

# **CITY OF LAREDO SPECIAL CITY COUNCIL MEETING**

**A-2017-SC-10  
CITY COUNCIL CHAMBERS  
1110 HOUSTON STREET  
LAREDO, TEXAS 78040  
August 30, 2017  
5:30 P.M.**

## **DISABILITY ACCESS STATEMENT**

Persons with disabilities who plan to attend this meeting and who may need auxiliary aid or services are requested to contact Jose A. Valdez Jr., City Secretary, at (956) 791-7308 at least two working days prior to the meeting so that appropriate arrangements can be made. The accessible entrance and accessible parking spaces are located at City Hall, 1100 Victoria Ave.

Out of consideration for all attendees of the City Council meetings, please turn off all cellular phones and pagers, or place on inaudible signal. Thank you for your consideration.

Pursuant to the Texas Penal Code (trespass by holder of license to carry a handgun), a person licensed under Subchapter H, Chapter 411, Government Code (Concealed Handgun Law or Handgun Licensing Law), may not enter into the City Council Chamber while City Council is in session with a concealed or openly-carried handgun.

### **I. CALL TO ORDER**

### **II. PLEDGE OF ALLEGIANCE**

### **III. MOMENT OF SILENCE**

### **IV. ROLL CALL**

#### **Citizen comments**

Citizens are required to fill out a witness card and submit it to the City Secretary no later than 5:45 p.m. and identify themselves at the microphone. Comments are limited to three (3) minutes per speaker. No more than three (3) persons will be allowed to speak on any side of an issue. Should there be more than three (3) people who wish to speak on a particular issue,

they need to select not more than three (3) representatives to speak for them and the presiding officer may limit the public comments further in the interest of an orderly meeting. Speakers may not pass their minutes to any other speaker. Comments should be relevant to City business and delivered in a professional manner. No derogatory remarks will be permitted.

## V. FINAL READING OF ORDINANCES

1. **2017-O-104** Authorizing the termination and release of interest of a 10' wide utility easement identified as line "B", recorded in volume 189, pages 272-273, 277-278, Deed Records, Webb County, Texas and more fully described in exhibit "A". Utilities Department has determined the easement identified as line "B", is not being utilized and has been relocated along Black Diamond Street and Santo Tomas Street in the Las Minas Industrial Park Phase I. Therefore, it is being requested that the easement identified as Line "B" be abandoned and terminated.
  
2. **2017-O-105** Amending Chapter 28, Article IX entitled "Public Right-of-Way Management" of the Laredo Code of Ordinances by adding Division 12, Section 28-243 through 28-253 regarding the siting of wireless communications facilities in the public rights-of-way; and providing an effective date of September 1, 2017. **(As Amended)**
  
3. **2017-O-113** Amending the Zoning Ordinance (Map) of the City of Laredo by repealing Ordinance 2014-O-026, and authorizing issuance of a Special Use Permit for a Restaurant Selling Alcohol, on Lots 1A, & 1B, Block 1, San Isidro/McPherson Subdivision, Unit II, located at 9710 & 9720 McPherson Rd.; providing for publication and effective date.  
ZC-56-2017

District VI

## VI. STAFF REPORTS

4. Presentations by firms, designers/architects that submitted proposals in response to the Request For Qualifications for the Masterplan and Design of the Boulevard of the Americas, with discussion and possible action on a selection from among presenters for contract award and any matters related thereto. Listed alphabetically are the firms/presenters as follows:

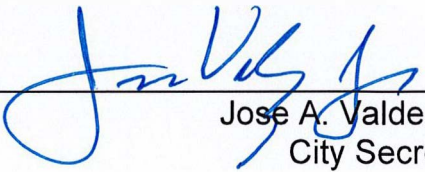
Abrazos Partners Joint Venture  
Asakura Robinson

## **VII. EXECUTIVE SESSION**

The Council reserves the right to adjourn into executive session at any time during the course of this meeting to discuss any of the matters listed, as authorized by Texas Government Code Sections 551.071 (Consultation with Attorney), 551.072 (Deliberations about Real Property), 551.073 (Deliberations about Gifts and Donations), 551.074 (Personnel Matters), 551.076 (Deliberations about Security Devices), and 551.086 (Economic Development).

## **VIII. ADJOURNMENT**

This notice was posted at the Municipal Government Offices, 1110 Houston Street, Laredo, Texas, at a place convenient and readily accessible to the public at all times. Said notice was posted on Friday, August 25, 2017 at 5:00 p.m.



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Jose A. Valdez, Jr.  
City Secretary

**City Council-Special**

**Meeting Date:** 08/30/2017

**Initiated By:** Cynthia Collazo, Deputy City Manager

**Initiated By:** Cynthia Collazo, Deputy City Manager

**Staff Source:** Arturo Garcia, Community Development Director

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**SUBJECT**

**2017-O-104** Authorizing the termination and release of interest of a 10' wide utility easement identified as line "B", recorded in volume 189, pages 272-273, 277-278, Deed Records, Webb County, Texas and more fully described in exhibit "A". Utilities Department has determined the easement identified as line "B", is not being utilized and has been relocated along Black Diamond Street and Santo Tomas Street in the Las Minas Industrial Park Phase I. Therefore, it is being requested that the easement identified as Line "B" be abandoned and terminated.

**VENDOR INFORMATION FOR COMMITTEE AGENDA**

N/A

**PREVIOUS COUNCIL ACTION**

Ordinance was introduced on August 7, 2017.

**BACKGROUND**

In 1994 Dolores Development Company, General Partner of Laredo Northwest Developmet granted to the City of Laredo a perpetual easement for the operation of wastewater collection lines and lift station for the International Commerce Center Unit 1. During the design and construction of the sanitary sewer line and utility eastement, the easement identified as line "B" was rerouted and now runs along the right of way of Las Minas Industrial Park Phase 1.

**COMMITTEE RECOMMENDATION**

N/A

**STAFF RECOMMENDATION**

Staff recommends passage of ordinance.

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**Fiscal Impact**

**Fiscal Year:**

2017

**Budgeted Y/N?:**

**Source of Funds:**

**Account #:**

**Change Order: Exceeds 25% Y/N:**

**FINANCIAL IMPACT:**

No financial impact.

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**Attachments**

Ordinance 2017-O-104

Exhibit A

Map

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**ORDINANCE NO. 2017-O-104**

AUTHORIZING THE TERMINATION AND RELEASE OF INTEREST OF A 10' WIDE UTILITY EASEMENT IDENTIFIED AS LINE "B", RECORDED IN VOLUME 189, PAGES 272-273, 277-278, DEED RECORDS, WEBB COUNTY, TEXAS AND MORE FULLY DESCRIBED IN EXHIBIT "A". UTILITIES DEPARTMENT HAS DETERMINED THE EASEMENT IDENTIFIED AS LINE "B", IS NOT BEING UTILIZED AND HAS BEEN RELOCATED ALONG BLACK DIAMOND STREET AND SANTO TOMAS STREET IN THE LAS MINAS INDUSTRIAL PARK PHASE I. THEREFORE, IT IS BEING REQUESTED THAT THE EASEMENT IDENTIFIED AS LINE "B" BE ABANDONED AND TERMINATED.

**WHEREAS**, the easement identified as Line B described in Exhibit A was created for the construction of a sanitary sewer line to serve the International Commerce Center Unit; and

**WHEREAS**, easement identified as Line B described in Exhibit A has been relocated to run along the right of way as depicted in Las Minas Industrial Park Plat Phase I recorded in Volume 23, Page 72, Deed Records, Webb County, Texas and attached as Exhibit "B"; and

**WHEREAS**, the Utilities Department has determined that Line B easement as described in Exhibit A has been abandoned and recommends the City terminate and release its interest in the Line B easement described as Exhibit A.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LAREDO THAT IT:**

Authorizes the termination and release of interest of the 10' wide utility easement, identified as Line B, and recorded in Volume 189, Pages 272-273, 277-278, Deed Records, Webb County, Texas; Utilities Department has determined that the easement identified as Line B is not being utilized and has been relocated along Black Diamond Street and Santo Tomas Street in the Las Minas Industrial Park Phase I.

PASSED BY THE CITY COUNCIL AND APPROVED BY THE MAYOR ON THIS

\_\_\_\_ DAY OF \_\_\_\_\_, 2017.

By: \_\_\_\_\_  
PETE SAENZ  
MAYOR

ATTEST:

By: \_\_\_\_\_  
JOSE A. VALDEZ, JR.  
CITY SECRETARY

APPROVED AS TO FORM:

KRISTINA LAUREL HALE  
ACTING CITY ATTORNEY

By: \_\_\_\_\_  
LISA M. PAUL  
ASSISTANT ATTORNEY

HENRY FLURES  
COUNTY CLERK  
FILED

94 FEB 14 PM 3: 28

WEBB COUNTY, TEXAS

STATE OF TEXAS

COUNTY OF WEBB

UTILITY EASEMENT  
WASTEWATER COLLECTION LINES  
AND LIFT STATION SITE

512472

I, Murray Bass III, Vice President of Dolores Development Company, General Partner of Laredo Northwest Development, Ltd., Grantor, for and in consideration of the sum of Ten Dollars and no/100 (\$10.00) cash in hand paid to us by the City of Laredo, a municipal corporation, receipt of which is hereby acknowledged, and for other good and valuable consideration, have GRANTED, CONVEYED and TRANSFERRED, and by these presents do hereby GRANT, CONVEY and TRANSFER unto the City of Laredo, a municipal corporation, of Laredo, Webb County, Texas, a perpetual easement for the operation of wastewater collection lines and a lift station site, together with the right to do all things which the City of Laredo deems necessary or desirable for the use and enjoyment of said easement, including the right to excavate, to install, maintain, and repair any and all piping and related appurtenances as are deemed necessary or desirable by the City of Laredo, and the specific easement(s) herein granted are attached hereto and described as follows:

- Line "A"
- Line "B"
- Line "A-B"
- Lift Station Site

NOTE: Bearings are based upon State of Texas, Lambert Grid, South Zone.

TO HAVE AND TO HOLD the same perpetually to the City of Laredo and its successors, together with the right and privilege at any and all times to enter said premises, or any part thereof, for the purpose of constructing, reconstructing, maintaining, inspecting, repairing and using said wastewater collection lines and lift station site.

The easement herein granted shall be a non-exclusive easement, and the Grantors retain the right to utilize, and to grant the right to others to utilize, the property covered by the easement for uses which do not materially interfere with the Grantee's use of the easement for the purposes herein specified;

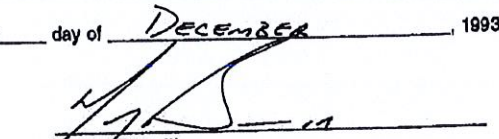
189  
272





provided, Grantors do not retain the right to construct any buildings on the easement. Without limiting the preceding, the Grantors, their heirs and assigns, shall have the right to construct crossing fences, crossing driveways, crossing streets and crossing walkways over and across the easement. Further provided, the Grantors, their heirs and assigns utilize the easement for other utilities and/or may grant the right for other utilities to be located on and within the easement, provided that such does not materially interfere with Grantee's use of the easement for the purposes herein specified, such other utilities that may be located on the easement including, but not limited to, sewer, water, drainage, gas, telephone, electricity and cable television.

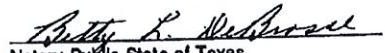
EXECUTED on this the 20 day of DECEMBER, 1993.

  
Murray Bass III  
Vice President, Dolores Development Company  
General Partner, Laredo Northwest Development, Ltd.

STATE OF TEXAS  
COUNTY OF NUECES

This instrument was acknowledged before me on the 20<sup>th</sup> day of December, 1993 by Murray Bass III



  
Notary Public State of Texas

My commission expires: 4/14/97

189  
273

AFTER RECORDING, PLEASE RETURN TO:

Bass & Welsh Engineering  
P.O. Box 6397  
Corpus Christi, Texas 78466-6397

[LNWUE.DOC]

**Bass & Welsh Engineering**

P.O. BOX 6397  
CORPUS CHRISTI, TEXAS 78466-6397  
March 11, 1992

**FIELD NOTE DESCRIPTION  
10 FOOT UTILITY EASEMENT  
LINE B**

Being a tract situated in Webb County, Texas, a portion of Webb County School Survey No. 1462, Abstract 532, and a portion of that 10,829.54 acre tract described as Tract I in the deed from Anne Child Dick to Valled Land Company recorded in Volume 269 at Page 245 of the Deed Records of Webb County, Texas, and being more particularly described by metes and bounds as follows:

BEGINNING at a point in the 10,829.54 acre tract the northeast corner of the heretofore described Line A-B for the northwest corner of this tract, whence the west most corner of the 10,829.54 acre tract bears S 85° 14' 21" W at 2130.60 feet;

THENCE S 53° 24' 40" E a distance of 654.60 feet to the point of curvature of a curve to the left;

THENCE along said curve to the left, whose radius is 317.26 feet a distance of 323.83 feet to the point of tangency of said curve;

THENCE N 68° 06' 25" E a distance of 266.77 feet to a point for the northeast corner of this tract, said point lying in the west line of Lot 5, Block 6, International Commerce Center, Unit No. 1;

THENCE S 21° 53' 35" E along the said west line of Lot 5, Block 6, International Commerce Center, Unit No. 1 a distance of 10.0 feet to the southwest corner of Lot 5, Block 6 for the southeast corner of this tract;

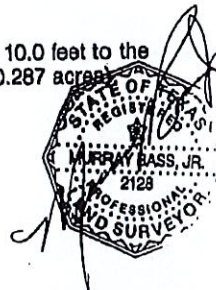
THENCE S 68° 06' 25" W along the north right-of-way line of Black Diamond St., as shown on the plat of International Commerce Center, Unit 1, and its southwesterly extension, a distance of 266.77 feet to the point of tangency of a curve to the right;

THENCE along said curve to the right whose radius is 327.26 feet a distance of 334.04 feet to the point of tangency of said curve;

THENCE N 53° 24' 40" E a distance of 654.60 feet to a point in the east line of the heretofore described Line A-B for the southwest corner of this tract;

THENCE N 36° 35' 20" E along said east line of Line A-B a distance of 10.0 feet to the POINT OF BEGINNING forming a tract embracing 12,502 square feet (0.287 acres).

