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

DEPARTMENT: **Development Services Department, Planning Division**

AGENDA DATE: **Introduction: August 10, 2010**
Public Hearing: August 31, 2010

CONTACT PERSON/PHONE: Andrew Salloum, (915) 541-4633, salloumam@elpasotexas.gov

DISTRICT(S) AFFECTED: 3

SUBJECT:
An ordinance changing the zoning of all of Lots 43-49, Block 4, Eastside Industrial District, Unit One, City of El Paso, El Paso County, Texas from M-1 (Light Manufacturing) to M-2 (Heavy Manufacturing), and imposing conditions. The penalty is as provided for in Chapter 20.24 of the El Paso City Code. Subject Property: 6880 Industrial Avenue. Applicant: Wayne and Patricia May. ZON10-00040 **(District 3)**

BACKGROUND / DISCUSSION:
N/A

PRIOR COUNCIL ACTION:
N/A

AMOUNT AND SOURCE OF FUNDING:
N/A

BOARD / COMMISSION ACTION:
Development Coordinating Committee (DCC) – Reviewed
City Plan Commission (CPC) – Approval Recommendation (4-1)

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

LEGAL: (if required) N/A **FINANCE:** (if required) N/A

DEPARTMENT HEAD: Mathew S. McElroy
Deputy Director, Development Services – Planning Division

APPROVED FOR AGENDA:

CITY MANAGER: _____ **DATE:** _____

ORDINANCE NO. _____

AN ORDINANCE CHANGING THE ZONING OF ALL OF LOTS 43-49, BLOCK 4, EASTSIDE INDUSTRIAL DISTRICT, UNIT ONE, CITY OF EL PASO, EL PASO COUNTY, TEXAS FROM M-1 (LIGHT MANUFACTURING) TO M-2 (HEAVY MANUFACTURING), AND IMPOSING CONDITIONS. THE PENALTY IS AS PROVIDED FOR IN CHAPTER 20.24 OF THE EL PASO CITY CODE.

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

That the zoning of *all of Lots 43-49, Block 4, Eastside Industrial District, Unit One, City of El Paso, El Paso County, Texas,* be changed from **M-1 (Light Manufacturing)** to **M-2 (Heavy Manufacturing)**, within the meaning of the zoning ordinance, and that the zoning map of the City of El Paso be revised accordingly.

Further, that the property described above be subject to the following conditions which are necessitated by and attributable to the increased density of use generated by the change of zoning in order to protect the health, safety and welfare of the adjacent property owners and the residents of this City:

Prior to the issuance of any building permits:

1. *That the entire site shall be asphalted or concreted; and,*
2. *That applicant shall provide a rock wall with a minimum of 8' (eight feet) and a maximum of 12' (twelve feet) in height, and,*
3. *That all parkway abutting Industrial Avenue and Eastside Road shall include landscaping consisting of high-profile columnar trees of at least 3" (three inch) caliper and 10' (ten feet) in height (also known as ball or vase shaped trees, not palms) placed at 15' (fifteen feet) on center. The landscaping shall be in addition to the landscape requirements of Title 18 of the El Paso City Code, shall provide for an irrigation system, and shall be irrigated and maintained by the property owner at all times, and shall be installed prior to the issuance of any building permits, and,*
4. *That applicant shall provide sidewalks along Industrial Avenue and Eastside Road.*

PASSED AND APPROVED this _____ day of _____, 2010.

THE CITY OF EL PASO

_____
John F. Cook
Mayor

ATTEST:

_____
Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:

_____
Lupe Cuellar
Assistant City Attorney

APPROVED AS TO CONTENT:

_____
Mathew S. McElroy, Deputy Director
Development Services Department
Planning Division

#57941 v1 - Planning/ZON10-00040/Rezoning w/Cond/M-1 to M-2
Document Author: LCUE

MEMORANDUM

DATE: August 2, 2010

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

FROM: Andrew Salloum, Planner

SUBJECT: **ZON10-00040**

The City Plan Commission (CPC), on July 15, 2010, voted 4-1 to recommend **APPROVAL** of rezoning subject property from M-1 (Light Manufacturing) to M-2 to (Heavy Manufacturing).

The CPC found that the rezoning is in conformance with The Plan for El Paso and that the proposed use is in conformance with the 2025 Projected General Land Use Map for the Mission Valley Planning Area. The CPC also determined that the rezoning protects the best interest, health, safety and welfare of the public in general; that the proposed use is compatible with adjacent land uses; and the rezoning will have no effect on the natural environment, social economic conditions, and property values in the vicinity and the city as a whole.

There were 4 phone calls and 8 letters in **OPPOSITION** to this request.

Attachment: Staff Report

City of El Paso – City Plan Commission Staff Report

Case No:	ZON10-00040
Application Type:	Rezoning
CPC Hearing Date:	July 15, 2010
Staff Planner:	Andrew Salloum, 915-541-4633, salloumam@elpasotexas.gov
Location:	6880 Industrial Avenue
Legal Description:	All of Lots 43 – 49, Block 4, Eastside Industrial District, Unit One, City of El Paso, El Paso County, Texas
Acreage:	2.78 acres
Rep District:	3
Existing Use:	Vacant
Existing Zoning:	M-1 (Light Manufacturing)
Request:	From M-1 (Light Manufacturing) to M-2 (Heavy Manufacturing)
Proposed Use:	Scrap Metal Processing Facility
Property Owners:	Wayne and Patricia May
Applicant:	Wayne and Patricia May
Representative:	SLI Engineering, Inc.

