

Dedicated to Outstanding Customer Service for a Better Community

**S E R V I C E                      S O L U T I O N S                      S U C C E S S**



**DEPARTMENT HEAD SUMMARY FORM**

**DEPARTMENT:** City Development Department  
**AGENDA DATE:** Introduction 12/10/13; Public Hearing 12/17/13  
**CONTACT PERSON/PHONE:** Raul Garcia, 541-4935  
**DISTRICT(S) AFFECTED:** 4

**SUBJECT:**  
An ordinance vacating a 1.24 acre drainage right-of-way out of the North Gate Outlet Channel located within Castner Heights Unit One, City of El Paso, El Paso County, Texas SURW12-00018 (DISTRICT 4)

**BACKGROUND / DISCUSSION:**  
N/A

**PRIOR COUNCIL ACTION:**  
N/A

**AMOUNT AND SOURCE OF FUNDING:**  
N/A

**BOARD / COMMISSION ACTION:**  
Development Coordinating Committee (DCC) – N/A  
City Plan Commission (CPC) – Approval

\*\*\*\*\*REQUIRED AUTHORIZATION\*\*\*\*\*

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

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

**DEPARTMENT HEAD:** Mathew McElroy  
Director, City Development Department

*Mathew McElroy* for

APPROVED FOR AGENDA:

CITY MANAGER: \_\_\_\_\_ DATE: \_\_\_\_\_

**Mayor**  
Oscar Leeser

**City Council**

*District 1*  
Ann Morgan Lilly

*District 2*  
Larry Romero

*District 3*  
Emma Acosta

*District 4*  
Carl L. Robinson

*District 5*  
Dr. Michiel R. Noe

*District 6*  
Eddie Holguin Jr.

*District 7*  
Lily Limón

*District 8*  
Cortney C. Niland

**City Manager**  
Joyce A. Wilson

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE VACATING A PORTION OF THE NORTH GATE OUTLET CHANNEL RIGHT-OF-WAY OUT OF CASTNER HEIGHTS UNIT ONE, CITY OF EL PASO, EL PASO COUNTY, TEXAS AND AUTHORIZING THE CITY MNGAGER TO SIGN A DEED WITHOUT WARRANTY TO CONVEY A 1.24 ACRE PARCEL, MORE OR LESS, BEING A PORTION OF THE VACATED DRAINAGE RIGHT-OF-WAY TO JOSEPH C. WEISSMILLER AND IRIS L. ROLAND OR THEIR SUCCESSORS OR ASSIGNS.**

**WHEREAS**, the City of El Paso has requested a vacation of a 1.24 acre parcel, more or less, being a portion of the North Gate Outlet Channel Right-of-Way (ROW) out of Castner Heights Unit One, City of El Paso, El Paso County, Texas;

**WHEREAS**, after a public hearing, the City Plan Commission recommended a vacation of the identified portion of the North Gate Outlet Channel ROW out of Castner Heights Unit One, City of El Paso, El Paso County, Texas, and the City Council finds that said portion of right-of-way is not needed for public use and should be vacated as recommended;

**WHEREAS**, in accordance with Section 272.001(b) of the Texas Local Government Code, El Paso Water Utilities staff and City staff have recommended that the identified 1.24 acre parcel, more or less, be sold to the abutting property owners because the parcel is a narrow strip and because of its shape, the parcel cannot be used independently under its current zoning or under applicable subdivision or other development control ordinances; and

**WHEREAS**, Joseph C. Weissmiller and Iris L. Roland are the property owners whose property abuts the identified 1.24 acre parcel, more or less.

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

That a determination has been made that it is in the best interest of the public that a 1.24 acre parcel, more or less, being a portion of the North Gate Outlet Channel ROW out of Castner Heights Unit One, City of El Paso, El Paso County, Texas, which is more fully described in Exhibit "A", attached hereto and made a part hereof for all purposes, is hereby vacated.

And, that the City Manager is authorized to sign a Deed Without Warranty to convey all of the City's right, title and interest in and to such 1.24 acre parcel, more or less, to **Joseph C. Weissmiller and Iris L. Roland, or their successors or assignees, if their property abutting the identified parcel is sold.**

**PASSED AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2013.**

(Signatures begin on following page)

**THE CITY OF EL PASO**

---

Oscar Leeser  
Mayor

**ATTEST:**

---

Richarda Duffy Momsen  
City Clerk

**APPROVED AS TO CONTENT:**

---

Mathew McElroy, Director  
City Development Department

**APPROVED AS TO FORM:**

---

Lauren K. Ferris  
Assistant City Attorney

## EXHIBIT A

Prepared for Dunaway Associates  
September 20, 2012

### METES AND BOUNDS DESCRIPTION

Being a Portion of the North Gate Outlet Channel R.O.W. out of Castner Heights Unit One, recorded in volume 53, page 3, Plat records of El Paso County, Texas, and being more particularly described by metes and bounds as follows:

Commencing for reference at a found city brass disk monument for the northwest corner of Section 2, Block 81, Township 2, Texas and Pacific Railway Surveys from which a U.S. Government brass disk for the southwest corner of Section 2, Block 81, Township 2, Texas and Pacific Railway Surveys bears South 01°56'40" West (S 01°12'06" E, Book 45, Page 30) a distance of 5293.31 feet, Thence along the westerly line of said section 2, South 01°56'40" West (S 01°12'06" E, Book 45, Page 30) a distance of 465.30 feet to a found brass cap sheared off, Thence leaving said section line South 87°49'34" East, passing a TX DOT Brass disk at a distance of 522.41 a total distance of 860.30 feet to a point; Thence South 07°12'38" East a distance of 107.02 feet to a set ½" rebar with cap marked TX 5152 on the southerly right of way line of Diana Drive, said point being the northeasterly corner of Lot 1, Block 3, Castner Range Subdivision Unit One for the "TRUE POINT OF BEGINNING".