[LINEB.DOC]



189  
277

S 85°14'21" V 2130.60  
To west cor. of 10,829.54 acre tract

POINT OF BEGINNING  
N 36°35'20" E  
10.00

LINE A-B  
N 53°24'40" E  
N 53°24'40" E  
W 654.60  
W 654.60

Future Street

10' UTILITY EASEMENT

189 278

"LINE B"  
10 FOOT UTILITY EASEMENT  
SURVEY 1462, ABSTRACT 502  
DOLORES RANCH  
CITY OF LAREDO  
WEBB COUNTY, TEXAS  
PREPARED BY  
BASS & WELSH ENGINEERING

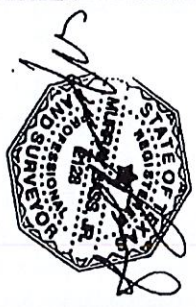
A= 58'28.55"  
R= 317.26  
T= 177.61  
L= 323.83

A= 58'28.55"  
R= 317.26  
T= 177.61  
L= 323.83

N 68°06'25" E  
S 68°06'25" W  
266.77

S 21°53'35" E  
10.00

LOT 5  
BLOCK 4  
I.C.C. UNIT 1  
BLACK DIAMOND ST.  
LOT 4  
BLOCK 4  
I.C.C. UNIT 1



10 MARCH 1992  
SCALE: 1"=100'  
LINEB.DWG



FM 1422 RD

ABANDONED  
EASEMENT

RELOCATED  
EASEMENT

Lot 14  
Lot 15  
Lot 16  
Lot 17

INTERNATIONAL  
COMMERCE  
CENTER

LA S MINAS  
INDUSTRIAL  
PARK

INTER EAST

CATTLE ST

BLACK DIAMOND ST

LAS MINAS ST

SANTO TOMAS ST

FM 1422

**City Council-Special**

**Meeting Date:** 08/30/2017

**Initiated By:** Horacio A. De Leon, City Manager

**Initiated By:** Horacio A. De Leon

**Staff Source:** Heberto L. Ramirez/Ramon Chavez

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**SUBJECT**

**2017-O-105** Amending Chapter 28, Article IX entitled “Public Right-of-Way Management” of the Laredo Code of Ordinances by adding Division 12, Section 28-243 through 28-253 regarding the siting of wireless communications facilities in the public rights-of-way; and providing an effective date of September 1, 2017. **(As Amended)**

**PREVIOUS COUNCIL ACTION**

Introductory reading of this ordinance approved by City Council on August 7, 2017.

**BACKGROUND**

Chapter 284 of the Texas Local Government Code (“Chapter 284”), which was recently added by the State Legislature and signed into law by the Governor, allows certain wireless Network Providers to install their wireless facilities in the public rights-of-way, described and defined in Texas Local Government Code, Chapter 284, Sec. 284.002 as “Micro Network Nodes”, “Network Nodes”, and “Node Support Poles.” As expressly allowed by Texas Local Government Code, Chapter 284, Section 284.108, and pursuant to its police power authority reserved in Section 284.301, the City enacts this Ordinance in order to meet its fiduciary duty to the citizens of the City, and to give assistance and guidance to wireless telecommunications providers in the timely, efficient, safe and aesthetically pleasing installation of technologically competitive equipment. This Ordinance is for siting and criteria for the installation of Wireless Facilities, including Micro Network Nodes, Network Nodes, Node Support Poles and related ground equipment being installed pursuant to Chapter 284; and shall apply to any siting, installations, collocations in, on, over or under the public rights-of-way of Network Nodes, Node Support Poles, Micro Network Nodes, Distributed Antenna Systems, microwave communications or other Wireless Facilities, by whatever nomenclature, whether they are installed pursuant to Chapter 284, or installed pursuant to an agreement as agreed to and consented to by the City in its discretion, or installed as may otherwise be allowed by state law.

Network Providers shall comply with the City’s rights-of-way management ordinance (Ordinance No. 2009-O-045) except where in conflict with this Ordinance or Chapter 284.

It is the City's responsibility to update its Code to be consistent with that of the Texas Local Government Code and to exercise the maximum authority preserved to local governments following the creation of Chapter 284 while at the same time to craft fair and reasonable rules for the use of the City's public rights-of-way by entities not falling under the protection of Chapter 283 and Chapter 284.

This Ordinance is intended to promote compliance with the Texas Utilities Code.

**COMMITTEE RECOMMENDATION**

N/A

**STAFF RECOMMENDATION**

Staff recommends approval.

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**Fiscal Impact**

**Fiscal Year:**

**Budgeted Y/N?:**

**Source of Funds:**

**Account #:**

**Change Order: Exceeds 25% Y/N:**

**FINANCIAL IMPACT:**

\$500.00 application fee for up to 5 nodes; \$250.00 each additional node on a permit; \$250.00 annually per node installed on city owned property. Permits will be deposited into 101-0000-312-2085.

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**Attachments**

CC-Final Reading

ROW Ordinance

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## COUNCIL COMMUNICATION

<b>DATE:</b> 08-21-17	<b>SUBJECT: FINAL READING ORDINANCE 2017-O-105</b> <b>AMENDING CHAPTER 28, ARTICLE IX ENTITLED “PUBLIC RIGHT-OF-WAY MANAGEMENT” OF THE LAREDO CODE OF ORDINANCES BY ADDING DIVISION 12, SECTION 28-243 THROUGH 28-253 REGARDING THE SITING OF WIRELESS COMMUNICATIONS FACILITIES IN THE PUBLIC RIGHTS-OF-WAY; AND PROVIDING AN EFFECTIVE DATE OF SEPTEMBER 1, 2017.</b>
<b>INITIATED BY:</b> Horacio de Leon, Interim City Manager.	<b>STAFF SOURCE:</b> Ramon Chavez, Building Services Director Heberto L. Ramirez, IST Director
<b>PREVIOUS COUNCIL ACTION:</b> Introductory reading of this ordinance approved by City Council on August 7, 2017.	
<p><b>BACKGROUND:</b> Chapter 284 of the Texas Local Government Code (“Chapter 284”), which was recently added by the State Legislature and signed into law by the Governor, allows certain wireless Network Providers to install their wireless facilities in the public rights-of-way, described and defined in Texas Local Government Code, Chapter 284, Sec. 284.002 as “Micro Network Nodes”, “Network Nodes”, and “Node Support Poles.” As expressly allowed by Texas Local Government Code, Chapter 284, Section 284.108, and pursuant to its police power authority reserved in Section 284.301, the City enacts this Ordinance in order to meet its fiduciary duty to the citizens of the City, and to give assistance and guidance to wireless telecommunications providers in the timely, efficient, safe and aesthetically pleasing installation of technologically competitive equipment. This Ordinance is for siting and criteria for the installation of Wireless Facilities, including Micro Network Nodes, Network Nodes, Node Support Poles and related ground equipment being installed pursuant to Chapter 284; and shall apply to any siting, installations, collocations in, on, over or under the public rights-of-way of Network Nodes, Node Support Poles, Micro Network Nodes, Distributed Antenna Systems, microwave communications or other Wireless Facilities, by whatever nomenclature, whether they are installed pursuant to Chapter 284, or installed pursuant to an agreement as agreed to and consented to by the City in its discretion, or installed as may otherwise be allowed by state law.</p> <p>Network Providers shall comply with the City’s rights-of-way management ordinance (Ordinance No. 2009-O-045) except where in conflict with this Ordinance or Chapter 284.</p> <p>It is the City’s responsibility to update its Code to be consistent with that of the Texas Local Government Code and to exercise the maximum authority preserved to local governments following the creation of Chapter 284 while at the same time to craft fair and reasonable rules for the use of the City’s public rights-of-way by entities not falling under the protection of Chapter 283 and Chapter 284.</p> <p>This Ordinance is intended to promote compliance with the Texas Utilities Code.</p>	

**FINANCIAL IMPACT:** \$500.00 application fee for up to 5 nodes; \$250.00 each additional node on a permit; \$250.00 annually per node installed on city owned property.

**RECOMMENDATION:**

**STAFF RECOMMENDATION:**



## **ORDINANCE 2017-O-105**

### **AMENDING CHAPTER 28, ARTICLE IX ENTITLED “PUBLIC RIGHT-OF-WAY MANAGEMENT” OF THE LAREDO CODE OF ORDINANCES BY ADDING DIVISION 12, SECTION 28-243 THROUGH 28-253 REGARDING THE SITING OF WIRELESS COMMUNICATIONS FACILITIES IN THE PUBLIC RIGHTS-OF-WAY**

**WHEREAS**, the City is charged with maintaining control of and access to the public rights-of-way in order to protect the health, safety and welfare of its citizens; and

**WHEREAS**, the City recognizes that the State of Texas has delegated to the City the fiduciary duty, as a trustee, to manage the public right-of-way for the health, safety, and welfare of the public to Texas municipalities; and

**WHEREAS**, Chapter 284 of the Texas Local Government Code (“Chapter 284”), which was recently added by the State Legislature and signed into law by the Governor, allows certain wireless Network Providers to install their wireless facilities in the public rights-of-way, described and defined in Texas Local Government Code, Chapter 284, Sec. 284.002 as “Micro Network Nodes”, “Network Nodes”, and “Node Support Poles”; and

**WHEREAS**, as expressly allowed by Texas Local Government Code, Chapter 284, Section 284.108, and pursuant to its police power authority reserved in Section 284.301, the City enacts this Ordinance in order to meet its fiduciary duty to the citizens of the City, and to give assistance and guidance to wireless telecommunications providers the timely, efficient, safe and aesthetically pleasing installation of technologically competitive equipment; and

**WHEREAS**, this Ordinance is for siting and criteria for the installation Wireless Facilities, including Micro Network Nodes, Network Nodes, Node Support Poles and related ground equipment being installed pursuant to Chapter 284; and

**WHEREAS**, this Ordinance shall apply to any siting, installations, collocations in, on, over or under the public rights-of-way of Network Nodes, Node Support Poles, Micro Network Nodes, Distributed Antenna Systems, microwave communications or other Wireless Facilities, by whatever nomenclature, whether they are installed pursuant to Chapter 284, or installed pursuant to an agreement as agreed to and consented to by the City in its discretion, or installed as may otherwise be allowed by state law; and

**WHEREAS**, a Network Provider shall comply with the City’s rights-of-way management ordinance (Ordinance No. 2009-0-045) except where in conflict with this Ordinance or Chapter 284; and

**WHEREAS**, it is the City's responsibility to update its Code to be consistent with that of the Texas Local Government Code and to exercise the maximum authority preserved to local governments following the creation of Chapter 284 while at the same time to craft fair and reasonable rules for the use of the City's public rights-of-way by entities not falling under the protection of Chapter 283 and Chapter 284; and

**WHEREAS**, this Ordinance is intended to promote compliance with the Texas Utilities Code.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LAREDO THAT:**

**Section 1.** Section 28-165 (Definitions) of Chapter 28, Article IX of the Laredo Code of Ordinances is hereby amended to read as follows:

**Sec. 28-165. - Definitions.**

The following definitions apply in this article of the City Code. The terms, phrases, words, abbreviations, and their derivations shall have the same meanings herein. When not inconsistent with the context, words used in the present tense include the future; words in the plural number include the singular number, and words in the singular include the plural. The word "shall" is mandatory and not merely permissive.

*Abandon and its derivatives ~~Abandoned facilities~~* means facilities no longer in service or physically disconnected from the operation facilities, or from any other facilities that are in use or that still carry service for a consecutive period of time in excess of two (2) years unless, within the aforesaid two-year period, the city receives written confirmation and reasonable evidence that the ROW user intends to use the facilities.

*Above ground utility structure or AGUS means any utility structure that extends higher than the surrounding grade.*

*Administrative fee* means the fee charged by the city to recover its costs incurred for right-of-way management including, but not limited to, costs associated with registering applicants; issuing, processing, and verifying right-of-way permit applications; inspecting job sites and restoration improvements; determining the adequacy of right-of-way restoration; revoking right-of-way permits and other costs the city may incur in implementing the provisions of this article.

*Antenna means communications equipment that transmits or receives electromagnetic radio frequency signals used in the provision of wireless services.*

*Applicable codes mean: (a) uniform building, fire, electrical, plumbing, or mechanical codes as adopted by the City and adopted by a recognized national code organization; and (b) any local amendments to those codes to the extent not inconsistent with Chapter 284.*

*Applicant* means an owner or authorized agent of an owner, who submits an application for a permit under these provisions of the City Code.

*Area of influence* means that area around a utility excavation where the pavement and subgrade are impacted by the excavation and is subject to more rapid deterioration due to the trench excavation.

*Big project* means a capital improvements project that requires street closure or lane closure of more than forty-eight (48) hours to complete.

*Certified telecommunications provider or CTP* means a person who has been issued a certificate of convenience and necessity, certificate of operating authority, or service provider certificate of operating authority by the Public Utility Commission of Texas or "PUCT" to offer

local exchange telephone service as defined by V.T.C.A., Local Government Code § 283 or "the Act."

Chapter 284 means Chapter 284 of Subtitle A, Title 9 of the Texas Local Government Code.

City means the City of Laredo.

City Manager shall mean City Manager or his or her designee.

City's rights-of-way management ordinance means Chapter 28, Article IX, Divisions 1 to 11 of the City's Code of Ordinances.

Collocate and collocation mean the installation, mounting, maintenance, modification, operation, or replacement of network nodes in a public right-of-way on or adjacent to a pole.

Concealment or Camouflaged means any Wireless Facility or Pole that is covered, blended, painted, disguised, camouflaged or otherwise concealed such that the Wireless Facility blends into the surrounding environment and is visually unobtrusive as allowed as a condition for City advance approval under Chapter 284, Sec. 284.105 in Historic or Design Districts. A Concealed or Camouflaged Wireless Facility or Pole also includes any Wireless Facility or Pole conforming to the surrounding area in which the Wireless Facility or Pole is located and may include, but is not limited to hidden beneath a façade, blended with surrounding area design, painted to match the supporting area, or disguised with artificial tree branches.

Contractor means any public or private person or organization other than the city.

Day, unless stated otherwise, means a business day, which excludes Saturdays, Sundays and holidays recognized by federal or state government or the city.

Decorative pole means a streetlight pole specially designed and placed for aesthetic purposes and on which no appurtenances or attachments, other than specially designed informational or directional signage or temporary holiday or special event attachments, have been placed or are permitted to be placed according to nondiscriminatory municipal codes.

Department means the building development services department or a successor department that is responsible for management of the right-of-way and roadway infrastructure.

Design District means an area that is zoned, or otherwise designated by municipal code, and for which the city maintains and enforces unique design and aesthetic standards on a uniform and nondiscriminatory basis.

Director means the director of the city building development services or his or her designee.

Disaster emergency or disaster or emergency means an imminent, impending, or actual natural or humanly induced situation wherein the health, safety, or welfare of the residents of the city is threatened, and includes, but is not limited to any declaration of emergency by city, state or federal governmental authorities.

Easement means and shall include any public easement or other compatible use created by dedication, or by other means, to the city for public utility purposes or any other purpose whatsoever. "Easement" shall include a private easement used for the provision of utilities.

