

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

DEPARTMENT: Planning and Inspections Department, Planning Division

AGENDA DATE: Introduction: November 13, 2018
Public Hearing: December 11, 2018

CONTACT PERSON/PHONE: Philip F. Etiwe, (915) 212-1553, etiwepf@elpasotexas.gov
Andrew Salloum, (915) 212-1603, salloumam@elpasotexas.gov

DISTRICT(S) AFFECTED: 2

SUBJECT:

An Ordinance granting Special Permit No. PZST18-00003, to relocate a billboard on the property described as Lots 28, 29, and a portion of Lot 30, Block 121, Grandview Addition, 4104 Tompkins Avenue, City of El Paso, El Paso County, Texas, pursuant to Section 20.18.270 of the El Paso City Code. The penalty being as provided in Chapter 20.24 of the El Paso City Code. Subject Property: 4104 Tompkins Avenue. Property Owner: Maria L. Holguin. PZST18-00003 (**District 2**)

BACKGROUND / DISCUSSION:

On April 19, 2018, the CPC reviewed and recommended approval of the special permit request.

PRIOR COUNCIL ACTION:

There is no prior City Council action on this special permit application.

AMOUNT AND SOURCE OF FUNDING:

N/A

BOARD / COMMISSION ACTION:

City Plan Commission (CPC) – Approval Recommendation (5-0).

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

LEGAL: (if required) N/A

FINANCE: (if required) N/A

DEPARTMENT HEAD: Philip F. Etiwe
Planning and Inspection Department

APPROVED FOR AGENDA:

CITY MANAGER: _____

DATE: _____

ORDINANCE NO. _____

AN ORDINANCE GRANTING SPECIAL PERMIT NO. PZST18-00003, TO RELOCATE A BILLBOARD ON THE PROPERTY DESCRIBED AS LOTS 28, 29, AND A PORTION OF LOT 30, BLOCK 121, GRANDVIEW ADDITION, 4104 TOMPKINS AVENUE, CITY OF EL PASO, EL PASO COUNTY, TEXAS, PURSUANT TO SECTION 20.18.270 OF THE EL PASO CITY CODE. THE PENALTY BEING AS PROVIDED IN CHAPTER 20.24 OF THE EL PASO CITY CODE.

WHEREAS, Maria L. Holguin has applied for a Special Permit under Section 20.04.320 of the El Paso City Code to relocate a billboard, the existing billboard will be relocating from the property located at 1101 N. Piedras Street ("**Sending Site**") to the property located at 4104 Tompkins Ave. ("**Receiving Site**"); and,

WHEREAS, the Section 20.18.270 allows for relocation of a billboard by Special Permit; and,

WHEREAS, the billboard is a nonconforming sign and subject to the provisions of Section 20.22.090 of the El Paso City Code; and,

WHEREAS, a report was made by the City Plan Commission and a public hearing was held regarding such application; and,

WHEREAS, the City Plan Commission has recommended approval of the subject Special Permit; and,

WHEREAS, the subject Special Permit has been submitted to the City Council of the City of El Paso for review and approval; and,

WHEREAS, the City Council of the City of El Paso finds that the application conforms to all requirements of Section 20.04.320 of the El Paso City Code.

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

1. That the property described as follows, is in a **C-2 (Commercial)** Zone District: *Lots 28, 29, and a portion of Lot 30, Block 121, Grandview Addition, 4104 Tompkins Avenue, City of El Paso, El Paso County, Texas*; and as more particularly described by metes and bounds on the attached **Exhibit "A"**; and,
2. That the City Council hereby grants a Special Permit under Section 20.18.270 of the El Paso City Code to allow for a relocated billboard, on the property described in Paragraph 1 of this Ordinance; and,
3. That this Special Permit is subject to provisions specified in 20.18.270 Relocation of billboards. Specifically 20.18.270(C) Restrictions on relocations, Sub-subsection 6, where no new properties, such as electrical, mechanical, or LED may

be added to a relocated billboard. For example, a non-illuminated billboard may not be converted to an illuminated billboard, and a static billboard may not be converted to a digital or tri-vision billboard.

Failure to comply with this condition will result in breach of the Settlement Agreement entered into in the lawsuits styled: *Clear Channel Outdoor, Inc. v. City of El Paso*, No. 2009-3939; *City of El Paso, Appellant v. Clear Channel Outdoor, Inc., Appellee*, No. 08-11-00284-CV; *Clear Channel Outdoor, Inc. v. City of El Paso, et al.*, No. 3:12-cv-00301, by representatives of the City and Clear Channel Outdoor, Inc. on August 29, 2012.

4. That this Special Permit is issued subject to the development standards in **C-2 (Commercial)** District regulations and is subject to the approved Detailed Site Development Plan, attached hereto as **Exhibit "B"**, signed by the Applicant, the City Manager and the Executive Secretary to the City Plan Commission. A copy of this plan is attached hereto as **Exhibit "B"** and is incorporated herein by reference for all purposes; and,
5. That this Special Permit is subject to 20.18.270(B)(2)(b) and the Sending Site shall be used as a landscaped median, preserved open space, or park capital improvement project by the City of El Paso as attached hereto as **Exhibit "C"**; and,
6. That if at any time the Applicant fails to comply with any of the requirements of this Ordinance, **Special Permit No. PZST18-00003** shall be automatically terminated; construction or occupancy shall be discontinued; and the Applicant shall be subject to the penalty provisions of Chapter 20.24 and the City can avail itself of any and all legal or equitable remedies provided to it under law; and,
7. That the Applicant shall sign an Agreement incorporating the requirements of this Ordinance. Such Agreement shall be signed and filed with the Zoning Administrator and the Executive Secretary to the City Plan Commission before building permits are issued.
8. Pursuant to 20.18.110(F), the planning official shall revoke any approval or permit upon refusal or failure of the holder to comply with conditions of this Special Permit.

ADOPTED this _____ of _____, 2018.


THE CITY OF EL PASO

Dee Margo
Mayor

ATTEST:

Laura D. Prine
City Clerk

APPROVED AS TO FORM:



Russell Abeln
Assistant City Attorney

APPROVED AS TO CONTENT:

Philip F. Etiwe
Planning & Inspections Department

AGREEMENT

Maria L. Holguin, (Property Owner) referred to in the above Ordinance, hereby agrees to develop the above-described property in accordance with the approved Detailed Site Development Plan attached to same Ordinance, and in accordance with the standards identified in the **C-2 (Commercial)** District regulations, and subject to all other requirements set forth in this Ordinance.

EXECUTED this _____ day of _____, 2018.

OWNER:

Maria L. Holguin

ACKNOWLEDGMENT

THE STATE OF TEXAS)

COUNTY OF EL PASO)

This instrument is acknowledged before me on this _____ day of _____,
2018 Maria L. Holguin as property owner.

Notary Public, State of Texas

Printed or Typed Name

My Commission Expires:

ORDINANCE NO. _____
18-1007-2198 | 836767
4104 Tompkins Ave.
RTA

PZST18-00003

EXHIBIT "A"



ROMAN BUSTILLOS, P.E.
President
RANDY P. BROCK, P.E.
Executive Vice President
SERGIO J. ADAMS, P.E.
Vice President - Engineering
AARON ALVARADO, R.P.L.S.
Vice President - Surveying
ISAAC CAMACHO, R.P.L.S.
Survey Manager
TDE Reg. No. F 737
RPLS Reg. No. 101314-00

METES AND BOUNDS DESCRIPTION

4104 Tompkins Avenue

A 0.0782 acre parcel situate within the corporate limits of the City of El Paso, El Paso County, Texas as Lots 28 and 29 and the east 6 feet of Lot 30, Block 121, Grandview Addition and being more particularly described by metes and bounds as follows.

