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

DEPARTMENT: **City Development Department/Planning Division**

AGENDA DATE: **Regular Agenda**
Public Hearing: January 29, 2013

CONTACT PERSON/PHONE: **Arturo Rubio, (915) 541-4633**

DISTRICT(S) AFFECTED: **5**

SUBJECT:
Discussion and action on a request from Georges Halloul, on behalf of River Oaks Properties, LTD for City Council to grant an exception from the prohibition of the sale of alcoholic beverages within three hundred feet of a school for the property located south of Zaragoza and east of Tierra Este and legally described as Lot 1, Block 101, Tierra Del Este Unit 21, City of El Paso, El Paso County, Texas.

BACKGROUND / DISCUSSION:
See attached.

PRIOR COUNCIL ACTION:
N/A

AMOUNT AND SOURCE OF FUNDING:
N/A

BOARD / COMMISSION ACTION:
N/A

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

LEGAL: (if required) N/A

FINANCE: (if required) N/A

DEPARTMENT HEAD: _____
Mathew S. McElroy, City Development Department, Director

APPROVED FOR AGENDA:

CITY MANAGER: _____ **DATE:** _____

MEMORANDUM

DATE: January 16, 2013

TO: The Honorable Mayor and City Council
Joyce A. Wilson, City Manager

FROM: Arturo Rubio, Senior Planner

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

The applicant is requesting an exception from City Council to permit alcohol sales for Valero Convenience Store that is proposed to occupy a vacant lot South of Zaragoza and East of Tierra Este legally described as Lot 1, Block 101, Tierra Del Este Unit 21, City of El Paso, El Paso County, Texas.

The Planning Division determined that

- the subject property located South of Zaragoza and East of Tierra Este is within 300 feet of a school and
- the location does not qualify for the license under any "grandfathering" provisions in the El Paso City Code.

The applicant was informed that the Code allows an exception to be granted by City Council from the prohibition of the sale of alcoholic beverages within 300 feet of a school after making certain determinations listed in Title 20, Zoning, Supplemental Use Regulations, Alcoholic beverages, Section 20.10.060 B.7.:

> *The city council may grant an exception from prohibition of the sale of alcoholic beverages within three hundred feet of a church, school, commercial day care or public hospital after notice and public hearing if the council determines that the enforcement of the prohibition in a particular instance:*
>
> *a. Is not in the best interest of the public;*
> *b. Constitutes waste or the inefficient use of land or other resources;*
> *c. Creates an undue hardship on an applicant;*
> *d. Does not serve its intended purpose;*
> *e. Is not effective or necessary; or*
> *f. For any other reason the city council, after consideration of the health, safety, and welfare of the public and the equities of the situation, determines is in the best interest of the community.*

The subject property is approximately 297 feet from Sun Ridge Middle School (measurement is property line to property line); there are no other schools and no churches, commercial daycares or public hospitals within 300 feet of the subject property.

Attachments
Exhibit A, pages 1-2: Appeal letter from appellant

EXHIBIT "A"

Engineering, Inc.

December 27, 2012

Mr. Art Rubio
Zoning Department
City of El Paso
#2 Civic Center Plaza, 9th Floor
El Paso Texas 79901

Re: southeast corner of Tierra Del Este and Zaragoza, Lot 1, Block 101, Tierra Del Este Unit 21, El Paso, Texas
PIDN: T28799910100100.

Dear Mr. Rubio

We cordially request a waiver to obtain a liquor license for proposed Valero gas Station at the corner of Tierra Del Este and Zaragoza Road. The distance between the proposed gas station and the existing school is 297 feet, 3 feet less than the required 300 feet by ordinance 20.10.060.7 Alcoholic Beverages. The exception should be based on the following criteria:

a) Is not in the best interest of the public;

   The location is a good location for a gas station to serve the residents of the area.

b) Constitutes waste or the inefficient use of land or other resources;

   The land has been vacant for a long time. By allowing the gas station to build their location will open the rest of the lot for additional retail development.

c) Creates an undue hardship on an applicant;

   The applicant has completed all of their due diligence and did not know about the liquor license until the measured the approximate distance. By not allowing the developer to obtain the license will prevent him from building and it will create an undue hardship on the developer.

d) Does not serve its intended purpose

   The corner lot is a perfect location for a gas station.

e) Is not effective or necessary; or

   Since the average gross sales of alcoholic beverages are 10% of the gross sales, we believe that this ordinance is not necessary for this site.

f) For any other reason the city council, after consideration of the health, safety, and welfare of the public and the equities of the situation, determines is in the best interest of the community.

