

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

**DEPARTMENT:** Planning and Inspections Department, Planning Division

**AGENDA DATE:** Introduction: October 27, 2015  
Public Hearing: November 17, 2015

**CONTACT PERSON/PHONE:** Larry Nichols, (915) 212-1550, nicholslf@elpasotexas.gov  
Andrew Salloum, (915) 212-1613, salloumam@elpasotexas.gov

**DISTRICT(S) AFFECTED:** 1

**SUBJECT:**

An Ordinance changing the zoning of all of Tract 4G, E.L. De Shazo Survey 218, City of El Paso, El Paso County, Texas, from R-3 (Residential) to C-4 (Commercial). The penalty is as provided for in Chapter 20.24 of the El Paso City Code. Subject Property: East of N. Mesa Street and South of Castellano Drive. Property Owner: MALBER, LLC. PZRZ14-00050 (**District 1**). **THIS IS AN APPEAL CASE.**

**BACKGROUND / DISCUSSION:**

On May 21, 2015, the CPC reviewed and recommended denial of the rezoning request. On June 2, 2015, the applicant submitted an appeal request, within the El Paso City Code requirements.

**PRIOR COUNCIL ACTION:**

There is no prior City Council action on this rezoning application.

**AMOUNT AND SOURCE OF FUNDING:**

N/A

**BOARD / COMMISSION ACTION:**

City Plan Commission (CPC) – Denial Recommendation (6-0)  
Open Space Advisory Board (OSAB) - On June 10, 2015, OSAB voted unanimously to take no action on the following item, citing no relevance to protection of mountain development.

\*\*\*\*\*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:** \_\_\_\_\_

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE CHANGING THE ZONING OF ALL OF TRACT 4G, E.L. DE SHAZO SURVEY 218, CITY OF EL PASO, EL PASO COUNTY, TEXAS FROM R-3 (RESIDENTIAL) TO C-4 (COMMERCIAL). THE PENALTY IS AS PROVIDED FOR IN CHAPTER 20.24 OF THE EL PASO CITY CODE.**

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

Pursuant to Section 20.04.360 of the El Paso City Code, that the zoning of *all of Tract 4G, E.L. De Shazo Survey 218, City of El Paso, El Paso County, Texas* and as more particularly described by metes and bounds on the attached Exhibit "A", incorporated by reference, be changed from *R-3 (Residential) to C-4 (Commercial)*, as defined in Section 20.06.020, and that the zoning map of the City of El Paso be revised accordingly.

The penalties for violating the standards imposed through this rezoning ordinance are found in Section 20.24 of the El Paso City Code.

**ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

**THE CITY OF EL PASO**

**ATTEST:**

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

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

**APPROVED AS TO FORM:**

**APPROVED AS TO CONTENT:**

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

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

**ORDINANCE NO.** \_\_\_\_\_

**Zoning Case No: PZRZ14-00050**

Tract 4G,  
E.L. De Shazo Survey 218,  
City of El Paso, El Paso County, Texas  
September 18, 2014

**METES AND BOUNDS DESCRIPTION**  
Exhibit "A"

**FIELD NOTE DESCRIPTION** of Tract 4G, E.L. De Shazo Survey 218, City of El Paso, El Paso County, Texas and being more particularly described by metes and bounds as follows:

**COMMENCING FOR REFERENCE** at a point at the common boundary line of Tract 1A and 4G, same being the easterly right of way line of North Mesa Street, and the **POINT OF BEGINNING** of the herein described parcel;

**THENCE**, leaving said common boundary line, and along said easterly right-of-way line, whose chord bears North  $01^{\circ}47'58''$  East, a distance of 75.32 feet to a point;

**THENCE**, leaving said easterly right-of-way line, South  $82^{\circ}56' 17''$  East, a distance of 1,025.37 feet to a point;

**THENCE**, South  $00^{\circ}00'00''$  East, a distance of 75.57 feet to a found iron rod for corner;

**THENCE**, North  $82^{\circ}56'17''$  West, a distance of 1,027.75 feet to the **POINT OF BEGINNING** of the herein described lot and containing 76,992.45 square feet or 1.7675 Acres of land more or less.

Carlos M. Jimenez  
Registered Professional Land Surveyor  
Texas No. 3950

CAD CONSULTING COMPANY.  
1790 Lee Trevino Suite # 503  
El Paso, Texas 79936  
(915) 633-6422

14-2133.wpd



## MEMORANDUM

**DATE:** October 19, 2015

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

**FROM:** Andrew Salloum, Planner

**SUBJECT: PZRZ14-00050**

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The City Plan Commission (CPC) on May 21, 2015, voted 6-0 to recommend **denial** of rezoning the subject property from R-3 (Residential) to C-4 (Commercial) in order to allow for a large contractor's yard.

The CPC found that the rezoning is not in conformance with Plan El Paso Comprehensive Plan. The CPC also determined that the rezoning does not protect the best interest, health, safety and welfare of the public in general; that the proposed use is not compatible with adjacent land uses; and, that the rezoning will have negative effects on the natural environment, social economic conditions, and property values in the vicinity and the city as a whole.

The Planning Division has not received any phone calls or letters in support or opposition to the rezoning request.

**Property Owner:** MALBER, LLC  
**Representative:** Ray Mancera

**Attachments:**  
Appeal Letter  
Staff Report

## APPEAL TO CITY COUNCIL

June 2, 2015

HONORABLE MAYOR AND CITY COUNCIL  
CITY OF EL PASO, TEXAS

DEAR MAYOR AND COUNCIL:

After a public hearing held on May 21, 2015, the City Plan Commission (CPC) denied my client's request for a change of zoning from R-3 to C-4 for a vacant property located on N Mesa (Case No. PZRZ14-00050) and legally described as:

TR 4-G, El De Shazo Survey #218, City of El Paso, El Paso County, Texas (1.7675 acres).

I hereby appeal to City Council the City Plan Commission's decision and ask City Council hear my client's rezoning request. I am attaching a letter setting forth my reasons for believing the CPC's decision to be in error.

APPLICANT: MALBER LLC  
3737 Gateway West  
El Paso, Texas 79903  
(915) 562-562-7357

Representative Address Ray Mancera  
1644 Lomaland, Suite 105  
El Paso, TX 79935  
(915) 532-24444  
[Ray@ManceraGroup.com](mailto:Ray@ManceraGroup.com)

Sincerely,



Two (2) copies filed in City Clerk's Office on: \_\_\_\_\_

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# RAY MANCERA

1644 Lomaland, 105  
El Paso, TX 79935

915-532-2444  
[ray@manceragroup.com](mailto:ray@manceragroup.com)

June 2, 2015

The Honorable Mayor and City Council,

On behalf of MALBER LLC, I am respectfully appealing the decision of the City Plan Commission (CPC). On May 21, 2015 the CPC denied our request for a change of zoning from R-3 to C-4 in order to permit a contractor's yard (large). The zoning case number is PZRZ14-00050.