Thence along the southerly right of way line of Diana Drive, South 78°09'36" East ( S 81°15'35" E, Book 45, Page 30) a distance of 74.43 feet to a set ½" rebar with cap marked TX 5152;

Thence leaving said right of way line South 31°42'45" West a distance of 988.10 feet to a set ½" rebar with cap marked TX 5152;

Thence 127.21 feet along the arc of a curve to the right which has a radius of 886.93 feet a central angle of 08°13'04" a chord which bears South 35°49'17" West a distance of 127.10 feet to a set ½" rebar with cap marked TX;

Thence, North 50°04'11" West a distance of 45.00 feet to a set ½" rebar with cap marked TX 5152 on the easterly line of Lot 1, Block 3, Castner Range Subdivision Unit One recorded in Volume 3, Page 45, Plat records of El Paso County, Texas;

Thence along said line, 120.76 feet along the arc of a curve to the left which has a radius of 841.93 feet a central angle of 08°13'04" a chord which bears North 35°49'17" East a distance of 120.65 feet to a set ½" rebar with cap marked TX 5152;

Thence along said line North 31°42'45" East (N 28°33'59" E, Vol. 3, Page 45 a distance of 793.63 feet to a set ½" rebar with cap marked TX 5152;

Thence along said line, North 58°17'24" West (N 61°26'10" E, Vol. 3, Pg. 45) a distance of 25.00 feet to a set ½" rebar with cap marked TX 5152;

Thence along said line, North 31°42'45" East (N 28°33'59" W, Vol. 3, Page 45) a distance of 169.17 feet to "TRUE POINT OF BEGINNING" and containing 54,020 square feet or 1.2401 acres of land more or less.

Note: Bearing basis is per Texas State Plane Coordinate System Central Zone 4203, NAD 83.

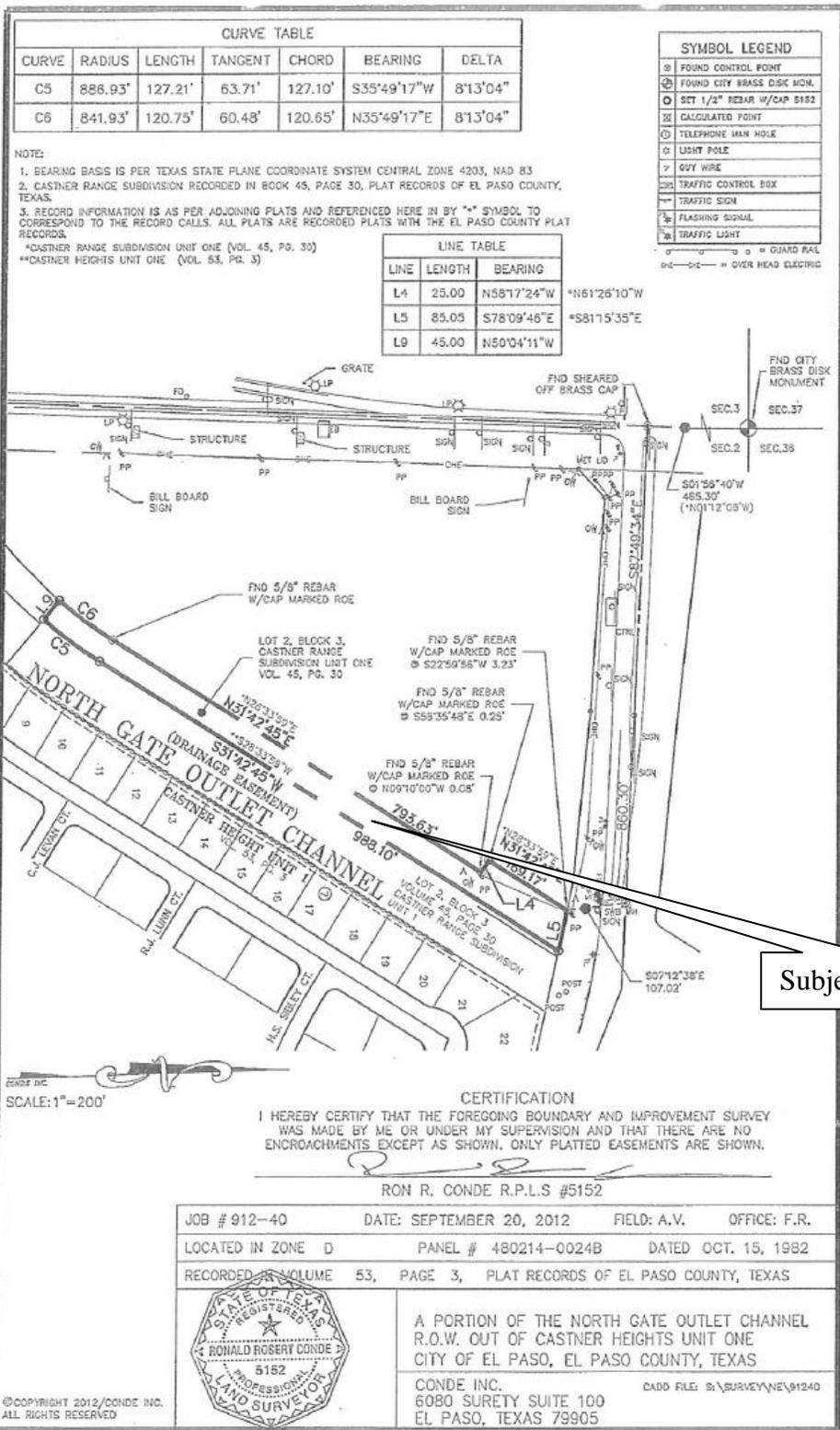
Description prepared from a ground survey performed on September 20, 2012

  
Ron R. Conde  
R.P.L.S. No. 5152



Job No. 912-40

CONDE, INC.  
ENGINEERING / LAND SURVEYING / PLANNING  
6080 SURETY DRIVE SUITE 100 / EL PASO, TEXAS 79905 / (915) 592-0283  
FAX (915) 592-0286



Subject Property

**Notice of Confidentiality Rights: If you are a natural person, you may remove and/or strike any of the following information from this instrument before it is filed for record in the public records:  
Your social security number or your driver's license number.**

**DEED WITHOUT WARRANTY**

STATE OF TEXAS                    )  
  )  
COUNTY OF EL PASO            )       **KNOW ALL MEN BY THESE PRESENTS:**

The City of El Paso (“Grantor”), for adequate consideration to Grantor in hand paid and agreed to be performed by **Joseph C. Weissmiller and Iris L. Roland** (“Grantees”), has GRANTED, SOLD and CONVEYED and by these presents does hereby GRANT, SELL AND CONVEY unto Grantees all of the Grantor’s right, title and interest in and to that certain approximate 1.24 acre “Property” which was vacated, closed, and abandoned by Ordinance No. \_\_\_\_\_, passed and approved by the City Council of the City of El Paso and described as **a portion of the North Gate Outlet Channel Right-of-Way out of Castner Heights Unit One City of El Paso** situated in the County of El Paso, State of Texas, which is more fully described in Exhibit “A,” attached hereto and made a part hereof for all purposes.

