# City of Las Cruces
PEOPLE HELPING PEOPLE

## Council Action and Executive Summary

**Item #** 34 **Ordinance/Resolution#** 2554 **Council District:** 6

**For Meeting of** January 25, 2010
(Adoption Date)

**TITLE: AN ORDINANCE APPROVING A ZONE CHANGE FROM M-1/M-2 (INDUSTRIAL STANDARD) TO C-3 (COMMERCIAL HIGH INTENSITY) FOR 0.7494 +/- ACRES LOCATED AT 250 N. TELSHOR BOULEVARD. THE PURPOSE OF THE ZONE CHANGE IS TO ALLOW THE USE OF A FURNITURE STORE. SUBMITTED BY SCOTT H. ACHEN, TIR NA DRAIOCHTA PROPERTIES, LLC, PROPERTY OWNER. (Z2802).**

**PURPOSE(S) OF ACTION:** Approval of a zone change that will facilitate the use of the subject property as a furniture store.

| **Name of Drafter:** Adam Ochoa | | **Department:** Community Development | | **Phone:** 528-3204 | |
|---|---|---|---|---|---|
| **Department** | **Signature** | **Phone** | **Department** | **Signature** | **Phone** |
| Community Development | CR for DW | 528-3066 | Budget | | 541-2107 |
| | | | Assistant City Manager | | 541-2271 |
| Legal | | 541-2128 | City Manager | | 541-2076 |

**BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:**

The applicant, Tir Na Draiochta Properties, LLC, is requesting a zone change from M-1/M-2 (Industrial Standard) to C-3 (Commercial High Intensity) for property 0.7494 +/- acres in size located at 250 N. Telshor Boulevard. The subject property currently contains a building that was previously used as a welding supply store. The zone change will allow the use of a furniture store in the existing building on the subject property.

The subject property is located along N. Telshor Boulevard. The Metropolitan Planning Organization (MPO) has classified N. Telshor Boulevard as a Minor Arterial roadway. The property has access to N. Telshor Boulevard through an ingress and egress point located on the southern portion of the property and a shared driveway north on the subject property. A bus shelter is located approximately 400 feet north of the subject property along N. Telshor Boulevard. There are no trails present within the general area.

The property contains some existing improved parking. The 2001 Zoning Code, as amended, requires furniture stores to provide one (1) parking stall per 500-600 square feet of gross floor area. Therefore, based on the gross floor area of the existing building a range of 12 to 15 parking spaces are required to facilitate the use as a furniture store. Two (2) of the parking stalls will be required to be Americans with Disability Act (ADA) compliant. The applicant will also be required to provide one (1) bicycle parking stall on the subject property.

The building was originally constructed in 1990. In 2002, an addition was permitted and constructed to the original building making its current gross floor area of 7,585 square feet. During this time the property was required to come into compliance with the 2001 Zoning Code, as amended, for parking and landscaping. The subject property has some mature landscaping including trees and shrubs. The property has ground cover (i.e. grass) along the majority of the southern portion of the property where the existing retention pond is located. The property also has some existing landscaping along the street frontage of N. Telshor Boulevard. The subject property is in compliance with the required 15% landscaping required on the subject property.

The property is bordered to the north and west by property zoned M-1/M-2 (Industrial Standard) and to the south by property zoned C-3C (Commercial High Intensity – Conditional). Therefore, between land uses no additional buffering (screening) is required. The property is also bordered to the east by a major thoroughfare (N. Telshor Boulevard). No additional screening is required along this property line either.

On October 27, 2009, the Planning and Zoning Commission recommended approval without conditions for the zone change by a vote of 4-0-0 (two Commissioners absent). No public discussion took place for the proposed zone change.

**SUPPORT INFORMATION:**

| Fund Name / Account Number | Amount of Expenditure | Budget Amount |
|---|---|---|
| N/A | N/A | N/A |

1. Ordinance
2. Exhibit "A"- Site Plan
3. Exhibit "B"- Findings and Comprehensive Plan Analysis
4. Attachment "A"- Staff Report to the Planning and Zoning Commission for Case Z2802
5. Attachment "B"- Minutes from the October 27, 2009 Planning and Zoning Commission
6. Attachment "C"- Vicinity Map

**OPTIONS / ALTERNATIVES:**

1. Vote **YES** to approve the Ordinance. This action affirms the Planning and Zoning Commission recommendation for approval without conditions. The property located at 250 N. Telshor Boulevard will be rezoned from M-1/M-2 (Industrial Standard) to C-3 (Commercial High Intensity).