Civil Engineers
Land Surveyors & Planners
Construction Management

Licensed Registered Engineers
Texas - New Mexico
Arizona - Colorado

6600 Westwind Drive
El Paso, TX 79912
Phone (915) 584-4457
Fax (915) 581-7756
Email
ghalloul@sli-engineering.com

EXHIBIT "A"

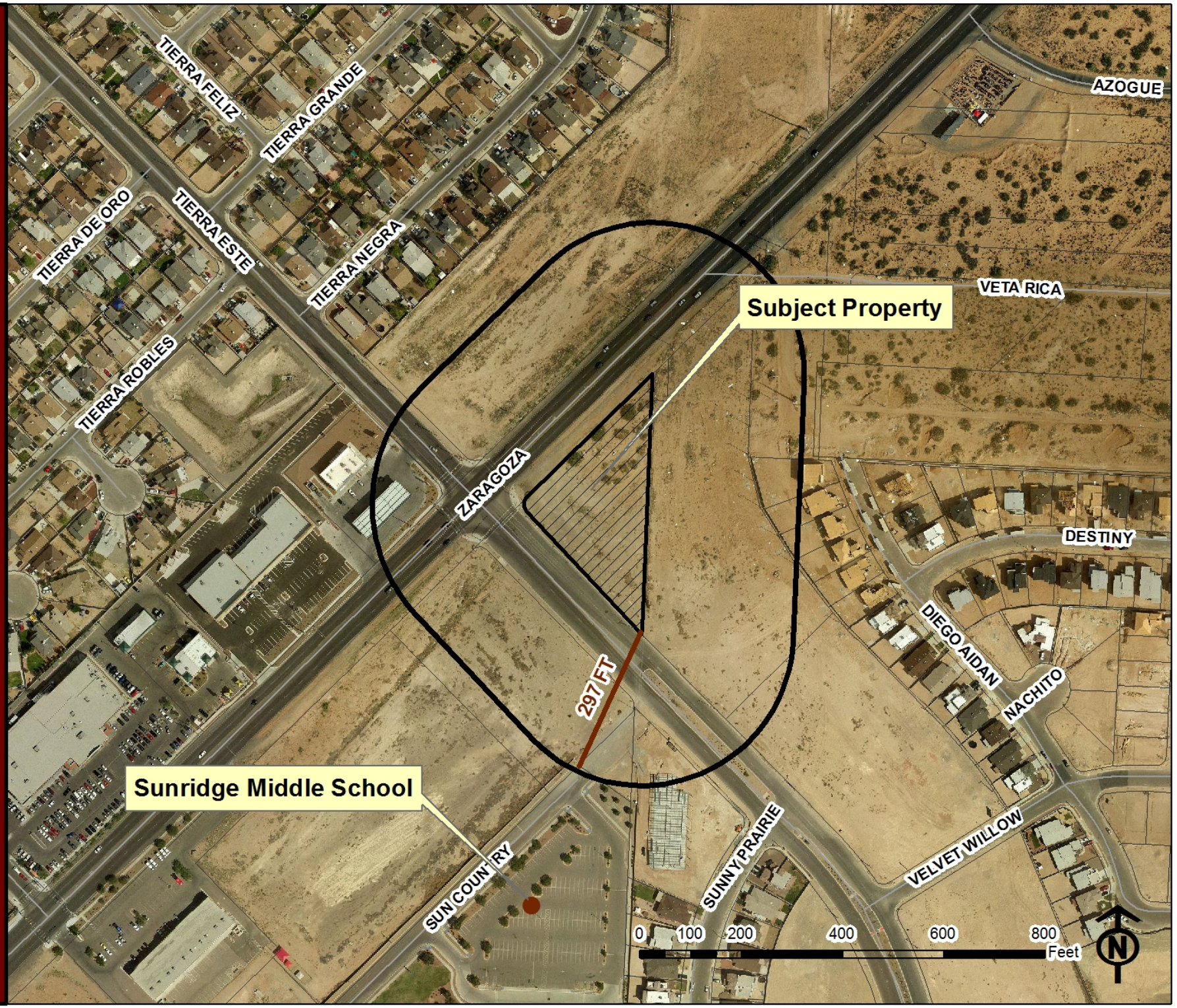
The site is intended for a gas station. The average sale for alcoholic beverages is approximately 10% of the gross sale of such business. The land is vacant and the developer is planning on building this gas station to serve the public.