COMMENCING for reference at a city monument found at the centerline intersection of Nations Avenue (70.00 feet wide right-of-way) and Pollard Street (70.00 feet wide); **WHENCE**, a city monument found at the centerline intersection of Morehead Avenue (70.00 feet wide right-of-way) and Pollard Street (70.00 feet wide right-of-way) bears South, 330.00 feet; **THENCE**, leaving the centerline of Nations Avenue and following the centerline of Pollard Street, North, 165.00 feet; **THENCE**, leaving the centerline of Pollard Street, East, at a distance of 35.00 feet pass the southwest corner of said Lot 30 and continuing along the north boundary line of a 20.00 feet wide alley for a total distance of 79.00 feet to a 1/2 inch rebar with survey cap No. "TX 5337" set for the **POINT OF BEGINNING** parcel herein described;


THENCE, leaving the north boundary line of said alley, North, a distance of 46.26 feet to a 1/2 inch rebar with survey cap No. "TX 5337" set on the southerly right-of-way line of Tompkins Avenue (70.00 feet wide right-of-way) for the northwest corner of the parcel herein described;

THENCE, following the southerly right-of-way line of Tompkins Avenue, North 58°18'47" East, a distance of 65.81 feet to a 1/2 inch rebar with survey cap No. "TX 5337" set on the west right-of-way line of U. S. Highway No. 54 (right-of-way varies) for the northeast corner of the parcel herein described;

THENCE, leaving the southerly right-of-way line of Tompkins Avenue and following the west right-of-way line of U. S. Highway No. 54, South, a distance of 81.13 feet to a 1/2 inch rebar with survey cap No. "TX 5337" set on the north boundary line of said alley for the southeast corner of the parcel herein described;

THENCE, leaving the west right-of-way line of U. S. Highway No. 54 and following the north boundary line of said alley, West, a distance of 56.00 feet to the **POINT OF BEGINNING**.

Said parcel containing 0.0782 acres (3,406.4 square feet), more or less, and being subject to all easements of record.


Isaac Camacho, TX. R. P. L. S. No. 5337
Date: January 18, 2018
06455-025A 4104 Tompkins Desc.doc



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ORDINANCE NO. _____

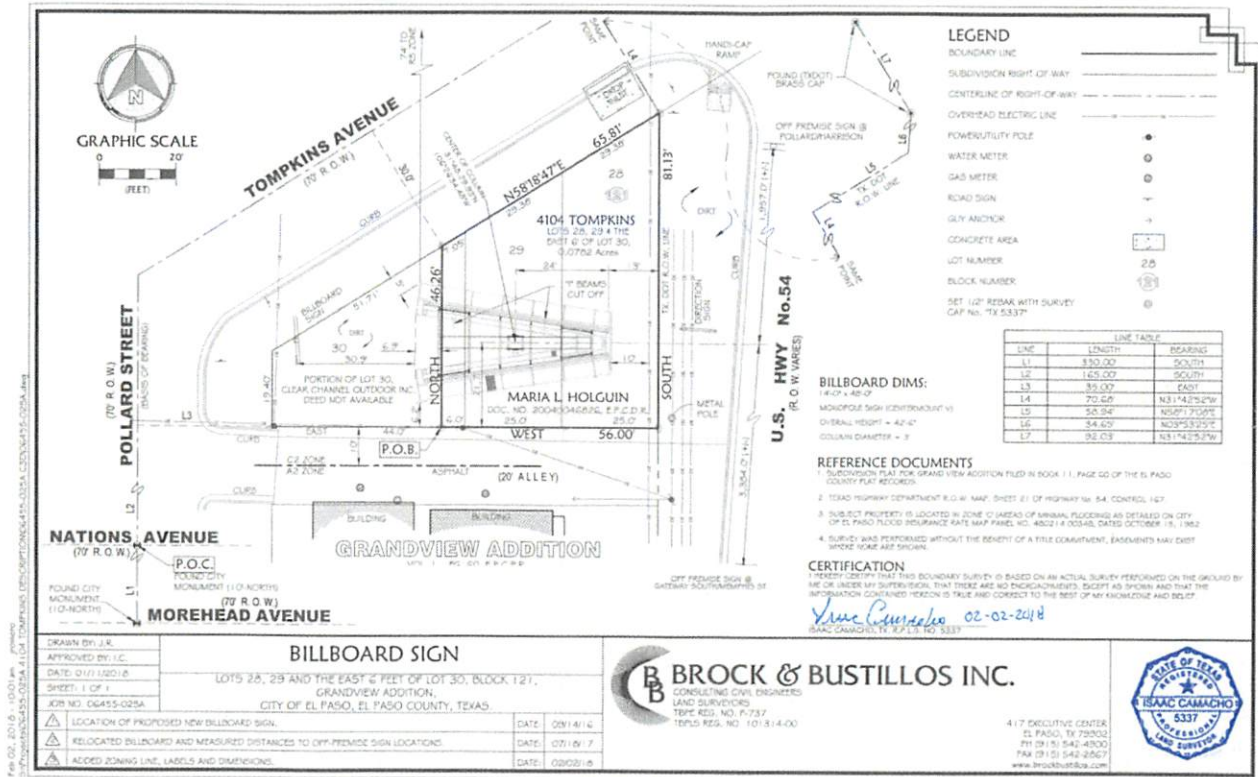
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4104 Tompkins Ave.

RTA

PZST18-00003

EXHIBIT "B"