This conveyance is subject to the following (all references to recorded instruments pertain to the Real Property Records of El Paso County, Texas):

1. Restrictive covenants of Public Record.
2. Any discrepancies, conflicts, or shortages in area or boundary lines, or any encroachments or protrusions, or any overlapping of improvements.
3. Mineral reservations and/or mineral interests as set out in the Public Records.
4. Any existing utility easements including easements for the overhang of service wires, conduits and pipes for underground utilities.
5. Any and all unrecorded agreements, contracts and leases, and rights of parties therein, including, but not limited to, that certain Easement to the City of El Paso, dated October 13, 1971, granted by the Secretary of the Army and labeled Contract No. DACA47-2-72-67, as referenced in that certain Amendment to the Easement dated May 21, 1975, executed between the United States of America, acting by and through the Administrator of General Services and the City of El Paso, recorded in Book 600, Page 851, Real Property Records of El Paso County, Texas.
6. All leases, grants, exceptions or reservations of coal, lignite, oil, gas and other minerals, together with all rights, privileges, and immunities relating thereto, appearing in the Public Records whether listed or not.
7. Rights of parties in possession.
8. Any applicable zoning ordinances.

TO HAVE AND TO HOLD the Property together with all and singular the rights and appurtenances thereto in any way belonging unto Grantee, Grantee's successors and assigns forever. This conveyance is made without any warranties, express or implied, and the Property is conveyed to Grantee in an "AS IS" condition, with all faults.

**AS A MATERIAL PART OF THE CONSIDERATION FOR THIS DEED, GRANTEE AGREES THAT GRANTEE IS TAKING THE PROPERTY AS IS, WITH ALL FAULTS, AND AS PART OF GRANTEE'S ACCEPTANCE OF TITLE WITH ANY AND ALL LATENT AND PATENT DEFECTS, AND THAT THERE ARE NO WARRANTIES BY GRANTOR THAT THE PROPERTY HAS A PARTICULAR FINANCIAL VALUE OR IS FIT FOR ANY PARTICULAR PURPOSE. GRANTEE ACKNOWLEDGES AND STIPULATES THAT GRANTEE IS NOT RELYING ON ANY REPRESENTATION, STATEMENT, OR OTHER ASSERTION WITH RESPECT TO THE PROPERTY CONDITION BUT IS RELYING ON GRANTEE'S EXAMINATION OF THE PROPERTY. GRANTEE TAKES THE PROPERTY WITH THE EXPRESS UNDERSTANDING AND STIPULATION THAT THERE ARE NO EXPRESS OR IMPLIED WARRANTIES OF ANY KIND.**

IN WITNESS WHEREOF, this instrument is executed on this the \_\_\_\_\_ day of \_\_\_\_\_, 2013.

**ATTEST:**

**CITY OF EL PASO**

\_\_\_\_\_  
Richarda Duffy Momsen  
City Clerk

\_\_\_\_\_  
Joyce Wilson, City Manager

APPROVED AS TO CONTENT:

APPROVED AS TO FORM:

\_\_\_\_\_  
Mathew McElroy, Director  
City Development Department

\_\_\_\_\_  
Lauren Ferris, Assistant City Attorney

*(Acknowledgement on following page)*

**ACKNOWLEDGEMENT**

STATE OF TEXAS

COUNTY OF EL PASO

Before me on this day personally appeared Joyce Wilson, as City Manager of the City of El Paso, a municipal corporation, subscribed to the foregoing instrument and acknowledged to me that she executed the instrument by proper authority, for the purposes and consideration expressed therein and in the capacity stated in the instrument.

Given under my hand and seal of office this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
NOTARY PUBLIC, STATE OF TEXAS

\_\_\_\_\_  
(Print or Stamp Name of Notary)

My commission expires:\_\_\_\_\_

**AFTER FILING RETURN TO:**

**Brown & Ortiz, PC  
112 E. Pecant St. #1360  
San Antonio, TX 78205**

**With copy to:**

**City Development Department  
Planning Division  
PO Box 1890  
El Paso, TX 79950-1890**

## EXHIBIT A

Prepared for Dunaway Associates  
September 20, 2012

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Note: Bearing basis is per Texas State Plane Coordinate System Central Zone 4203, NAD 83.

Description prepared from a ground survey performed on September 20, 2012

  
Ron R. Conde  
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Job No. 912-40

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6080 SURETY DRIVE SUITE 100 / EL PASO, TEXAS 79905 / (915) 592-0283  
FAX (915) 592-0286

Exhibit "A"-Page 2 of 3





*City of El Paso – City Plan Commission Staff Report*

**Case No:** SURW12-00018 Diana Drainage ROW Vacation  
**Application Type:** Drainage ROW Vacation  
**CPC Hearing Date:** November 15, 2012

**Staff Planner:** Nathaniel Baker, 541-4192, [bakernt@elpasotexas.gov](mailto:bakernt@elpasotexas.gov)  
**Location:** East of Patriot Freeway and south of Diana Drive  
**Acreage:** 1.24-acres  
**Rep District:** 4  
**Existing Use:** Drainage right-of-way  
**Existing Zoning:** R-4 (Residential)  
**Proposed Zoning:** C-4 (Commercial)

**Property Owner:** City of El Paso  
**Applicant:** Public Service Board (PSB)  
**Representative:** Public Service Board (PSB)

**SURROUNDING ZONING AND LAND USE**

**North:** R-4 (Residential)/ EPCC Transmountain Campus  
**South:** R-4 (Residential)/ Post-war neighborhood  
**East:** R-4 (Residential)/ Post-war neighborhood  
**West:** Patriot Freeway and Fort Bliss

**PLAN EL PASO DESIGNATION:** Post-War

**APPLICATION DESCRIPTION**

The applicant is requesting to vacate a 1.24-acre portion of a PSB drainage right-of-way located south of Diana Drive. The applicant states that the purpose of the proposed vacation is to be used for rear access to a proposed Sam's Club.

**DEVELOPMENT COORDINATING COMMITTEE**

The Development Coordinating Committee recommends **approval** of the Diana Drainage right-of-way vacation subject to the following conditions and requirements:

**Planning Division Recommendation:**

Approval.

**City Development Dept. - Land Development:**

No objection

**El Paso Water Utilities:**

1. The El Paso Water Utilities Planning & Development section does not object to the proposed vacation. There are no existing Water/sewer facilities within the proposed vacation area.

**Stormwater Division:**

No comments received.

**Parks and Recreation:**

We have reviewed Diana Drainage ROW Vacation, a survey map and metes & bounds description and offer no objections to this proposed Right-of-way vacation.

Please note that this Right-of-Way vacation request meets the requirements to be excluded from the calculation for parkland dedication ordinance Title 19 – Subdivision & Development Plats, **Chapter 19.20 Parks and Open Space** as noted below.