*Emergency operations* means those operations and repairs necessary to prevent damage or injury to the health or safety of the public or any person and the work necessary to address a service interruption. Upgrading of facilities, new service installation and neighborhood improvement projects are not emergency operations.

*Excavation* means an activity that removes or otherwise disturbs soil, pavement, driveways, curbs, or sidewalks in the right-of-way and does include irrigation activity of the right-of-way.

*Facilities* means the plant, equipment, and property, including, but not limited to, lines, poles, mains, pipes, conduits, ducts, cables, and wires located under, on, or above the surface of the ground within the right-of-way and valves and related facilities and equipment used or useful for the provision of utility services.

*FCC* means The Federal Communications Commission.

*Governing body* means the mayor and the city council of the City of Laredo, Texas.

*Governmental entity* means any county, township, city, town, village, school district, library district, road district, drainage or levee district, sewer district, water district, fire district, or other municipal corporation, quasi-municipal corporation or political subdivision of the State of Texas or of any other state of the United States and any agency or instrumentality of the State of Texas or of any other state of the United States or of the United States.

Highway right-of-way means right-of-way adjacent to a state or federal highway.

Historic district means an area that is zoned or otherwise designated as a historic district under municipal, state, or federal law.

Law means common law or a federal, state, or local law, statute, code, rule, regulation, order, or ordinance.

Local means within the corporate boundaries of the City.

Location means the City approved and lawfully permitted location for the Network Node.

Macro tower means a guyed or self-supported pole or monopole greater than the height parameters prescribed by Chapter 284, Section 284.103 and that supports or is capable of supporting antennas.

Mayor means the Mayor for the City.

Micro network node means a network node that is not larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height, and that has an exterior antenna, if any, not longer than 11 inches.

*Minor encroachment license* means the legal document outlining the rights and obligation of a non-CTP owner of a wire telecommunication system to be in the rights-of-way of the city.

*Municipal park* means an area that is zoned or otherwise designated by municipal code as a public park for the purpose of recreational activity.

*Municipally owned utility pole* means a utility pole owned or operated by a municipally owned utility, as defined by Section 11.003 of the Texas Utilities Code, and located in a public right-of-way.

*MUTCD* means Manual of Uniform Traffic Control Devices.

*Network node* means equipment at a fixed location that enables wireless communications between user equipment and a communications network. The term includes: (a) equipment associated with wireless communications; (b) a radio transceiver, an antenna, a battery-only backup power supply, and comparable equipment, regardless of technological configuration; (c) coaxial or fiber-optic cable that is immediately adjacent to and directly associated with a particular collocation; and (d) a distributed antenna system or DAS. The term does not include: (a) an electric generator; (b) a pole; or (c) a macro tower. Small cell shall be included as a type of "Network Node."

*Network provider* means: (a) a wireless service provider; or (b) a person that does not provide wireless services and that is not an electric utility but builds or installs on behalf of a wireless service provider: (1) network nodes; or (2) node support poles or any other structure that supports or is capable of supporting a network node. Provider has the same meaning as "Network Provider."

*New street* means the paved portion of the right-of-way that has been constructed reconstructed, or resurfaced with an asphalt overlay, hot in place recycling, full-length reclamation, reconstruction or other structural Street maintenance treatment. "New street" includes all concrete paved streets, streets constructed or structurally resurfaced during the preceding seven (7) years, for a collector or arterial street or during the preceding five (5) years for a residential street or alley.

*Node support pole* means a pole installed by a network provider for the primary purpose of supporting a network node.

*Permit* means a permit issued under this article authorizing excavation in the right-of-way or a written authorization for the use of the public right-of-way or collocation on a service pole required from the City before a network provider may perform an action or initiate, continue, or complete a project over which the City has police power authority.

*Permittee* means any person or right-of-way user (including its authorized agents and representatives) to whom a permit is issued to excavate a right-of-way.

*Person* means any person, company, partnership, agency or other public or private entity including its authorized agents and representatives) except the city.

*Pole means a service pole, municipally owned utility pole, node support pole, or utility pole.*

*Private easement means an easement or other real property right that is only for the benefit of the grantor and grantee and their successors and assigns.*

*Registration* means the application process of an ROW user to use any portion of the Right-of-way.

*Repair* means the temporary or permanent construction work necessary to make the right-of-way useable.

*Repair area* means that area around an excavation where the pavement and subgrade are impacted by an excavation.

*Restoration* means the process by which an excavated right-of-way and surrounding area, including pavement and foundation, is returned to the same condition, or better, than existed before the commencement of the work.

*Resurfacing* means any repaving; overlay; seal or reconstruction which creates a new pavement surface over the entire width of the street, excluding crack seals and localized base and pavement repairs.

*Right-of-way* or *public right-of-way* means the surface of, and the space above and below, any street, road, highway, freeway, lane, path, drainage way, channel, fee interest, public way or place, sidewalk, alley, boulevard, parkway, drive, or other easement now or hereafter held by the city or over which the city exercises any rights of management or control and shall include but not be limited to all easements now held, or hereafter held, by the city but shall specifically exclude private property *and the airwaves above a public right-of-way with regard to wireless telecommunications.*

*Right-of-way (ROW) user* means a person, its successors and assigns, that uses the right-of-way for purposes of work, excavation, provision of services, or to install, construct, maintain and repair facilities thereon, including, but not limited to, land owners and service providers.

*Routine service operation* means a work activity that makes no material change to the facilities and does not disrupt traffic.

*Service* means a commodity provided to a person by means of a delivery system that is comprised of facilities located or to be located in the right-of-way including but not limited to gas, telephone, cable television, internet services, open video systems, alarm systems, steam, electric delivery, water, telegraph, data transmission, petroleum pipelines or sanitary sewage.

*Service pole means a pole, other than a municipally owned utility pole, owned or operated by the City and located in a public right-of-way, including: (a) a pole that supports traffic control functions; (b) a structure for signage; (c) a pole that supports lighting, other than a decorative pole; and (d) a pole or similar structure owned or operated by a municipality and supporting only network nodes.*

Street means only the paved portion and sub-grade of the right-of-way used for vehicular travel, being the area between the inside of the curb to the inside of the opposite curb, or the area between the two parallel edges of the paved roadway for vehicular travel where there is no curb. A "Street" is generally part of, but smaller in width than the width of the entire right-of-way, while a right-of-way may include sidewalks and utility easements, a "Street" does not. A "street" does not include the curb or the sidewalk, if either are present at the time of a permit application or if added later. ~~the pavement and sub-grade of a city residential, collector or arterial roadway.~~

*Supplementary application* means an application made to excavate or obstruct more of the right-of-way than allowed in or to extend a permit that has already been issued.

*TMUTCD* means the Texas Manual on Uniform Traffic Control Devices, latest edition.

Traffic signal means any device, whether manually, electrically, or mechanically operated by which traffic is alternately directed to stop and to proceed.

Transport facility means each transmission path physically within a public right-of-way, extending with a physical line from a network node directly to the network, for the purpose of providing backhaul for network nodes.

Underground requirement area means an area where poles, overhead wires, and associated overhead or above ground structures have been removed and buried or have been approved for burial underground pursuant to municipal ordinances, zoning regulations, state law, private deed restrictions, and other public or private restrictions, that prohibit installing aboveground structures in a public right-of-way.

User means a person or organization which conducts a business over facilities occupying the whole or a part of a public street or right-of-way, depending on the context.

*Utility* means any privately or publicly owned entity which uses the public right-of-way to furnish to the public any general public service, including, without limitation, sanitary sewer, gas, electricity, water, telephone, petroleum products, telegraph, heat, steam or chilled water, together with the equipment, structures, and appurtenances belonging to such entity and located within and near the right-of-way. Poles are regulated herein only as specifically set forth in this article.

Utility pole means a pole that provides: (a) electric distribution with a voltage rating of not more than 34.5 kilovolts; or (b) services of a telecommunications provider, as defined by Section 51.002 of the Texas Utilities Code.

*Utility structure* means any structure, cabinet, or any other appurtenance other than a pole or device attached to a pole which is owned or used by a utility company, cable company, or telecommunications provider to provide service. The phrase does not include devices or structures used to control or direct pedestrian or vehicular traffic on an adjacent roadway or infrastructure that provides water used for fire suppression.

*Video service* has the same meaning as that set out in Section 66.002 of the Texas Utilities Code or as may be amended.

*Video service provider* has the same meaning as that set out in Section 66.002 of the Texas Utilities Code or as may be amended.

*White lining* means marking the excavation site with white washable marking paint or flags prior to requesting a utility locate in order to further identify the site.

*Wire telecommunication system* means a tangible closed facility for the transmission of voice, video or data services, including all instrumentalities, facilities and apparatus incidental to such transmission.

*Wireless facilities mean “Micro Network Nodes,” “Network Nodes,” and “Node Support Poles” as defined in Chapter 284 of the Texas Local Government Code.*

*Wireless service means any service, using licensed or unlicensed wireless spectrum, including the use of Wi-Fi, whether at a fixed location or mobile, provided to the public using a network node.*

*Wireless service provider means a person that provides wireless service to the public.*

**Section 2.** Section 28-215 (Fees) of Chapter 28, Article IX of the Laredo Code of Ordinances is hereby amended to read as follows:

**Sec. 28-215. - Fees.**

(a) *Permit application fee.* There is a permit application fee of fifty dollars (\$50.00). Permits shall be issued or denied within five (5) days. *The application fee and other related fees for network providers are set forth in Division 12 of this article.* There is an expedited application fee of two hundred fifty dollars (\$250.00) for permits which shall be issued or denied within two (2) days. The fees are paid by an applicant when a permit is requested. The fees are charged for administration and input of permit data. An expedited permit may be requested upon a showing of good cause, including, but not limited to, a pending order for service that cannot be met by means of existing facilities of the ROW user. In such event an expedited permit may be requested and shall be issued or denied within two (2) days of application.

**Section 3.** Chapter 28, Article IX of the Laredo Code of Ordinances is hereby amended by adding the following Division 12:

**DIVISION 12 – WIRELESS FACILITIES**

**Sec. 28-243. – Applicability.**

*A network provider shall comply with the City’s right-of-way management ordinance, except where in conflict with this division or Chapter 284.*

**Sec. 28-244. Prohibited and Preferred Locations of Micro Network Node, Network Node, Node Support Pole and related ground equipment.**



(a) Prohibited or Restricted Areas for Certain Wireless facilities, except with Separate City Agreement or Subject to Concealment Conditions.

(1) Municipal Parks and Residential Areas. In accordance with Chapter 284, Sec. 284.104(a), a Network Provider may not install a Node Support Pole in a public right-of-way without the City's discretionary, nondiscriminatory, and written consent if the public right-of-way is in a Municipal park or is adjacent to a street or thoroughfare that is:

(i) not more than 50 feet wide of paved street surface, being the area measured as the shortest distance between the inside of the curb to the inside of the opposite curb, or the area measured as the shortest distance between the two parallel edges of the paved roadway for vehicular travel where there is no curb; and

(ii) adjacent to single-family residential lots or other multifamily residences or undeveloped land that is designated for residential use by zoning or deed restrictions.

In accordance with Chapter 284, Sec. 284.104(b), a Network Provider installing a Network Node or Node Support Pole in a public right-of-way described above shall comply with private deed restrictions and other private restrictions in the area that apply to those facilities.

Each permit application shall disclose if it is within a Municipal Park or within a Residential Area as described above.

(2) Historic District and Design Districts. In accordance with Chapter 284, Sec. 284.105, a Network Provider must obtain advance written approval from the City before collocating Network Nodes or installing Node Support Poles in a Design District with Decorative Poles or in an area of the City zoned or otherwise designated as a Design District or Historic District.

(i) As a condition for approval of Network Nodes or Node Support Poles in Design Districts with Decorative Poles or in a Historic District, the City shall require reasonable design or Concealment measures for the Network Nodes or Node Support Poles. Therefore, any request for installations in a Design District with Decorative Poles or in a Historic District, must be accompanied with proposed Concealment measures in the permit applications.

(ii) The City request that a Network Provider explore the feasibility of using Camouflage measures to improve the aesthetics of the Network Nodes, Node Support Poles, or related ground equipment, or any portion of the nodes, poles, or equipment, to minimize the impact to the aesthetics in Design Districts or in an Historic District.

(iii) Network Provider shall comply with and observe all applicable City, State, and federal historic preservation laws and requirements.

(iv) Each permit application shall disclose if it is within a Design District with Decorative Poles or in an area of the City zoned or otherwise designated as a Design District or Historic District.

(3) Historic Landmarks. A Network Provider is discouraged from installing a Network Node or Node Support Pole within 300 feet of a historic site or structure or Historic Landmark recognized by the City, state or federal government (see, for example, and not limited to Section 442.001(3) of the Texas Government Code, and 16 U.S.C. § 470), as of the date of the submission of the permit. Each permit application shall disclose if it is within 300 feet of such a structure.

(4) Compliance with Undergrounding Requirements. In accordance with Chapter 284, Sec. 284.107, a Network Provider shall comply with nondiscriminatory undergrounding requirements, including municipal ordinances, zoning regulations, state law, private deed restrictions, and other public or private restrictions, that prohibit installing aboveground structures in a public right-of-way without first obtaining zoning or land use approval.

(i) Areas may be designated from time to time by the City as Underground Requirement Areas in accordance with filed plats, and or conversions of overhead to underground areas, as may be allowed by law.

(ii) Each permit application shall disclose if it is within an area that has undergrounding requirements.

(b) Least preferable locations.

(1) Residential Areas and Parks. A Network Provider is discouraged from installing a Network Node on an existing pole in a public right-of-way without written consent from the City Council if the public right-of-way is located in or adjacent to a street or thoroughfare that is adjacent to a municipal park or single-family residential lots or other multifamily residences or undeveloped land that is designated for residential use by zoning or deed restrictions.

(i) In accordance with Chapter 284, Sec. 284.104(b), a Network Provider installing a Network Node or a Node Support Pole in a public right-of-way shall comply with private deed restrictions and other private restrictions in the area that apply to those facilities.

(2) Historic Districts and Design Districts. A Network Provider is discouraged from installing a Network Node or a Node Support Pole in the public right-of-way in any area designated by the City as a Design District or in an area of the City zoned or otherwise

designated as a Historic District unless such a Network Node or a new Node Support Pole is camouflaged.

(c) Most preferable locations.

(1) Industrial areas if not adjacent to a Municipal Park, Residential area, Historic District or Design District.

(2) Highway Rights-of-Way areas if not adjacent to a Municipal Park, Residential area, Historic District or Design District.

(3) Retail and Commercial areas if not adjacent to a Municipal Park, Residential area, Historic District or Design District.

(d) Designated Areas.

(1) The City Council may designate an area as a Historic District or a Design District under Chapter 284, Section 284.105 at any time.