ORDINANCE NO. _____

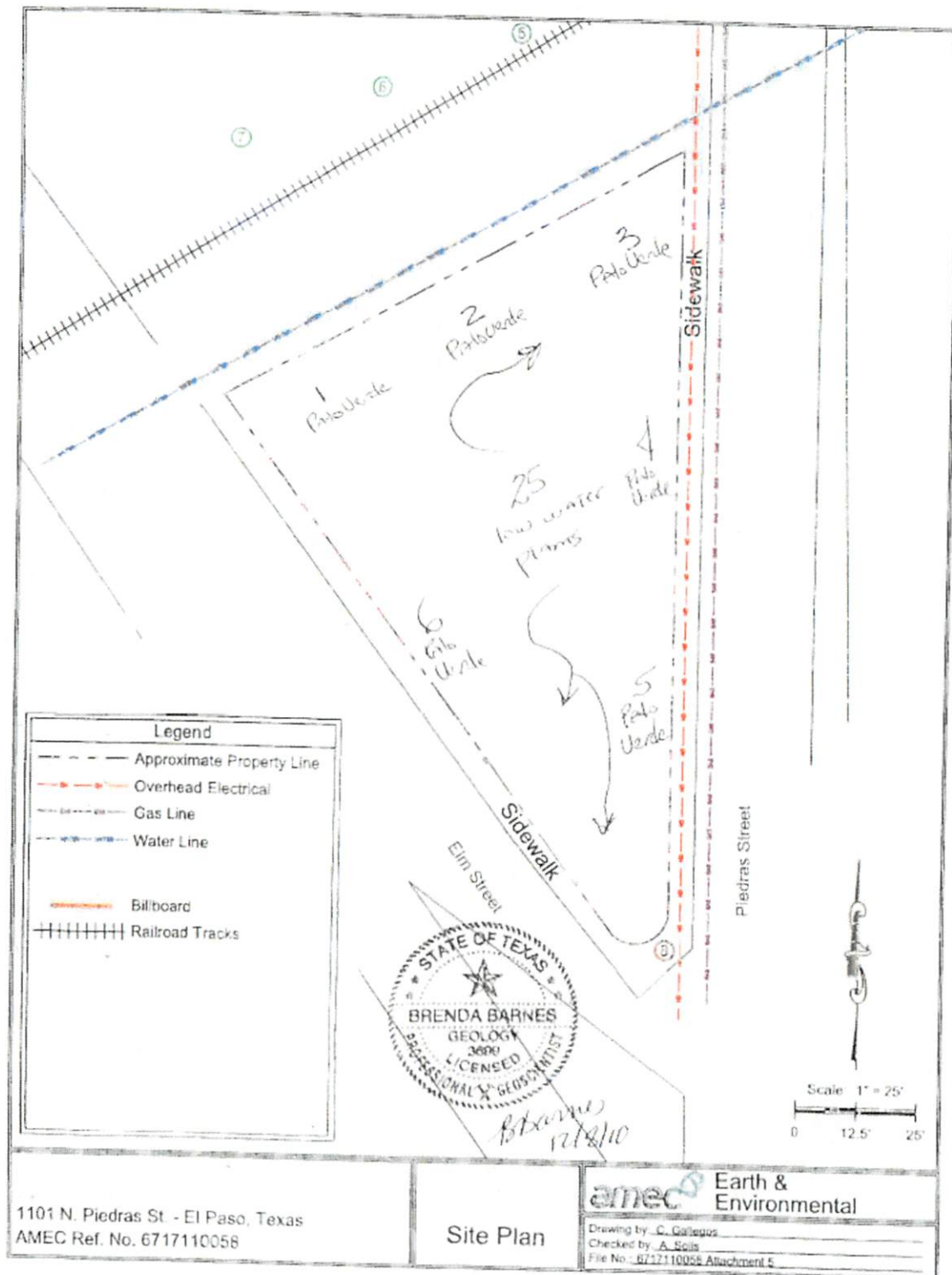
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4104 Tompkins Ave.

RTA

PZST18-00003

EXHIBIT "C"



MEMORANDUM

DATE: November 6, 2018

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

FROM: Andrew Salloum, Senior Planner

SUBJECT: PZST18-00003

The City Plan Commission (CPC), on April 19, 2018, voted 5-0 to recommend **approval** of the special permit to allow for a relocated billboard as required by El Paso City Code Section 20.18.270.B.

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

The Planning Division did not receive any phone calls or letter in support or opposition to the special permit request.

Property Owner: Maria L. Holguin
Applicant: Clear Channel Outdoor
Representative: Armando Acosta

Attachments:
Staff report

4104 Tompkins Avenue

City of El Paso — Plan Commission — 5/3/2018

PZST18-00003

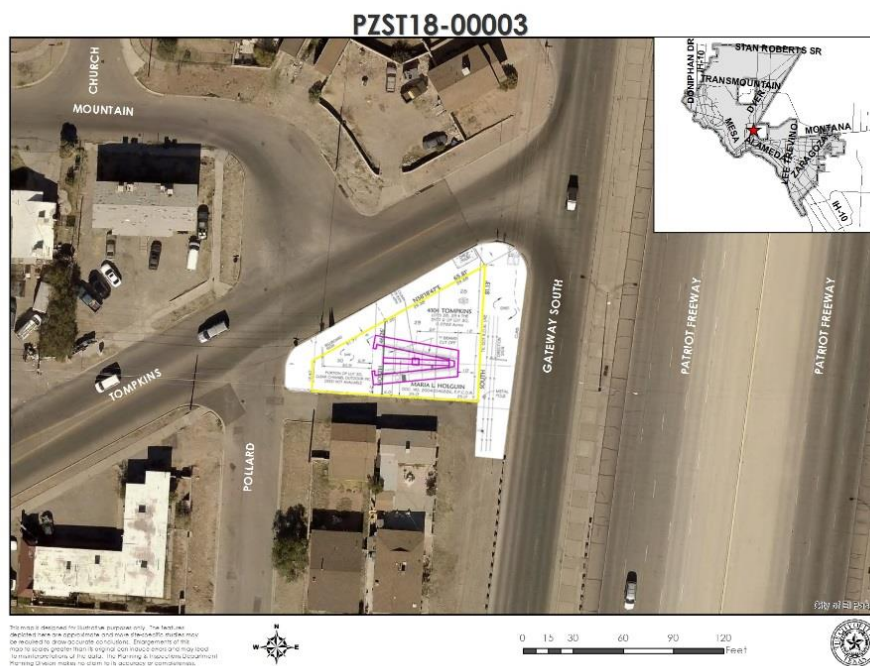
Special Permit



STAFF CONTACT:	Andrew Salloum, (915) 212-1603, salloumam@elpasotexas.gov
OWNER:	Maria L. Holguin
APPLICANT:	Clear Channel Outdoor
REPRESENTATIVE:	Armando Acosta
LOCATION:	4104 Tompkins Avenue, District 2
LEGAL DESCRIPTION:	Lots 28, 29, and a portion of Lot 30, Block 121, Grandview Addition, City of El Paso, El Paso County, Texas
EXISTING ZONING:	C-2 (Commercial)
REQUEST:	Special permit to allow for a relocated billboard
RELATED APPLICATIONS:	N/A
PUBLIC INPUT	Planning did not receive any phone calls or letter in support or opposition to the special permit request; Notices sent to property owners within 300 feet on April 5, 2018.
STAFF RECOMMENDATION:	Approval (see pages 3-4 for basis of recommendation)

SUMMARY OF REQUEST: The applicant is requesting a special permit to allow for a relocated billboard as required by El Paso City Code Section 20.18.270.B. The existing billboard will be relocating from the property located at 1101 N. Piedras Street to the new property located at 4104 Tompkins Avenue (approximately 1.95 miles in distance).