Thank you for your assistance in this matter

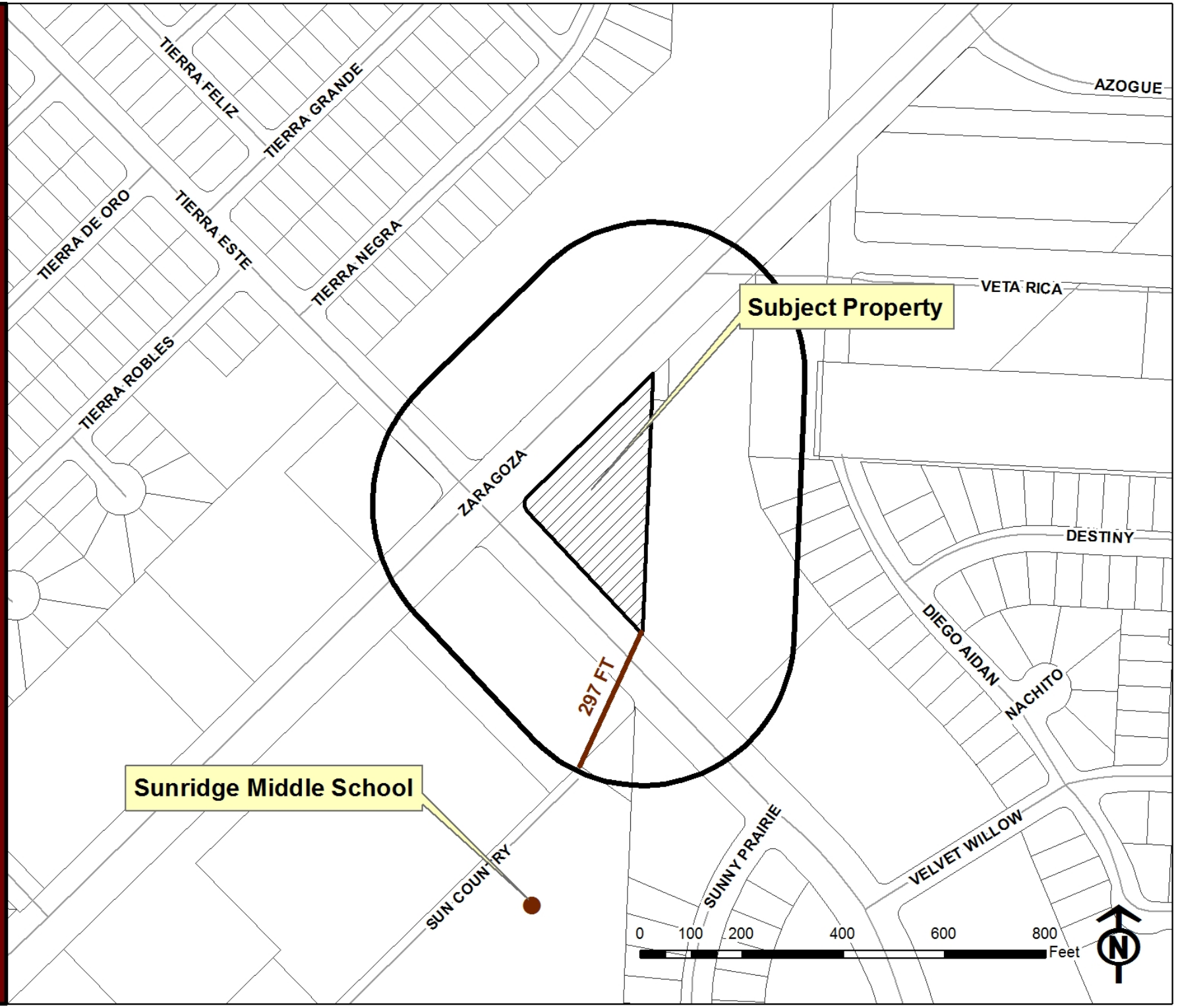
Sincerely;