**19.20.060 - Exclusions from Dedication Requirements.**

**Exclusions.** The following shall be excluded from the calculation for parkland dedication. In all instances, the burden of proof shall be on the subdivider to demonstrate that the plat meets the requirements of this chapter:

H. Land shown within a subdivision, whether residential or nonresidential, which is designated for use as a public facility.

**El Paso Fire Department:**

No comments received.

**El Paso Electric Company:**

No comments received.

**Sun Metro:**

No comments received.

**911:**

No comments received.

**Texas Gas Company:**

No comments received.

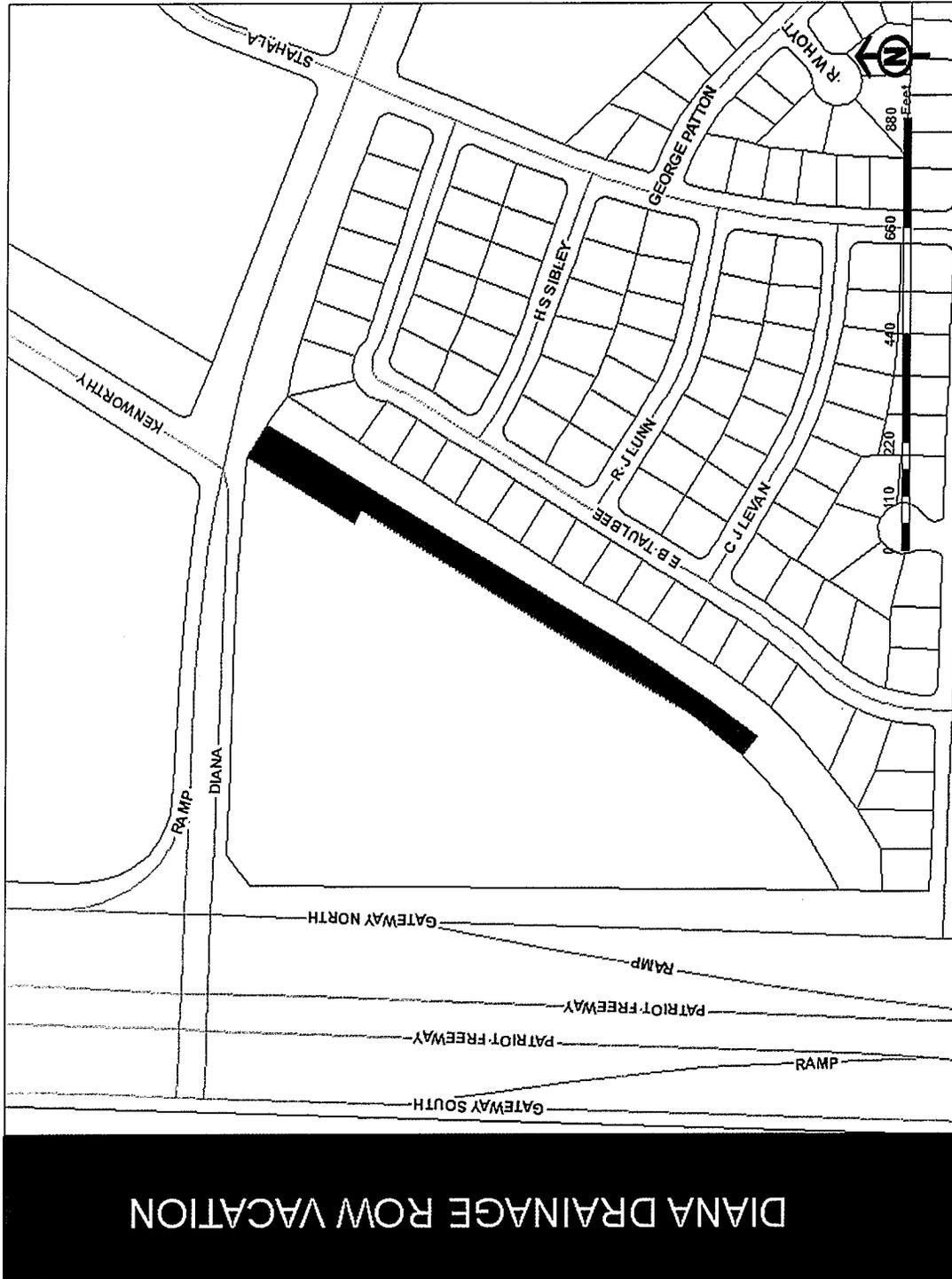
**School District:**

No comments received.