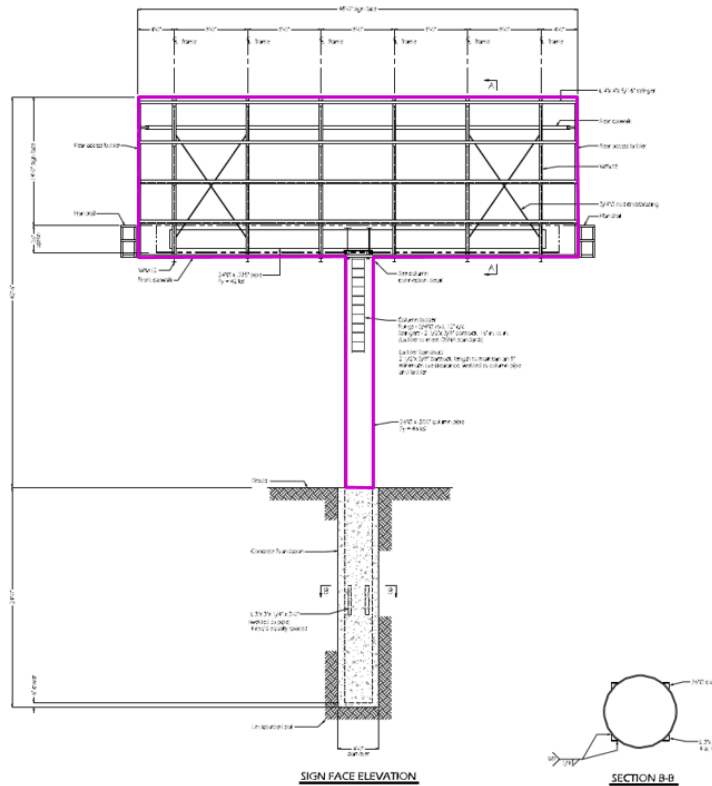
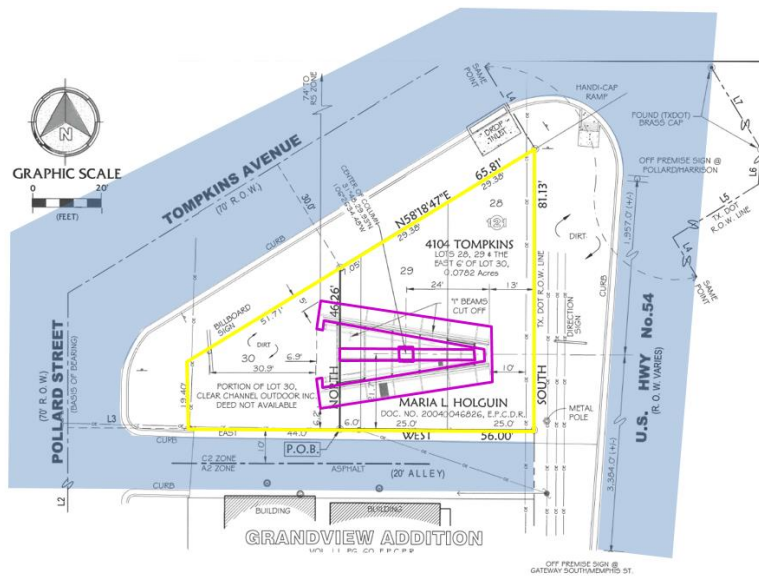
SUMMARY OF RECOMMENDATION: The Planning Division recommends **approval** of the special permit and detailed site plan for a relocated billboard, as it meets all the requirements of 20.18.270 Relocation of Billboard, 20.04.320, Special Permit, and 20.04.150, Detailed Site Development Plan.



DESCRIPTION OF REQUEST

The applicant is requesting a special permit to allow for a relocated billboard as required by El Paso City Code Section 20.18.270.B. The existing billboard will be relocating from the property located at 1101 N. Piedras Street (sending parcel) zoned C-4 (Commercial) to the new property located at 4104 Tompkins Avenue (receiving parcel) zoned C-2(Commercial) approximately 1.95 miles in distance. The detailed site plan shows a 3,485 sq. ft. lease area for a 42 ft. 6 in. high structure centermount "V" shaped billboard including a 14ft. X 48ft. (672 sq. ft.) two faced sign area.

In accordance with section 20.18.270.B, the sending parcel will be used as a landscaped median. The applicant will retain ownership of the sending parcel and will provide deed covenants restricting the parcel as a landscape median.



SPECIAL PERMIT REQUIREMENTS

To grant the special permit to allow for a relocated billboard, the applicant must comply with the following standards, per 20.18.270 Relocation of billboards, 20.04.320, Special Permit, and 20.04.150, Detailed Site Development Plan.

20.18.270 – Relocation of billboards	DOES IT COMPLY?
B. Relocation of certain static billboards unrelated to a city public works project or city or state roadway improvement project.	Yes, the relocation is unrelated to a city public works project or city or state roadway improvement project.
1. Relocated static billboards which are unable to meet the provisions of this chapter upon relocation may be granted an exception and the receiving parcel's dimensional and spacing requirements varied subject to a special permit granted by city council in conformance with Chapter 20.04 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. Does not serve its intended purpose; d. Is not effective or necessary; or e. 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 City Council will discuss and vote on the required findings.
2. Relocations allowed by special permit must also comply with the following additional standards: a. The owner of the sign and receiving parcel property owner must sign and submit a special permit application. b. The sending site shall be used as a landscaped median, preserved open space, or park capital improvement project by the City of El Paso. c. The detailed site development plan required as a provision of the special permit shall include: i. Sign elevations, including size and height of structure and square footage of all sign faces. ii. Labeled distances to all surrounding residential zones. iii. Labeled distances to the closest on and off-premises signs. d. The relocation must be completed within one year from special permit approval.	The relocated billboard meets the provisions of this chapter.

RELATION OF PROPOSED CHANGE TO THE CITY'S COMP. PLAN

CONSISTENCY WITH PLAN EL PASO	DOES IT COMPLY?
G-2 Traditional Neighborhood (Walkable) This sector includes the remainder of central El Paso as it existed through World War II. Blocks are small and usually have rear alleys; buildings directly faced streets; schools, parks, and small shops are integrated with residential areas. This sector is well-suited for use of the SmartCode as a replacement for current zoning when planned in conjunction with specific neighborhood plans or identified in this Comprehensive Plan.	Yes. The subject property, and the proposed development for it, meet the intent of the G-4, Suburban (Walkable) Future Land Use Map designation by integrating into the area through compliance with applicable code requirements.
ZONING DISTRICT C-2 (Commercial) The purpose of this 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.	DOES IT COMPLY? Yes, a relocated billboard is permitted in the C-2 District with special permit approval.

SUITABILITY OF SITE FOR USES UNDER CURRENT ZONING: The site meets the minimum dimensional requirements of the C-2 (Commercial) District, and the relocated billboard is permitted by special permit.

CONSISTENCY WITH INTENT AND PURPOSE OF THE ZONING ORDINANCE: The intent of the Zoning Ordinance is to protect the public health, safety, and general welfare; to regulate the use of land and buildings within zoning districts to ensure compatibility, and to protect property values. The intent of this 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. This development complies with the purpose of the Zoning Ordinance through compliance with all applicable code requirements.

ADEQUACY OF PUBLIC FACILITIES AND SERVICES: Per reviewing departments, the subject property is adequately served by the existing infrastructure to accommodate the proposed use. A new water service permit will be required, which will require coordination with the El Paso Water Utility.

EFFECT UPON THE NATURAL ENVIRONMENT: The subject property is not within any arroyos or identified environmentally sensitive areas.

COMMENT FROM THE PUBLIC: The subject property falls within the boundary of the Five Points Development Association, El Paso Central Business Association, and 5 Points Neighborhood Association. It was contacted as required by 20.04.520. Notice of a Public Hearing was mailed to all property owners within 300 feet of the subject property on April 5, 2018. The Planning Division didn't receive any phone calls or letters in support or opposition to the special permit request.

STAFF COMMENTS: No objections to proposed special permit and detailed site development plan approval. No reviewing departments had any comments. The applicant will need to coordinate with the El Paso Water Utility to establish service at the subject property. Applicant is responsible for obtaining all applicable permits and approvals prior to any construction or change in occupancy.