2. Vote **NO** to deny the Ordinance. This action reverses the recommendation made by the Planning and Zoning Commission. The current zoning designation of M-1/M-2 (Industrial Standard) will remain on the property located at 250 N. Telshor Boulevard.

3. Modify the Ordinance and vote **YES** to approve the modified Ordinance. The Council may modify the Ordinance by adding conditions as deemed appropriate.

4. Table/Postpone the Ordinance and direct staff accordingly.

**COUNCIL BILL NO.** 10-025
**ORDINANCE NO.** 2554

**AN ORDINANCE APPROVING A ZONE CHANGE FROM M-1/M-2 (INDUSTRIAL STANDARD) TO C-3 (COMMERCIAL HIGH INTENSITY) FOR 0.7494 +/- ACRES LOCATED AT 250 N. TELSHOR BOULEVARD. THE PURPOSE OF THE ZONE CHANGE IS TO ALLOW THE USE OF A FURNITURE STORE. SUBMITTED BY SCOTT H. ACHEN, TIR NA DRAIOCHTA PROPERTIES, LLC, PROPERTY OWNER. (Z2802).**

The City Council is informed that:

**WHEREAS,** Scott H. Achen, Tir Na Draiochta, LLC, the property owner, has submitted a request for a zone change from M-1/M-2 (Industrial Standard) to C-3 (Commercial High Intensity) for 0.7494 +/- acres located at 250 N. Telshor Boulevard; and

**WHEREAS,** the Planning and Zoning Commission, after conducting a public hearing on October 27, 2009, recommended that said zone change request be approved by a vote of 4-0-0 (two Commissioners absent).

**NOW, THEREFORE**, Be it ordained by the governing body of the City of Las Cruces:

**(I)**

**THAT** the land more particularly described in Exhibit "A," attached hereto and made part of this Ordinance, is hereby zoned C-3 (Commercial High Intensity) for the property located at 250 N. Telshor Boulevard.

**(II)**

**THAT** the zoning is based on the findings contained in Exhibit "B" (Findings and Comprehensive Plan Analysis), attached hereto and made part of this Ordinance.

**(III)**

**THAT** the zoning of said property be shown accordingly on the City Zoning Atlas.

**(IV)**

**THAT** City staff is hereby authorized to do all deeds necessary in the accomplishment of the herein above.

**DONE AND APPROVED** this_____ day of _____ 2010.

APPROVED:

(SEAL)

_____
Mayor

ATTEST:

_____
City Clerk

VOTE:
Mayor Miyagishima: ____
Councillor Silva: ____
Councillor Connor: ____
Councillor Pedroza: ____
Councillor Small: ____
Councillor Sorg: ____
Councillor Thomas: ____