The 1.7675 acre property is vacant and measures 75 ft wide by approximately 1028 ft deep. Yet almost two-thirds of the property is mountainous rendering the property useless except for the area fronting North Mesa. The zoning adjacent to the area that is usable is C-3. The mountainous area to the rear abuts A-2 and A-3 zoning.

In 1957 the then owner signed a covenant with El Paso Electric Company dedicating the entire property as a permanent easement. The covenant grants El Paso Electric the right to construct and maintain transmission lines over the entire property. Currently major transmission lines serving North Mesa run over this property. Additionally the covenant prohibits construction of any buildings.

My client has received inquiries to develop the land for commercial purposes but due to the Electric Company covenant potential tenants are rejected. Recently we received an inquiry to use the land as a contractor's yard and to the best of our knowledge it is the only possible land use available but requires C-4 zoning. We are willing to ensure the entrance is landscaped.

We believe the CPC erred in 1.) Acknowledging the restrictions of the 1957 covenant 2.) Existing Electric Co poles at entrance 3.) High voltage electrical overhead lines 4.) Existing adjacent C-3 commercial zoning 5.) Mountainous limitations. We kindly ask our appeal be heard by City Council.

We look forward to appearing before Mayor and Council to better explain our request.

Sincerely,



Ray Mancera, Representative

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## *City of El Paso – City Plan Commission Staff Report*

**Case No:** PZRZ14-00050  
**Application Type:** Rezoning  
**CPC Hearing Date:** May 21, 2015  
**Staff Planner:** Andrew Salloum, 915-212-1613, salloumam@elpasotexas.gov

**Location:** East of N. Mesa Street and South of Castellano Drive  
**Legal Description:** All of Tract 4G, E.L. De Shazo Survey 218, City of El Paso, El Paso County, Texas  
**Acreage:** 1.7675 acres  
**Rep District:** 1  
**Existing Zoning:** R-3 (Residential)  
**Existing Use:** Vacant  
**C/SC/SP/ZBA/LNC:** None  
**Request:** From R-3 (Residential) to C-4 (Commercial)  
**Proposed Use:** Large contractor's yard

**Property Owner:** MALBER, LLC  
**Representative:** Ray Mancera

### **SURROUNDING ZONING AND LAND USE**

**North:** C-3 (Commercial) / Exercise facility, indoor; A-2 (Apartment) / Apartment complex  
**South:** R-3 (Residential) / Vacant & El Paso Electric Easement; C-3 (Commercial) / Apartment complex; A-2 (Apartment) / Apartment complex; A-3 (Apartment) / Apartment complex  
**East:** R-3 (Residential) / Vacant; R-5 (Residential) / Duplexes  
**West:** C-3 (Commercial) / Restaurant & Office

**PLAN EL PASO DESIGNATION:** G-4, Suburban (Walkable) (Northwest Planning Area)

**NEAREST PARK:** Mission Hills Park (7,675 feet)

**NEAREST SCHOOL:** Morehead Middle School (6,937 feet)

### **NEIGHBORHOOD ASSOCIATIONS**

Upper Valley Improvement Association  
Upper Mesa Hills Neighborhood Association  
Coronado Neighborhood Association  
Save the Valley

### **NEIGHBORHOOD INPUT**

Notice of a Public Hearing was mailed to all property owners within 300 feet of the subject property on May 6, 2015. The Planning Division has not received any phone calls or letters in support or opposition to the rezoning request.

### **APPLICATION DESCRIPTION**

The applicant is requesting to rezone the subject property from R-3 (Residential) to C-4 (Commercial) in order to allow for a large contractor's yard. Large contractor's yards are not permitted in the R-3 (Residential) zone district. The subject property is 1.767 acres in size and is vacant. The conceptual site plan shows a 1,000 sq. ft. office building use for a contractor's yard. Access to the subject property is provided from Mesa Street.

## **PLANNING DIVISION RECOMMENDATION**

The Planning Division recommends **denial** of rezoning the subject property from R-3 (Residential) to C-4 (Commercial) to allow for a large contractor's yard.

The recommendation is based on incompatibility with the surrounding properties zoned R-3 (Residential), R-5 (Residential), and A-2 (Apartment) directly adjacent to the subject property, and in non-compliance with the Plan El Paso land use designation G-4, Suburban (Walkable) in the Northwest Planning Area.

## **Plan El Paso- Future Land Use Map Designation**

All applications for rezoning shall demonstrate compliance with the following criteria:

G-4, Suburban (Walkable): This sector applies to modern single-use residential subdivisions and office parks, large schools and parks, and suburban shopping centers. 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 R-3 (Residential) district is to promote and preserve residential development within the city to create basic neighborhood units. It is intended that the district regulations maintain a low density of dwelling units supporting a suburban-urban interface that permits developments utilizing varying lot configurations. The regulations of the districts will permit primarily single-family and two-family residential areas, and recreational and institutional uses incidental to and serving the neighborhood.

The purpose of the C-4 (Commercial) district is to provide for locations for the most intensive commercial uses intended to serve the entire city. It is intended that the district regulations permit heavy commercial uses characterized by automotive and light warehousing. The regulations of the districts are intended to provide a transition from general business areas to industrial and manufacturing uses, and to accommodate major locations of commerce, service and employment activities. Within the central business district, more intensive commercial uses are allowed, the predominant of which are retail trade and service uses, providing less restrictive height and area regulations.

## **COMMENTS:**

### **Open Space Advisory Board**

Open Space Advisory Board (OSAB) - On June 10, 2015, OSAB voted unanimously to take no action on the following item, citing no relevance to protection of mountain development.

### **Planning Division - Transportation**

Traffic Impact Analysis (TIA) has been waived.

Note:

All existing and/or proposed paths of travel (accessible sidewalks, wheelchair access curb ramps and driveways) located within public rights-of-way shall follow the City of El Paso Design Standards for Construction and be ADA/TAS compliant.

### **El Paso Department of Transportation**

Traffic Impact Analysis (TIA) waiver request has been approved.

### **Planning and Inspections Department – Building and Development Permitting**

No comments received.

### **Planning and Inspections Department - Land Development**

No objections.

### **Fire Department**

Rezoning does not adversely affect the fire department.

## **El Paso Water Utilities**

1. EPWU-PSB does not object to this request

### EPWU-PSB Comments

#### Water:

2. There is an existing 8-inch diameter water main that extends along N. Mesa St located approximately 16 feet west of the property line. This main is available for service.
3. There is an existing 12-inch diameter low pressure water main that extends along N. Mesa St located approximately 105 feet west of the property line. This main is not available for service.
4. Previous water pressure tests from fire hydrant # 214 located at the northeast corner of Castellano Dr. and N Mesa St., have yielded a static pressure of 155 (psi) pounds per square inch, a residual pressure of 135 (psi) pounds per square inch, and a discharge of 1501 (gpm) gallons per minute.
5. 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:

6. There is an existing 12-inch diameter sanitary sewer main that extends along N. Mesa St. that is approximately 10-feet deep and it is located approximately 78 feet west of the property line. This main is available for service.