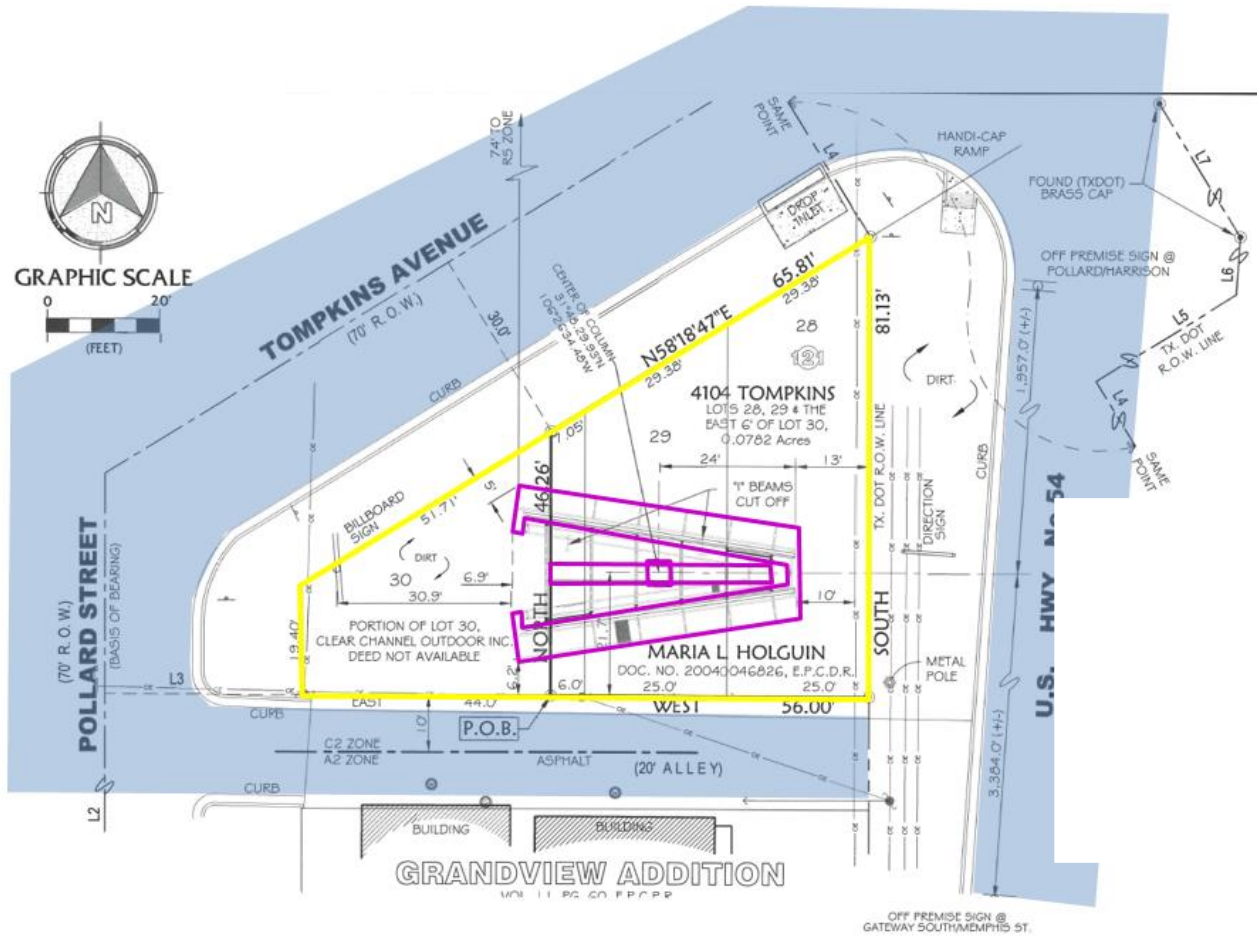
OTHER APPLICABLE FACTORS: Approval of the site plans by CPC constitutes a determination that the applicant is in compliance with the minimum provisions. Applicant is responsible for the adequacy of such plans, insuring that stormwater is in compliance with ordinances, codes, DSC, and DDM. Failure to comply may require the applicant to seek re-approval of the site plans from CPC.

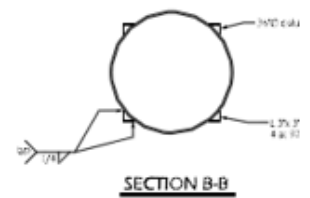
ATTACHMENTS:

1. Site Plan
2. Zoning Map
3. Future Land Use Map
4. Use Restriction Agreement
5. Conceptual plan of landscaped median (sending parcel)
6. Department Comments
7. Neighborhood Notification Boundary Map