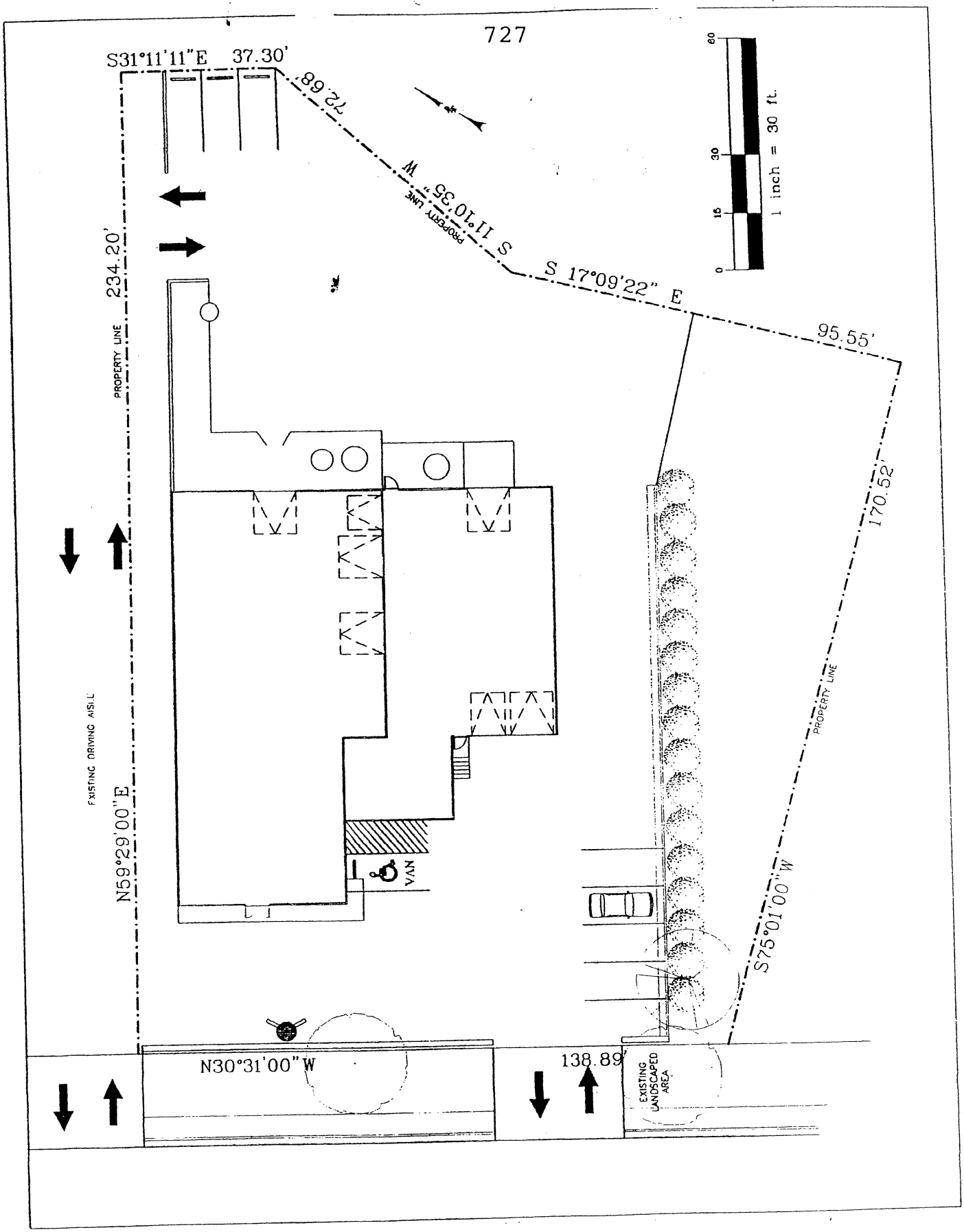
Moved by: _____

Seconded by: _____

APPROVED AS TO FORM:

_____
City Attorney

Exhibit "A"


727
S31°11'11"E 37.30'
72.68'
PROPERTY LINE
S 11°10'35" W
S 17°09'22" E
95.55'
234.20'
PROPERTY LINE
170.52'
PROPERTY LINE
EXISTING DRIVING AISLE
N59°29'00"E
VAN
S75°01'00"W
N30°31'00"W
138.89'
EXISTING LANDSCAPED AREA
60
30
15
0
1 inch = 30 ft.

**FINDINGS**

1. The subject property encompasses 0.7494 +/- acres and is located at 750 N. Telshor Boulevard.

2. The subject property is currently zoned M-1/M-2 (Industrial Standard).

3. The subject property contains and existing 7585 square foot building that was first constructed in 1990 and later built out to its current size in 2002.

4. The zone change request from M-1/M-2 (Industrial Standard) to C-3 (Commercial High Intensity) will allow the use of a furniture store on the property by right.

5. The subject property has frontage along N. Telshor Boulevard, an existing Minor Arterial roadway as classified by the Metropolitan Planning Organization (MPO).

6. Adjacent land use and zoning include:

| | Zoning | Land Use |
|---|---|---|
| North | M-1/M-2 | Industrial |
| South | C-3C | Commercial |
| East | M-1/M-2 | Industrial |
| West | Interstate 25 | |

7. The request is consistent with the following sections of the City of Las Cruces Comprehensive Plan:

Land Use Element, Goal 1 (Land Uses)

Policies
1.5.3 High intensity commercial use shall be defined as those commercial uses which generate retail, service, and wholesale activities within a specific sector within the City. High intensity commercial use and centers shall generally serve a population of 15,000 to 85,000 people and shall be established according to the following criteria:

a. Generally 5,000 but not to exceed 75,000 gross square feet shall be permitted for a high intensity commercial use, with generally 200,000 square feet permitted for a high intensity commercial center. A high intensity commercial center becomes a regional commercial use when the center contains one anchor store greater than 75,000 gross square feet.

