

**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: December 1, 2015
CONTACT PERSON/PHONE: Larry F. Nichols, (915) 212-1550, nicholslf@elpasotexas.gov
Michael McElroy (915) 212-1216, mcelroym@elpasotexas.gov
DISTRICT(S) AFFECTED: 2

SUBJECT:

Discussion and action on a request from Hector Bernal 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 8949 Dyer, and legally described as a Tract 17-C-5, Section 9, Block 81, Township 2, Texas and Pacific Railroad Company Surveys, 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:

The subject property is 114 feet from a school, measured from property line to property line, and 550 feet measured door-to-door.

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 approved 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 Hector Bernal, for the property located at 8949 Dyer and legally described as Tract 17-C-5, Section 9, Block 81, Township 2, Texas and Pacific Railroad Company Surveys, 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.

PASSED on 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:

Larry F. Nichols, Director
Planning & Inspections Department

MEMORANDUM

DATE: November 9, 2015

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

FROM: Larry F. Nichols, Director – Planning and Inspections

SUBJECT: **Appeal of Prohibition of Sale of Alcoholic Beverages**

The applicant is requesting an exception from City Council to permit alcohol sales and storage for a restaurant and bar located at 8949 Dyer, legally described as a Tract 17-C-5, Section 9, Block 81, Township 2, Texas and Pacific Railroad Company Surveys, City of El Paso, El Paso County, Texas.

Based on the determination by Building Inspector Sonya Cahalan:

- The subject property is 114 ft. from property line to property line and approximately 550 feet measured door to door to a school. There are no other daycares, schools, churches, or public hospitals within 300 feet of the subject property.
- 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.*

Attachments:
Appeal request from appellant

Planning and Inspections Department



Building and Development Permitting

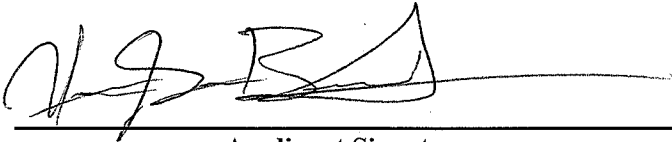
www.elpasotexas.gov

LALC 15-00189

Sale of Alcoholic Beverages Zoning Approval Application

(Please print)

Applicant Name: Hector Bernal Email Address: torobronco@att.net
Business Name: TACOS TORO BRONCO
Business Phone: (915) 759-0599 Alternate Phone: ()
Business Address: 8949 Dyer Suite / Space: _____
Property Identification Number (PID): _____
Mailing Address: 8949 Dyer
Previous Occupancy / Use? Restaurant If currently vacant, how long? NA



Applicant Signature

9-29-15
Date

***** A City License must be obtained after the Texas Alcoholic Beverage Commission (TABC) License is issued. *****

You may drop off your completed application along with the first page of the completed TABC application for processing at:

Planning and Inspections Department

One-Stop Shop

811 Texas Avenue
El Paso, Texas 79901
(915) 212-0104

Via email to:

Jovani Francia at FranciaJX@elpasotexas.gov or
Cynthia Aguiñaga at AguinagaC@elpasotexas.gov

Via fax to:

(915)212-0105 (Attention: Jovani Francia or Cynthia Aguiñaga)

FOR DEPARTMENT USE ONLY

Zoning District _____ Liquor sales permitted? Yes ___ No ___ Representative District No. _____
Does Special Condition / Contract Prohibit the sale of Alcoholic Beverages? Yes ___ No ___

Field Investigation

Distance from School:	Distance from Church:
Distance from Hospital:	Distance from Commercial Day Care:
Other Alcoholic Beverage Sales in Area:	

Inspector: _____ Date completed _____ / ____ / ____
Comments: _____

APPROVED

DENIED

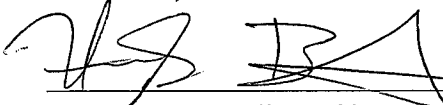
Reason(s) for denial (per the El Paso Municipal Code):

NOTICE TO APPLICANTS

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 of 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.