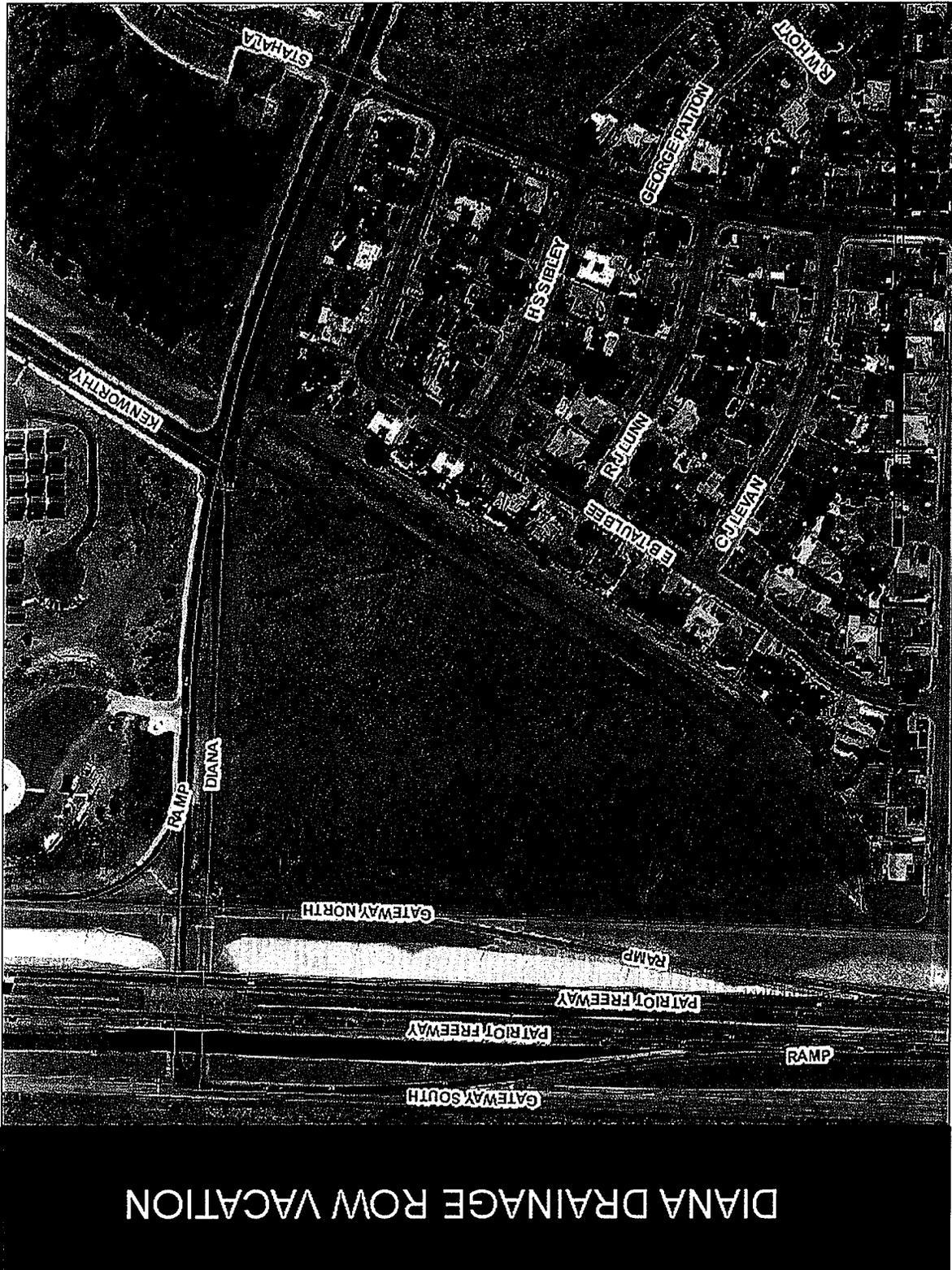
**Attachments**

1. Location map
2. Aerial map
3. Survey
4. Application

ATTACHMENT 1



ATTACHMENT 2





**ATTACHMENT 4**



CITY OF EL PASO, TEXAS  
APPLICATION FOR VACATION PUBLIC EASEMENTS AND RIGHTS-OF-WAY

Date: September 26, 2012

File No. SURW12-00018



1. APPLICANTS NAME Public Service Board/El Paso Water Utilities/City of El Paso  
ADDRESS 1154 Hawkins ZIP CODE 79925 TELEPHONE 594-5590
2. Request is hereby made to vacate the following: (check one)  
Street  Alley  Easement  Other   
Street Name(s) Drainage ROW Subdivision Name Casner Range Subdivision Unit 1  
Portion Block 3, Casner  
Abutting Blocks, Range Unit 1 Subdivision Abutting Lots Portion of Lot 2, Casner Range Unit 1 Subdivision
3. Reason for vacation request: Portion of ROW to be used for Rear Access to Proposed new Sam's Club
4. Surface Improvements located in subject property to be vacated:  
None  Paving  Curb & Gutter  Power Lines/Poles  Fences/Walls  Structures  Other
5. Underground Improvements located in the existing right-of-way:  
None  Telephone  Electric  Gas  Water  Sewer  Storm Drain  Other
6. Future use of the vacated right-of-way:  
Yards  Parking  Expand Building Area  Replot with adjoining Land  Other
7. Related Applications which are pending (give name or file number):  
Zoning  Board of Adjustment  Subdivision  Building Permits  Other
8. Signatures: All owners of properties which abut the property to be vacated must appear below with an adequate legal description of the properties they own (use additional paper if necessary).

Signature	Legal Description	Telephone
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

The undersigned Owner/Applicant/Agent understands that the processing of this Application will be handled in accordance with the procedure for Requesting Vacations and that no action on processing will be taken without payment of the non-refundable processing fee. It is further understood that acceptance of this application and fee in no way obligates the City to grant the Vacation. I/We further understand that the fee, if the Vacation is granted will be determined by the City of El Paso and a Certified or Cashier's Check must be presented before the request will be recommended for Council action.

The undersigned acknowledges that he or she is authorized to do so, and upon the City's request will provide evidence satisfactory to the City confirming these representations.

The granting of a vacation request shall not be construed to be a waiver of or an approval of any violation of any of the provisions of any applicable City ordinances.

CASHIER'S VALIDATION FEE: \$966.00  
OWNER SIGNATURE: Edmund Archuleta  
Edmund Archuleta, EPWU - PSB  
REPRESENTATIVE: Rudy Valdez  
Rudy Valdez, EPWU - PSB - 594-5590

**NOTE: SUBMITTAL OF AN APPLICATION DOES NOT CONSTITUTE ACCEPTANCE FOR PROCESSING UNTIL THE PLANNING DEPARTMENT REVIEWS THE APPLICATION FOR ACCURACY AND COMPLETENESS.**

*Dedicated to Outstanding Customer Service for a Better Community*

**SERVICE SOLUTIONS SUCCESS**



**MEMORANDUM**

**DATE:** December 3, 2013  
**TO:** The Honorable Mayor and City Council  
Joyce A. Wilson, City Manager  
**FROM:** Raul Garcia, Senior Planner  
**SUBJECT:** SURW12-00018 Diana Drainage ROW Vacation

---

The City Plan Commission (CPC), on November 15, 2012, voted 6-0 to approve the Diana Drainage ROW Vacation.

The CPC determined the vacation is in conformance with The Plan for El Paso and the proposed use is in conformance with Plan El Paso. The CPC also determined the vacation protects the best interest, health, safety and welfare of the public in general; and the proposed use is compatible with adjacent land uses; and the vacation will have no negative effect on the natural environment, social economic conditions, and property values in the vicinity and the city as a whole.