#### General:

7. Mesa Street is a Texas Department of Transportation (TxDOT) right-of-way. All proposed water and sanitary sewer work to be performed within Mesa Street right-of-way requires written permission from TxDOT
8. EPWU-PSB requires a new service application to serve the property. New service applications should be made 6-8 weeks in advance of construction to ensure water for construction work. The following items, if applicable, are required at the time of application: (1) hard copy of site plan with street names and addresses; (2) finalized set of improvement plans, including grading & drainage plans; (3) digital copy of site plan; (4) benchmark check; (5) construction schedule; and (6) a certificate of compliance. Service will be provided in accordance with the current El Paso Water Utilities – Public Service Board (EPWU-PSB) Rules and Regulations. The owner 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.

## **El Paso Water Utilities - Stormwater Division**

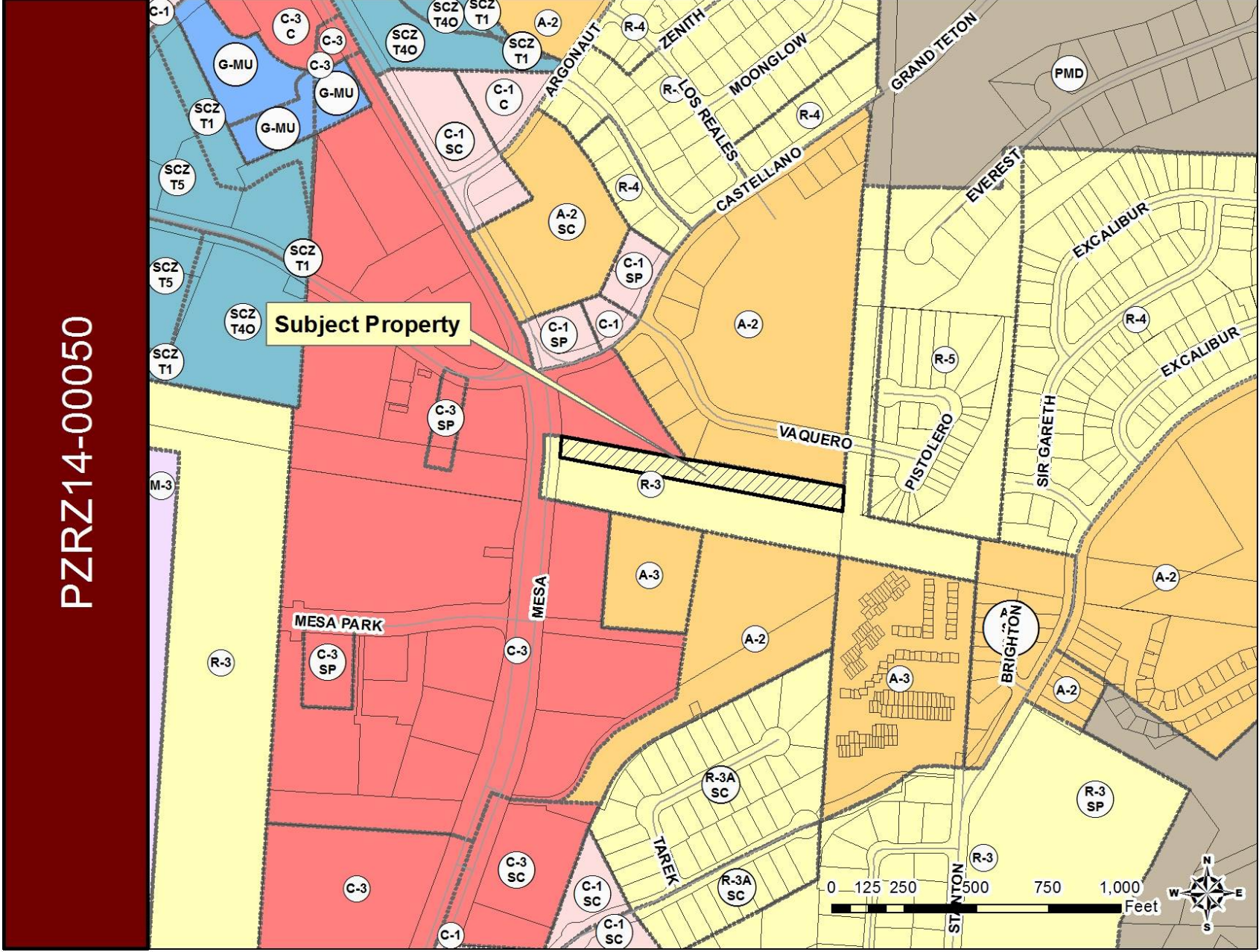
No comments received.