SURROUNDING ZONING AND LAND USE

North:	M-1/sc (Light Manufacturing/special contract) / M-1/sc/sp (Light Manufacturing/special contract/special permit) / Warehouse
South:	M-1/sc (Light Manufacturing/special contract) / Warehouse
East:	M-1/sc (Light Manufacturing/special contract) / Warehouse
West:	M-1/sc (Light Manufacturing/special contract) / Warehouse

THE PLAN FOR EL PASO DESIGNATION: Industrial Use (Mission Valley Planning Area)
Nearest Park: Ponder Park (3,205 Feet)
Nearest School: MacArthur Elementary (4,530 Feet)

NEIGHBORHOOD ASSOCIATIONS

There are no registered neighborhood associations in the area.

NEIGHBORHOOD INPUT

Notice of a Public Hearing was mailed to all property owners within 300 feet of the subject property on June 29, 2010. The Planning Division received 2 phone calls and 2 letters in opposition to the rezoning request. (See Attachment 5 on page 12-13).

CASE HISTORY

On June 17, 1997, City Council approved a release of all conditions restricting uses imposed by Special Contract dated October 23, 1956. (See Attachment 4 on page 8-11).

APPLICATION DESCRIPTION

The property owner is requesting to rezone the subject property from M-1 (Light Manufacturing) to M-2 (Heavy Manufacturing) in order to permit a scrap metal processing facility. The property is 2.78 acres in size and is currently vacant. The conceptual site plan proposes a 2,000 square-foot office building with 2 parking spaces. Primary access to the subject property is from Eastside Road.

PLANNING DIVISION RECOMMENDATION

The Planning Division recommends **APPROVAL** of rezoning the property from M-1 (Light Manufacturing) to M-2 (Heavy Manufacturing). Scrap metal processing facility use is a permitted use in M-2 zone district. The 2025 general land use area designates the property for industrial use, which is compatible with the surrounding manufacturing properties. There are existing properties zoned M-2 and M-3 within 1,000 feet of the subject property.

The Plan for El Paso-City-Wide Land Use Goals

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

a. Goal: provide designated locations for industrial development that do not adversely affect the health, safety, and welfare of the community and where essential infrastructure is available to serve the development.

The purpose of M-2 (Heavy Manufacturing) districts is to provide for the most intensive of industrial uses which may be characteristic of nuisance or hazardous conditions. It is intended that the districts will serve the entire city. The regulations of the districts will require reasonable standards for the protection and preservation of the compatibility of such uses and adjacent areas.

Development Coordinating Committee Review

The DCC reviewed and discussed the application for rezoning and offered no objections to the Planning Staff's recommendation for **APPROVAL**.

Development Services Department - Building Permits and Inspections Division

Zoning Review: no objections.

Landscape Review: no comments received.

Engineering Department - Traffic Division

- No objection to rezoning.
- Recommend sidewalks along street.

Street Department:

- We offer no objections to the rezoning request
- All existing / proposed paths of travel, accessible sidewalks, wheel chair access curb ramps and driveways within public right-of-ways shall be in compliance with current ADA /TAS rules and regulations and Current City of El Paso Design Standards for Construction.

Fire Department

No objections.

El Paso Water Utilities

EPWU does not object to this request.

CITY PLAN COMMISSION OPTIONS

The City Plan Commission may consider the following options and additional options that it identifies when reviewing the rezoning application

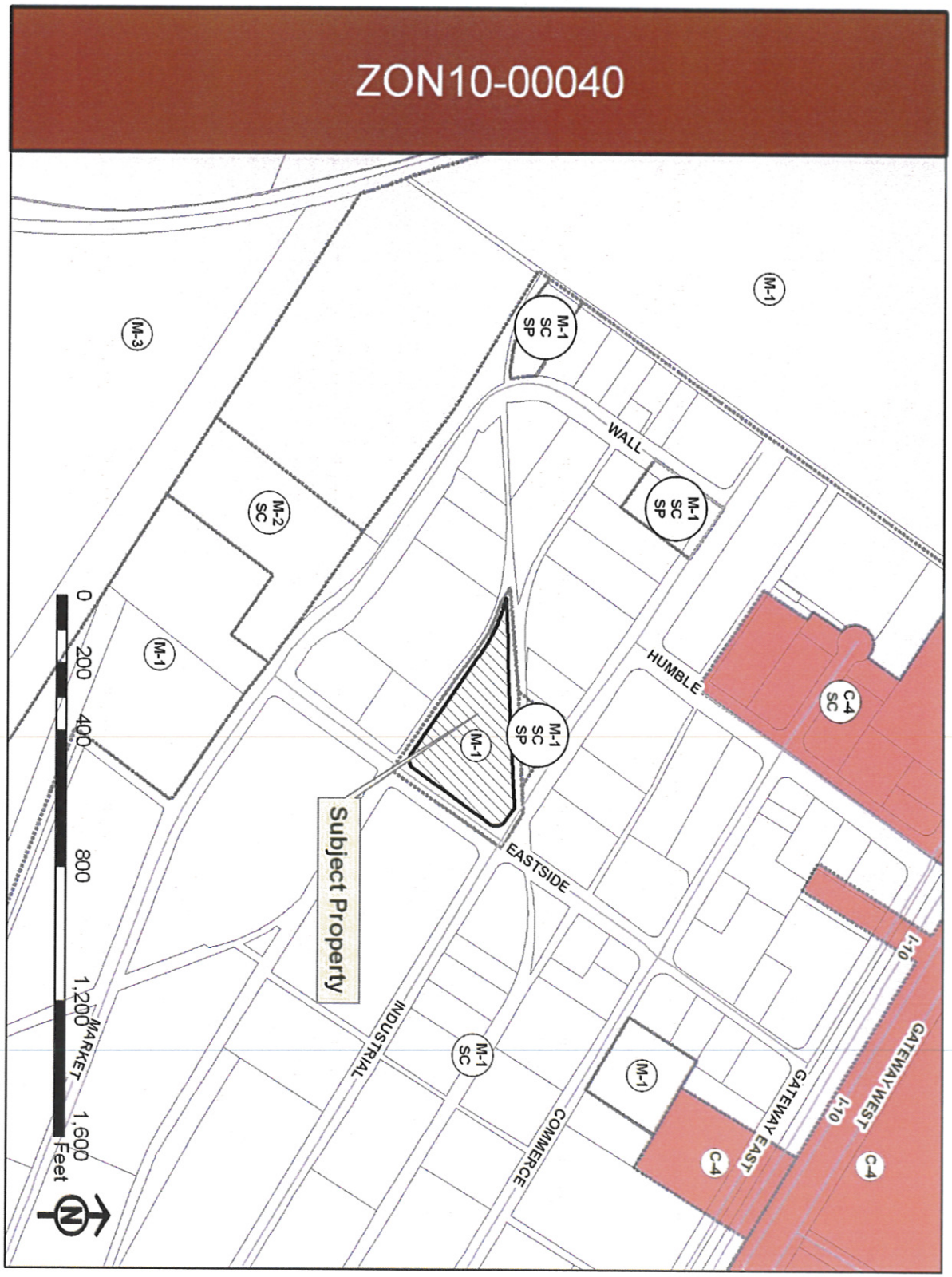
1. Recommend approval of the application finding that the rezoning is in conformance with the review criteria of The Plan for El Paso as reflected in CPC report or other criteria that the CPC identifies from the Plan.
2. Recommend approval of the application with modifications to bring the rezoning into conformance with the review criteria in The Plan for El Paso as reflected in CPC report or other criteria from the Plan as identified by the CPC.