**Mayor**  
Oscar Leeser

**City Council**

*District 1*  
Ann Morgan Lilly

*District 2*  
Larry Romero

*District 3*  
Emma Acosta

*District 4*  
Carl L. Robinson

*District 5*  
Dr. Michiel R. Noe

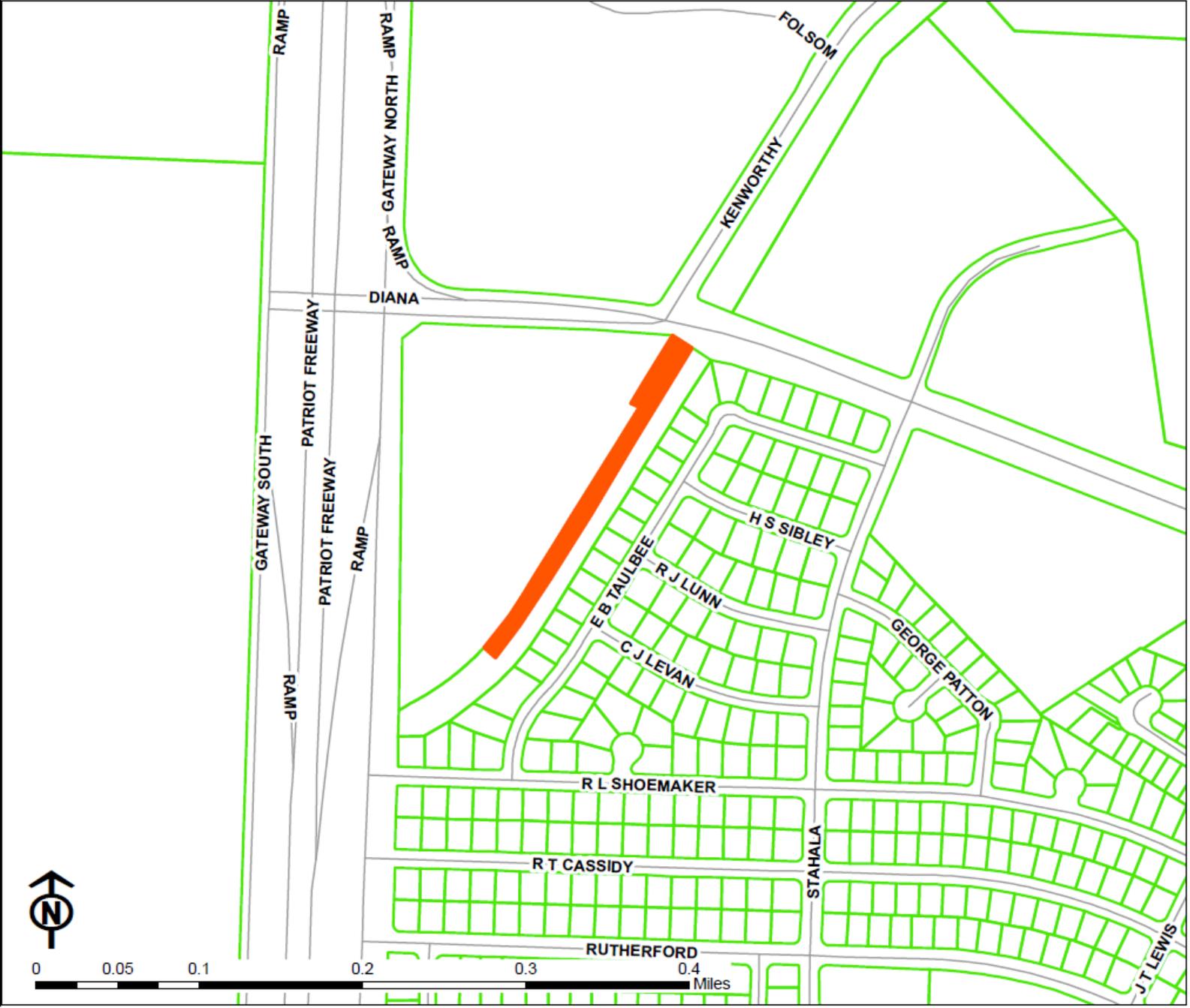
*District 6*  
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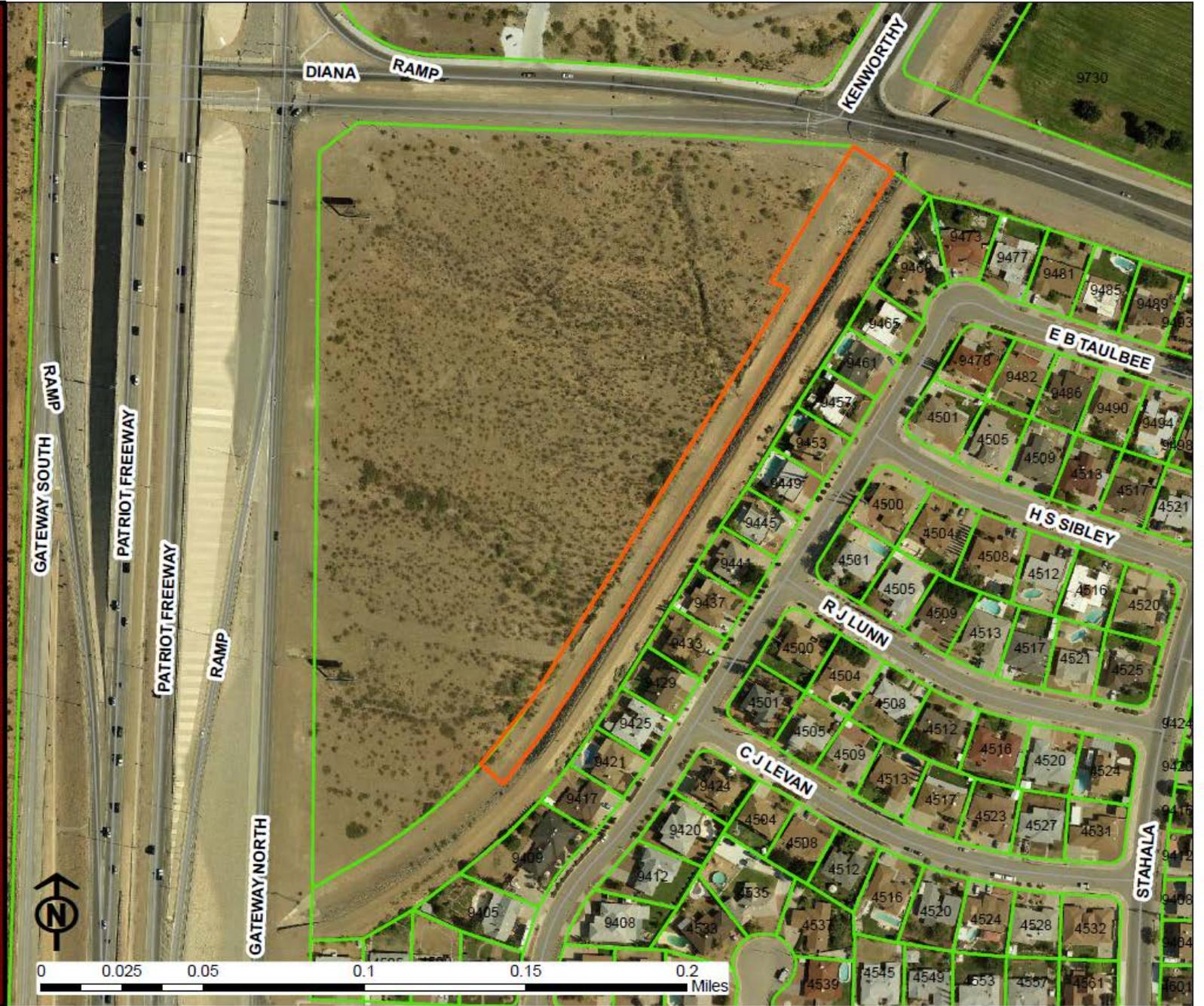
*District 8*  
Cortney C. Niland