### **Attachments:**

1. Zoning Map
2. Aerial Map
3. Conceptual Site Plan

ATTACHMENT 1: ZONING MAP

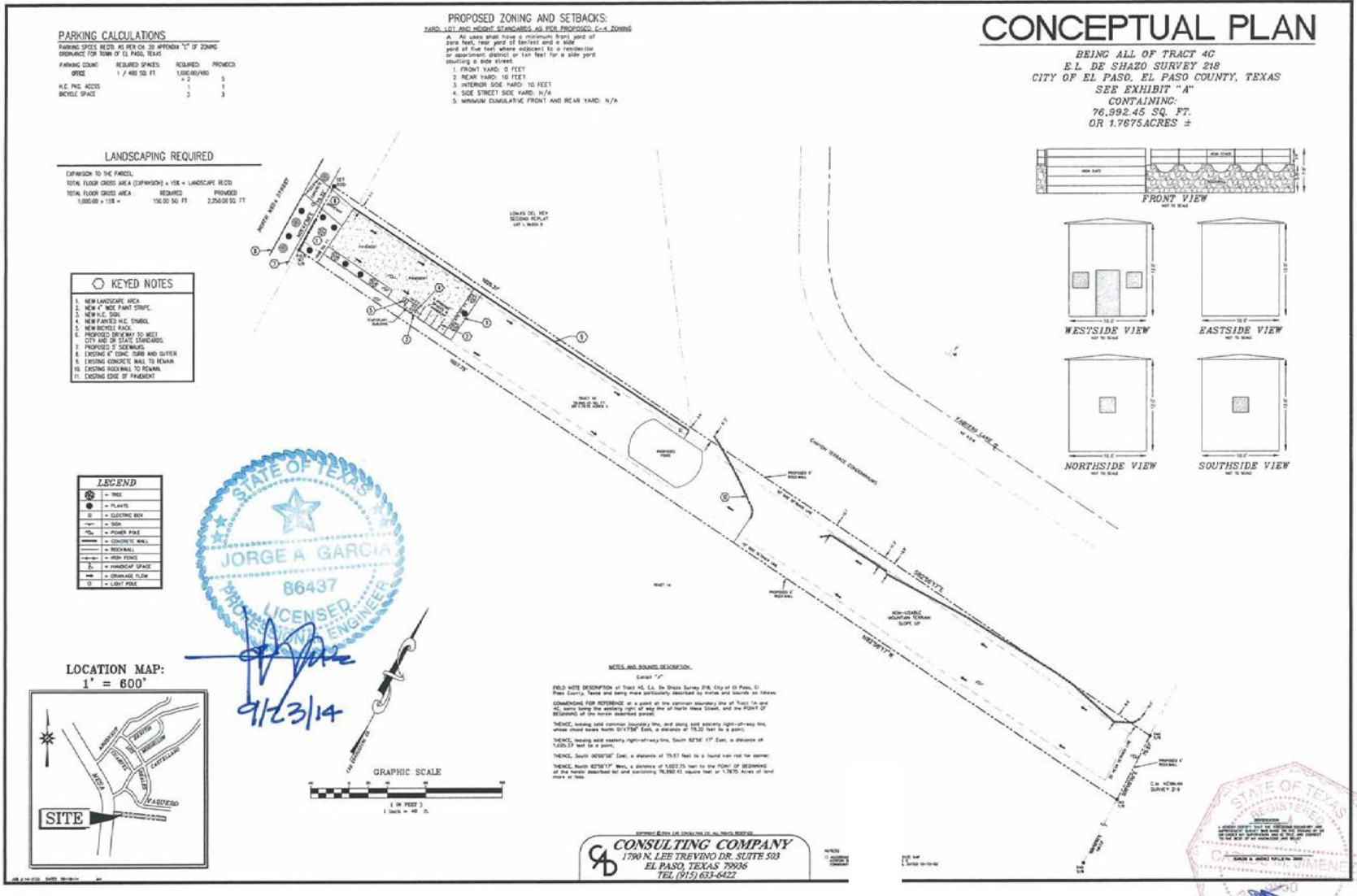
PZRZ14-00050



PZRZ14-00050



ATTACHMENT 3: CONCEPTUAL SITE PLAN





# Recommendation/Public Input

- **Planning Division recommendation:** Denial
- **CPC Vote:** Denial Recommendation (6-0)
- **OSAB Vote:** Voted unanimously to take no action on the following item, citing no relevance to protection of mountain development.
- **Public Input:** No communication received from the public in support or opposition to the rezoning application.

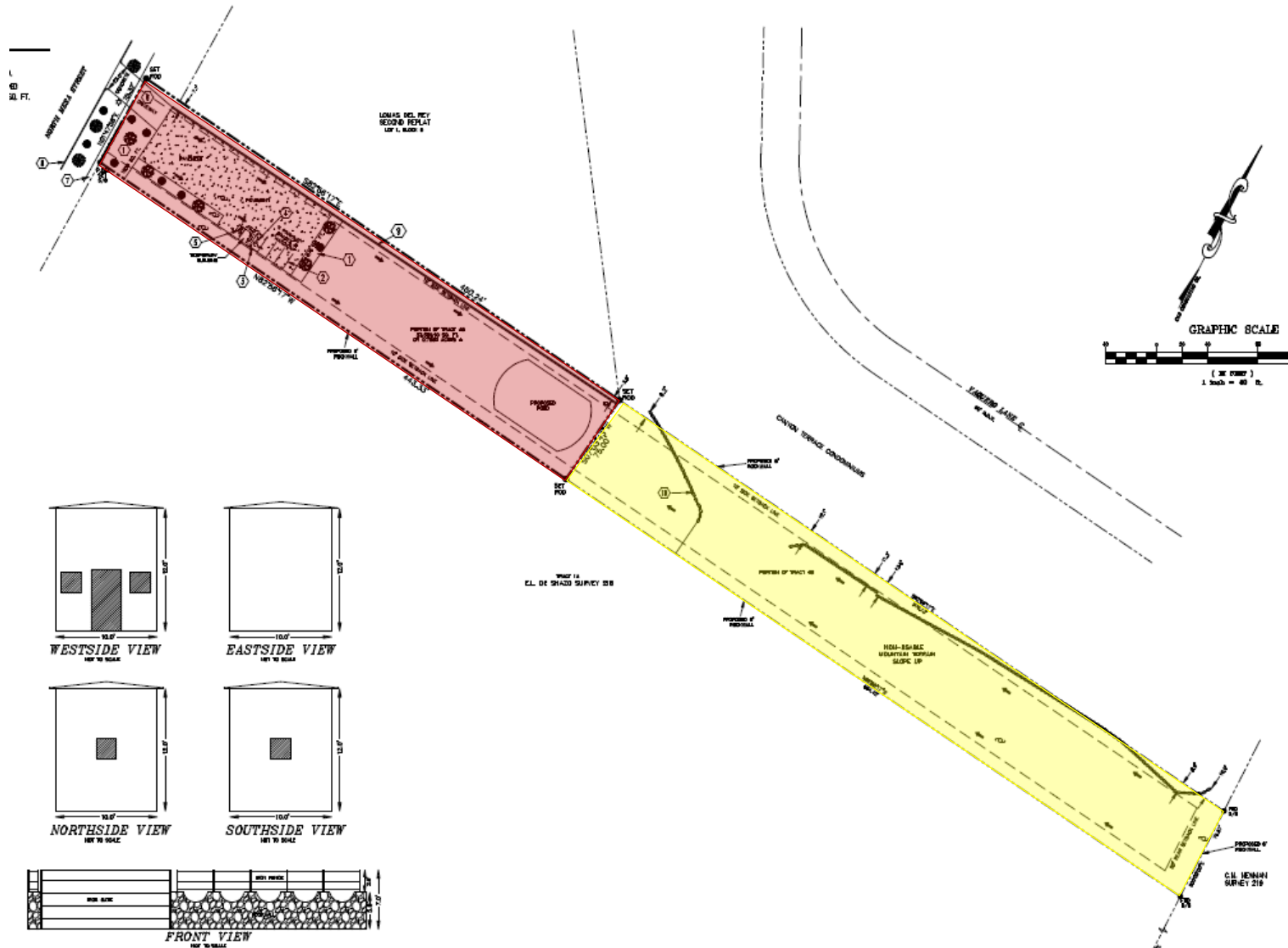
Strategic Goal #3 Promote the Visual Image of El Paso