3. Deny the application finding that the rezoning does not conform to the review criteria in The Plan for El Paso as reflected in CPC report or other criteria identified in the Plan by the CPC.

Attachments:

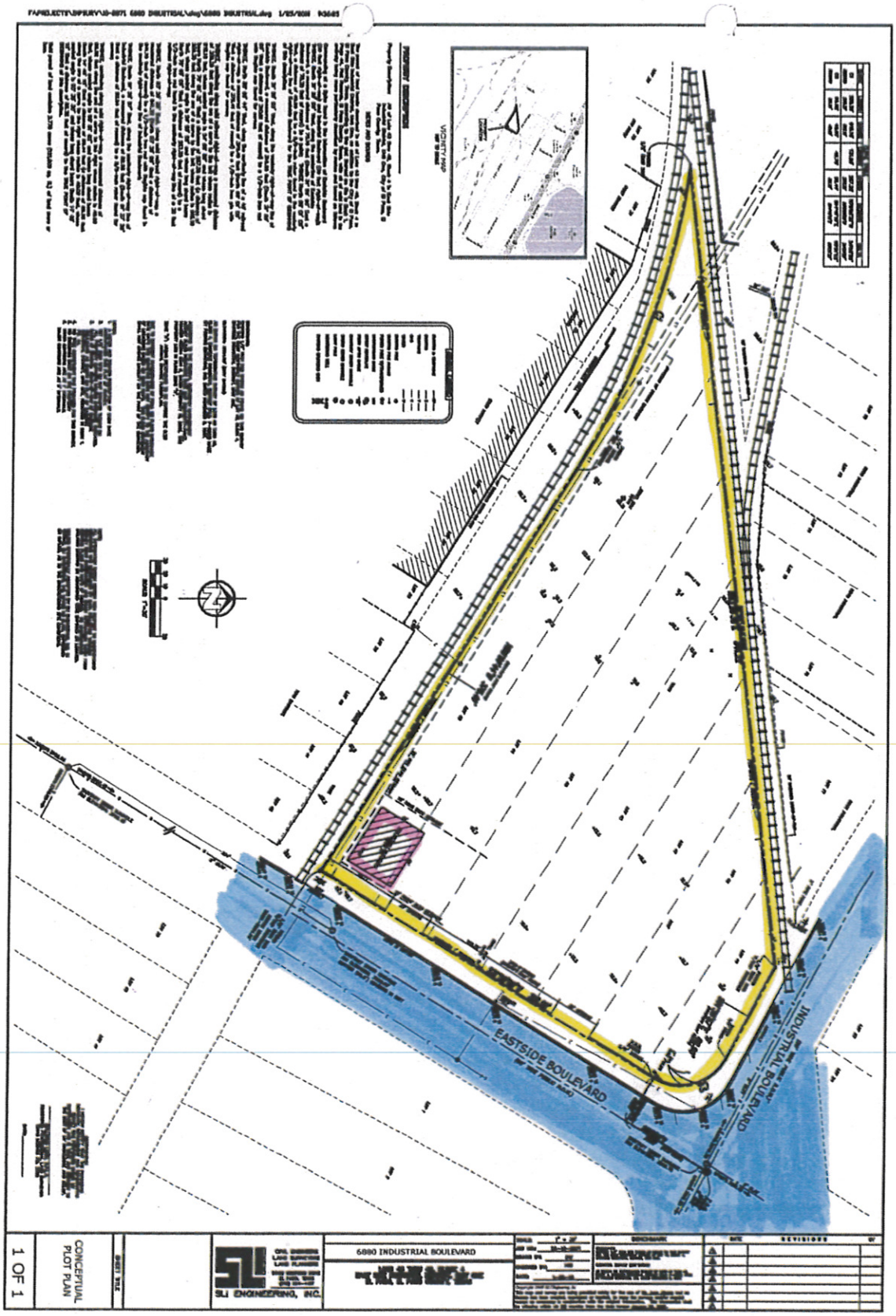
Attachment 1: Zoning Map
Attachment 2: Aerial Map
Attachment 3: Conceptual Site Plan
Attachment 4: Resolution, dated June 17, 1997
Attachment 5: 2 Opposition Letters