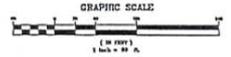
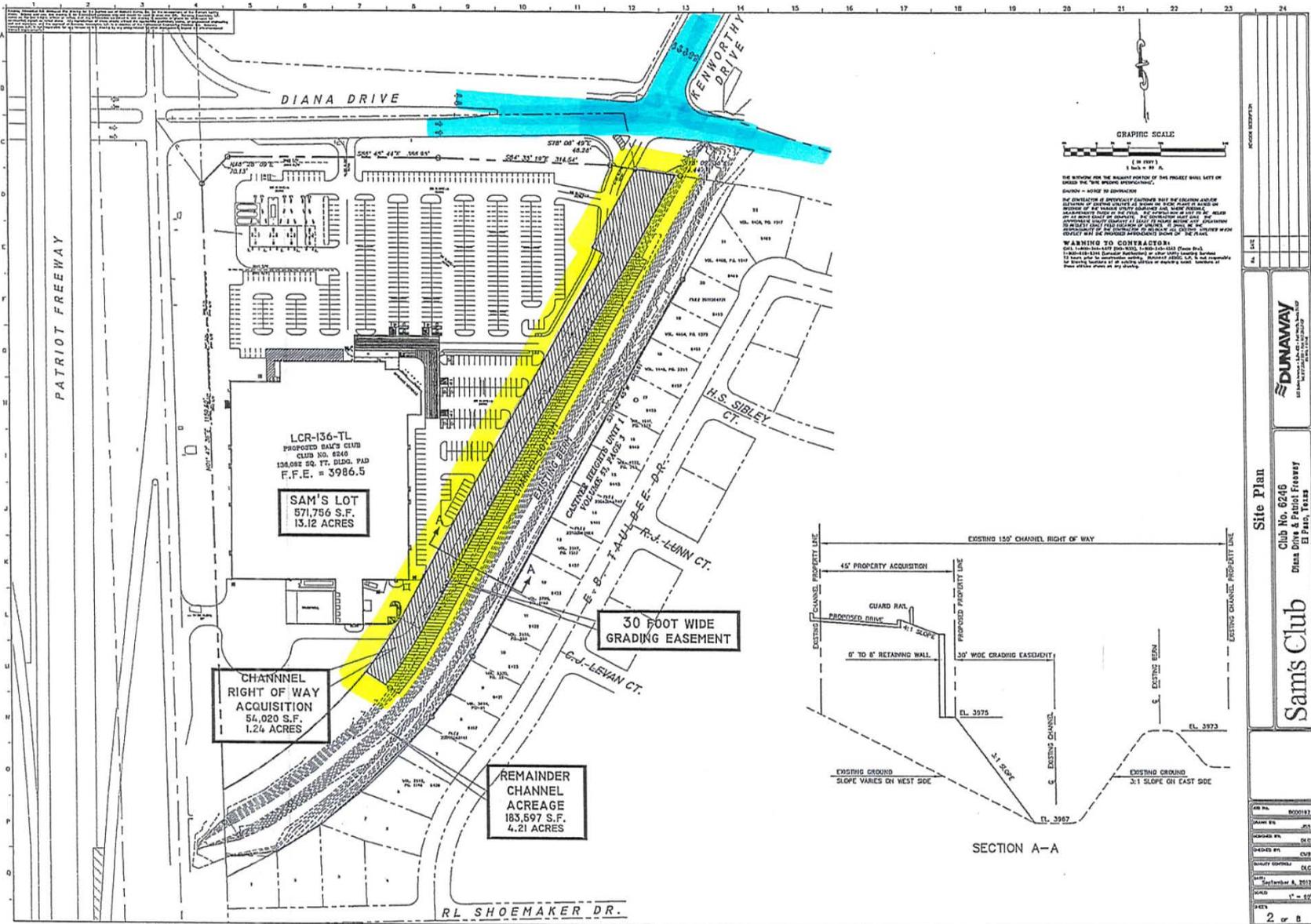
**City Manager**  
Joyce A. Wilson

# Diana Drainage ROW Vacation



# Diana Drainage ROW Vacation

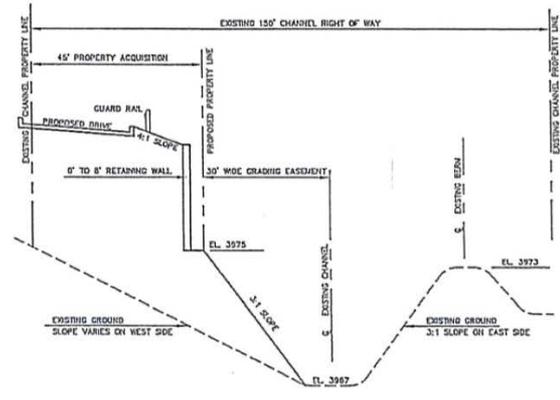




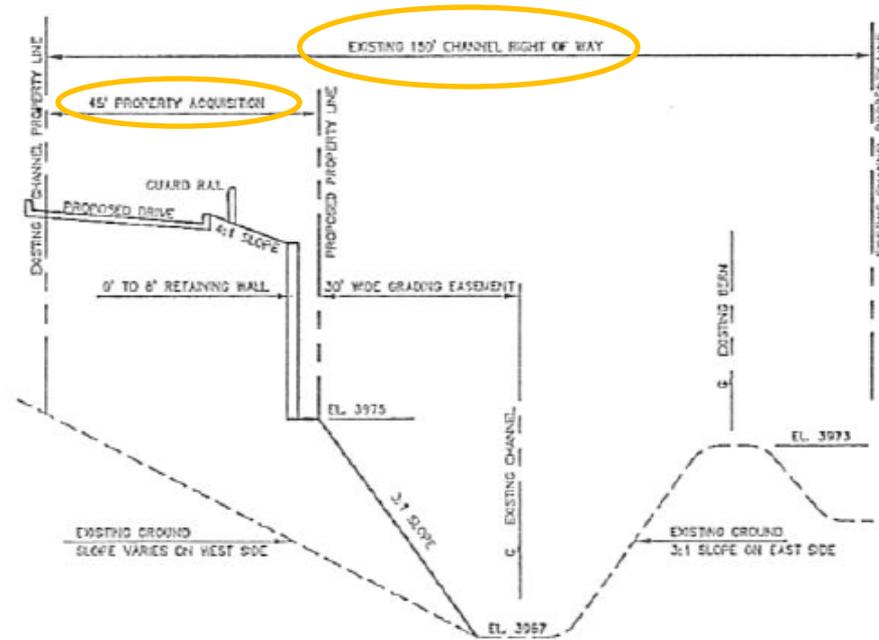
THE SURFACE FOR THE NEAREST PORTION OF THIS PROJECT SHALL BE LEFT OR GRADED TO THE NEAREST UNDISTURBED SURFACE.  
SOURCE = MOORE TO SUBMITTER