ATTACHMENT 1

Site Plan

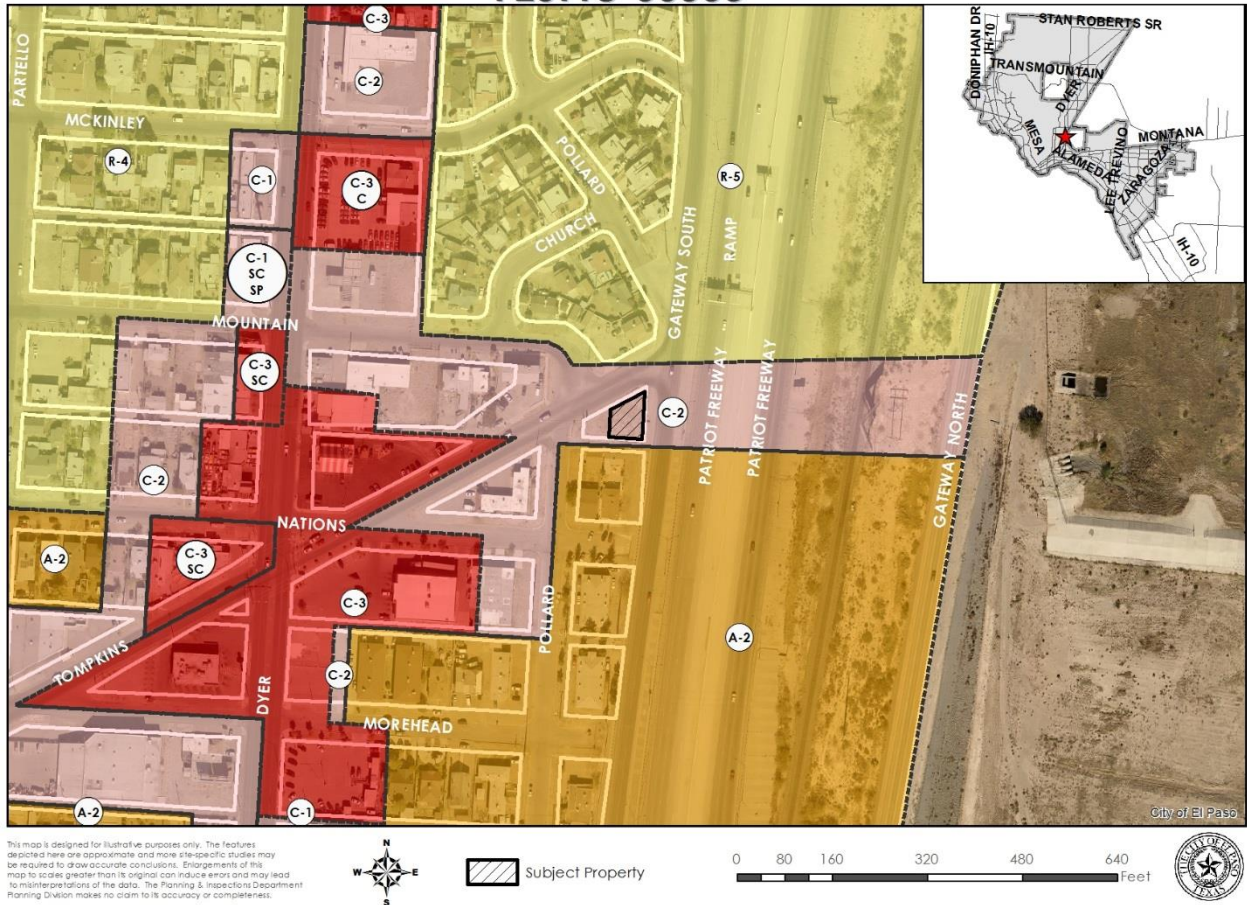




ATTACHMENT 2

Zoning Map

PZST18-00003



ATTACHMENT 3

Future Land Use Map

PZST18-00003



ATTACHMENT 4

Use Restriction Agreement

WHEN RECORDED MAIL TO:

CLEAR CHANNEL OUTDOOR, INC.
Attn: Legal Department
2325 East Camelback Road, Suite 400
Phoenix, Arizona 85016

USE RESTRICTION AGREEMENT

THIS USE RESTRICTION AGREEMENT (this "Agreement"), dated to be effective April _____, 2018 (the "Effective Date"), is made and entered into by and between the CITY OF EL PASO, El Paso County, Texas, a municipal corporation ("City"), and CLEAR CHANNEL OUTDOOR, INC., a Delaware corporation ("Owner").

WHEREAS, Owner owns that certain real property that certain unimproved real property (the "Property") containing approximately 0.12 acres, located at or near 1101 N. Piedras Street, in El Paso, Texas, identified by El Paso Central Appraisal District Geographic ID No. B20299909600100, and more particularly described on Exhibit A attached hereto;

NOW THEREFORE, in consideration of the representations and covenants set forth herein, and for other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, City and Owner agree as follows:

1. Following the Effective Date, if any, Owner will use the Property only as a landscaped median, preserved open space, or City of El Paso park capital improvement project.
2. In connection with any conveyance of Owner's interest in the Property, Owner shall set forth in the instrument conveying such interest use restrictions substantially as follows:

"The conveyances made hereunder are subject to the condition that Grantee and Grantee's successors and their respective assignees, tenants, licensees, invitees and guests and any other third parties with a right to use any portion of the Property (collectively, the "Grantee Parties"), shall use the Property only as a landscaped median, preserved open space, or City of El Paso park capital improvement project."

3. This Agreement shall be construed and interpreted under, governed and enforced according to the laws of the State of Texas. All of the provisions of this Agreement are hereby made binding upon the successors, legal representatives and permitted assigns of City and Owner.


[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, this Agreement has been executed as of this ____ day of April 2018.

CITY: CITY OF EL PASO, a Texas municipal corporation

By: _____
Name:
Title:

OWNER: CLEAR CHANNEL OUTDOOR, INC., a Delaware corporation

By:  _____
Name: Bryan Parker
Its: Executive Vice President

APPROVED AS TO FORM:

City Attorney

STATE OF TEXAS)
) ss.
County of El Paso)

The foregoing instrument was acknowledged before me this ____ day of April 2018, by _____, as _____ of CITY OF EL PASO, a Texas municipal corporation, on behalf of the City, for the purposes set forth herein.

My Commission Expires:

Notary Public

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this 23rd day of April 2018, by BRYAN PARKER, as Executive Vice President of CLEAR CHANNEL OUTDOOR, INC., a Delaware corporation, on behalf of the corporation, for the purposes set forth herein.

My Commission Expires:

Notary Public

Christian Fuller



ATTACHMENT 5

Conceptual plan of landscaped median (sending parcel)



ATTACHMENT 6

Staff Review Comments

Planning and Inspections Department - Planning Division

No objections to the special permit request.

Texas Department of Transportation

Development is not abutting State Right of Way.

Planning and Inspections Department – Plan Review & Landscaping Division

No objection to proposed special permit.

At the time of submittal for building permits, the project will need to comply with all applicable provisions of the IBC, Municipal Code, and TAS.

Planning and Inspections Department – Land Development

No objections to proposed special permit.

Fire Department

No adverse comments.

Sun Metro

No comments received.

El Paso Water

No comments received.

ATTACHMENT 7

Neighbor Notification Map

PZST18-00003





Recommendation/Public Input

- **Planning Division recommendation:** Approval
- **CPC Vote:** Approval Recommendation (5-0)
- **Public Input:** Planning did not receive any phone call or letters in support or opposition to the special permit request.

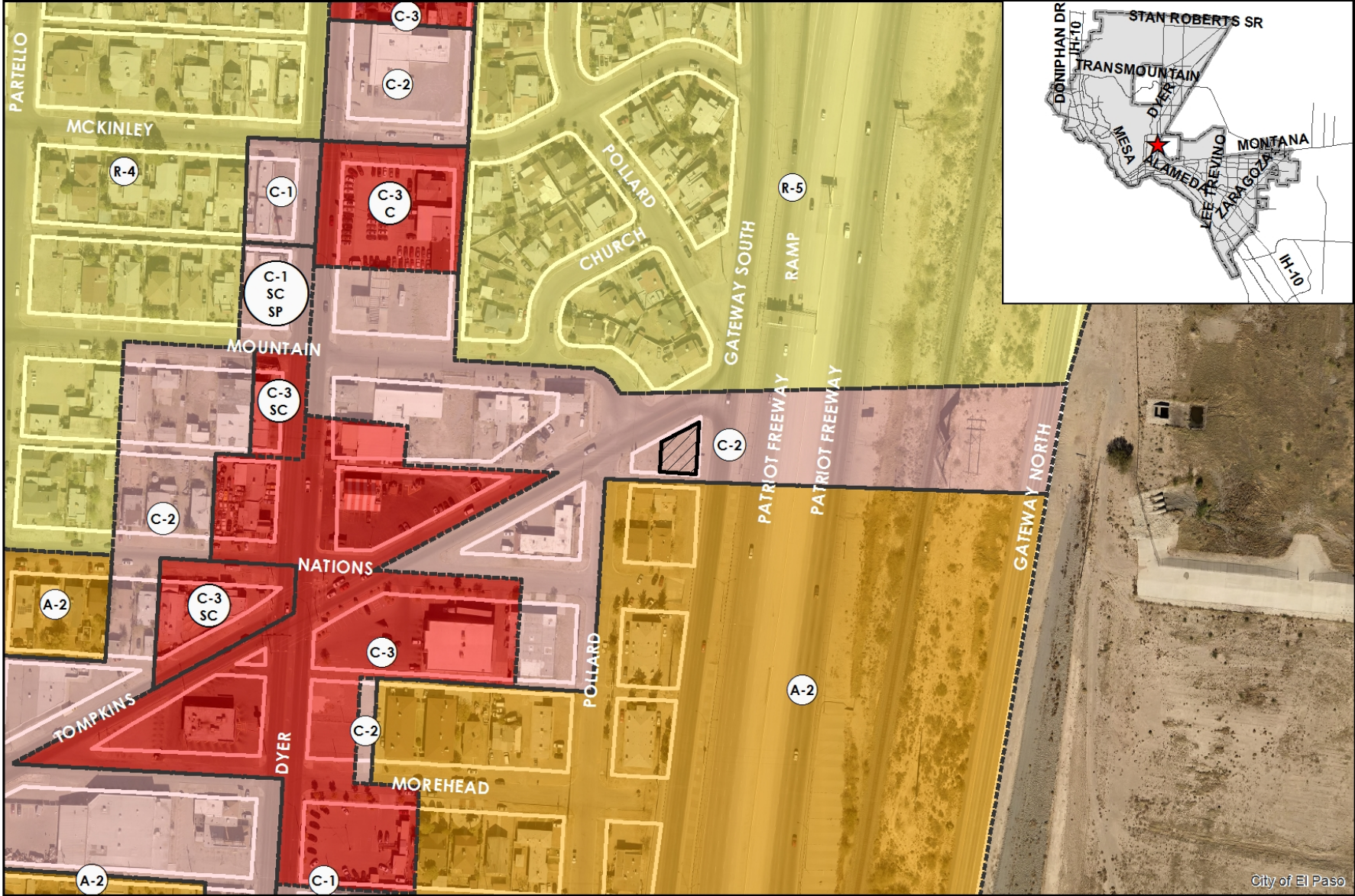
Strategic Goal #3 Promote the Visual Image of El Paso