(2) Currently designated Historic Districts are:

(i) Historic District Number 1 is the area referred to as St. Peter's Historic District. Its boundaries were established by Council in Ordinance No. 85-0-72.

(ii) Historic District Number 2 is the area referred to as San Agustin De Laredo Historic District. Its boundaries were established by Council in Ordinance No. 85-0-72.

(iii) Historic District Number 3 is the area referred to as Old Mercado Historic District. Its boundaries were established by Council in Ordinance No. 85-0-72.

(3) Currently there are no designated Design District areas within City.

(4) The failure to designate an area in this division shall not mean that such an area is not within a defined district, if so designated by the City Council. Future areas may be designated as one of these Districts at any time. Such a designation does not require a zoning case.

(5) While not required under Chapter 284 to designate Underground Requirement Areas to prohibit above ground Wireless facilities, the City may also, from time to time, also designate Underground Requirement Areas.

(e) Exceptions

The City by its discretionary consent and agreement may grant exception to the above prohibited locations and sizes, but only in a non-exclusive, and non-discriminatory manner, as allowed or required by Chapter 284, Sec. 284.109 and Sec. 284.110.

(f) Order of Preference regarding Network Node attachment to existing facilities and New Node Support Poles.

(1) Existing telephone or electrical lines between existing utility poles. Micro Network Nodes shall only be lashed on existing telephone or electrical lines between existing utility poles (electric poles or telephones poles), with notice to the pole owner as required by the Federal Pole Attachment Act, and not placed on Utility Poles, Node Support Poles or Service Poles.

(2) Existing Utility Poles (electric poles or telephones poles), shall be the preferred support facility for Network Nodes and related ground equipment.

(3) Municipal Service Poles:

(i) Non-decorative street lights with a height of more than 20 feet.

(ii) Traffic signal structures when such installation will not interfere with the integrity of the facility and will not interfere with the safety of public and in accordance with an agreement as allowed by Chapter 284, Sec. 284.056 and Sec. 284.101(a)(3), and (b).

(iii) Street signage shall be a low priority use for attachment of a Network Node.

(iv) Other municipal Service pole use is discouraged.

(4) New node support poles shall be the least preferred type of allowed facility for attachment of Network Nodes.

(5) Ground equipment should be minimal and the least intrusive.

### **Sec. 28-245. Fees.**

(a) All fees for permit applications and all rents for use of the public rights-of-way by network providers shall conform to the provisions set forth in Chapter 284.

(b) **Application Fees:** Because the City requires the payment of the fee for similar types of commercial development inside the City's territorial jurisdiction, other than a type for which application or permit fees are not allowed by law, the City is eligible to charge an applications fee for deployments, including Transport facilities, under this Chapter.

Unless there is a change in law, the fees shall be assessed on the number of poles and or Network Nodes contained in an application for installation or for a Transport facility at the following rates:

(1) Five Hundred Dollars (\$500) per application.

(i) This amount will cover applications covering up to five network nodes.

(2) For applications with more than five network nodes, there shall be an additional Two hundred and Fifty Dollars (\$250) fee for each additional network node per application; and

(3) One Thousand Dollars (\$1,000) per application for each pole.

(c) Adoption of the above fees shall not be seen as a finding by the City that the fees are greater than or equal to the actual, direct, and reasonable costs the City determines are incurred in granting or processing an application that are reasonably related in time to the time the costs of granting or processing an application are incurred.

(d) Rent from Network Providers:

(1) Nodes: The Annual Network Node site rental rate as set in Chapter 284 Sec. 284.053 shall be \$250 per Network Node site, with annual CPI adjustment as provided for in Chapter 284, Sec. 284.054.

(2) Poles: Chapter 284, Sec. 284.053 does not provide a separate rate for poles and therefore the rate is the same as for the Nodes.

(3) Transport facility: The Annual Transport Facility rental rate as set in Chapter 284 Sec. 284.055. shall be \$28 monthly for each Network Node site, unless an equal or greater amount is paid the city, e.g., under Chapter 283, Tex. Loc. Gov. Code or Chapter 66, Tex. Util. Code.

### **Sec. 28-246. Guidelines on Placement.**

(a) Generally.

In accordance with Chapter 284, Section 284.102, a Network Provider shall construct and maintain Network Nodes and Node Support Poles in a manner that does not:

(1) obstruct, impede, or hinder the usual travel or public safety on a public right-of-way;

(2) obstruct the legal use of a public right-of-way by other utility providers;

(3) violate nondiscriminatory applicable codes;

(4) violate or conflict with the City's rights-of-way management ordinance or this division.

(5) violate the federal Americans with Disabilities Act of 1990 (42 U.S.C. Section 12101 et seq.).

Failure to comply with subparagraphs 1 to 4 above shall be subject to all remedies available under law and subject to application of the penalties outlined in Section (b)(4)(ii) of this section.

(b) General Requirements and Information:

(1) Size Limits. Network Providers shall provide detailed drawings, with calculations to show strict conformity to the size limitations as set forth in Chapter 284, in accordance with, but not limited to Chapter 284, Sec. 284.002, size of a Micro Network Node, Sec. 284.003, Size of Network Nodes, and Sec. 284.103, Max. pole height, with each application and with each request for a permit for each location.

(2) State and Federal Rights-of-way permit. If the project lies within a Highway Right-of-Way, the applicant must provide evidence of a permit from the State or Federal Government.

(3) Confirmation of non-interference with City Safety Communication Networks.

(i) The Network Provider shall provide analysis that the proposed network node shall not cause any interference with City public safety radio system, traffic signal light system, or other city safety communications components in accordance with Chapter 284, Sec. 284.304.

(ii) It shall be the responsibility of the Network Provider to evaluate, prior to making application for permit, the compatibility between the existing City infrastructure and Provider's proposed Network Node. A Network Node shall not be installed in a location that causes any interference. Network Nodes shall not be allowed on City's public safety radio infrastructure.

(iii) Failure to comply with subparagraphs (i) and (ii) above shall be subject to all remedies available under law and subject to application of the penalties outlined in Section (b)(4)(ii) of this section.

(4) Improperly Located Network Node facilities, Node Support Poles and related ground equipment.

(i) Improperly Located Network Node facilities, Node Support Poles and related ground equipment shall not impede pedestrian or vehicular traffic in the Right-of-Way. If any Network Node facilities, Node Support Poles or ground equipment is installed in a location that is not in accordance with the plans approved by the City Manager and impedes pedestrian or vehicular traffic or does not comply or otherwise renders the Right-of-Way non-compliant with applicable Laws, including the American Disabilities Act, then Network Provider shall promptly remove the Network Node facilities, Node Support Poles or ground equipment.

(ii) Notice to Remove unauthorized facilities and relocate and penalty. After 30 days' notice to remove of Network Node facilities, Node Support Poles or ground

equipment that is located in the incorrect permitted location, if not relocated the Network Provider shall be subject to a penalty of one thousand dollars (\$1,000.00) per day penalty until the Network Node facilities, Node Support Poles or ground equipment is relocated to the correct area within the permitted Location, regardless of whether or not the Network Provider's contractor, subcontractor, or vendor installed the Network Node facilities, Node Support Poles or ground equipment in strict conformity with the City's rights-of-way management ordinance, and other applicable ordinances concerning improperly located facilities in the rights-of-way.

(c) Underground Requirement Areas.

(1) In accordance with Chapter 284, Section 284.107, a Network Provider shall, in relation to installation for which the City approved a permit application, comply with nondiscriminatory undergrounding requirements, including municipal ordinances, zoning regulations, state law, private deed restrictions, and other public or private restrictions, that prohibit installing aboveground structures in a public right-of-way without first obtaining zoning or land use approval.

(2) If a location is designated by the City to be an Underground Requirement Area, then a Network Provider's permit for the location of the Micro Network Node, Network Node, Node Support Pole, and related ground equipment at such location will be revoked 90 days after the designation, with removal of said the Micro Network Node, Network Node, Node Support Pole, and related ground equipment at such location within 90 days of such designation, or as otherwise reasonably allowed by the City for the transition of other overhead facilities.

(d) Network Node facilities placement:

(1) Right-of-Way. Network Node facilities, Node Support Poles and related ground equipment shall be placed, as much as possible, within two (2) feet of the outer edge of the Right-of-Way line to minimize any obstruction, impediment, or hindrance to the usual travel or public safety on a public right-of-way.

(2) Height above ground. Network Node attachments to a pole shall be installed at least eight (8) feet above the ground in accordance with Chapter 284, Section 284.108, and if a Network Node attachment is projecting toward the street, for the safety and protection of the public and vehicular traffic, the attachment shall be installed no less than sixteen (16) feet above the ground.

(3) Protrusions. In accordance with Chapter 284, Sec. 284.003(a)(1)(C), Sec. 284.003(a)(2)(C) and Sec. 284.003-(a)(3)(B) no protrusion from the outer circumference of the existing structure or pole shall be more than two (2) feet.

(4) Limit on number of Network Nodes per Site. There shall be no more than one Network Node on any one Pole.

(e) New Node Support Poles.

(1) New Node Support Poles Spacing. New node support poles shall be spaced apart from existing utility poles or Node Support poles at the same as the spacing between utility poles in the immediate proximity, but no less than at a minimum 300 feet from a utility pole or another Node Support Pole to minimize the hazard of poles adjacent to road ways and to minimize effect on property values and aesthetics on the area.

(2) Height of Node Support Poles or modified Utility Pole. In accordance with Chapter 284, Sec. 284.103 a Node support pole or modified Utility Pole may not exceed the lesser of:

(i) 10 feet in height above the tallest existing utility pole located within 500 linear feet of the new pole in the same public right-of-way; or

(ii) 55 feet above ground level.

(f) Ground Equipment.

(1) Ground Equipment near street corners and intersections. Ground equipment should be minimal and the least intrusive. In accordance with Chapter 284, Section 284.102(1), to minimize any obstruction, impediment, or hindrance to the usual travel or public safety on a public right-of-way, and in order to maximize the line of sight required to add to safe travel of vehicular and pedestrian traffic, and in order to maximize that line of sight at street corners and intersections and to minimize hazards at those locations, ground equipment may not be installed within 250 feet of a street corner or a street intersection.

(2) Ground Equipment near Municipal Parks. For the safety of Municipal park patrons, particularly small children, and to allow full line of sights near Municipal park property, the Network Provider shall not install Ground Equipment in a Right-of-Way that is within a Park or within 250 feet of the boundary line of a Park, unless approved by the City Manager and Director of the Parks and Leisure Department in writing.

(g) Municipal Service Poles.

(1) Installations on all Service Poles shall be in accordance with an agreement as allowed by Chapter 284, Sec. 284.056 and Sec. 284.101(a)(3), and (b).

(2) Required industry standard pole load analysis. Installations on all Service Poles shall have an industry standard pole load analysis completed and submitted to the City with each permit application indicating that the Service Pole to which the Network Node is to be attached will safely support the load, in accordance with Chapter 284, Section 284.108.



(3) Height of attachments. All attachments on all Service Poles shall be at least eight (8) feet above grade, in accordance with Chapter 284, Sec. 284.108(a)(1)-(2), and if a Network Node attachment is projecting toward the street, for the safety and protection of the public and vehicular traffic, the attachment shall be installed no less than sixteen (16) feet above the ground.

(4) Installations on Traffic Signal. Installations on all Traffic signal structures must not interfere with the integrity of the facility in any way that may compromise the safety of the public and must be in accordance with an agreement as allowed by Chapter 284, Sec. 284.056 and Sec. 284.101(a)(3) and (b). Installation of Network Node facilities on any traffic signal structures shall:

(i) Be encased in a separate conduit than the traffic light electronics;

(ii) Have a separate electric power connection than the traffic signal structure; and

(iii) Have a separate access point than the traffic signal structure.

(5) Installations on Street signage: Installations on all street signage structures must not interfere with the integrity of the facility in any way that may compromise the safety of the public. Installation of Network Node facilities on any street signage structures that has electrics shall:

(i) Be encased in a separate conduit than any City signage electronics;

(ii) Have a separate electric power connection than the signage structure;

(iii) Have a separate access point than the signage structure.

### **Sec. 28-247. General Aesthetic Requirements**

#### **(a) Concealment.**

(1) Concealment of Network Nodes and Node support poles shall be required by the City in Design Districts with Decorative Poles and in Historic Districts pursuant to Chapter 284, Section 284.105.

(2) It is also the City's preference that all new node support poles be camouflaged, except those located in an area zoned or predominantly industrial area. Companies shall submit their proposal for camouflage with the permit application.

#### **(b) New Node Support Pole Spacing.**

New node support poles shall be at a minimum 300 feet from a utility pole or another Node Support Pole to minimize the hazard of poles adjacent to road ways and to minimize effect on property values and aesthetics on the area.

(c) Allowed Colors.

Colors in Historic Districts and Design Districts must be in strict accordance with the City's rights-of-way management ordinance, and other applicable ordinances, except to the extent not consistent with Chapter 284.

#### **Sec. 28-248. Electrical Supply**

(a) Network Provider shall be responsible for obtaining any required electrical power service to the Micro Network Node, Network Node facilities, Node Support Poles and ground equipment. The City shall not be liable to the Network Provider for any stoppages or shortages of electrical power furnished to the Micro Network Node, Network Node facilities, Node Support Poles or ground equipment, including without limitation, stoppages or shortages caused by any act, omission, or requirement of the public utility serving the structure or the act or omission of any other tenant or Network Provider of the structure, or for any other cause beyond the control of the City.

(b) Network Provider shall not allow or install generators or back-up generators in the Right-of-Way in accordance with Chapter 284, Sec. 284.002(12)(B)(1).

#### **Sec. 28-249. Insurance, Indemnity, Bonding and Security Deposits.**

(a) Insurance, bonding and security deposits shall be in strict accordance with the City's rights-of-way management ordinance, and other applicable ordinances, except to the extent not consistent with Chapter 284.

(b) Indemnity shall be in accordance with Chapter 284, Sec. 284.302, as provided for in Chapter 283, Sec. 283.057(a) and (b) of the Texas Local Government Code.

#### **Sec. 28-250. Requirements in Regard to Removal, Replacement, Replacement, Maintenance and Repair**

(a) Removal or Relocation by Network Provider

Removal and relocation by the Network provider of its Micro Network Node, Network Node facilities, Node Support Pole or related ground equipment at its own discretion, shall be in strict accordance with the City's rights-of-way management ordinance, and other applicable ordinances, except to the extent not consistent with Chapter 284.

(b) Removal or Relocation Required for City Project

Removal and Relocation of Network Provider's Micro Network Node, Network Node, Node Support Pole or related ground equipment, or portion thereof required for a City project shall be in strict accordance with the City's rights-of-way management ordinance, and other applicable ordinances, except to the extent not consistent with Chapter 284, Sec. 284.107, except as provided in existing state and federal law.

