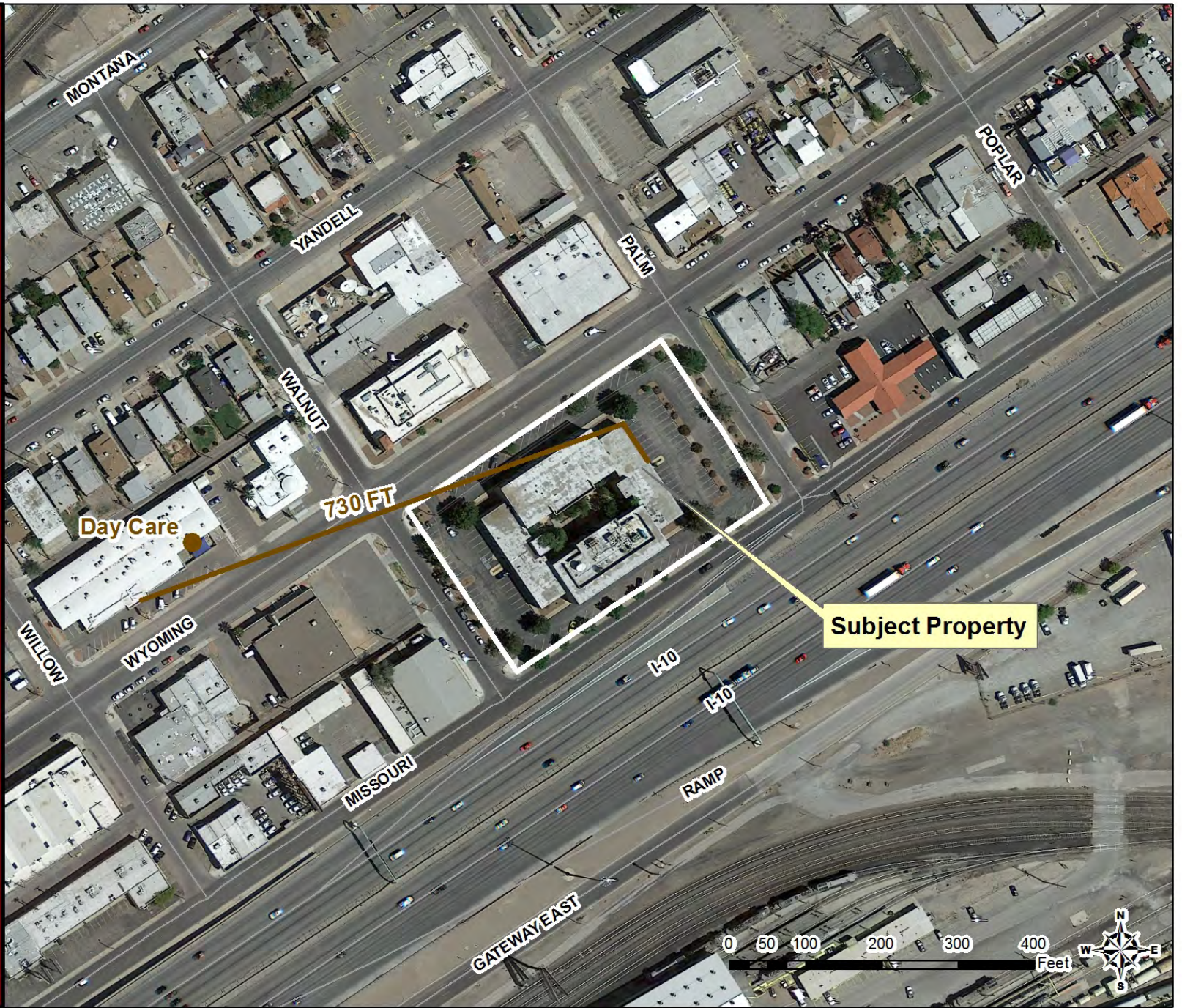
2211 E. Missouri Avenue



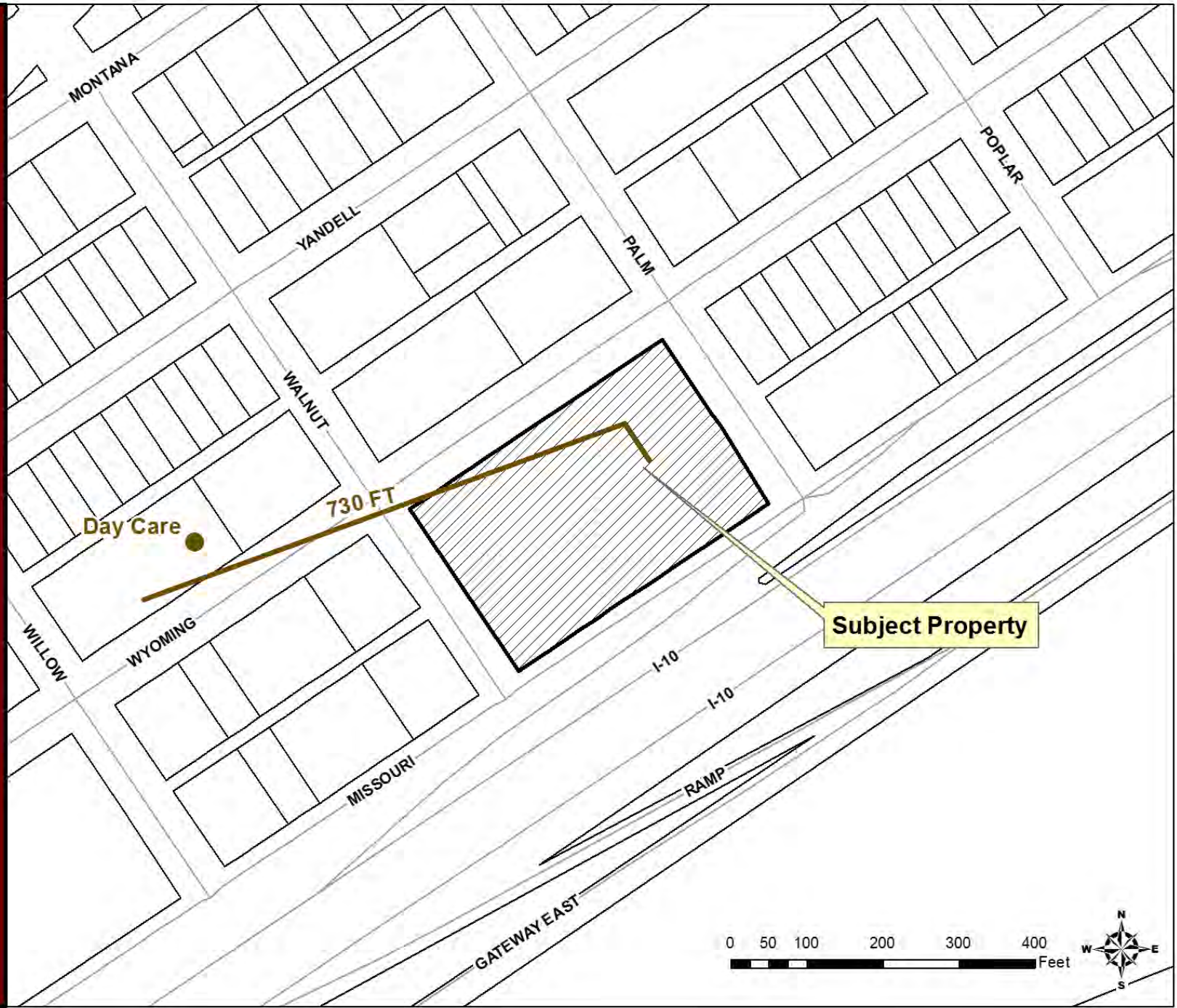
2211 E. Missouri Avenue



2211 E. Missouri Avenue



2211 E. Missouri Avenue





**Distance from the property line of 2211 E. Missouri to the nearest point of the day-care center property line. 230 feet**

**Distance from the front door of 2211 E. Missouri to the front door of day-care center. 730 feet**