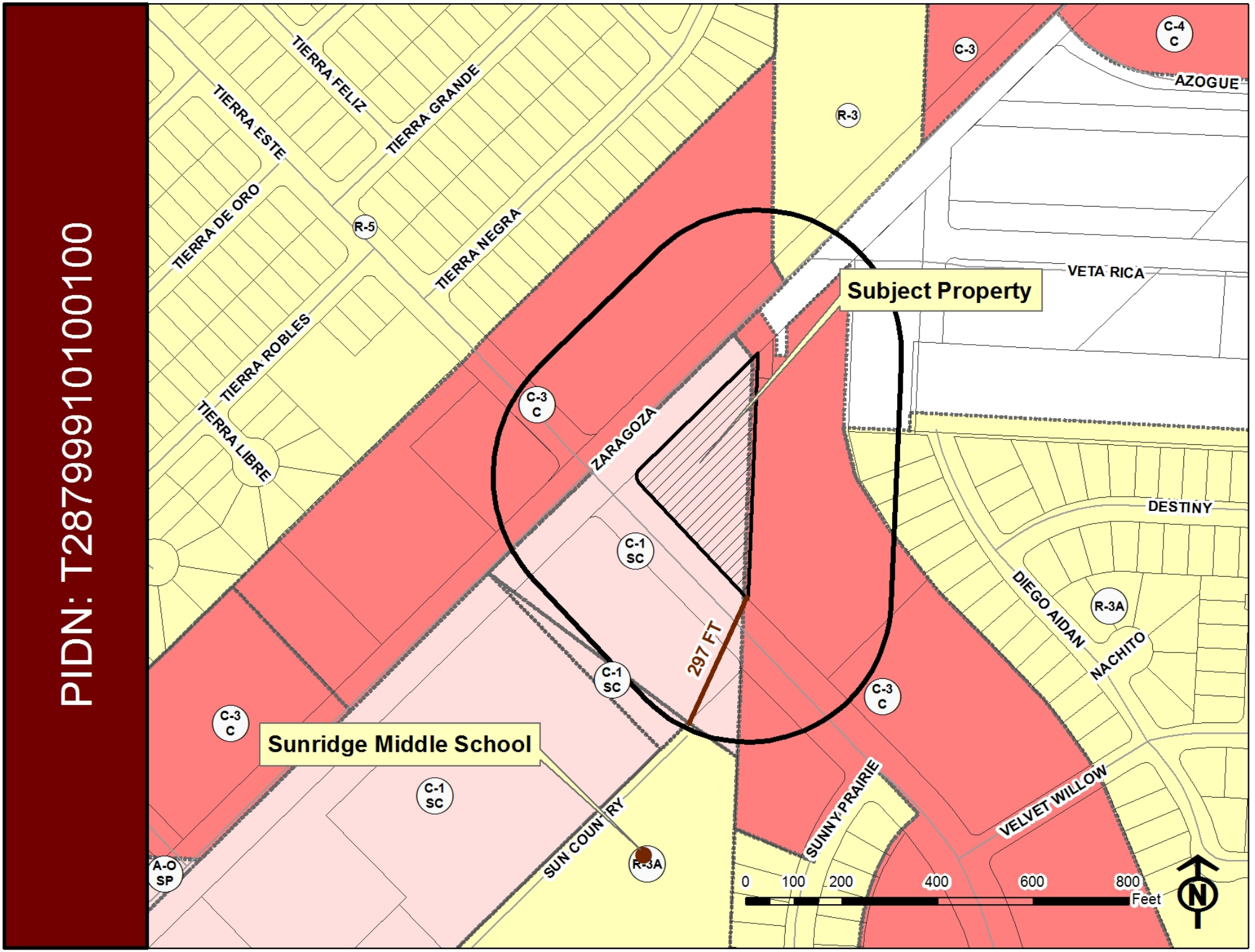
Georges Halloul
SLI Engineering, Inc.

PIDN: T28799910100100



PIDN: T2879991010010O




PIDN: T2879991010100100
Subject Property
Sunridge Middle School
297 FT
TIERRA FELIZ
TIERRA GRANDE
TIERRA ESTE
TIERRA DE ORO
TIERRA NEGRA
TIERRA ROBLES
TIERRA LIBRE
ZARAGOZA
AZOGUE
VETA RICA
DESTINY
DIEGO AIDAN
NACHITO
SUNNY PRAIRIE
VELVET WILLOW
SUN COUNTRY
R-5
R-3
R-3A
C-3
C-4
C-1
SC
A-O
SP
0
100
200
400
600
800
Feet
N

Rubio, Arturo

From: George's Halloul <ghalloul@sli-engineering.com>
Sent: Monday, February 04, 2013 3:46 PM
To: Rubio, Arturo
Subject: Fwd: approval request

Sent from my Phone
Georges Halloul

Begin forwarded message:

> **From:** Jaime Sandoval <sandoval.j4@gmail.com>
> **Date:** February 4, 2013, 1:21:49 PM MST
> **To:** <ghalloul@sli-engineering.com>
> **Cc:** "'Claudia Sandoval'" <cjsandoval6@gmail.com>
> **Subject: approval request**
>
> Dear Mr. Halloul,
>
> Per our most recent conversation regarding the distance of our daycare (A Place to Grow) and the proposed convenience store to be located on Zaragosa/ Tierra Este, we have NO objection.
>
> Sincerely,
>
> Jaime Sandoval
> Owner
> A Place to Grow
> 12001 Tierra Este
> El Paso, TX 79938

CITY CLERK DEPT.
2013 FEB -4 PM 3:56