3.1 Provide business friendly permitting and inspection processes

3.2 Improve the visual impression of the community

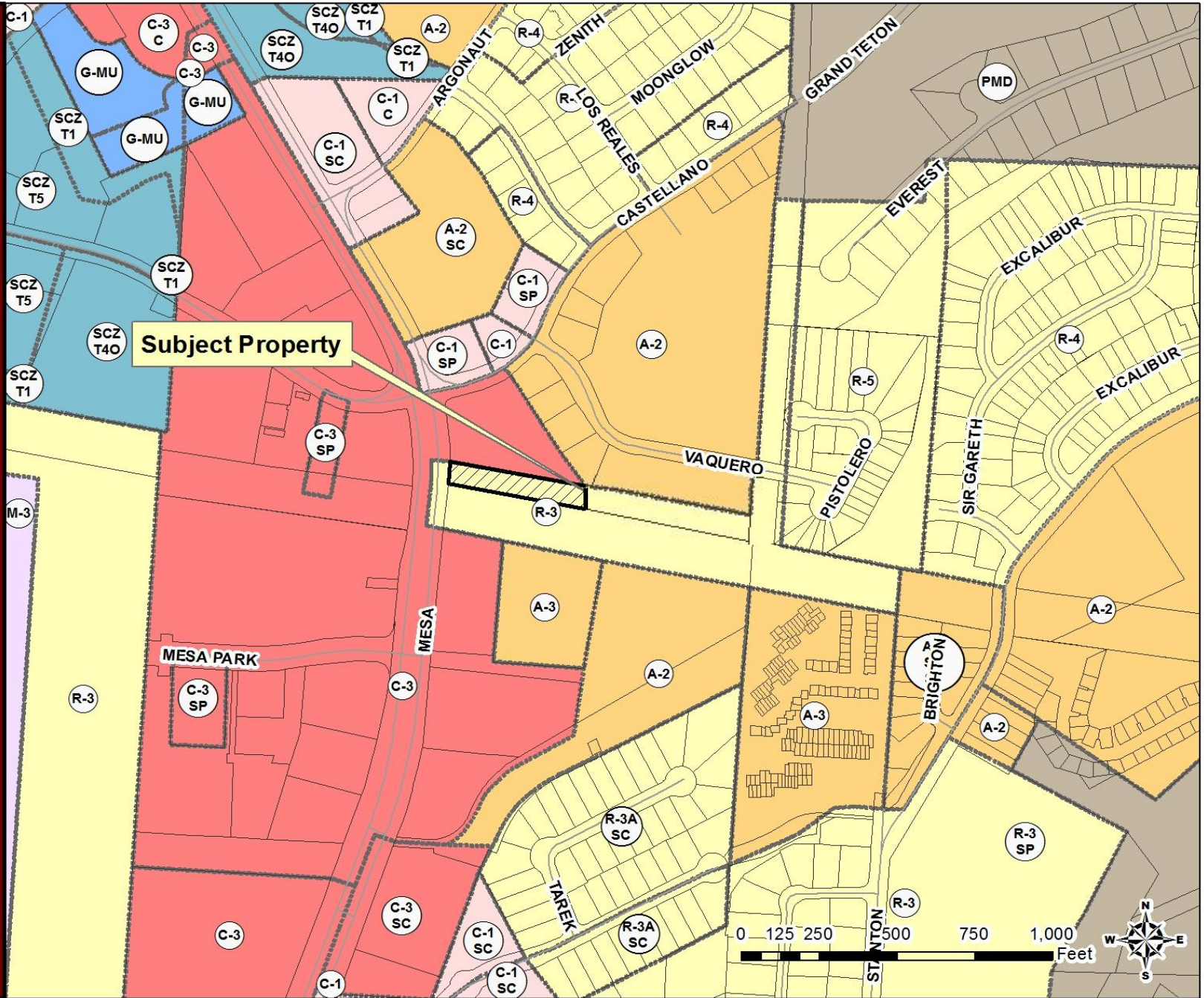