THE DETERMINATION OF EXISTING CHANNELS SHALL BE BASED ON AERIAL PHOTOGRAPHS, FIELD SURVEY, AND OTHER AVAILABLE INFORMATION. THE LOCATION OF CHANNELS SHALL BE BASED ON THE MOST RECENT AVAILABLE INFORMATION. THE LOCATION OF CHANNELS SHALL BE BASED ON THE MOST RECENT AVAILABLE INFORMATION. THE LOCATION OF CHANNELS SHALL BE BASED ON THE MOST RECENT AVAILABLE INFORMATION.

**WARNING TO CONTRACTORS:**  
THIS PLAN IS NOT TO BE USED FOR CONSTRUCTION WITHOUT THE APPROVAL OF THE CITY ENGINEER. THE CONTRACTOR SHALL BE RESPONSIBLE FOR VERIFYING THE LOCATION AND DEPTH OF ALL UTILITIES AND CHANNELS BEFORE CONSTRUCTION. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE CITY ENGINEER AND OTHER AGENCIES BEFORE CONSTRUCTION.

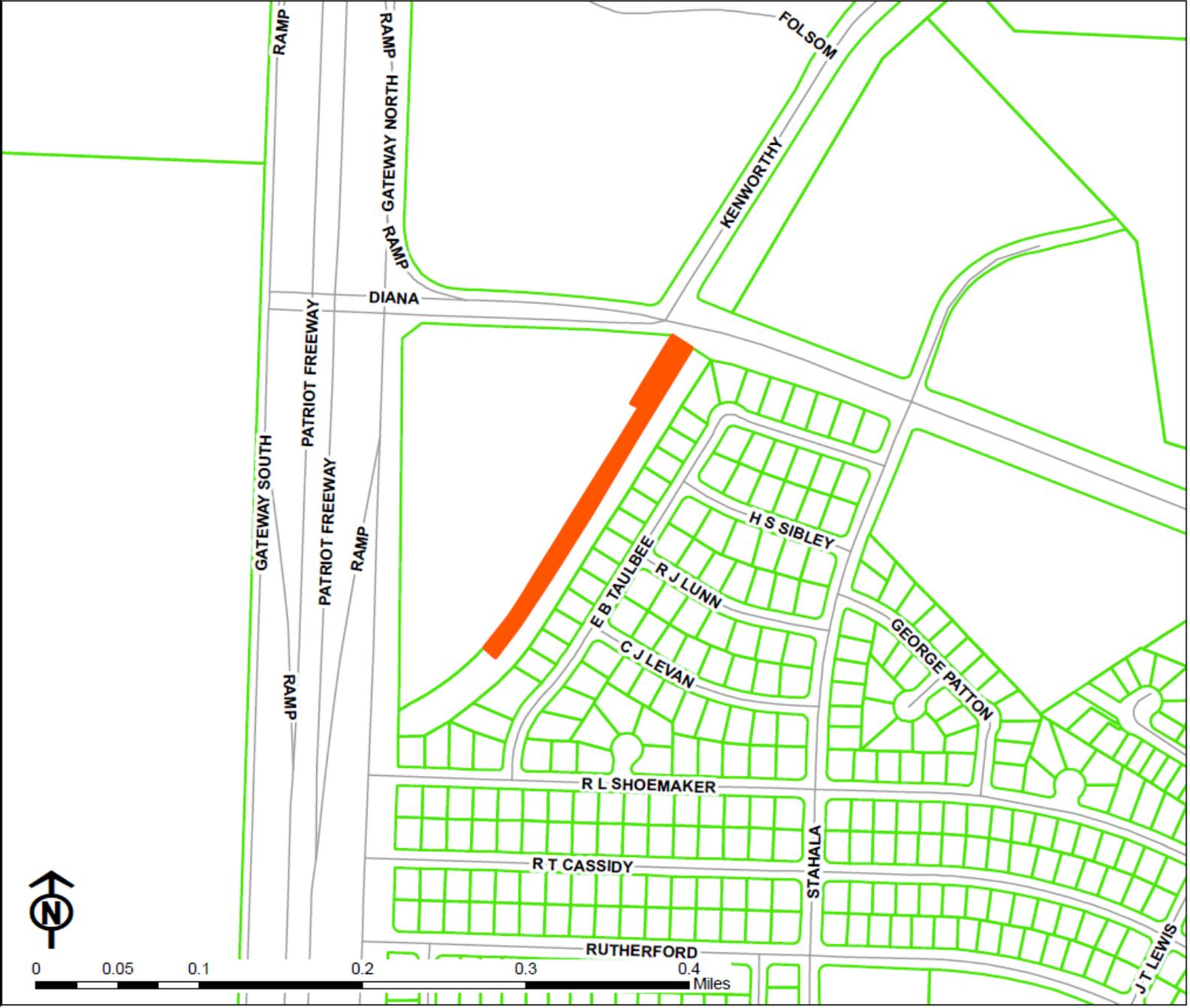


NO. 1	NO. 2	NO. 3	NO. 4	NO. 5	NO. 6	NO. 7	NO. 8	NO. 9	NO. 10	NO. 11	NO. 12	NO. 13	NO. 14	NO. 15	NO. 16	NO. 17	NO. 18	NO. 19	NO. 20	NO. 21	NO. 22	NO. 23	NO. 24	
<b>Site Plan</b> Club No. 6246 Diana Drive & Patriot Freeway El Paso, Texas																								
<b>Sams Club</b>																								
APP. NO.	000187																							
DATE	JUL																							
DESIGNED BY	DIC																							
CHECKED BY	CLB																							
CITY ENGINEER	DIC																							
DATE	September 8, 2011																							
SCALE	1" = 80'																							
SHEET	2																							



SECTION A-A

# Diana Drainage ROW Vacation





DIANA DRAINAGE ROW VACATION