(IF YOUR APPLICATION IS DENIED AND YOU BELIEVE YOU MEET AT LEAST ONE OF THE CRITERIA LISTED ABOVE, WOULD YOU LIKE TO REQUEST AN APPEAL FOR AN EXCEPTION OF YOUR DENIAL TO THE EL PASO CITY COUNCIL? IF SO, PLEASE CHECK THE BOX BELOW, ALONG WITH YOUR SIGNATURE AND DATE.)


Applicant Signature

9/29/15
Date



On-Premise Prequalification Packet

L-ON (03/2015)

Please complete this Prequalification Packet with information concerning your proposed business location for which you are applying to sell/serve alcoholic beverages. This information will be used to obtain your pre-qualification to hold a license/permit. You will submit this information to the proper governmental entities for certification that your proposed location is legal for the type of license/permit for which you are applying.

Please contact your local TABC office to determine if you must post a 60 Day Sign at your proposed location or for any additional information.

LOCATION INFORMATION

1. Type of On-Premise License/Permit

- | | |
|---|--|
| <input type="checkbox"/> BG Wine and Beer Retailer's Permit | <input type="checkbox"/> LB Mixed Beverage Late Hours Permit |
| <input type="checkbox"/> BE Beer Retail Dealer's On-Premise License | <input type="checkbox"/> MI Minibar Permit |
| <input type="checkbox"/> BL Retail Dealer's On-Premise Late Hours License | <input type="checkbox"/> CB Caterer's Permit |
| <input type="checkbox"/> BP Brewpub License | <input checked="" type="checkbox"/> FB Food and Beverage Certificate |
| <input type="checkbox"/> V Wine & Beer Retailer's Permit for Excursion Boats | <input type="checkbox"/> PE Beverage Cartage Permit |
| <input type="checkbox"/> Y Wine & Beer Retailer's Permit for Railway Dining Car | <input type="checkbox"/> RM Mixed Beverage Restaurant Permit with FB |
| <input checked="" type="checkbox"/> MB Mixed Beverage Permit | |

2. Indicate Primary Business at this Location

- | | |
|--|--|
| <input checked="" type="checkbox"/> Restaurant | <input type="checkbox"/> Sporting Arena, Civic Center, Hotel |
| <input type="checkbox"/> Bar | <input type="checkbox"/> Miscellaneous _____ |
| <input type="checkbox"/> Sexually Oriented | |

3. Trade Name of Location

Tacos Toro Bronco #2

4. Location Address

8949 Dyer

City El Paso	County El Paso	State TX	Zip Code 799-04
-----------------	-------------------	-------------	--------------------

5. Mailing Address

8949 Dyer

City El Paso	State TX	Zip Code 799-04
-----------------	-------------	--------------------

6. Business Phone No.

(915) 759-0599

Alternate Phone No.

(915) 867-9264

E-mail Address

torobronco@att.net

OWNER INFORMATION

7. Type of Owner

- | | | |
|--|--|---|
| <input type="checkbox"/> Individual | <input checked="" type="checkbox"/> Corporation | <input type="checkbox"/> City/County/University |
| <input type="checkbox"/> Partnership | <input type="checkbox"/> Limited Liability Company | <input type="checkbox"/> Other _____ |
| <input type="checkbox"/> Limited Partnership | <input type="checkbox"/> Joint Venture | |
| <input type="checkbox"/> Limited Liability Partnership | <input type="checkbox"/> Trust | |

8. Entity/Applicant

T Bronco HB Corporation

9. If Applicant Is/Must Be Listed Below (attach L-OIC if additional space is needed).

- | | |
|--|--|
| Individual/Individual Owner | Limited Liability Company/All Officers or Managers |
| Partnership/All Partners | Joint Venture/Venturers |
| Limited Partnership/All General Partners | Trust/Trustee(s) |
| Corporation/All Officers | City, County, University/Official |

Last Name Bernal	First Name Hector	MI S	Title Officer
---------------------	----------------------	---------	------------------

Last Name	First Name	MI	Title
-----------	------------	----	-------

Last Name	First Name	MI	Title
-----------	------------	----	-------



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, 8949 Dyer, PROPOSED BAR AND RESTAURANT

- 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;
- 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.