# FLOOR AMENDMENT



PZRZ14-00050

3



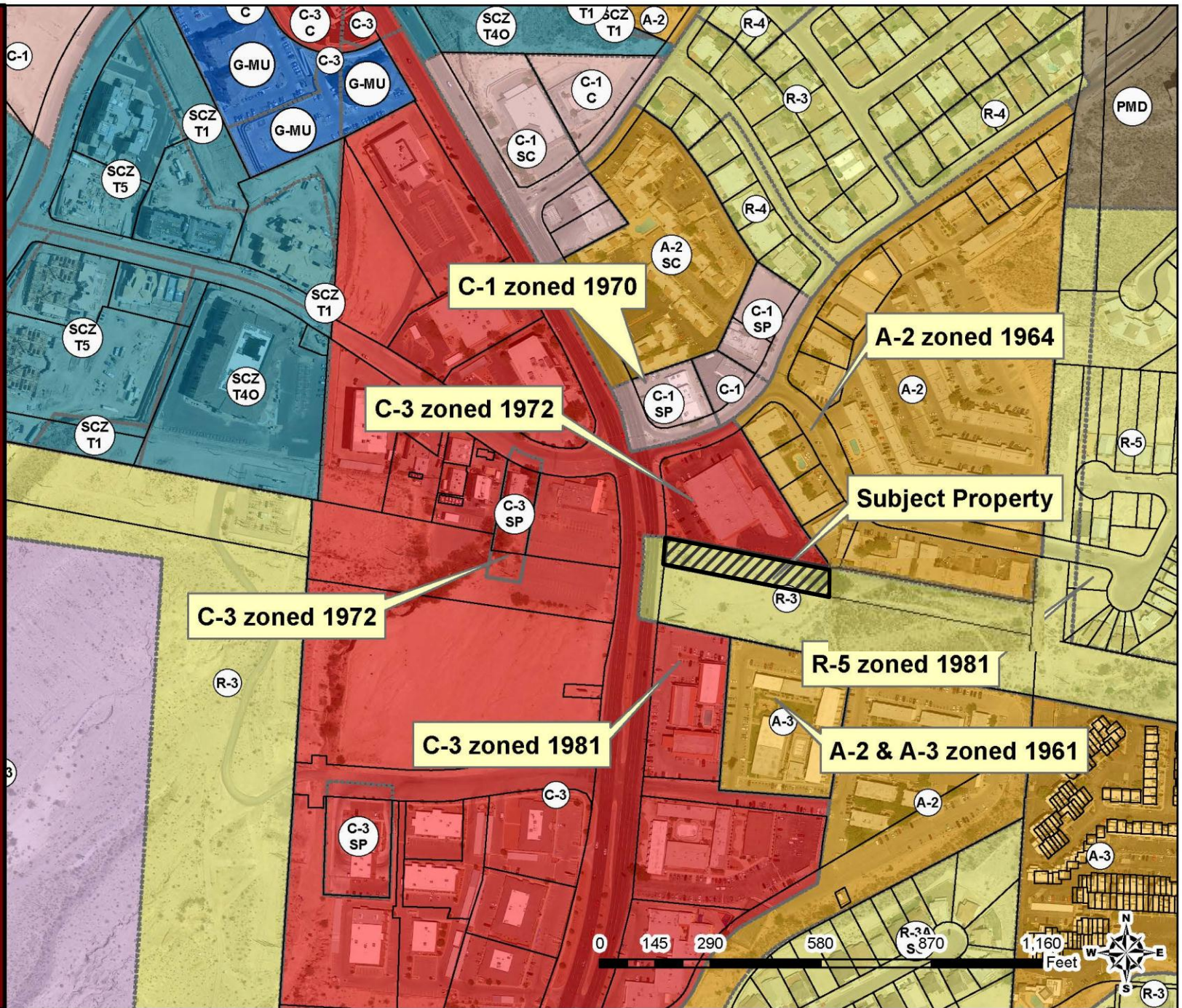
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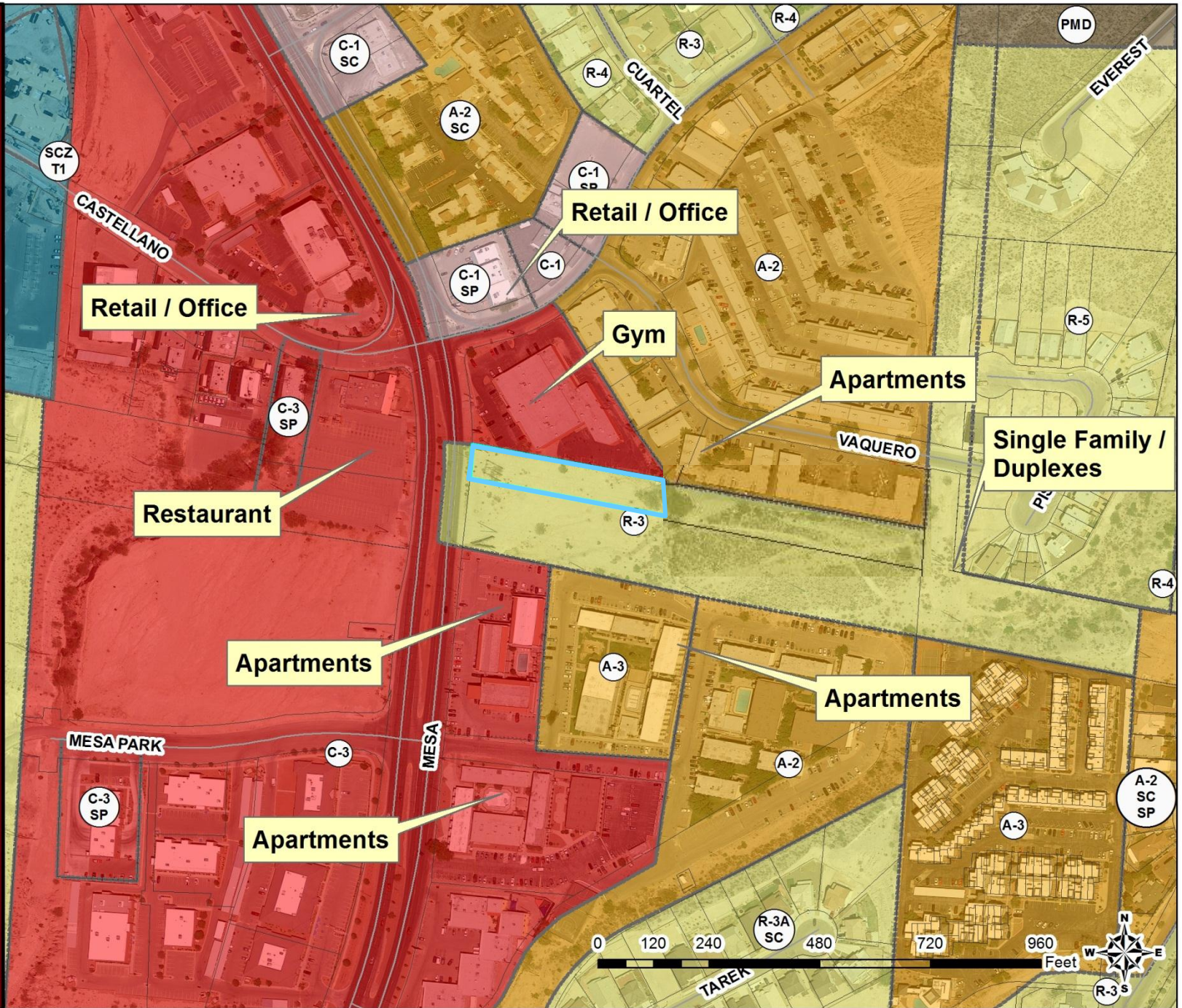