3.1 Provide business friendly permitting and inspection processes

3.2 Improve the visual impression of the community




PZST18-00003



This map is designed for illustrative purposes only. The features depicted here are approximate and more site-specific studies may be required to draw accurate conclusions. Enlargements of this map to scales greater than its original can induce errors and may lead to misinterpretations of the data. The Planning & Inspections Department Planning Division makes no claim to its accuracy or completeness.



 Subject Property





PZST18-00003



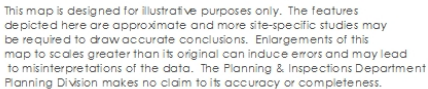
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 Subject Property

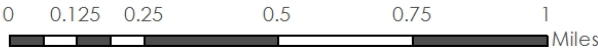
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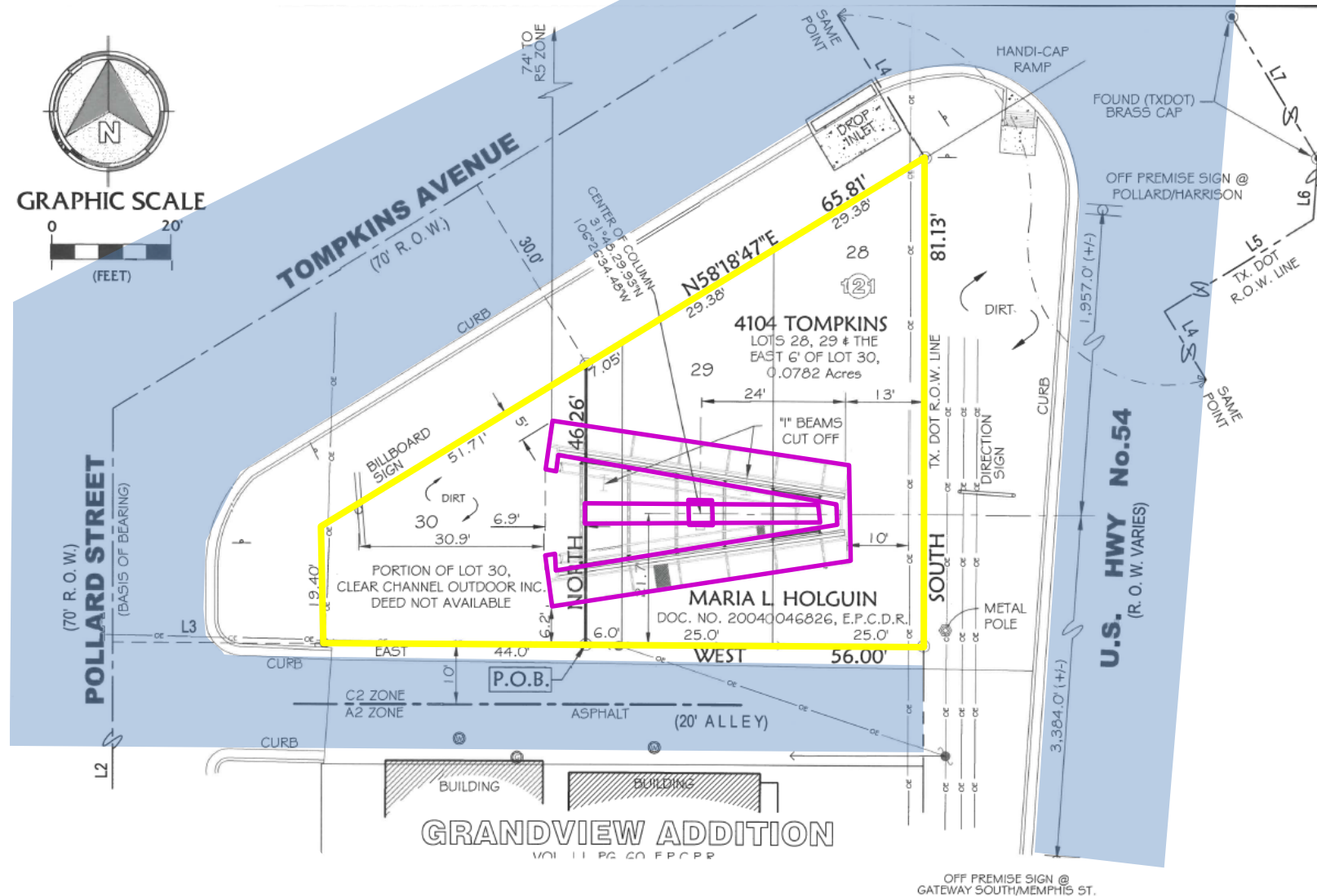
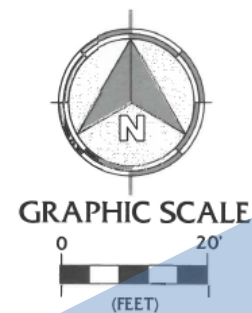