**Sec. 28-251. Installation and Inspections**

(a) Network Provider shall, at its own cost and expense, install the Micro Network Node, Network Node facilities, Node Support Poles and related ground equipment in a good and workmanlike manner in strict accordance with the City's rights-of-way management ordinance, and other applicable ordinances, except to the extent not consistent with Chapter 284.

(b) The City Manager, or designee, may perform inspections of any Micro Network Node, Network Node, Node Support Pole or related ground equipment located in the Right-of-Way shall be allowed in strict accordance with the City's rights-of-way management ordinance, and other applicable ordinances, except to the extent not consistent with Chapter 284.

**Sec. 28-252. Requirements Upon Abandonment of Obsolete Network Node, Network Node, Node Support Pole and Related Ground Equipment.**

Abandoned or obsolete Micro Network Node, Network Node, Node Support Pole and related ground equipment shall be removed in strict accordance with the City's rights-of-way management ordinance, and other applicable ordinances, except to the extent not consistent with Chapter 284.

**Sec. 28-253. General Provisions.**

(a) Network Provider's as built maps and records shall be in strict accordance with the City's rights-of-way management ordinance, and other applicable ordinances, except to the extent not consistent with Chapter 284.

(b) Courtesy and Proper Performance of Network provider's personnel, and contractors shall be in strict accordance with the City's rights-of-way management ordinance, and other applicable ordinances, except to the extent not consistent with Chapter 284.

(c) Ownership of Network Node and related equipment shall be in strict accordance with the City's rights-of-way management ordinance, and other applicable ordinances, except to the extent not consistent with Chapter 284.

(d) Tree maintenance shall be in strict accordance with the City's rights-of-way management ordinance, and other applicable ordinances, except to the extent not consistent with Chapter 284.

(e) Signage shall be in strict accordance with the City's rights-of-way management ordinance, and other applicable ordinances, except to the extent not consistent with Chapter 284.

(f) Graffiti abatement shall be in strict accordance with the City's rights-of-way management ordinance, and other applicable ordinances, except to the extent not consistent with Chapter 284.

(g) Network Provider shall restore and repair the Rights-of-Way from any damage to the Right-of-Way, or any facilities located within the Right-of-Way, and the property of any third party resulting from Network Provider's removal or relocation activities (or any other of Network Provider's activities hereunder) in strict accordance with the City's rights-of-way management ordinance, and other applicable ordinances, except to the extent not consistent with Chapter 284.

(h) Network Provider shall be responsible and liable for the acts and omissions of Network Provider's employees, temporary employees, officers, directors, consultants, agents, Affiliates, subsidiaries, sub-Network Provider's and subcontractors in connection with the installations of any Micro Network Node, Network Node, Node Support Pole and related ground equipment, as if such acts or omissions were Network Provider's acts or omissions in strict accordance with the City's rights-of-way management ordinance, and other applicable ordinances, except to the extent not consistent with Chapter 284.

**Section 4.** This Ordinance shall be published in a manner provided by Section 2.09(D) of the Charter of the City of Laredo.

**Section 5.** This Ordinance shall become effective as and from the date of publication specified in Section 4.

**Section 6.** Severability. If any provision, section subsection, sentence, clauses, or phrase of this Ordinance, or the application of the same to any person or set of circumstances is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this Ordinance or their application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council in adopting this Ordinance that no portion hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality, voidness or invalidity of another portion hereof, and all provisions of this Ordinance are declared to be severable for that purpose.

PASSED BY THE CITY COUNCIL AND APPROVED BY THE MAYOR ON THIS \_\_\_\_  
DAY OF \_\_\_\_\_, 2017.

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**PETE SAENZ**  
**MAYOR**

**ATTEST:**

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**JOSE A. VALDEZ, JR.**  
**CITY SECRETARY**

**APPROVED AS TO FORM:**

**KRISTINA LAUREL HALE**  
**ACTING CITY ATTORNEY**

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**CRISTIAN ROSAS-GRILLET**  
**ASSISTANT CITY ATTORNEY**

**City Council-Special**

**Meeting Date:** 08/30/2017

**Initiated By:** Horacio A. De Leon, City Manager

**Initiated By:** Zepold Investments, Daniel Lopez, Owner/Applicant and Roberto Gonzalez, Representative

**Staff Source:** Nathan R. Bratton

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**SUBJECT**

**2017-O-113** Amending the Zoning Ordinance (Map) of the City of Laredo by repealing Ordinance 2014-O-026, and authorizing issuance of a Special Use Permit for a Restaurant Selling Alcohol, on Lots 1A, & 1B, Block 1, San Isidro/McPherson Subdivision, Unit II, located at 9710 & 9720 McPherson Rd.; providing for publication and effective date.

ZC-56-2017

District VI

**PREVIOUS COUNCIL ACTION**

This item was introduced by the Honorable Charlie San Miguel at the regular Council meeting of August 21, 2017.

**BACKGROUND**

**Council District:** VI – The Honorable Charlie San Miguel

**Proposed use:** Restaurant Serving Alcohol

**Site:** Vacant Commercial Building. (former Flamingo amusement redemption machine establishment).

**Surrounding land uses:** North of the property are a commercial plaza (with approx. 16 suites), and Multi-Family Complexes. East of the property, across McPherson Rd. are Compass Bank, El Querreque Restaurant and Buffalo Wings and Rings. South of the property is a new commercial building (with three suites, one is Aquatics), and AJ'S Restaurant/Bar. West of the property there are several single family residences.

**Comprehensive Plan:** The Future Land Use Map identifies this tract as Light Commercial.

**Transportation Plan:** The Long Range Thoroughfare Plan identifies McPherson Rd., as a Major Arterial. The Plan does not identify Tiara Trail.

## Letters sent to surrounding property owners: 40

In Favor: 0

Opposed: 2

## COMMITTEE RECOMMENDATION

The P & Z Commission, in a 6 to 0 vote, and 1 abstention, recommended approval of the Special Use Permit.

## STAFF RECOMMENDATION

Staff **supports** the proposed Special Use Permit.

## STAFF COMMENTS

A Special Use Permit is used for those types of uses that warrant individual attention on a case by case basis and should not be categorized in a zoning district. A Special Use Permit is basically an overlay on top of the existing zoning designation and can be limited in many respects such as time, fencing, setbacks, landscaping, etc. A Special Use Permit is required for those restaurants located in R-O, B-1, or B-3 districts that wish to serve alcoholic beverages. The property is in a B-1 (Limited Business District) zoning district.

Staff **supports** the issuance of the proposed Special Use Permit at this location for the following reasons:

1. The proposed SUP location does meet distance requirements as per Ordinance 2013-O-005, Section 24.93.7 (1) Establishments serving alcohol shall not be located within three hundred (300) feet of any church, public school, public park, residential structure or residential zoning district. The property is located 505.51 feet, to the nearest residential district, and 611.02 feet to the nearest residential use.

The measurement is to be made from the front door of the establishment serving alcohol to the nearest property line (by shortest route) to the front door to the church, public school, entrance to the public park, front door of the residential structure or zoning district boundary and in a direct line across intersections wherever they occur and consistent with the measurement methodology as has been adopted by the Texas Alcoholic Beverage Commission.

2. The proposed SUP for a restaurant selling alcohol is compatible with the existing zones and surrounded uses in this section of McPherson Rd.

Should the Commission recommend approval of the proposed SUP, staff suggests the following conditions:

1. The Special Use Permit is issued to Zepold Investments, Daniel Lopez, Owner; for Danny's Restaurant # 7 and is non-transferable.
2. The Special Use Permit is restricted to 7,544.00 S.F. Floor Plan, as per site plan,

Exhibit "A", which is made part hereof for all purposes.

3. The Special Use Permit is restricted to a restaurant selling alcohol and hours of operation from Monday through Sunday from 6:00 a.m. through 2:00 a.m.
4. The establishment must make provisions to keep litter to a minimum, and to keep it from blowing onto adjacent streets and properties.
5. Signage shall be consistent with the City's Sign Ordinance and TABC rules or regulations.
6. Off-street parking shall be provided in accordance with the City of Laredo Land Development Code.
7. Outdoor ambient music and speakers shall be permitted and there shall be no ground vibrations created or sustained on the site which are perceptible without instruments at any point on any property adjoining the subject property.
8. At all times the restaurant is open to the public for business; it shall continually maintain and serve food from its full service menu.
9. The restaurant shall not exceed the "Occupant Load" as set forth in the Certificate of Occupancy with Occupant Load issued to SUP business holder.
10. The restaurant shall, during all hours of operation, maintain, free from obstruction or impediment to full instant use in the case of fire or other emergency, all exit accesses, exits or exit discharges.
11. The restaurant shall undergo an annual Fire Inspection.
12. All permits, licenses, certifications and inspections required by the codes and ordinances of the City of Laredo shall be kept up to date and current including but not limited to Food Manager License (annual), Food Handler's Permit (annual), and Certificate of Occupancy with Occupant Load, Occupant Load being the approved capacity of a building or portion thereof.
13. Landscaping of property shall be provided in accordance with the City of Laredo Land Development Code.
14. Lighting of property shall be screened to avoid adverse impact on adjacent residential neighborhoods.
15. Owner shall provide a 7' high opaque fence along property lines which abut or adjoin any residential zones/uses.
16. Owner shall comply with, Building, Health, Life and Safety, and all applicable codes and regulations as required.
17. The restaurant shall maintain and comply with the BLUE Gun Sign regulations as per TABC (not to exceed the required alcohol sales percentage).
18. The restaurant shall provide the City of Laredo, Planning Department with a copy of the current TABC License to include but not limited to any renewals or amendments as they occur.

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### **Fiscal Impact**

**Fiscal Year:**

**Budgeted Y/N?:**

**Source of Funds:**



**Account #:**

**Change Order: Exceeds 25% Y/N:**

**FINANCIAL IMPACT:**

N/A

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**Attachments**

Ordinance 2017-O-113

Exhibits A & B

Color Maps-ZC-56-2017

Color Pics. ZC-56-2017

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**ORDINANCE NO. 2017-O-113**

AMENDING THE ZONING ORDINANCE (MAP) OF THE CITY OF LAREDO BY REPELING ORDINANCE 2014-O-026, AND AUTHORIZING ISSUANCE OF A SPECIAL USE PERMIT FOR A RESTAURANT SELLING ALCOHOL ON LOTS 1A, & 1B, BLOCK 1, SAN ISIDRO/MCPHERSON SUBDIVISION, UNIT II, LOCATED AT 9710 & 9720 MCPHERSON ROAD; PROVIDING FOR PUBLICATION AND EFFECTIVE DATE.

WHEREAS, the owner of Lots 1A, & 1B, Block 1, San Isidro/McPherson Subdivision, Unit II, located at 9710 & 9720 McPherson Rd., has requested a Special Use Permit for a restaurant selling alcohol; and,

WHEREAS, the required written notices were sent to surrounding property owners at least ten (10) days before the public hearing held before the Planning and Zoning Commission on July 20, 2017; and,

WHEREAS, the Planning and Zoning Commission, after a public hearing, has recommended **approval** of the Special Use Permit request; and,

WHEREAS, notice of the request was advertised in the newspaper at least fifteen (15) days prior to the public hearing held before the City of Laredo City Council on this matter; and,

WHEREAS, the City Council has held a public hearing on August 21, 2017, on the request and finds the proposed Special Use Permit appropriate and consistent with the General Plan of the City of Laredo; and,

WHEREAS, the City Council does not consider the impact, if any, of private covenants and deed restrictions on the subject property with the adoption of this ordinance; and,

NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LAREDO THAT:

Section 1: A Special Use Permit is granted for a restaurant selling alcohol on Lots 1A, & 1B, Block 1, San Isidro/McPherson Subdivision, Unit II, located at 9710 & 9720 McPherson Rd.

Section 2: The Special Use Permit is restricted to the following provisions:

1. The Special Use Permit is issued to Zepold Investments, Daniel Lopez, Owner; for Danny's Restaurant # 7 and is non-transferable.
2. The Special Use Permit is restricted to 7,544.00 S.F. Floor Plan, as per site plan, Exhibit "A", which is made part hereof for all purposes.
3. The Special Use Permit is restricted to a restaurant selling alcohol and hours of operation from Monday through Sunday from 6:00 a.m. through 2:00 a.m.
4. The establishment must make provisions to keep litter to a minimum, and to keep it from blowing onto adjacent streets and properties.
5. Signage shall be consistent with the City's Sign Ordinance and TABC rules or regulations.
6. Off-street parking shall be provided in accordance with the City of Laredo Land Development Code.

7. Outdoor ambient music and speakers shall be permitted and there shall be no ground vibrations created or sustained on the site which are perceptible without instruments at any point on any property adjoining the subject property.
8. At all times the restaurant is open to the public for business; it shall continually maintain and serve food from its full service menu.
9. The restaurant shall not exceed the "Occupant Load" as set forth in the Certificate of Occupancy with Occupant Load issued to SUP business holder.
10. The restaurant shall, during all hours of operation, maintain, free from obstruction or impediment to full instant use in the case of fire or other emergency, all exit accesses, exits or exit discharges.
11. The restaurant shall undergo an annual Fire Inspection.
12. All permits, licenses, certifications and inspections required by the codes and ordinances of the City of Laredo shall be kept up to date and current including but not limited to Food Manager License (annual), Food Handler's Permit (annual), and Certificate of Occupancy with Occupant Load, Occupant Load being the approved capacity of a building or portion thereof.
13. Landscaping of property shall be provided in accordance with the City of Laredo Land Development Code.
14. Lighting of property shall be screened to avoid adverse impact on adjacent residential neighborhoods.
15. Owner shall provide a 7' high opaque fence along property lines which abut or adjoin any residential zones/uses.
16. Owner shall comply with, Building, Health, Life and Safety, and all applicable codes and regulations as required.
17. The restaurant shall maintain and comply with the BLUE Gun Sign regulations as per TABC (not to exceed the required alcohol sales percentage).
18. The restaurant shall provide the City of Laredo, Planning Department with a copy of the current TABC License to include but not limited to any renewals or amendments as they occur.

Section 3: This ordinance shall be published in a manner provided by Section 2.09 (D) of the Charter of the City of Laredo.

Section 4: This ordinance shall become effective as and from the date of publication specified in Section 3.

Section 5: The Special Use Permit authorized by this ordinance shall be revoked pursuant to the Laredo Land Development Code, section 24.93.12, entitled "Enforcement and Revocation of Special Use Permits," according to the criteria and procedures described therein and below:

(a) Any Special Use Permit, authorized by City Council, shall be considered in noncompliance and shall be suspended or revoked and removed from the City of Laredo Zoning Map if:

(1) A court having jurisdiction or a jury find the holder of the Special Use Permit guilty of a violation or if a holder of an SUP pleads guilty of violating:

(a.) Any requirement or term or condition of the Special Use Permit or has not conformed, at any time, with any or all of the requirements or terms or conditions as set out in the Special Use Permit as approved by the City Council.

