

**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: August 23, 2016

CONTACT PERSON/PHONE: Larry Nichols, (915) 212-1550, nicholslf@elpasotexas.gov
Raul Garcia, (915) 212-1643, garciar1@elpasotexas.gov

DISTRICT(S) AFFECTED: 5

SUBJECT:

Discussion and action on a request from CVS Pharmacy, Inc. for City Council to grant an exception from the prohibition of the sale of alcoholic beverages within three hundred feet of a school for the property located at 12051 Tierra Este Road and legally described as a portion of Lot 1, Block 102, Tierra Este Unit Twenty One, City of El Paso, El Paso County, Texas. **(District 5)**.

BACKGROUND / DISCUSSION:

N/A

PRIOR COUNCIL ACTION:

There is no prior City Council action on this motion.

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
Director, Planning and Inspection Department

APPROVED FOR AGENDA: _____

CITY MANAGER: _____

DATE: _____

MOTION

Motion made and second 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 CVS Pharmacy, Inc., for the property located at 12051 Tierra Este Road and legally described as a portion of Lot 1, Block 102, Tierra Este Unit Twenty One, City of El Paso, El Paso County, Texas.

City Council grants this exception after notice and public hearing 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.

APPROVED on this _____ day of _____, 2016.

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:

Larry F. Nichols, Director
Planning & Inspections Department



Planning & Inspections Department

Mayor

Oscar Leeser

City Council

District 1

Peter Svarzbein

District 2

Jim Tolbert

District 3

Emma Acosta

District 4

Carl L. Robinson

District 5

Dr. Michiel R. Noe

District 6

Claudia Ordaz

District 7

Lily Limón

District 8

Cortney C. Niland

City Manager

Tommy Gonzalez

MEMORANDUM

DATE: August 1, 2016

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

FROM: Raul Garcia, Lead Planner

SUBJECT: **Appeal of Prohibition of Sale of Alcoholic Beverages –
12051 Tierra Este Road**

CVS Pharmacy, Inc. applied to the City for an alcoholic beverage license (LALC16-00132) and was denied because the proposed location at 12051 Tierra Este Road is within 300 feet of a school, Sun Ridge Middle School.

The Planning Division determined that:

- The subject property located at 12051 Tierra Este Road is within 300 feet of a school; and,
- The location does not qualify for the license under any “grandfathering” provisions in the El Paso City Code.

The applicant was informed the Code prohibits the sale, storage or handling of alcoholic beverages for the purpose of sale 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; however, this section shall not apply where the applicant has approval from the affected church, public or private school, or public hospital in writing.

The applicant was unable to obtain approval in writing from the school district.

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 school 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 car or public hospital after notice and public hearing if the council determines that the enforcement of the prohibition in a particular instance:

- Is not in the best interest of the public;*
- Constitutes waste or the inefficient use of land or other resources;*
- Creates an undue hardship on an applicant;*

Larry F. Nichols – Director for Planning & Inspections
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Planning & Inspections Department

- 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 rear property line of the subject property is adjacent to Sun Ridge Middle School/Lujan Chavez Elementary; there are no other schools and no churches, commercial daycares or public hospitals within 300 feet of the subject property.

Attachments

Exhibit A, Appeal letter from appellant



Linda M. Cimbron
Director of Licensing
One CVS Drive
Woonsocket, RI 02895
p 401-770-5119
linda.cimbron@cvshealth.com

July 26, 2016

Ms. Sonya Cahalan
City Building Inspection Department
801 Tax Avenue
El Paso, TX 79901

Dear Ms Cahalan:

Please be advised that CVS Pharmacy, Inc., as owner of the property located at 12051 Tierra Este Road, El Paso, TX 79938, respectfully requests the El Paso City Council to grant an appeal of the denial of certification of an alcohol license due to not meeting the distance requirement, as allowed by the Texas Alcohol Beverage Code, Ordinance No. 018458(e), and to enable CVS/pharmacy #10995 to obtain a Wine & Beer Retailer's Off Premise Permit for its store located at 12051 Tierra Este Road, El Paso, TX 79938. Our intent is to sell beer and wine for consumption off premise, as a convenience for our customers.