b. High intensity commercial uses and centers shall be located at the intersection of minor arterial streets, or any intersection with a major arterial street. Mid-block locations shall be considered on a case-by-case basis: criteria shall include street capacity, distance from an intersection where appropriate, accessibility and shared vehicular

access with other uses where appropriate, and consideration of the level of traffic and environmental impacts.

c. The City shall pursue multi-modal access standards (auto, bicycle, and pedestrian transit) for high intensity commercial use and centers.

d. High intensity commercial development shall address the following urban design criteria: compatibility to adjacent development in terms of architectural design, height/density, and the provision of landscaping for site screening, parking, and loading areas. Architectural and landscaping standards for high intensity commercial use shall be established in the Comprehensive Plan Urban Design Element.

e. Adequate space for functional circulation shall be provided for parking and loading areas.

f. The City shall encourage the development of high intensity commercial centers to allow for maximum shopping convenience with minimal traffic and encroachment-related conflicts to adjacent uses.

g. High intensity commercial use and centers should not locate adjacent to rural or low density residential uses.

h. Low and medium intensity commercial use are permitted in high intensity commercial areas.

Attachment "A"

City of Las Cruces®

TO: Planning and Zoning Commission

PREPARED BY: Adam Ochoa, Acting Planner AO

DATE: October 27, 2009

SUBJECT: 250 N. Telshor Blvd. (Zone Change)

RECOMMENDATION: Approval – without conditions for zone change (Case Z2802)

**Case Z2802:** A request for a zone change from M-1/M-2 (Industrial Standard) to C-3 (Commercial High Intensity) for 0.7494 +/- acres located at 250 N. Telshor. The purpose of the zone change is to allow the use of a furniture store. Submitted by property owner Scott H. Achen, Tir Na Draiochta Properties, LLC.

## BACKGROUND

The applicant, Tir Na Draiochta Properties, LLC, is requesting a zone change from M-1/M-2 (Industrial Standard) to C-3 (Commercial High Intensity) for property 0.7494 +/- acres in size located at 250 N. Telshor Blvd. The subject property currently contains a building that was previously used as a welding supply store. The zone change will allow the use of a furniture store in the existing building on the subject property. The building was originally constructed in 1990. In 2002 an addition was permitted and constructed to the original building making its current gross floor area of 7585 square feet. During this time the property was required to come into compliance with the 2001 Zoning Code, as amended, for parking and landscaping.

The subject property is located along N. Telshor Boulevard. The Metropolitan Planning Organization (MPO) has classified N. Telshor Boulevard as a Minor Arterial roadway. The property has access to N. Telshor Boulevard through an ingress and egress located on the southern portion of the property and a shared driveway north on the subject property. A bus shelter is located approximately 400 feet north of the subject property along N. Telshor Boulevard. There are no trails present within the general area.

## PARKING

The property contains some existing improved parking. The 2001 Zoning Code, as amended, requires furniture stores to provide one (1) parking stall per 500-600 square feet of gross floor area. Therefore, based on the gross floor area of the existing building a range of 12 to 15 parking spaces are required to facilitate the use of a furniture store.

Two (2) of the parking stalls will be required to be Americans with Disability Act (ADA) compliant. The applicant will also be required to provide one (1) bicycle parking stall on the subject property.

## LANDSCAPING AND SCREENING

The City of Las Cruces Design Standards requires additions or structural modifications to existing buildings with a value of $25,000.00 or over to provide landscaping. The parking area determines the amount of landscaping required for the site. A minimum area equal to 15 percent of the total parking area shall be landscaped. For the purpose of landscaping compliance, the parking area includes the entire tract of land except for the building pad and fenced-in storage area.

The subject property has some mature landscaping including trees and shrubs. The property has ground cover (i.e. grass) along the majority of the southern portion of the property where the existing retention pond is located. The property also has some existing landscaping along the street frontage of N. Telshor Boulevard. The subject property is in compliance with the required 15% landscaping required on the subject property.

The property is bordered to the north and west by property zoned M-1/M-2 (Industrial Standard) and to the south by property zoned C-3C (Commercial High Intensity – Conditional). Therefore, only the regular setbacks are required from these boundaries and additional buffering (screening) is not required. The property is also bordered to the east by a major thoroughfare (N. Telshor Boulevard). No additional screening is required along this property line either.