(2) The activity authorized by the Special Use Permit commences prior to the institution of all Conditions imposed by the Special Use Permit.

(3) The use for which the Special Use Permit was authorized does not commence within six months of the effective date of the Special Use Permit.

(a.) An extension of up to six months may be granted, for good cause shown, by the Building Services Director upon petition of the SUP holder.

(4) The use for which the Special Use Permit is authorized is discontinued for a period of six (6) consecutive months.

(5) In the event of discontinuance or failure to commence as stipulated in Subsection 24.93.12 of this Ordinance, Zoning Enforcement Staff will issue written notification of same. Ten days after issuance of Zoning Enforcement notification of discontinuance or failure to commence, the Planning Director shall then issue the permit holder written notification of the Special Use Permit's official revocation and removal from the City of Laredo Zoning Map.

(b) Procedures:

(1) Should a City of Laredo Zoning Enforcement Official or Fire Official inspection reveal non-compliance with Laredo Land Development Code, Section 24.93.7.(b) or any of any additional express conditions of the Special Use Permit, Special Use Permit suspension/revocation procedures shall commence as below stipulated:

(a.) A Zoning Officer or Fire Official shall, upon discovery of special use permit non-compliance as per Subsection 24.93.7.(b), issue a written warning, granting a grace period of a minimum of ten (10) working days, within which time the use may be brought into compliance with the Current City Council approved Special Use Permit for that location.

(b.) If non-compliance persists after the conclusion of the warning grace period, a Zoning Enforcement Official or Fire Official shall issue written citation.

(c.) The requirement for the issuance of a written warning and grace period shall not apply to a citation issued as a result of a violation of the "Occupant Load" as set forth in the Certificate of Occupancy with Occupant Load or the failure to, during all hours of operation, maintain, free from obstruction or impediment to full instant use in the case of fire or other emergency, all exit accesses, exits or exit discharges and said citation/s shall be filed for prosecution.

(d.) Should a citation result in a court, having jurisdiction or a jury finding the holder of the Special Use Permit guilty of a violation, or if a holder of an SUP pleads guilty, the Special Use Permit will be suspended for such period of time as is necessary to remedy the violation, but in no event shall the suspension be for less than 24 hours to be implemented as follows:.

i. The Zoning Officer or Fire Official shall immediately notify the Planning Director, in writing, of the result of the prosecution of the citation.

ii. The Planning Director shall, within 48 hour notice of the court's determination (or as soon thereafter as is practicable) issue the permit holder written notification of the Special Use Permit's official suspension.

iii. The Special Use Permit Holder shall suspend all business operations in accordance with the notice.

iv. The Special Use Permit Holder shall not resume operation until the violation has been corrected and the establishment has been inspected. A "Notice of Termination of Suspension" shall be issued by the Planning Director upon his/her finding that all issues relevant to the suspension have been complied with and the 24 hour suspension period has run. The Planning Director shall issue such notice without unreasonable delay.

(2) Upon the second conviction of a violation of any of the provisions of the Laredo Land Development Code, Section 24.93.7. (b) or any additional express condition of the Special Use Permit, within any twelve month period, the Special Use Permit will be suspended for such period of time as is necessary to remedy the violation, but in no event shall the suspension be for less than 72 hours. This provision shall be implemented in the same manner as set forth above in Section 24.93.12 (b) (1)(a-d).

(3) Upon the third conviction of a violation of any of the provisions of the Laredo Land Development Code, Section 24.93.7. (b) or any additional express condition of the Special Use Permit, within any twelve month period, and subject to the revocation/suspension procedures set forth in Section 24.93.12 (b) (1)(a-d), the Special Use Permit will be revoked and the City shall proceed with its removal from the City of Laredo Zoning Map.

(a.) The Planning Director shall issue the permit holder written notification of the Special Use Permit's official revocation and removal from the City of Laredo Zoning Map and the Special Use Permit Holder shall suspend all business operations which are inconsistent with and in violation of the zoning district in which the business is located.

(b.) Once the holder of the Special Use Permit has been notified of the revocation, the permit holder may petition the City Council for reinstatement of the permit. The reinstatement shall be processed and proceed in the same manner as a new application for a Special Use Permit inclusive of all required fees and documentation.

(c.) In the event the Special Use Permit Holder appeals the conviction, any suspension or revocation will be abated until the completion of the appeals process.

(4) For purposes of Section 24. }3.7.(1), (2), or (3) above, a finding of guilt on more than one citation issued on the same day for the Slime location shall be counted as only one violation.

(5) In the event the Special Use Permit Holder appeals a conviction, any suspension or revocation will be abated until the completion of the appeals process.

(6) Effect of Other Violations (Habitual Offenses):

(a.) Twelve violations of City Ordinances which result in an adjudication of guilt (by trial to the court, by jury or by entering a plea of guilt) during any twelve month period shall result in the revocation of the Special Use Permit. The holder of said SUP may avail himself/herself of the remedy set forth in Section 24.93.12(b)(3)(b).

(b.) Should the twelve citations, issued during any twelve month period result in a court having jurisdiction or a jury find the holder of the Special Use Permit guilty of each violation or if a holder of an SUP pleads guilty to violation/s, the City of Laredo shall consider the Special Use Permit revoked and proceed with its removal from the City of Laredo Zoning Map.

(c.) The Planning Director shall then issue the permit holder written notification of the Special Use Permit's official revocation and removal from the City of Laredo Zoning Map and the Special Use Permit Holder shall suspend all business operations which are inconsistent with and in violation of the zoning district in which the business is located.

(d.) Once the holder of the Special Use Permit has been notified of the revocation, the permit holder may petition the City Council for reinstatement of the permit. The reinstatement shall be processed and proceed in the same manner as a new application for a Special Use Permit inclusive of all required fees and documentation.

(e.) In the event the Special Use Permit Holder appeals any of the convictions the revocation will be abated until the completion of the appeals process.

PASSED BY THE CITY COUNCIL AND APPROVED BY THE MAYOR ON THIS THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 2017.

\_\_\_\_\_  
PETE SAENZ  
MAYOR

ATTEST:

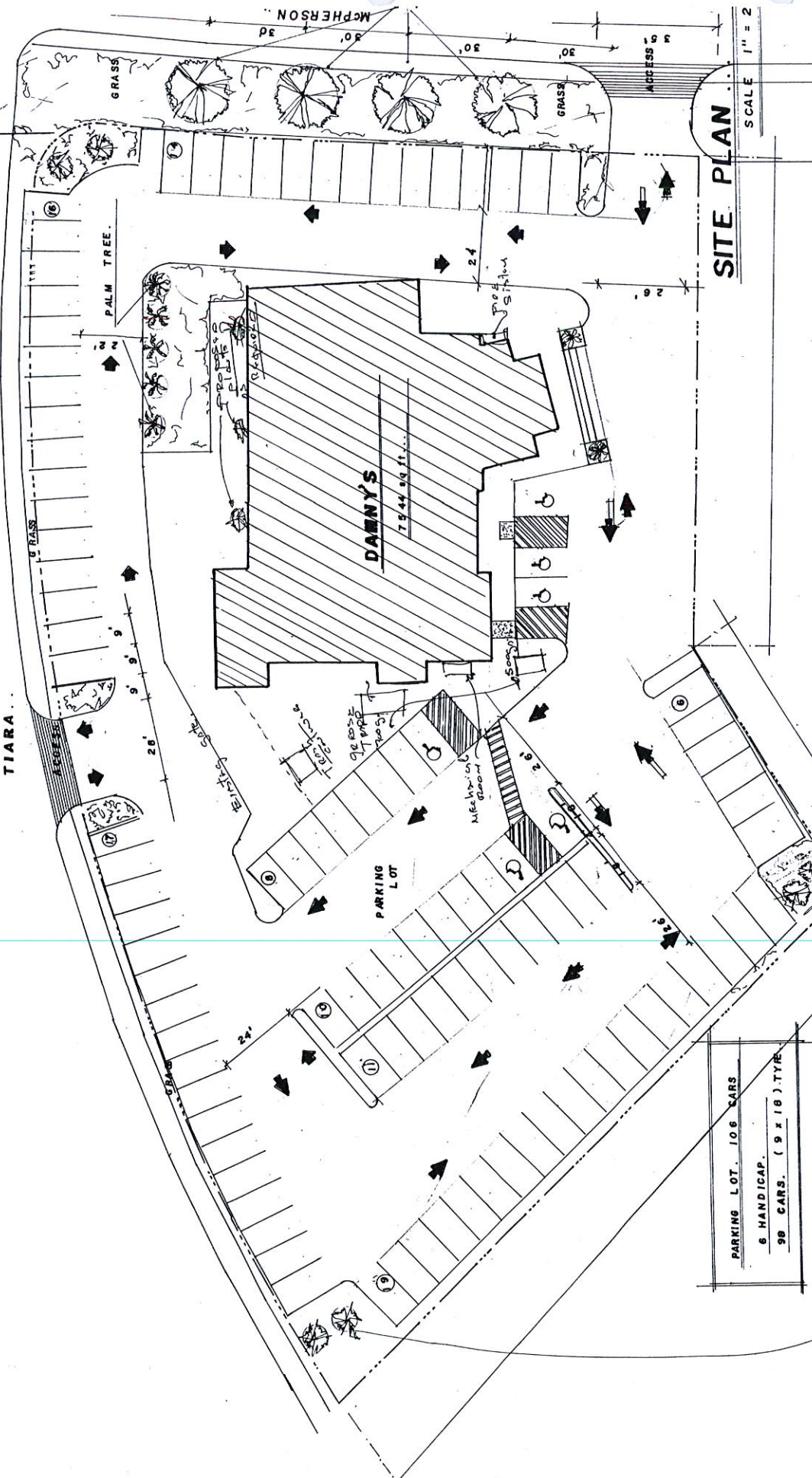
\_\_\_\_\_  
JOSE A. VALDEZ, JR.  
CITY SECRETARY

APPROVED AS TO FORM:

\_\_\_\_\_  
KRISTINA K. LAUREL HALE  
ACTING CITY ATTORNEY



NORTH ..



**SITE PLAN**

SCALE 1" = 2'

**DANNY'S RESTAURANT**  
**ZEPOLD INVESTMENTS LTD / DANIEL**  
 LOT 1A, I-B BLOCK I ...  
 SAN ISIDRO McPHERSON II ...  
 9710 - 9720 McPHERSON  
 LAREDO TX. 78045  
 22-56-2017

PARKING LOT. 106 CARS  
 6 HANDICAP.  
 98 CARS. ( 9 x 18 ) TYR

Existing Ash Trees  
 Ash Trees Now Proposed



Exhibit A



**Laredo Real Foods Inc.**  
**P.O. Box 7026**  
**1319 Hidalgo St.**  
**Laredo, Texas 78040**



Date: June 15, 2017

Re: 9710-9720 McPherson  
Laredo, Texas 78045

Propose Use: Danny's Restaurant #7

We propose to use the above site for a full service Danny's Restaurant. Danny's Restaurant primary focus is to serve breakfast, lunch and dinner every-day during our hours of operation from 6:00 am to 2:00 am. Customers will be able to dine in or pick-up orders and enjoy one of our many delicious traditional plates of their choice at any time of day. Alcoholic beverages will be served daily as a secondary compliment to our business all in accordance with TABC rules and regulations. Our goal is to provide the Best Food, Service and Quality to all our customers. With an approximate occupancy of 240 people, our facility will offer (2) private rooms available for any social gathering or group wanting to dine-in privately. Danny's Restaurant staff will consist of (60) full-time employees with a management staff of (6) to cover all shifts.

Prior to opening Danny's, the building interior will be painted and equipped with new booths, tables and chairs with the traditional Danny's prototype of colors and decorations. The exterior will also be painted and landscaped with red rose bushes planted. Also, a parking lot on the rear of the property will be built to accommodate parking requirements. All our outside parking and building will be properly maintained with adequate lighting so that our customers and neighbors feel safe at night.

Please call me, or my administrator, Roberto Gonzalez for any questions you might have pertaining to the operation of the business.