CVS/pharmacy #10995 contains 13,225 total square feet, including, but not limited to, retail sales space. CVS/pharmacy strongly enforces a Zero Tolerance Policy and all employees are internally trained in accordance with CVS/pharmacy guidelines.

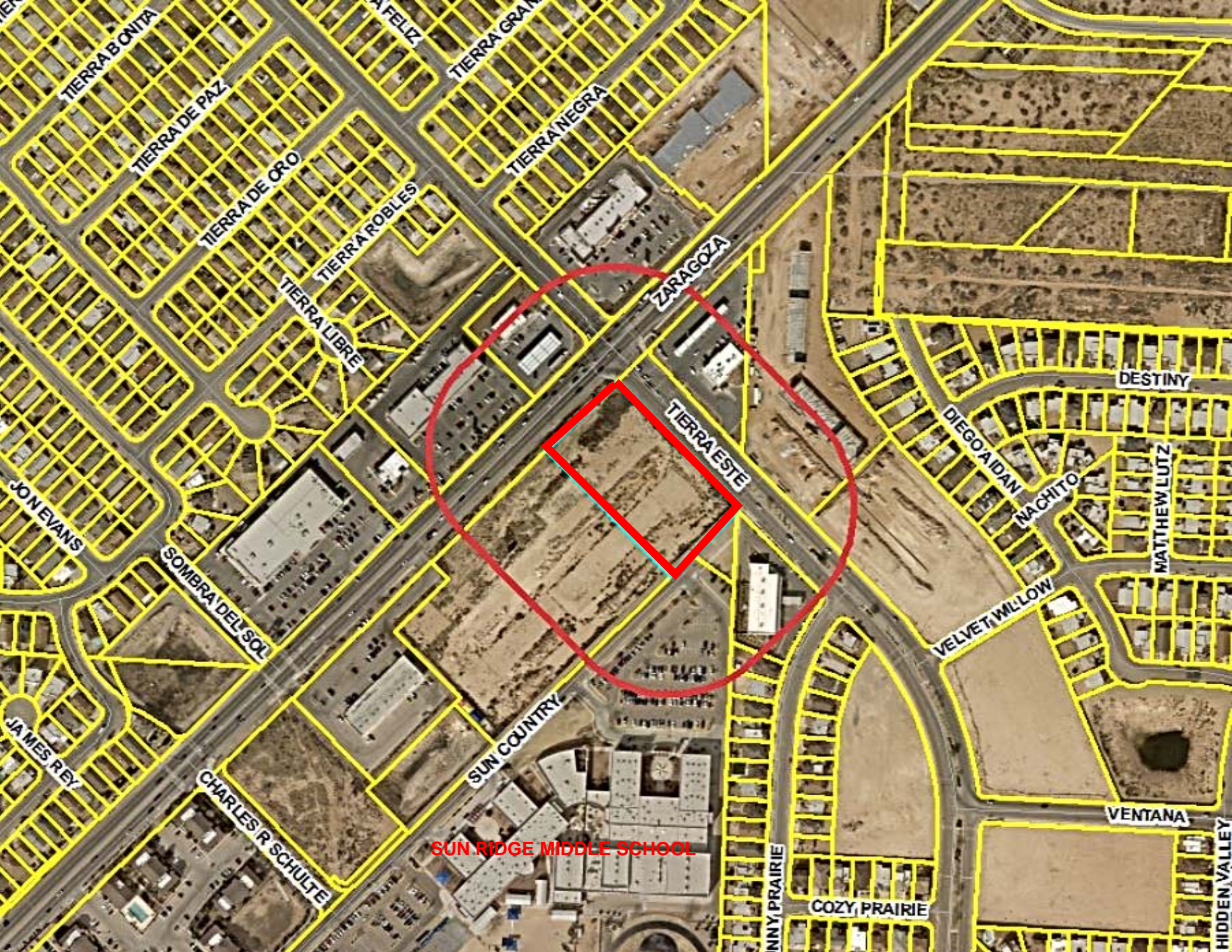
I have included a copy of the Deed for the property. If you have any questions, please do not hesitate to contact me at 401-770-5119 or by email to Linda.Cimbron@CVSHealth.com.