8949 Dyer Street



Subject Property

114 FT

MOYE ELEMENTARY

ALPS

0 40 80 160 240 320 Feet



8949 Dyer Street



MAXWELL

Subject Property

DYER

MARKS

550 FT

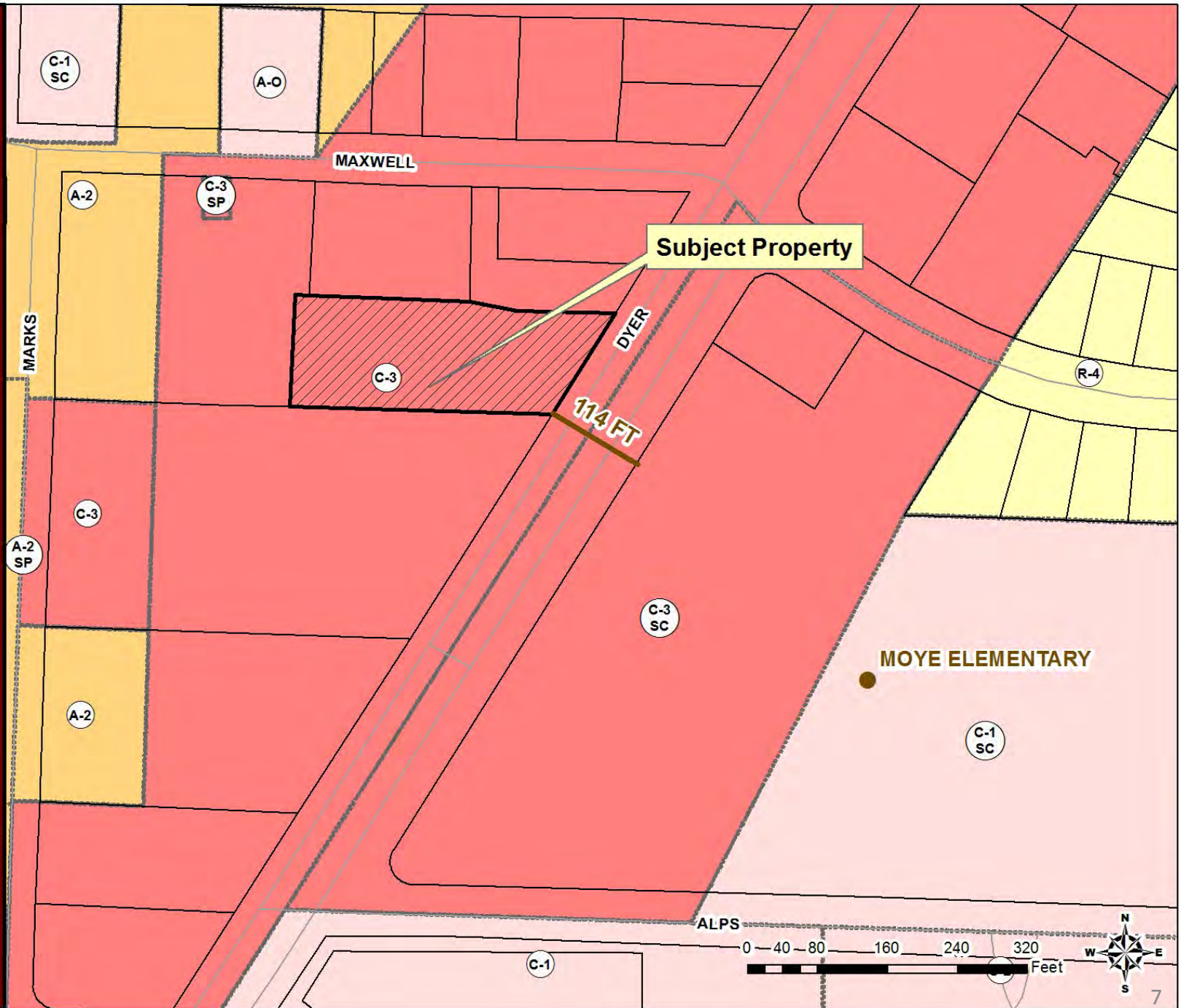