Sincerely,

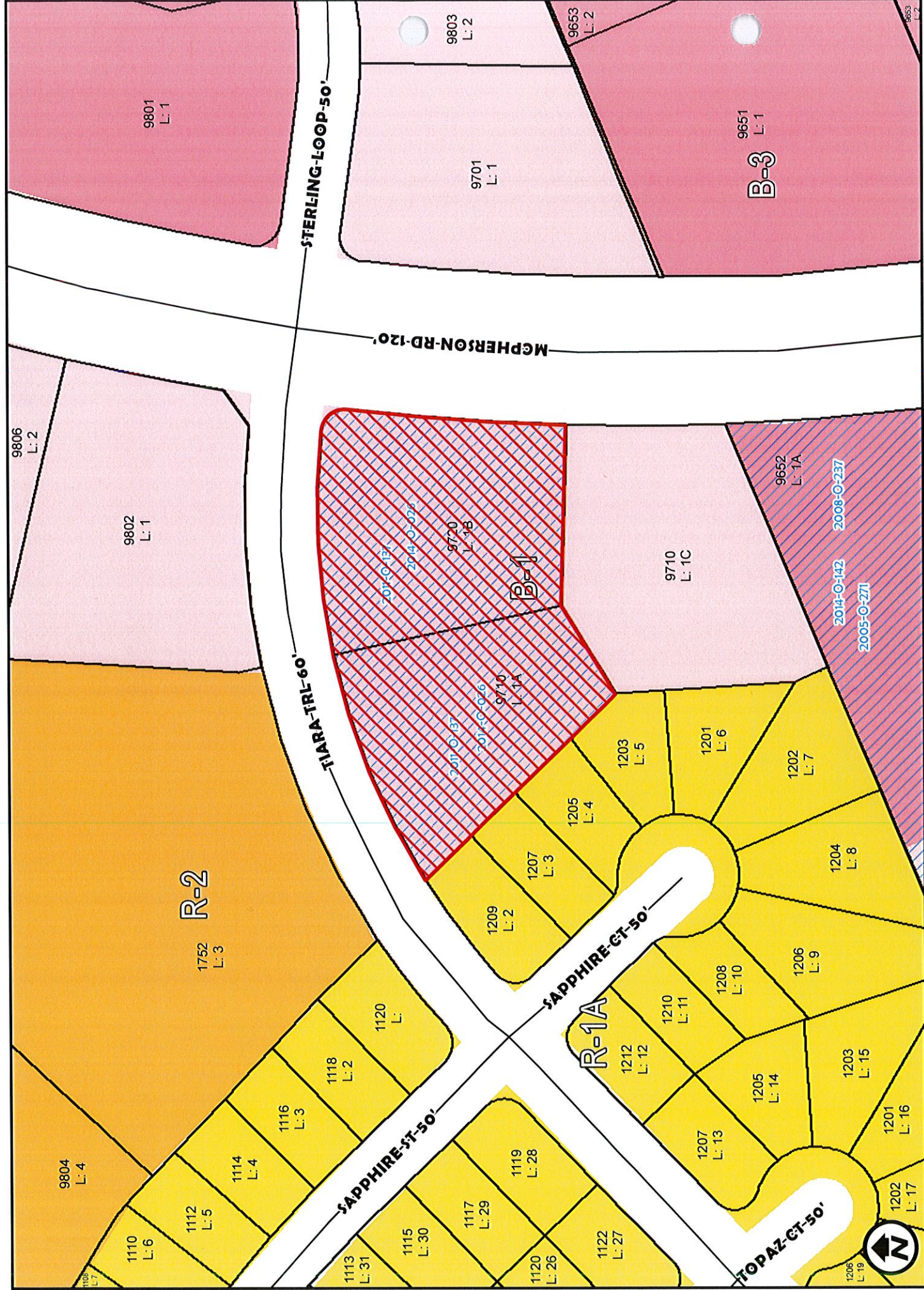
Daniel Lopez,  
President / CEO

*HOURS OF OPERATION:*

*MON-SUNDAY 6:00 AM - 2:00 AM*

Exhibit B



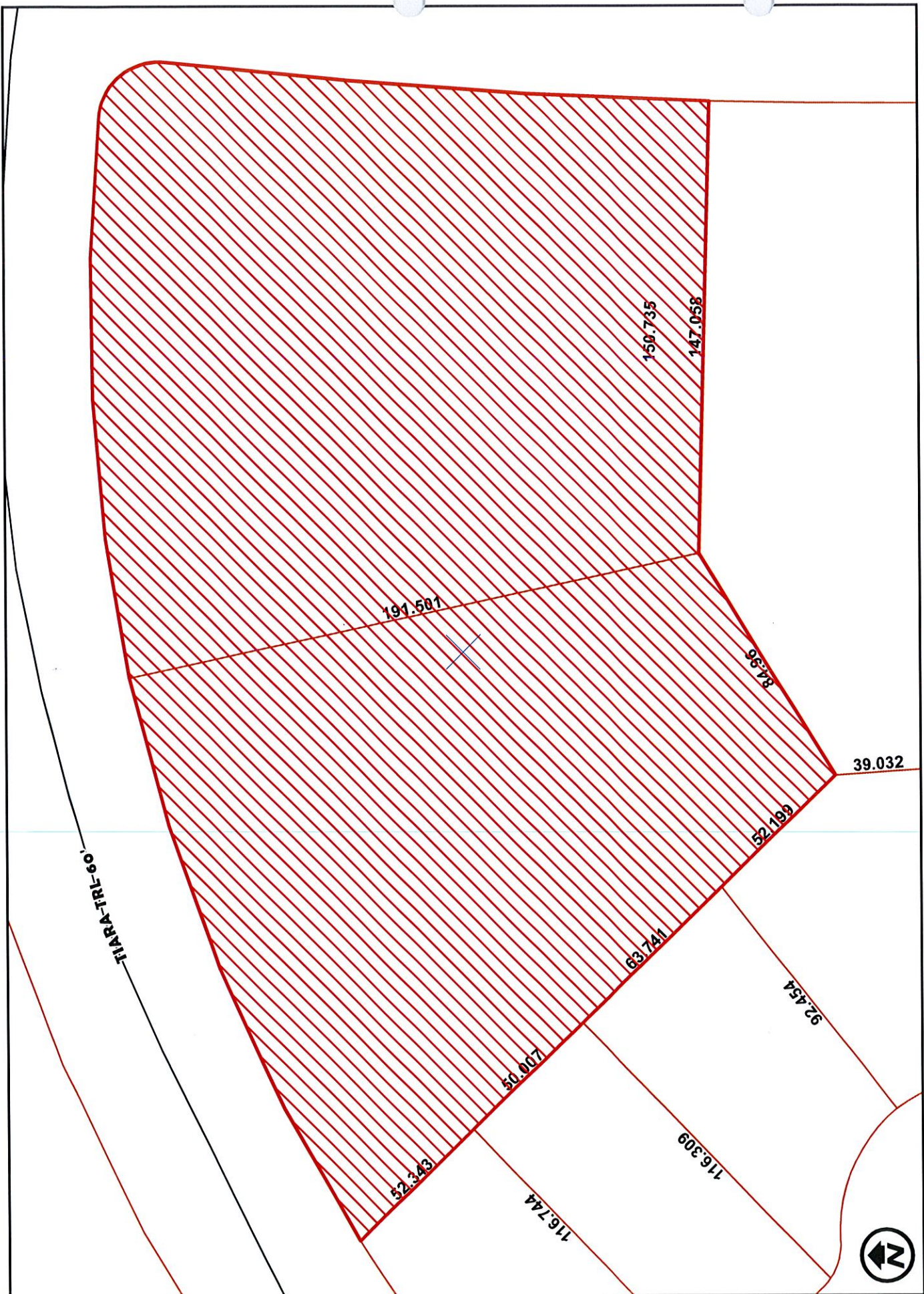


APPLICATION FOR  
S.U.P. (SPECIAL USE PERMIT)  
-> RESTAURANT SERVING ALCOHOL

ZC-56-2017  
COUNCIL DISTRICT 6  
9710 & 9720 MCPHERSON RD

ZONING MAP  
1 inch = 100 feet



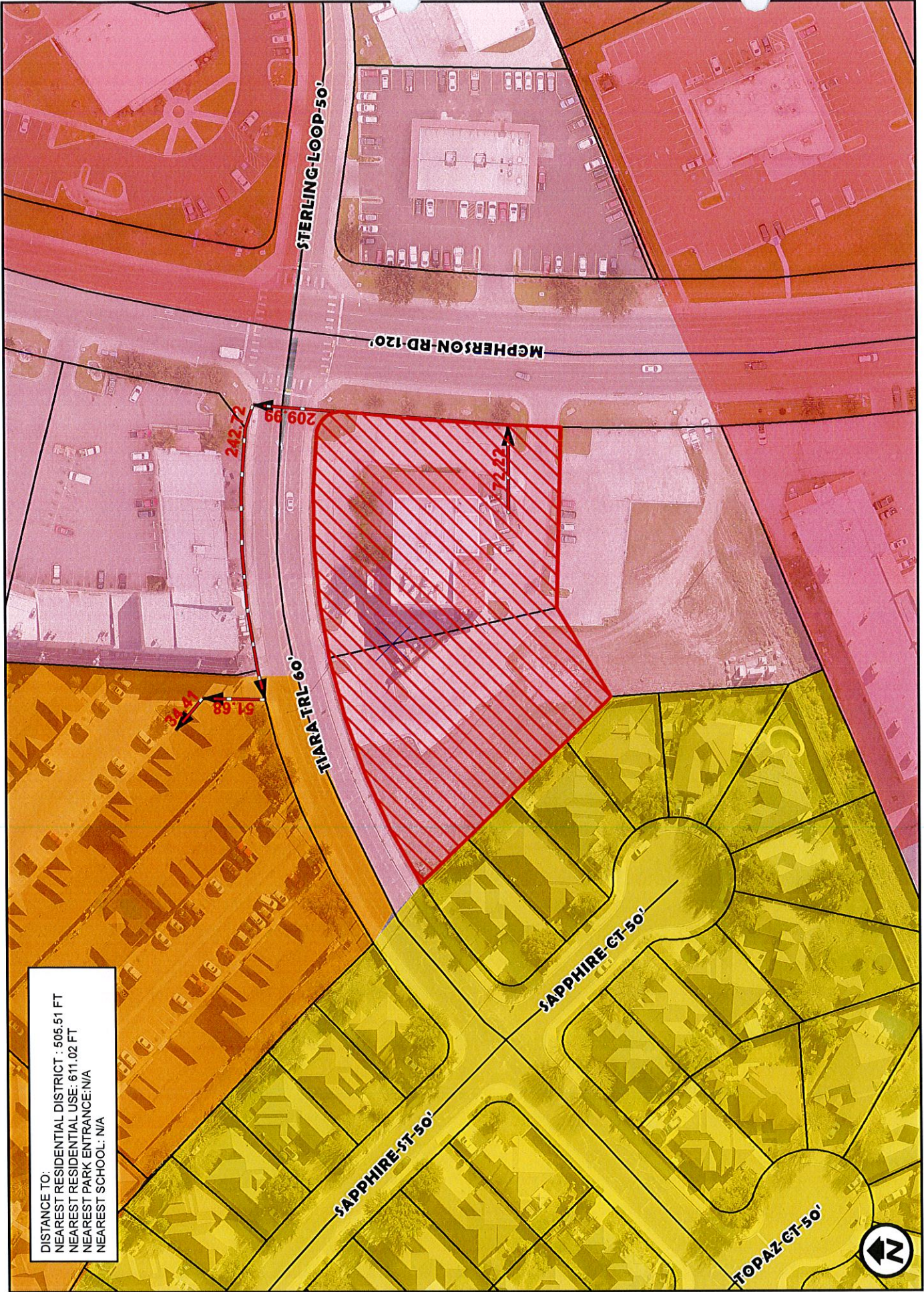


TIAA-TR-60

APPLICATION FOR  
S.U.P. (SPECIAL USE PERMIT)  
-> RESTAURANT SERVING ALCOHOL

ZC-56-2017  
COUNCIL DISTRICT 6  
9710 & 9720 MCPERSON RD

DIMENSIONS MAP  
1 inch = 40 feet

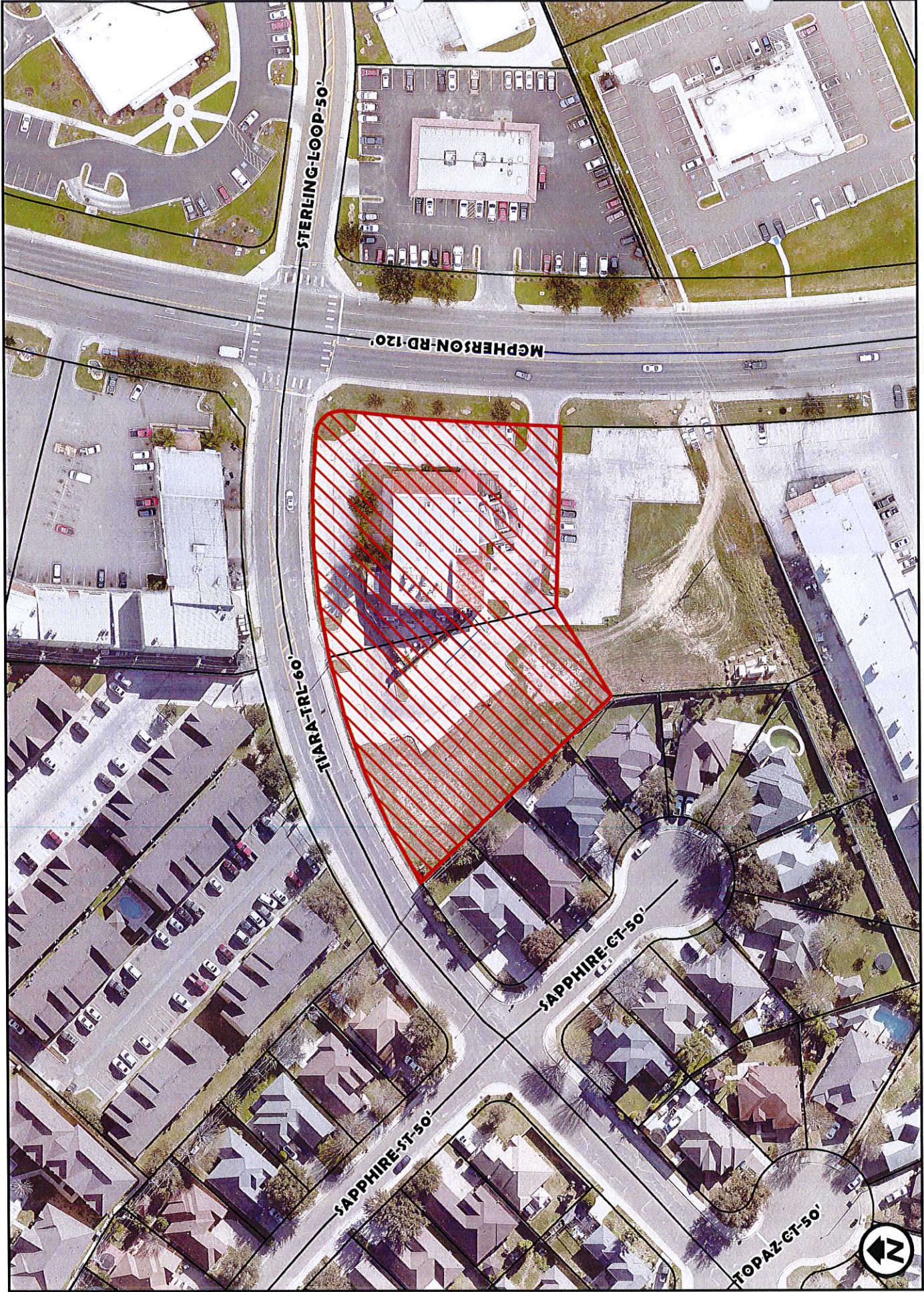


DISTANCE TO:  
 NEAREST RESIDENTIAL DISTRICT: .505.51 FT  
 NEAREST RESIDENTIAL USE: .611.02 FT  
 NEAREST PARK ENTRANCE: N/A  
 NEAREST SCHOOL: N/A