ATTACHMENT 1: ZONING MAP



ATTACHMENT 2: AERIAL MAP

ATTACHMENT 3: CONCEPTUAL SITE PLAN



ATTACHMENT 4: RESOLUTION, DATED JUNE 17, 1997

22M

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

THAT the Mayor be authorized to sign a Release of Contract between Texport Brokers Warehouse Company and the City of El Paso, releasing all restrictions of a contract dated October 23, 1956 and amended on September 10, 1958, for Lots 43 through 49, Block 4, Eastside Industrial District Unit One, and amendments dated September 30, 1958, and February 9, 1959, for Lots 47 through 49, Block 4, Eastside Industrial District Unit One, in El Paso County, State of Texas, as further described in Exhibit "A" to said Contract.

PASSED AND APPROVED this 17th day of June, 1997.

THE CITY OF EL PASO

Carlos M. Ramirez, Mayor

ATTEST:

Carole Hunter, City Clerk

APPROVED AS TO FORM:

John F. Nance, Asst. City Attorney

APPROVED AS TO CONTENT:

Patricia D. Adauto, Current Planning/Zoning Coordinator
Department of Planning, Research & Development

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Draft East Side Industrial District (1st Section)

CONTRACT

This contract made this 23rd day of October 1956, by and between Pat DeWitt and Harry O. Rearick, copartners doing business as DeWitt & Rearick, hereinafter called First Parties, and the City of El Paso, hereinafter called Second Party, witnesseth:

First Parties have applied to Second Party for the approval of a subdivision map or plat styled the East Side Industrial District, as per copy of said map and plat attached hereto and made a part hereof, and whereas the Planning Commission of the City of El Paso has raised some objection to the use of said property because of its location and to remove objections to the same First Parties have consented if the property is rezoned as requested and the plat approved, to place the hereinafter described restrictions therein:

(1) No premises or building in said district shall be used for other than industrial, commercial and warehousing purposes.

(2) None of said building sites designated on said map or plat may be used for any purpose or use which would constitute a nuisance or which would cause the omission of odors which are injurious or noxious to persons.

(3) No building or structure shall ever be erected on said building sites which shall be nearer than 35 feet to the property line of the road now designated as F.M. 2233 or nearer than 25 feet to the line of any other established access road or frontage road or any cross streets or nearer than 15 feet to the side line of any property.

(4) No structures (~~including billboards~~) shall be erected within the areas required for ~~front yard, side street yards~~ yards. without the approval of ~~the City Council.~~

(5) No billboard or advertising signs other than those identifying the name, business, and products of the person or firm occupying the premises shall be permitted ~~on any~~ ALL SUCH STRUCTURES SHALL BE ATTACHED TO THE building. No billboard or identifying sign shall be erected to a height greater than five feet higher than the main building on the same site. A sign not to exceed 10' x 20' in size offering the premises for sale or lease may be erected.

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(6) Nonaccessory building use shall be construed to permit the keeping of articles, goods, or materials in the open or exposed to public view on the front one-third of the parcel. When necessary to store or keep such materials in the open, the lot or area shall be limited to the rear two-thirds of the property and this area shall be screened by a masonry fence six feet in height measured from the grade of the ground on the high side.

Building sites in the East Side Industrial District shall not be used for any of the following businesses:

The manufacture of paper.
Storage In bulk of junk or secondhand material.
Public blacksmith.
Public horseshoeing.
Public wagon shop.
Public veterinary hospital.
Public stable.
Dairy.
Iron foundry.
Butane or propane.
Automobile wrecking.
Operation of amine or a quarry.

or for the manufacture, storage or distribution of explosives including:

Acetylides.
Azides.
Chlorates.
Dynamite.
Blasting gelatin.
Fuiminates. (FULMINATES)
Anhydrous hydrazine.
Ammonium nitrate.
Dinitroresorcinol.
Dinitrotoluene.
Guanidine nitrate.
Guncutton (Cellulose, Nitrate or Pyroxylin).
Hexamine.
Nitroglycerine. - 1
Petn.
Picric Acid.
Tetryl.
Cylonite or Hexogen.
Dinui.
Petryl.
TNT
Percholorates(when mixed with carvonaceous materials)
Black powder.
Greek fire.
Fireworks.
Permanganates.
Peroxides.

(7) Off-street parking facilities on the premises (in back of the front yard line) shall be provided on each building site to provide adequate space for customers, employees and tenants of the business on said sites.

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(3) No loading docks will be permitted to front on the highway now known as F.M. 2233 and provisions for the handling of freight by rail or otherwide shall be provided on the sides of building which do not face a frontage street and all other loading docks shall be located at least 75 feet from the front property line of the site.

(9) No plant of any nature shall create noise in excess of the limits in the following table:

Maximum Sound Pressure Level in Decibels 0.0002 dynes per sq. Centimeter.

Octave Band in Cycles per Second	Residenot Dist. Boundaries	Industrial Dist. Boundaries
0-75	72	79
75-150	63	74
150-300	55	66
300-600	49	59
600-1200	44	53
1200-2400	39	47
2400-4800	34	41
above 4800	32	39

Objectionable noises, due to intermittence, beat frequency or shrillness shall be muffled so as not to become a nuisance to properties in or outside the District.

Sound levels shall be measured with a sound level meter and associated octave band filter manufactured according to standards prescribed by the American Standards Association. Measurements are to be taken at the property lines of the site.

(10) No plant shall permit emission of smoke from any source whatever during normal operation of a density greater than that density described as No. 1 on the Ringlemann Chart.