MOYE ELEMENTARY

ALPS

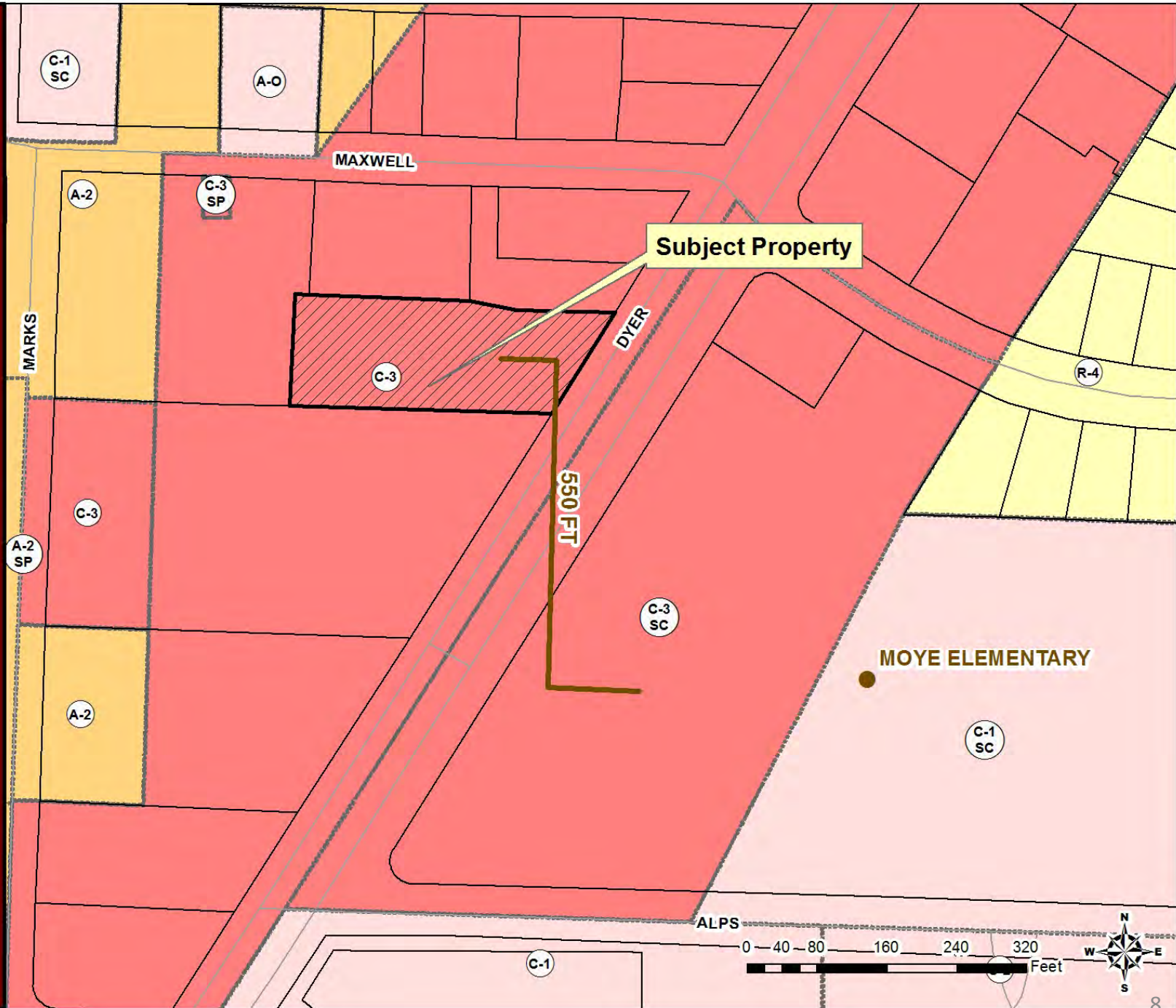
0 40 80 160 240 320 Feet



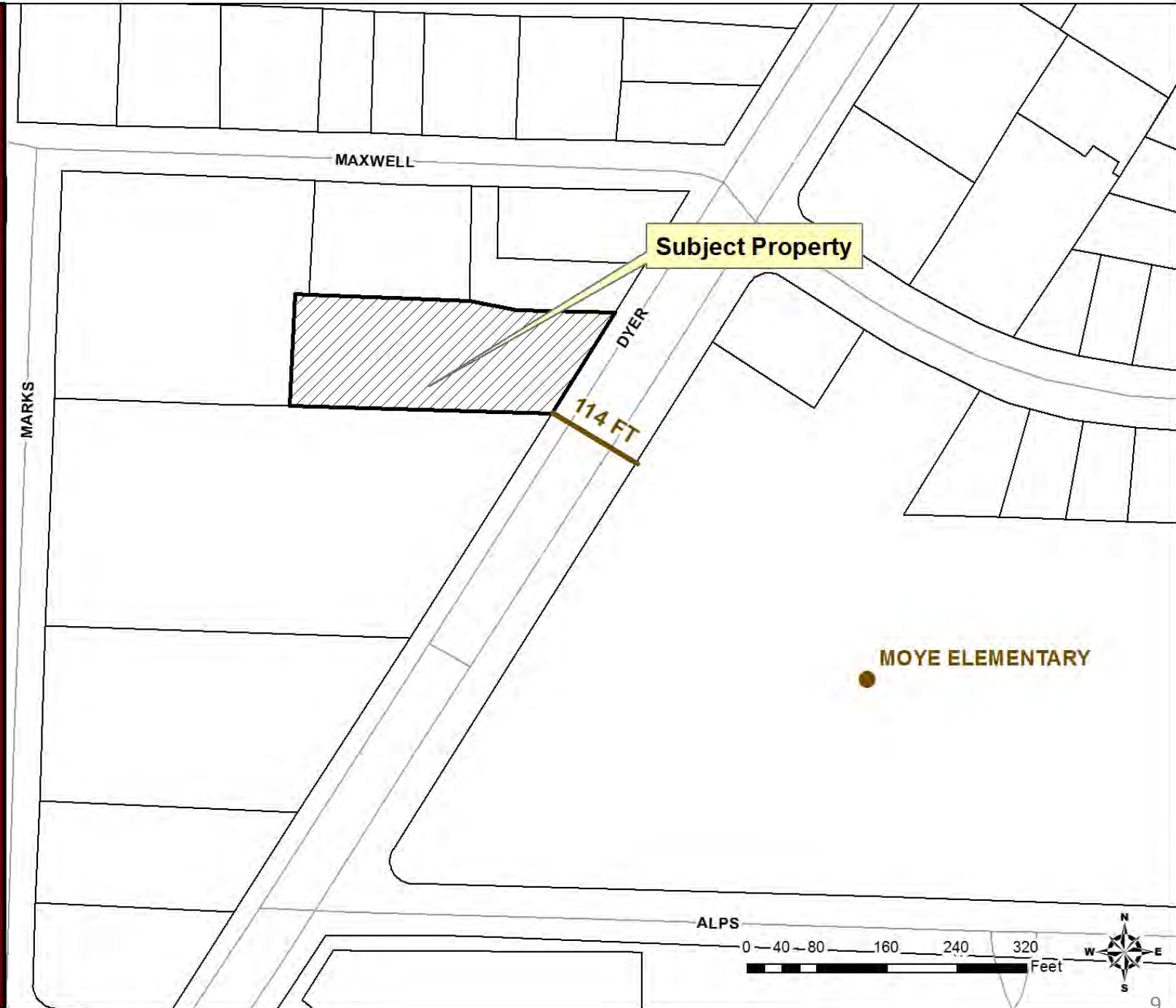
8949 Dyer Street



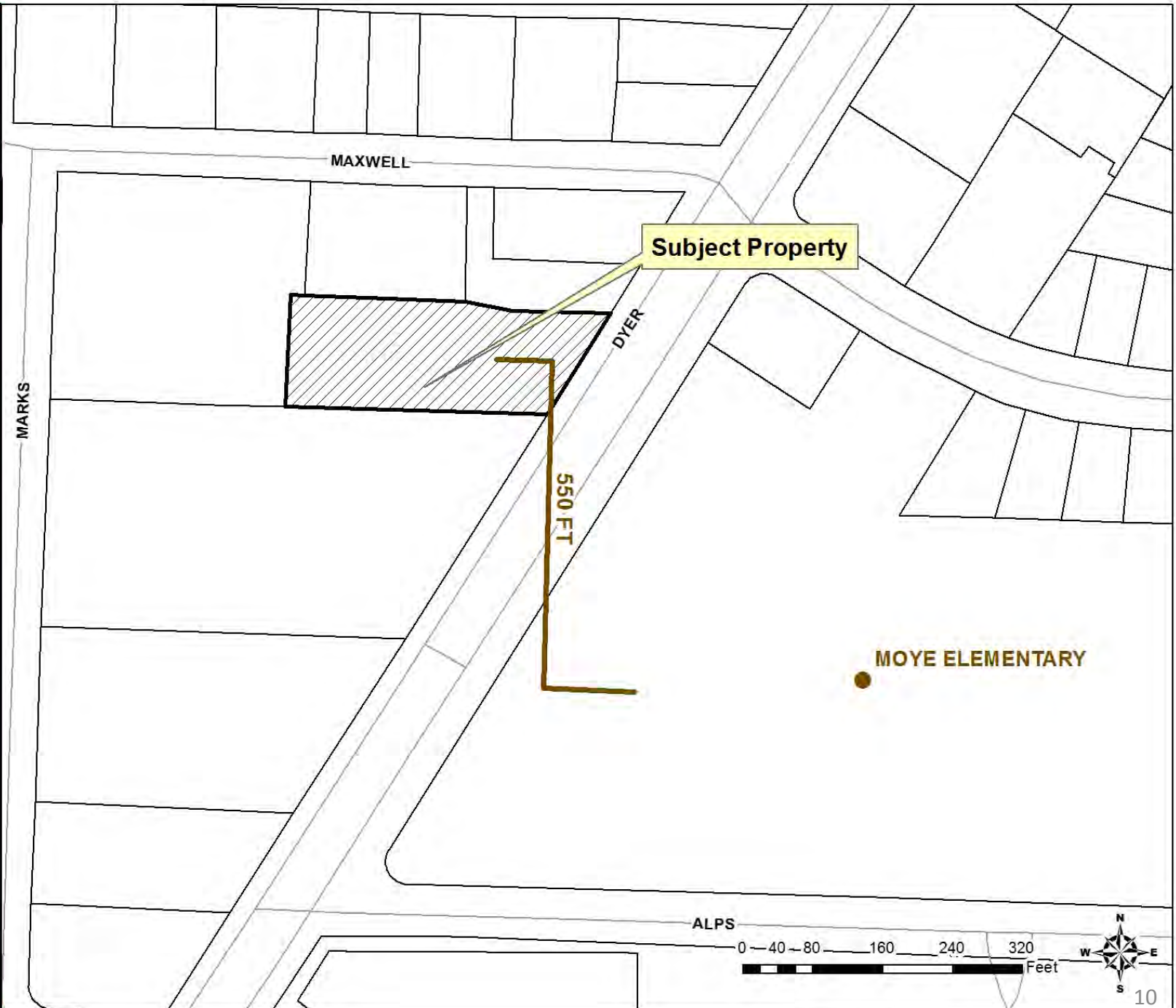
8949 Dyer Street



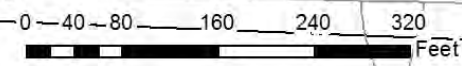
8949 Dyer Street



8949 Dyer Street



ALPS





DISTANCE

- The subject property is approximately 114 feet from a school, measured from property line to property line.
- The subject property is 550 feet from a school, as measured door-to-door.
- There are no churches, commercial daycares or public hospitals within 300 feet of the subject property.

Total distance 114 feet