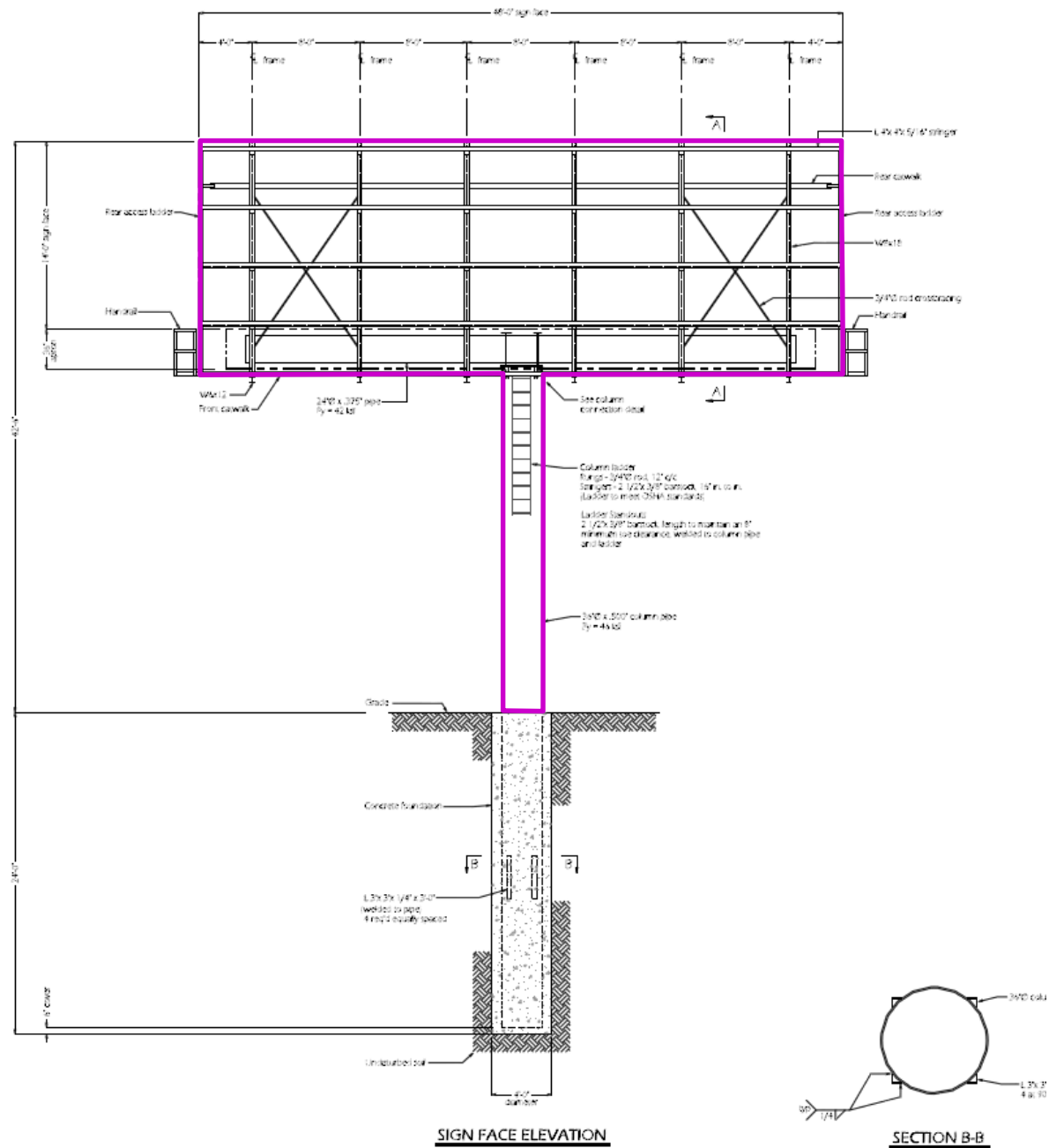


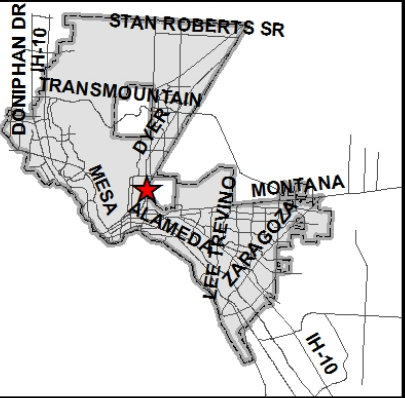
Receiving Parcel

Sending Parcel









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Sending Parcel



"Delivering Outstanding Services"



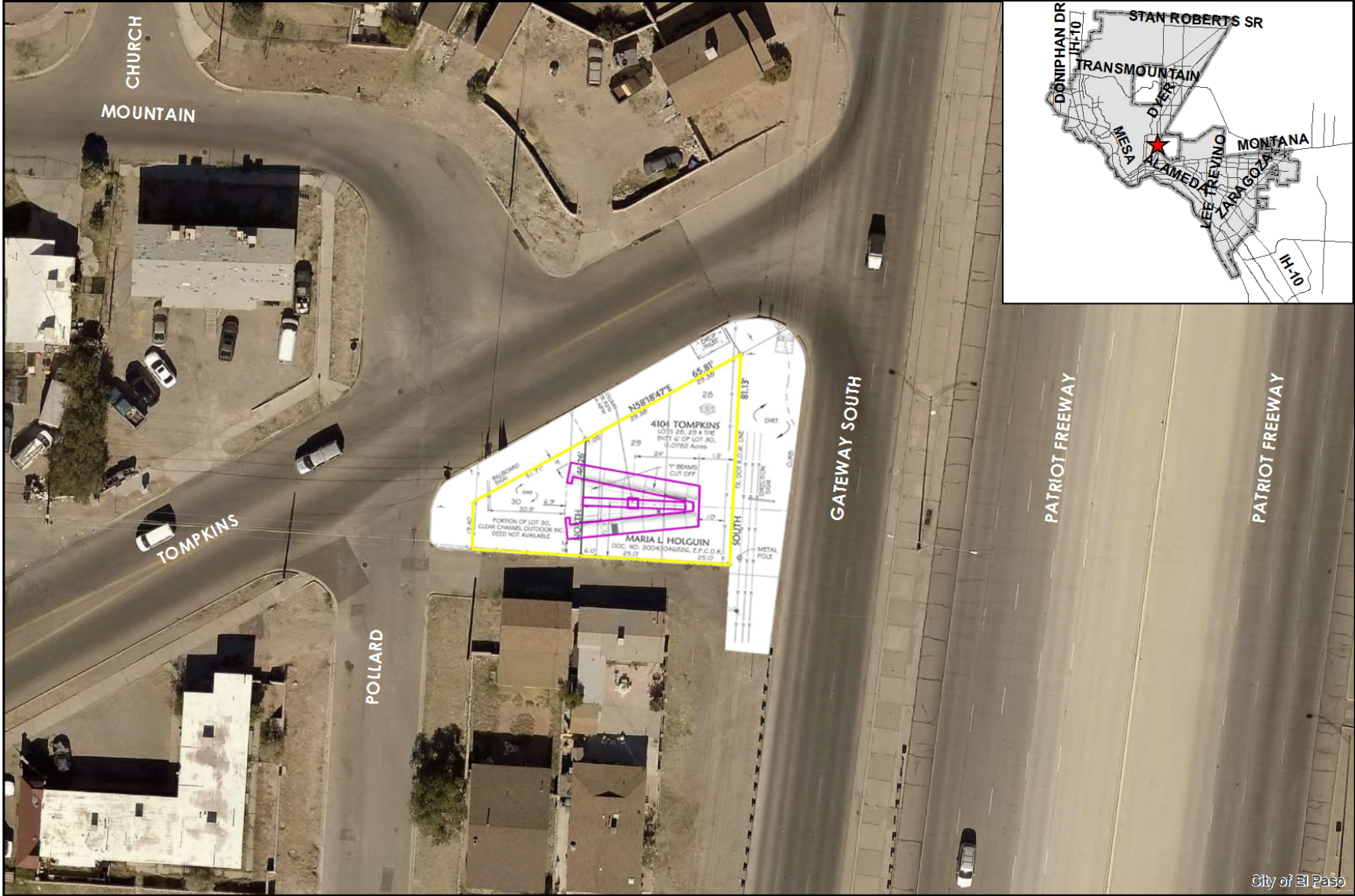
Receiving Parcel







PZST18-00003



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