For the purpose of grading the density of smoke, the Ringlemann Chart, as published and used by the United States Bureau of Mines which is hereby made a part of these restrictions shall be the standards.

(11) No plant shall employ any process that will emit any dirt, dust, sprays, or mists into the air that will be transmitted beyond their property lines during normal operations.

(12) Incandescent lights shall be so located and shielded that no incandescent light source will be directly visable from the right of way of F.M. 2233. Direct or reflected light in a horizontal plane at a height of 6' at the right of way line of F.M. 2233 shall not exceed an intensity of 20 footcandles.

(13) No plant shall emit any toxic or corrosive gas under any condition.

(14) All welding and heating operations normal to any plant shall be screened from the view of adjacent properties or roadways. No operation shall be carried on that would produce heat which the operation is located as measured in a horizontal plane to a distance of 24 feet above the ground level of the site.

(15) All sites shall be landscaped and maintained by the planting of grass in the front set back area, ~~and~~ The planting of evergreen shrubs on an average of every twenty feet of building width shall be required.

(16) Development of all parcels shall conform to the requirements of the Comprehensive Zoning Ordinance of the City of El Paso.

The above agreement by First Parties shall constitute covenants running with the land and easements and servitudes thereon and be binding on First Parties and their successors in title and may be enforced by Second Party by injunction or any other remedy.

The City Council of the City of El Paso may release the above restrictions or any one or number of them in whole or in relation to any particular site, without the consent of any third person who may be benefitted thereby.

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ATTACHMENT 5: OPPOSITION LETTER

July 7, 2010

CASE NO:	ZON10-00040 (Rezoning)
MY NAME:	ALLEN SCHWARTZ
ADDRESS:	1042 EASTSIDE
OWNER:	ASA RECYCLING LLC

TO WHOM IT MAY CONCERN:

We are against changing the zoning at the property located at 6880 Industrial Boulevard, legally described as Lots 43-49, Block 4, Eastside Industrial District, Unit One, City of El Paso, El Paso County, Texas to M-2 (Heavy Manufacturing). We are a locally owned recycling center and know firsthand how very difficult it was trying to find M-2 zoning just about everywhere in El Paso unless you went far from the city limits. For that reason we opened a much smaller recycling center without heavy equipment which kept us from buying ferrous metals. Why should an out of state company come to El Paso and have the right to change zoning, especially in this small area in question with businesses very close to the side, front, and back . This area already has a large scrap metal processing facility that contaminates the air as well as the grounds by shredding car bodies, but I am sure it is grand fathered since it has been in El Paso for many, many, years. This same facility has caused many fires and creates much pollution to the air we breathe in this area and I am very sure the city of El Paso already knows of all the problems this company has caused. The vibrations that will come with a new scrap company that uses cranes, shredders, balers, heavy equipment, etc., will in time damage neighboring business structures as has happened to the neighbor of Newell Recycling. The building at 6854 Market Ave. has sustained much damage from the recycler next door. Mr. Pierre Hernandez, owner of the building can verify all the problems to his building caused by his recycling neighbor. The oils that will leak from outdoor equipment such as cranes, balers, forklifts, etc. will be great. Depending on what equipment is brought for production, noise can become a huge problem as well. I have found out that the company wanting this zoning change will be baling and or crushing car bodies with a large baler and crane. This is the worst part of the ferrous business there is when it comes to polluting the area, not to mention the grounds. You will have oil and fuel spills to deal with among many other issues, such as fires, etc. I have been in the recycling business in El Paso for 37 years and started my own company with a partner in 2005. We are already established in this area and have employees and ourselves to support and our futures could be greatly compromised with a new competitor less than a block away, just down the street.

ATTACHMENT 5: OPPOSITION LETTER

DOOR SA-Lutions Inc.
Est. 1995

July 06, 2010

City Plan Commission (C/O Planning Division),
5th Floor, City Hall
2 Civic Center Plaza
El Paso, Texas 79901-1196

Case NO.: ZON 10-00040 (Rezoning)

Dear Mr. Salloum,

We have received a copy of the letter in regards to the change on the zoning from M-1 (Light Manufacturing) to M-2 (Heavy Manufacturing) to allow for a scrape metal processing facility.

Unfortunately, we do not agree with this change. There are four processing facilities and I strongly believe that we do not need another scrape metal processing facility. We had to move from our previous location due to the fact that there was debri everywhere and it was very frustrating.

If you have any questions please feel free to contact me at (915) 781-0664.

Respectfully,

Jaime Sapien, President
Door Sa-Lutions, Inc.

Cc: file

Door Sa-Lutions, Inc., 6840 Industrial, El Paso, Texas 79915, Phone: (915) 781-0664, Fax: (915) 781-0665

KEMP SMITH LLP

ATTORNEYS AT LAW

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JEANNE C. COLLINS
ALLAN M. GOLDFARB
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SHELLY W. RIVAS *
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D. JAMES SORENSON *
JILL S. VOGEL*
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TAD R. SMITH
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July 12, 2010

VIA EMAIL

Andrew Salloum, Staff Planner
Planning Division, Development Services Department
City of El Paso
2 Civic Center Plaza
El Paso Texas 79901
ssalloumam@elpasotexas.gov

RE: Opposition to and request for staff reconsideration of recommendation for Rezoning Case No. ZON10-00400, 6880 Industrial

Dear Mr. Salloum:

We represent xpedx, a division of International Paper Company, whose El Paso office is located at 6839 Market in the Eastside Industrial District. Our client's location is directly across Industrial Avenue from the property being proposed for re-zoning to M-2 in the above referenced case.