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PZRZ14-00050 Area Land Use



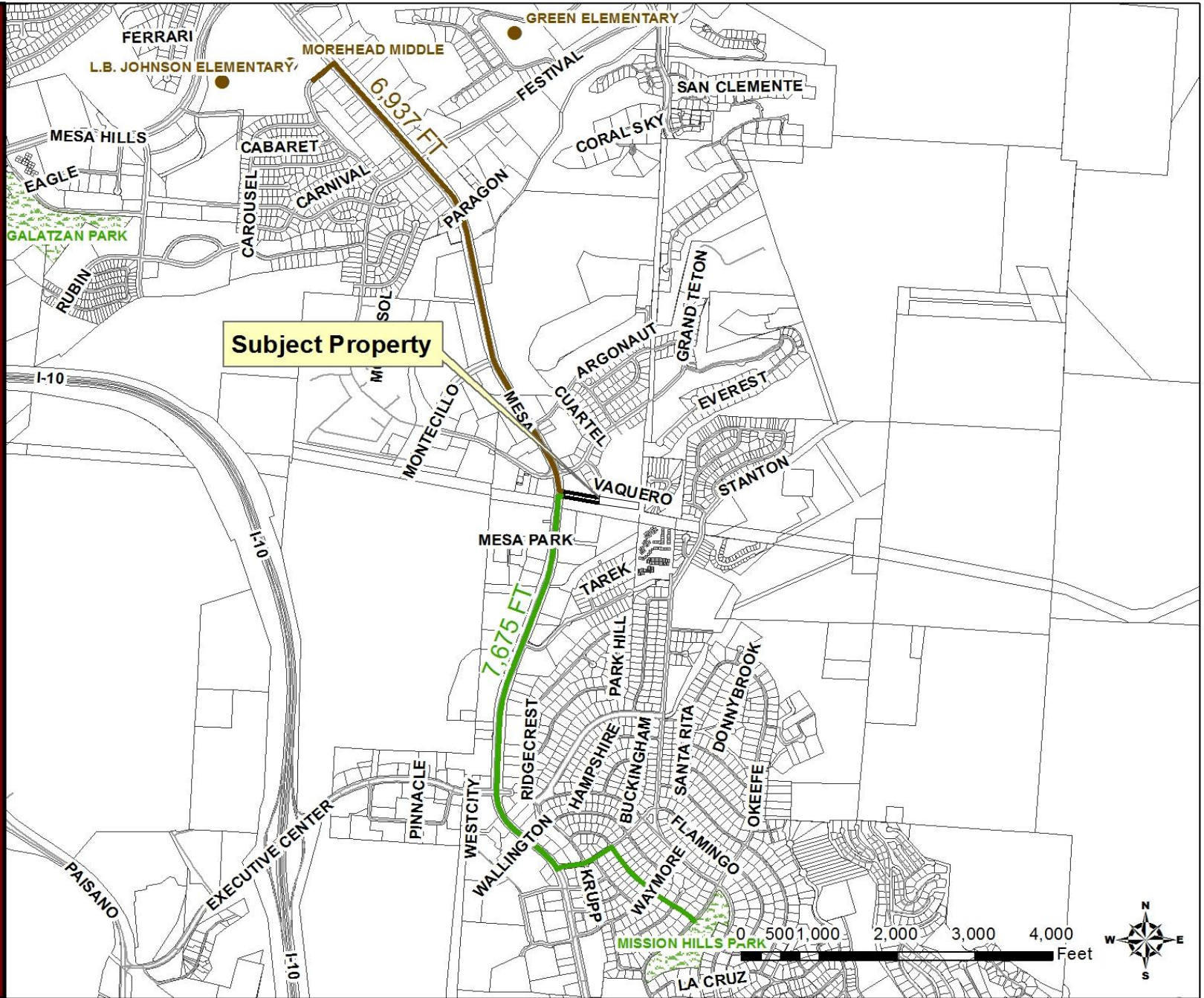
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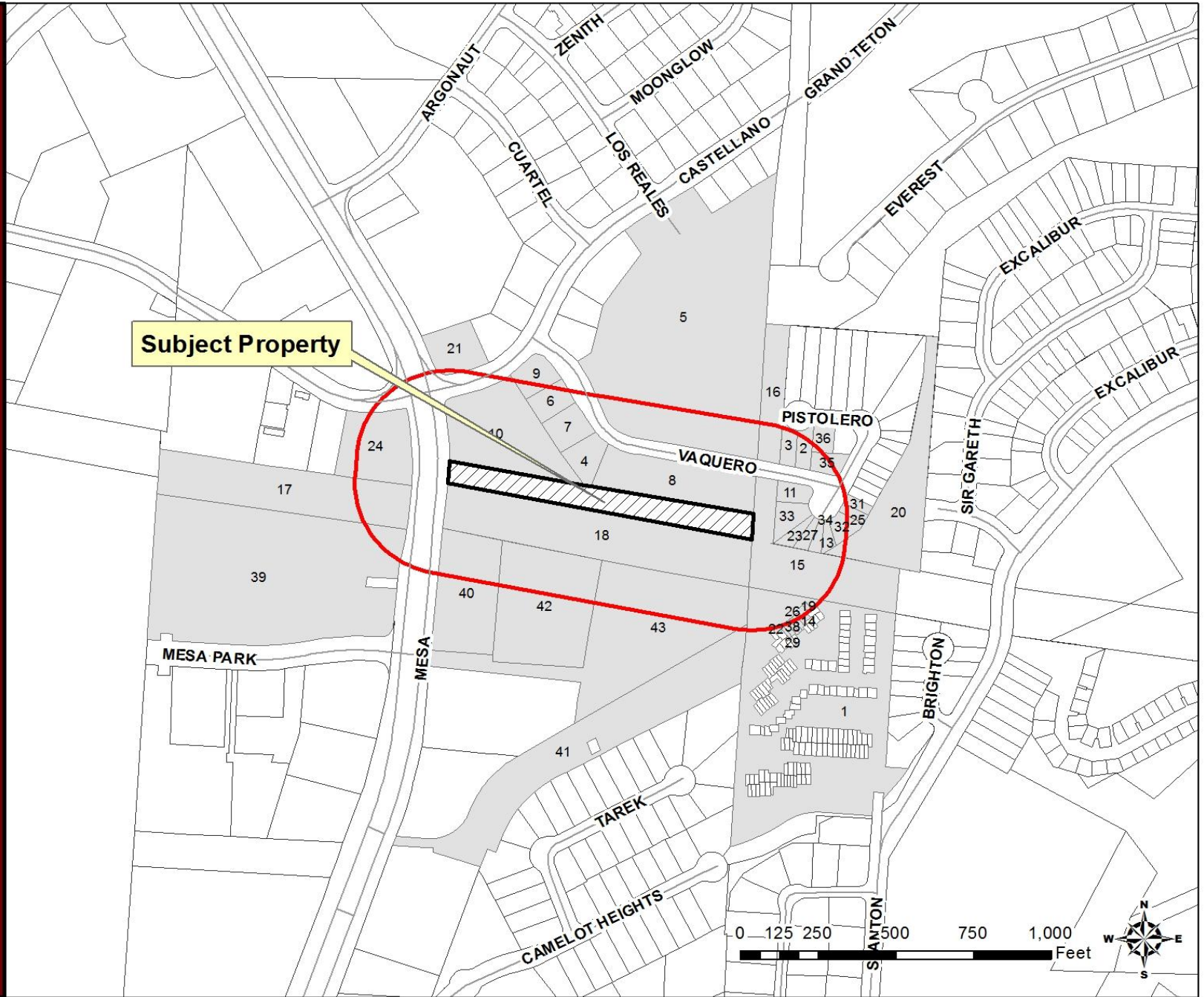
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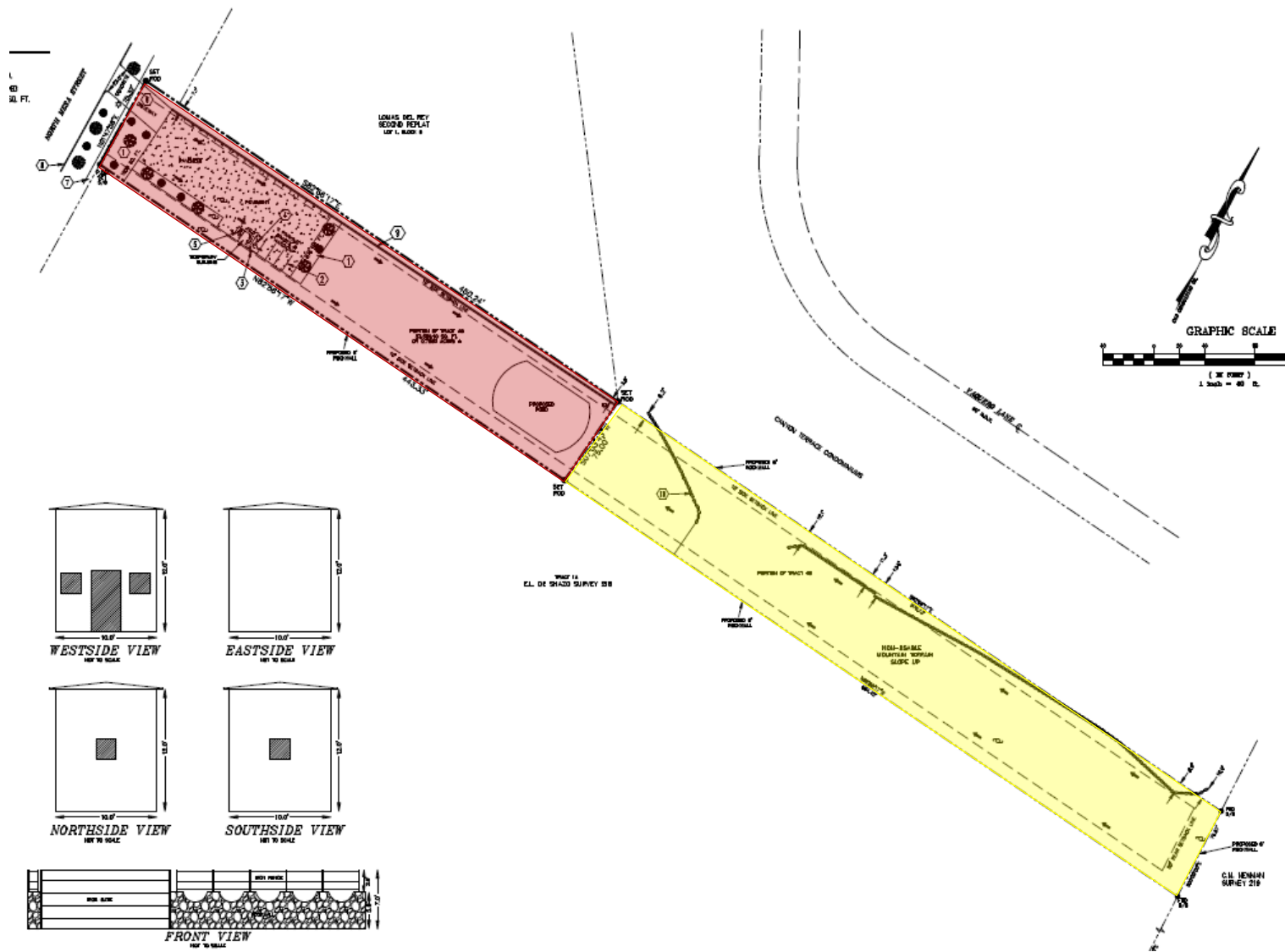
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PZRZ14-00050