Thank you in advance for your anticipated cooperation to this matter.

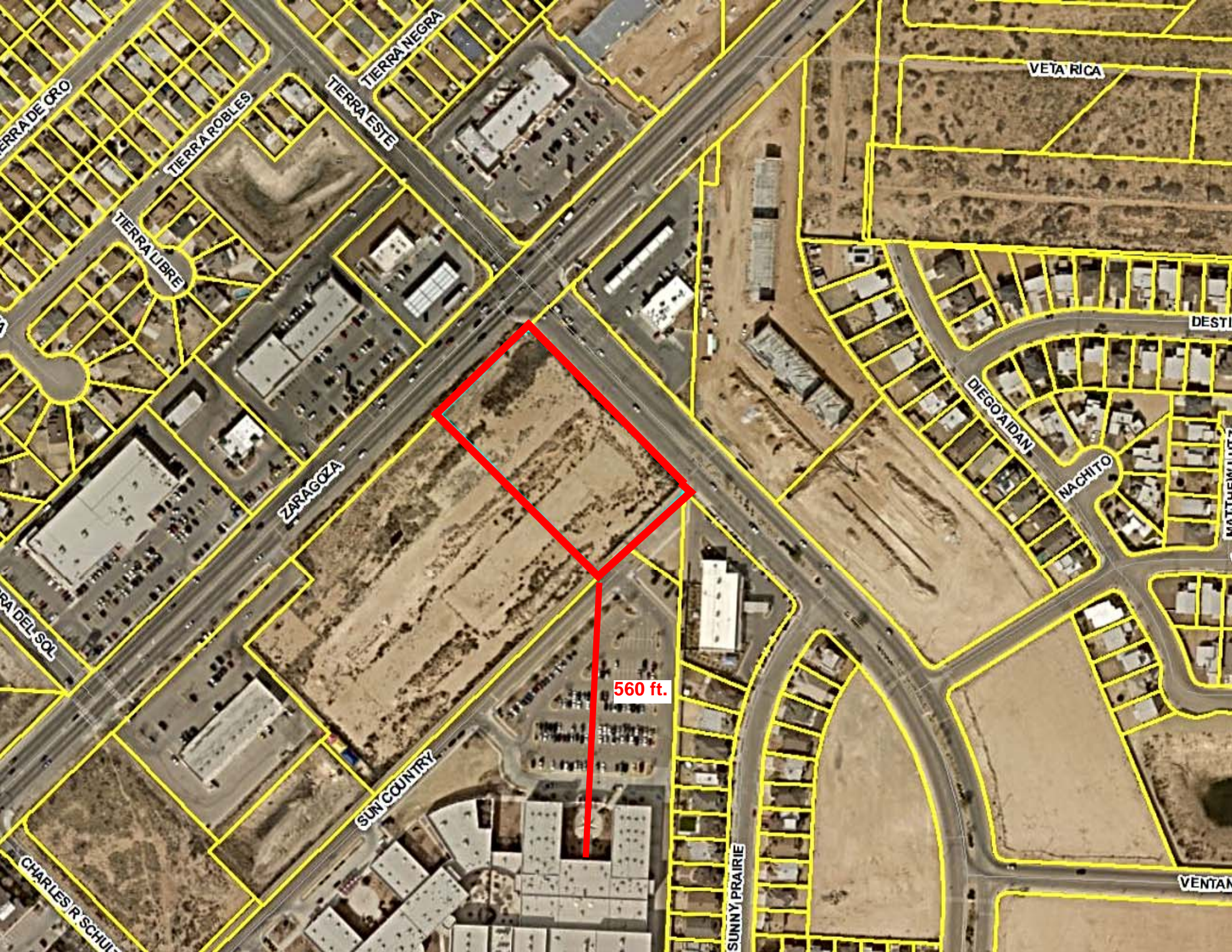
CVS Pharmacy, Inc.

By: Linda M. Cimbron
Assistant Secretary and
Director of Licensing

Enclosure



SUN RIDGE MIDDLE SCHOOL



560 ft.