Our client not only opposes the proposed rezoning set for a CPC hearing date of July 15, 2010, but requests that by obtaining more complete information, the Planning Division of the City of El Paso reverse its current recommendation for approval of such re-zoning. The basis for our opposition and request for reversal of your recommendation are as follows:

1. The existing problems with M-2 zoning having the same usage as proposed. The City of El Paso's City-County Health and Environmental District Air Quality Program has issued a recent 47 page report on another property in the area with the same usage as requested for this rezoning, i.e., a scrap metal processing facility. This report on the property located at 6800 Market, Newell Salvage and Recycling Company, cites the scrap metal processing facility for "creating a nuisance condition" and requires the facility to submit a new Compliance Plan. The facility is currently under monitoring by the City's Environmental District, and under a 2004 active Agreed Order from the Texas

Commission on Environmental Quality. While there have been no recent TCEQ actions, we object to further subjecting a primarily M-1 area with the M-2 uses which can and do cause nuisance conditions that affect the health, safety and welfare of the neighborhood. Additionally, the Newell property has been the site of many fires, which appear to be inherent risks to such industry. The fires now primarily occur at night after our client's working hours, but in the last fire response to the Newell property during company working hours, in March of 2006, more than 22 emergency vehicles were parking in my client's parking lot, causing a severe disturbance to my client's ability to conduct its own business. My client is aware that other M-1 businesses within the area have moved due to the conditions on the Newell property, and the ill effects such conditions have upon neighboring businesses.

2. The amount of neighborhood opposition is not yet known to the City. Since many of the businesses within the Eastside Industrial District are local facilities of national and international companies, many notices of the proposed re-zoning were sent to corporate headquarters in other states/nations. The nature of the ownership of the adjoining property and the corporate structure of the ownership of the property require more than the 2 weeks between the June 29 mailing and July 15 hearing date for a response. Our clients are just now beginning to receive copies of letters of opposition from other neighbors, and believe that the amount of neighborhood opposition may be so great as to require a 211.006 (d), V.T.C.A. case, requiring at least a three-fourths vote of the governing body. Based on our clients rough computation, we believe the City will want to determine whether there is 20 percent, or more, opposition in the applicable adjoining area covered by the proposed change, and we believe the CPC would as well want to have this information before it rules on the re-zoning request which is currently scheduled in 3 days, on July 15, 2010.

3. The proposed re-zoning is not compatible with the surrounding manufacturing properties. While there are some M-2 and M-3 uses in the neighborhood, the majority of uses are M-1. Further, we know of at least one M-2 zoning which is not used in any greater than M-1 permitted uses. My client also questions the 1,000 feet distance to include the one M-3 zoning, as our rough calculations show greater than the 1,000 feet distance to the subject property. And most importantly, we would assert that the difference in the uses permitted under M-1,Light Manufacturing, and M-2, Heavy Manufacturing, are great. As the City itself states: "The purpose of M-2 (Heavy Manufacturing) districts is to provide for the most intensive of industrial uses which may be characteristic of nuisance and hazardous conditions". With existing M-2 uses already causing nuisances and conflict with its M-1 neighbors, we ask that the

City not add to the already existing situation of conflict and complaints within the area.

4. The proposed re-zoning will adversely affect the health, safety, and welfare of the area in which it is proposed and therefore does not conform to the criteria in the Plan for El Paso. As documented by the history of the existing M-2 usage and the report from the City's own Environmental District, the scrap metal processing facility has caused fires, air pollution, and particulate debris. My client is concerned that additional M-2 zoning within the area will result in additional contamination and nuisance within its area. It is concerned for the well being of its employees, and any negative impact to the nature of the conditions in the area in which it has done business since 1972.

We ask that, as a minimum, you request postponement of the CPC item for July 15, 2010, so that you will have sufficient time to determine the amount of the opposition within the neighborhood. Alternately, by copies of this letter to the members of the Commission, we request that the rezoning be denied for all of the reasons stated herein. We will have a representative present at the July 15, 2010 meeting of the Commission for this Item. Thank you very much for your consideration. Please do not hesitate to contact me if you would like any additional information or wish to discuss any issues. My direct line is 512-226-0006.

Sincerely,

KEMP SMITH LLP

By:
Monica Cunningham

cc: Representative Emma Acosta, District 3
City Plan Commission members
Assistant City Attorney Lupe Cuellar
El Paso Fire Marshall
Ellen Smyth, Environmental Services

ASA Recycling, LLC
1042 Eastside Road
El Paso, TX 79915
915-779-3326 Office
915-775-0343 Fax

TO: Art Rubio

fax 541-4725

FROM: Allen Schwartz / Sandi Cox

# of Pages including cover sheet

Re: ZON10-00040 / Allen Schwartz / owner

ASA Recycling, LLC 1042 Eastside Rd,

El Paso, TX 79915

* the fax number mailed Regarding this case # ZON10-00040 is incorrect and many businesses in this area have incorrect information Regarding this case. *

July 7, 2010

CASE NO: ZON10-00040 (Rezoning)

MY NAME: ALLEN SCHWARTZ

ADDRESS: 1042 EASTSIDE

OWNER: ASA RECYCLING LLC

TO WHOM IT MAY CONCERN:

We are against changing the zoning at the property located at 6880 Industrial Boulevard, legally described as Lots 43-49, Block 4, Eastside Industrial District, Unit One, City of El Paso, El Paso County, Texas to M-2 (Heavy Manufacturing). We are a locally owned recycling center and know firsthand how very difficult it was trying to find M-2 zoning just about everywhere in El Paso unless you went far from the city limits. For that reason we opened a much smaller recycling center without heavy equipment which kept us from buying ferrous metals. Why should an out of state company come to El Paso and have the right to change zoning, especially in this small area in question with businesses very close to the side, front, and back . This area already has a large scrap metal processing facility that contaminates the air as well as the grounds by shredding car bodies, but I am sure it is grand fathered since it has been in El Paso for many, many, years. This same facility has caused many fires and creates much pollution to the air we breathe in this area and I am very sure the city of El Paso already knows of all the problems this company has caused. The vibrations that will come with a new scrap company that uses cranes, shredders, balers, heavy equipment, etc., will in time damage neighboring business structures as has happened to the neighbor of Newell Recycling. The building at 6854 Market Ave. has sustained much damage from the recycler next door. Mr. Pierre Hernandez, owner of the building can verify all the problems to his building caused by his recycling neighbor. The oils that will leak from outdoor equipment such as cranes, balers, forklifts, etc. will be great. Depending on what equipment is brought for production, noise can become a huge problem as well. I have found out that the company wanting this zoning change will be baling and or crushing car bodies with a large baler and crane. This is the worst part of the ferrous business there is when it comes to polluting the area, not to mention the grounds. You will have oil and fuel spills to deal with among many other issues, such as fires, etc. I have been in the recycling business in El Paso for 37 years and started my own company with a partner in 2005. We are already established in this area and have employees and ourselves to support and our futures could be greatly compromised with a new competitor less than a block away, just down the street.

CIMA TECHNOLOGIES

1035 EASTSIDE
El Paso TX 79915
Phone: (915) 775-1919
Fax: (915) 775-1929

Fax

To:	Mr. Art Rubio, and Mr. Andrew Salloum, Planner	**From:**	Herlinda Munoz
Fax:	* (915) 541-4725 (Mr. A. Rubio)	**Pages:**	~~3~~ 4
Phone:	(915) 541-4633	**Date:**	July 7, 2010
Re:	ZON 10-00040/Rezoning)	**CC:**	

☐ **Urgent** ☐ **For Review** ☐ **Please Comment** ☐ **Please Reply** ☐ **Please Recycle**

• **Comments:**

Mr. Rubio:

Please read my enclosed letter addressed to you, as well as copy of the letter I sent Mr. Carlos Rincon, Environmental Protection Agency, Field Office in El Paso, TX.

We, businesses located in this zone, are against the changing of M-1 (Light Manufacturing) to M-2 Heavy Manufacturing.

Both enclosed letters are self explanatory.

We are in the process of gathering more letters and signatures against this rezoning.

* The fax number mailed regarding this case #ZON10-00040 is wrong.

CIMA TECHNOLOGIES

1035 EASTSIDE · El Paso TX 79915 · Phone: (915) 775-1919 · Fax: (915) 775-1929

July 8, 2010

Mr. Andrew Salloum, and
Mr. Art Rubio
The City of El Paso
City Council Chambers
2 Civic Center Plaza
El Paso, Texas

Dear Mr. Salloum and Mr. Rubio:

In reply to your communication of June 30, 2010, we want you to be informed that we are totally against changing the zoning at the property located at 6880 Industrial Boulevard, legally described as Lots 43-49 Block 4, Eastside Industrial District, Unit One, City of El Paso, El Paso County, Texas.

We do not want rezoning from M-1 (Light Manufacturing) to M-2 (Heavy Manufacturing) to allow for a scrape metal processing facility, exactly in front of our office, which is an El Paso, TX company, not like theirs which as I understand, is not local). Our office sells pneumatic and hydraulic equipment, our warehouse needs a clean environment without dust and fire hazards!

I believe we already have one facility in this area and certainly do not want any more built here. We are located exactly in front (Gateway East) of the Cielo Vista Mall (Gateway West) and families and children are always gathered at the Mall exercising, we have restaurants and do not want to have problems.

These types of companies should start looking for premises/lots outside light manufacturing/ residential/malls/ areas. They originate dirt oil contamination (use heavy equipment), dust, noise (they crush and flatten cars) and of course are fire hazard companies! Please, do not make worse what is working fine now! Remember what happened with Asarco Company!

Sincerely,

Herlinda Munoz
Owner
CIMA Technologies, Inc.

c.c. Mr. Carlos Rincon, Chief EPA Field Office El Paso

CIMA TECHNOLOGIES

1035 EASTSIDE · El Paso TX 79915 · Phone: (915) 775-1919 · Fax: (915) 775-1929

July 8, 2010

Mr. Carlos Rincon
Office Manager
Environmental Protection Agency
Field Office El Paso
1450 Rio Bravo St., Suite 100
El Paso, Texas 79902

Dear Mr. Rincon:

We are kindly requesting your help in the following problem: We received the enclosed letter from the City of El Paso, City Plan Commission. They received a request to change the Zoning from M-1 (light manufacturing) to M-2 Heavy Manufacturing) to allow for a scrape metal processing facility. The City of El Paso will hear this case at a public hearing on July 15, 2010.

We are totally against changing the zoning at the property located at 6880 Industrial Boulevard (exactly in front of our office, which is an El Paso, TX company, not like theirs which as I understand, is not local). This area is already an M-1 (Light Manufacturing) and do not want it to be changed to M-2 (Heavy Manufacturing). This area already has one facility like the one they are requesting and know by personal experience that it carries a risk of fire, besides contaminating the soil, due to the fact that they use heavy equipment, contaminates the soil with oil, contaminates the air with dust particles because they crush and flat cars.

Also, this is a family oriented area, (besides the light equipment companies established here) we are exactly in front of Cielo Vista Mall, always crowded with families and children

They should look for a lot outside city limits, and not because we already have one facility like the one they are requesting to establish, we should continue with this trend. Do not make worse what is working fine now! Remember what happened with Asarco Company!

All the businesses against this change of Zoning are counting with your help! And know you will not let us down. Thank you in advance for your kind attention to the above.