9







Subject Property



Subject Property



North

13

13



East



**Unlimited  
Car Washes**  
starts at \$19.99  
mistercarwash.com

**FRESH  
HOMEMADE DONUTS**  
935-N-HEEA | 935-973-0122



South

15

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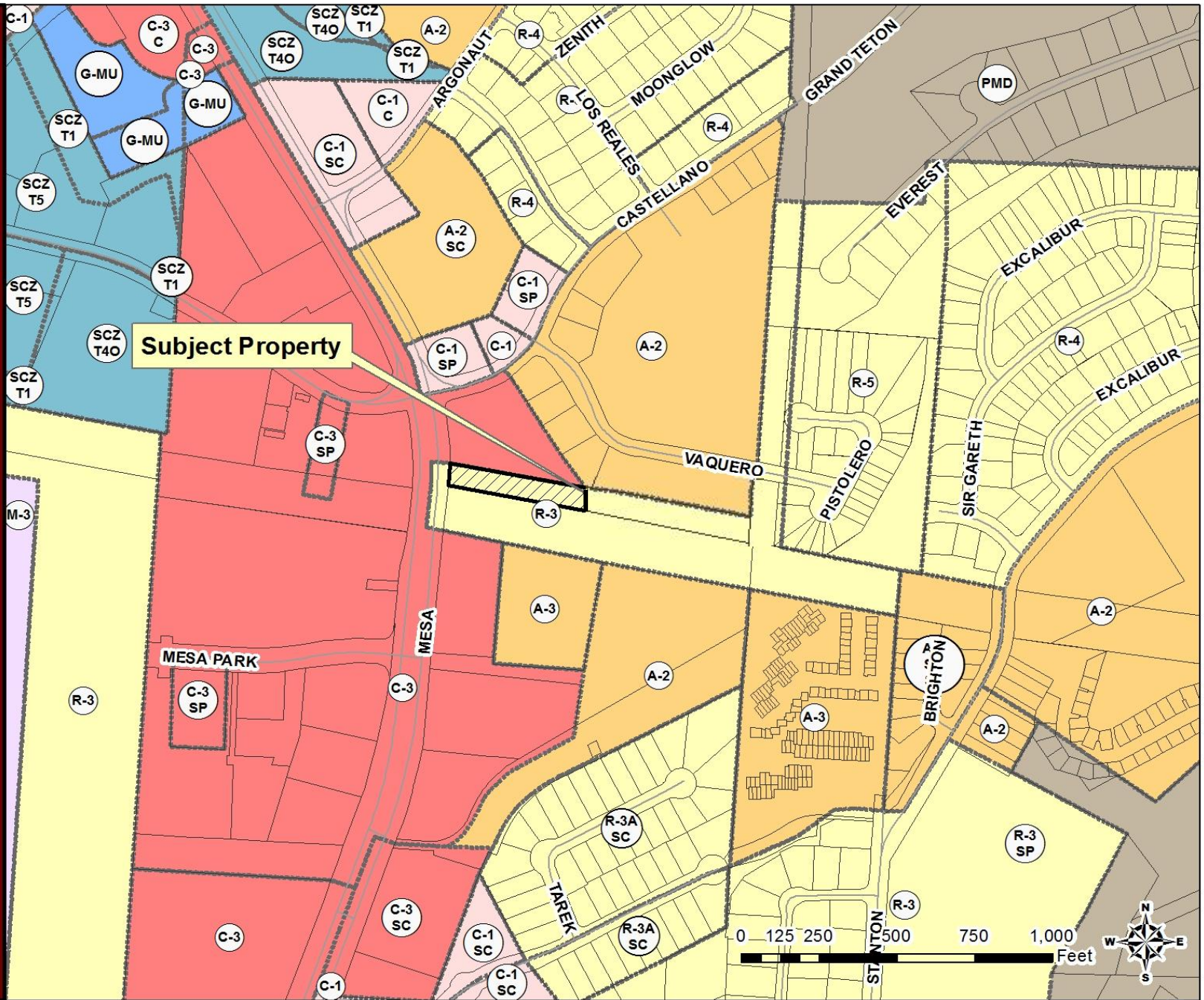


West

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PZRZ14-00050

17



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18