APPLICATION FOR  
 S.U.P. (SPECIAL USE PERMIT)  
 -> RESTAURANT SERVING ALCOHOL

ZC-56-2017  
 COUNCIL DISTRICT 6  
 9710 & 9720 MCPHERSON RD

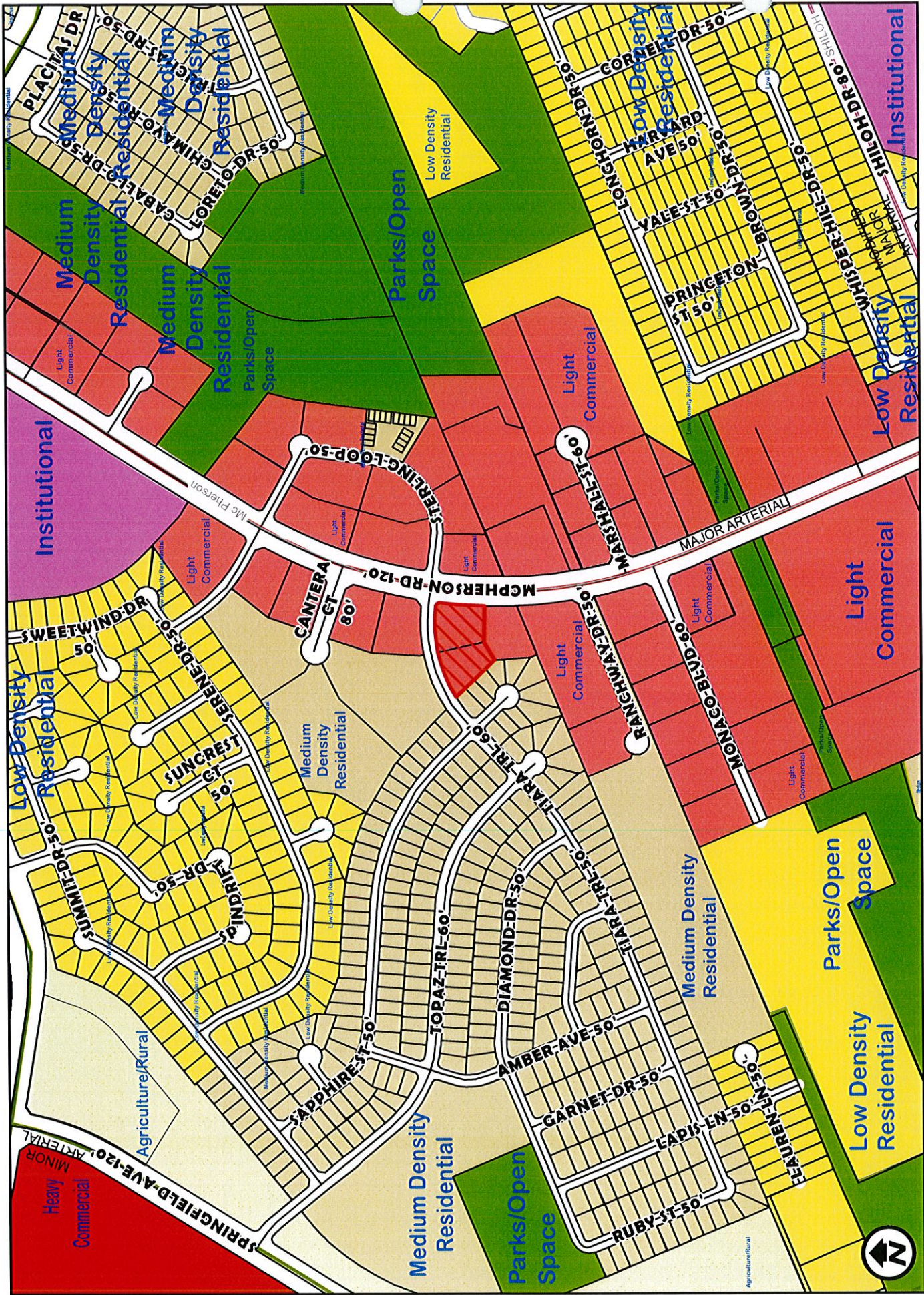
MEASUREMENTS  
 1 inch = 100 feet



APPLICATION FOR  
S.U.P. (SPECIAL USE PERMIT)  
-> RESTAURANT SERVING ALCOHOL

ZC-56-2017  
COUNCIL DISTRICT 6  
9710 & 9720 MCPHERSON RD

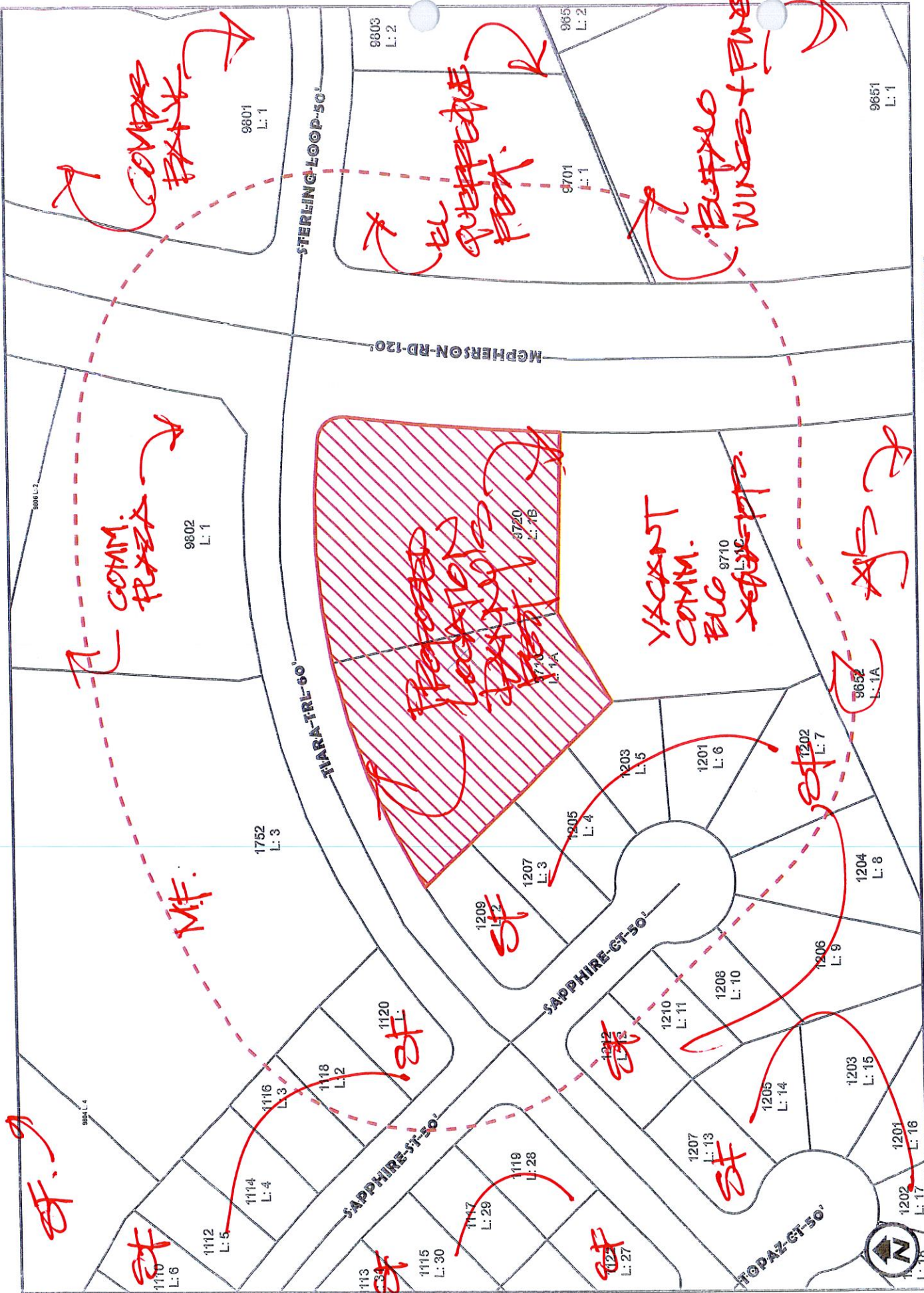
AERIAL MAP  
1 inch = 100 feet



APPLICATION FOR  
 S.U.P. (SPECIAL USE PERMIT)  
 -> RESTAURANT SERVING ALCOHOL

ZC-56-2017  
 FUTURE LANDUSE MAP COUNCIL DISTRICT 6  
 1 inch = 500 feet  
 9710 & 9720 MCPHERSON RD

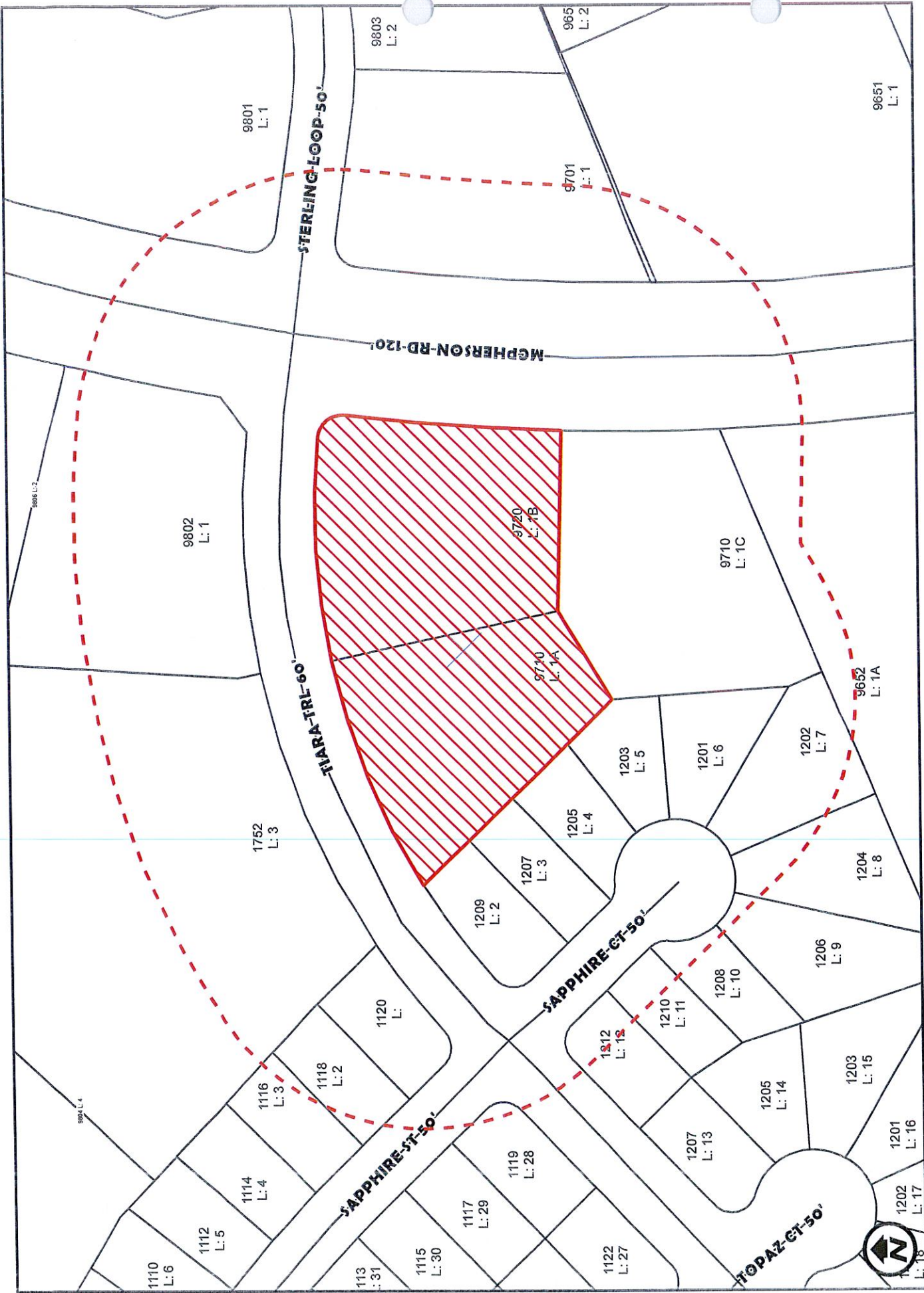




APPLICATION FOR  
 S.U.P. (SPECIAL USE PERMIT)  
 -> RESTAURANT SERVING ALCOHOL

ZC-56-2017  
 COUNCIL DISTRICT 6  
 9710 & 9720 MCPHERSON RD

200' NOTIFICATION  
 1 inch = 100 feet



APPLICATION FOR  
S.U.P. (SPECIAL USE PERMIT)  
-> RESTAURANT SERVING ALCOHOL

ZC-56-2017  
COUNCIL DISTRICT 6  
9710 & 9720 MCPHERSON RD

200' NOTIFICATION  
1 inch = 100 feet



ZC-56-2017

B-1 to SUP for a Restaurant Selling Alcohol  
9710 & 9720 McPherson Rd.





ZC-56-2017  
B-1 to SUP for a Restaurant Selling Alcohol  
9710 & 9720 McPherson Rd.



ZC-56-2017

B-1 to SUP for a Restaurant Selling Alcohol  
9710 & 9720 McPherson Rd.



ZC-56-2017

B-1 to SUP for a Restaurant Selling Alcohol  
9710 & 9720 McPherson Rd.



**City Council-Special**

**Meeting Date:** 08/30/2017

**Initiated By:** Horacio A. De Leon, City Manager

**Staff Source:** Rogelio Rivera, City Engineer; Miguel A. Pescador, Purchasing Agent

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**SUBJECT**

Presentations by firms, designers/architects that submitted proposals in response to the Request For Qualifications for the Masterplan and Design of the Boulevard of the Americas, with discussion and possible action on a selection from among presenters for contract award and any matters related thereto. Listed alphabetically are the firms/presenters as follows:

Abrazos Partners Joint Venture  
Asakura Robinson  
Munoz FR.EE

**VENDOR INFORMATION FOR COMMITTEE AGENDA**

None.

**PREVIOUS COUNCIL ACTION**

During June 12, 2017 Special City Council Meeting, City Council approved motion to schedule a Special Council meeting on Wednesday, August 30, 2017, at 5:30 pm to allow architectural firms to present their qualifications and design concepts for the Boulevard of the Americas project, allowing for City staff vetting and opinions for Council consideration, as amended.

**BACKGROUND**

The City of Laredo Engineering Department let out Request For Qualifications for the Masterplan and Design of the "Blvd of Americas"; four submittals were received from the following firms: Abrazos Partners Joint Venture, Asakura Robinson, Munoz FR.EE and Maldonado-Burkett (which has since withdrawn).

During June 12, 2017 Special City Council Meeting, City Council approved motion to schedule a Special Council meeting on Wednesday, August 30, 2017, at 5:30 pm to allow architectural firms to present their qualifications and design concepts for the Boulevard of the Americas project, allowing for City staff vetting and opinions for Council consideration, as amended.

If required, the award of the contract will be presented to Council in a future date for approval.

## **COMMITTEE RECOMMENDATION**

None.

## **STAFF RECOMMENDATION**

City Council will be selecting/awarding from list of presenters.

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### **Fiscal Impact**

**Fiscal Year:**

FY 2017

**Budgeted Y/N?:**

Yes

**Source of Funds:**

**Account #:**

468-9853-535-5152

**Change Order: Exceeds 25% Y/N:**

### **FINANCIAL IMPACT:**

If awarded, funding for this project is available from 2014 CO Bond account no. 468-9853-535-5152.

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