Herlinda Muñoz,
Owner
CIMA Technologies, Inc.

c.c. Mr. Andrew Salloum and Mr. Art Rubio – City of El Paso, Planning Division

BorderCOMM

6842 Industrial Avenue • El Paso, Texas 79915 • (915) 779-3000 • Fax (915) 779-8880
Toll Free 800-658-6653

Re: Case No.: ZON100-00040 (Rezoning)
Thomas J. Spackman, Esq.
Chief Executive Officer
6842 Industrial Ave.
El Paso, TX 79915

Development Services Department-Planning Division:

BorderCOMM objects to the change in zoning on the above referenced property. The landowner wants to operate the heavy industrial process of scrap metal processing in the middle of a very light industrial and retail neighborhood. BorderCOMM is an El Paso based international phone company and we operate a telephone collocation facility located next to subject property. At this location we house mission critical communication services that serve the El Paso-Juarez region.

We also have technical, engineering and administrative professionals who work at this location. The requested zoning change will:

1. Negatively impact the health and safety environment at this location.

2. Decrease the property values in the neighborhood

For these reasons, we hereby object to this zoning change. Rosa Lara will attend the meeting to represent BorderCOMM and further answer any questions.

Cordially,

Tom Spackman
Chief Executive Officer, BorderCOMM

Cc: Andrew Salloum

RECEIVED
JUL 14 2010

Gardner Zemke
Electrical and Mechanical Contractors

Please Reply to:

July12, 2010

City o El Paso
City Plan Commission C/O Planning Division 5th Floor
City Hall
2 Civic Center Plaza
El Paso, Tx. 79901-1196

Re: Case No. ZON10-00040, Wayne and Patricia May, 6880 Industrial Blvd.

City Plan Commission:

This letter is in response to the above referenced rezoning case for 6880 Industrial Blvd., Eastside Industrial District, Unit One, City of El Paso. We are the Gardner Zemke Company and we own property located at 1001 Eastside Rd. Our M-1 zoned property is located to the south of the subject property.

Gardner Zemke Company wishes to object to the rezoning request which would change the zoning from M-1, Light Manufacturing to M-2. Heavy Manufacturing, to allow for a scrap metal processing facility. In the past we have experienced significant environmental issues with other heavy manufacturing activity in the Eastside Industrial District, resulting in ground contamination of our property by Navajo Refining and airborne contamination caused by Newell Recycling. Despite the best efforts of the City of El Paso and the State of Texas, such heavy manufacturing activity inherently causes a variety of problems for adjacent property owners. Such heavy manufacturing activity will also negatively impact the property values of adjacent property owners.

Specifically, our concerns regarding a scrap metal processing facility are 1) contamination of groundwater caused by rain runoff from the subject property, 2) airborne contamination, 3) noise pollution and 4) the visual blight caused by such operations. Each of these concerns is significant to adjacent property owners. Gardner Zemke understands that environmental impact plans and permits are approved by the State, but it is our concern that adjacent property owners will be negatively impacted by allowing a scrap metal processing facility into an area not best suited for such use.

Sincerely yours,

Michael R. Keenan
Gardner Zemke Company

RECEIVED
JUL 14 2010

Electrical Division
6100 Indian School Rd NE
Albuquerque, NM 87110-4137
(505) 881-0555

Corporate Office
6100 Indian School Rd NE
Albuquerque, NM 87110-4137
(505) 881-0555

Mechanical Division
5750 Pino Avenue NE
Albuquerque, NM 87109-5709
(505) 822-8858

July 06, 2010

City Plan Commission (C/O Planning Division),
5th Floor, City Hall
2 Civic Center Plaza
El Paso, Texas 79901-1196

Case NO.: ZON 10-00040 (Rezoning)

Dear Mr. Salloum,

We have received a copy of the letter in regards to the change on the zoning from M-1 (Light Manufacturing) to M-2 (Heavy Manufacturing) to allow for a scrape metal processing facility.

Unfortunately, we do not agree with this change. There are four processing facilities and I strongly believe that we do not need another scrape metal processing facility. We had to move from our previous location due to the fact that there was debri everywhere and it was very frustrating.

If you have any questions please feel free to contact me at (915) 781-0664.

Respectfully,

Jaime Sapien, President
Door Sa-Lutions, Inc.

Cc: file

FERGUSON®
a WOLSELEY company

Ferguson Enterprises, Inc.
Corporate Offices in Hampton Roads
12500 Jefferson Avenue
Newport News, VA 23602-4314
Phone: (757) 874-7795
Fax: (757) 989-2501

Reply to: P.O. Box 2778
Newport News, VA 23609-0778

www.ferguson.com

July 21, 2010

VIA FAX (915) 541-4028

City Plan Commission
c/o Planning Division
5th Floor, City Hall
2 Civic Center Plaza
El Paso, TX 79901-1196

RE: Rezoning Case No.: ZON10-00040

Dear City Plan Commission:

I am writing on behalf of Ferguson Enterprises, Inc. to voice our objection to the proposed rezoning of 6880 Industrial Avenue, El Paso, Texas, legally known as Lots 43-49, Block 4, Eastside Industrial District, Unit One, El Paso, El Paso County, Texas. While Ferguson generally supports development, we are concerned that the proposed M-2 (Heavy Manufacturing) rezoning and intended use (scap metal processing) will negatively impact the current, surrounding businesses, including Ferguson's operations. Accordingly, if the Commission has not already acted, we respectfully request that the Commission deny the proposed rezoning.

If Ferguson can answer any questions you may have or provide further information concerning our objections, please do not hesitate to contact me.

Sincerely,

FERGUSON ENTERPRISES, INC.

Steven R. Adcox
Assistant General Counsel