## FINDINGS

1. The subject property encompasses 0.7494 +/- acres and is located at 750 N. Telshor Boulevard.

2. The subject property is currently zoned M-1/M-2 (Industrial Standard).

3. The subject property contains and existing 7585 square foot building that was first constructed in 1990 and later built out to its current size in 2002.

4. The zone change request from M-1/M-2 (Industrial Standard) to C-3 (Commercial High Intensity) will allow the use of a furniture store on the property by right.

5. The subject property has frontage along N. Telshor Boulevard, an existing Minor Arterial roadway as classified by the Metropolitan Planning Organization (MPO).

6. Adjacent land use and zoning include:

| | Zoning | Land Use |
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| North | M-1/M-2 | Industrial |
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7. The request is consistent with the following sections of the City of Las Cruces Comprehensive Plan:

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b. High intensity commercial uses and centers shall be located at the intersection of minor arterial streets, or any intersection with a major arterial street. Mid-block locations shall be considered on a case-by-case basis: criteria shall include street capacity, distance from an intersection where appropriate, accessibility and shared vehicular access with other uses where appropriate, and consideration of the level of traffic and environmental impacts.

c. The City shall pursue multi-modal access standards (auto, bicycle, and pedestrian transit) for high intensity commercial use and centers.

d. High intensity commercial development shall address the following urban design criteria: compatibility to adjacent development in terms of architectural design, height/density, and the provision of landscaping for site screening, parking, and loading areas. Architectural and landscaping standards for high intensity commercial use shall be established in the Comprehensive Plan Urban Design Element.

e. Adequate space for functional circulation shall be provided for parking and loading areas.

f. The City shall encourage the development of high intensity commercial centers to allow for maximum shopping convenience with minimal traffic and encroachment-related conflicts to adjacent uses.

g. High intensity commercial use and centers should not locate adjacent to rural or low density residential uses.

h. Low and medium intensity commercial use are permitted in high intensity commercial areas.

## RECOMMENDATION

Staff has reviewed this zone change and recommends approval without conditions, based on the preceding findings.

The recommendation of the Planning and Zoning Commission will be forwarded to City Council for final consideration.

## OPTIONS

1. Approve the request as recommended by staff for case Z2802.
2. Approve the request with additional conditions.
3. Deny the request.

## ATTACHMENTS

1. Development Statement
2. Narrative from property owner
3. Site plan
4. Vicinity Map

Attachment #1

# DEVELOPMENT STATEMENT for Zoning Applications
## (Use for Zone Changes, SUP's and PUD's)
**Please type or print legibly**

*Please note: The following information is provided by the applicant for information purposes only. The applicant is not bound to the details contained in the development statement, nor is the City responsible for requiring the applicant to abide by the statement. The Planning and Zoning Commission or City Council may condition approval of the proposal at a public hearing where the public will be provided an opportunity to comment.*

**Applicant Information**

Name of Applicant: Tir Na Draiochta Properties, LLC

Contact Person: Scott H. Achen

Contact Phone Number: 575-640-6411

Contact e-mail Address: scotaidh@mac.com

Web site address (if applicable): _____

**Proposal Information**

Location of Subject Property 250 N. Telshor

(In addition to description, attach map. Map must be at least 8 ½" x 11" in size and clearly show the relation of the subject property to the surrounding area)

Current Zoning of Property: M1/M2

Proposed Zoning: C-3

Acreage of Subject Property: .7494 acre

Detailed description of intended use of property. (Use separate sheet if necessary):

Furniture Store

Proposed square footage and height of structures to be built (if applicable):

Existing building of 7,585 sf

Anticipated hours of operation (if proposal involves non-residential uses):

Anticipated traffic generation _____ trips per day (if known).

Anticipated development schedule: Work will commence on or about N/A

and will take approximately _____ to complete.

How will stormwater runoff be addressed (on-lot ponding, detention facility, etc.)?

On-lot ponding

Will any special landscaping, architectural or site design features be implemented in the proposal (for example, rock walls, landscaped medians or entryways, or architectural themes)? If so, please describe and attach rendering if available:

Already Existing

**Attachments**

Please attach the following: (* *indicates optional item*)

Location map

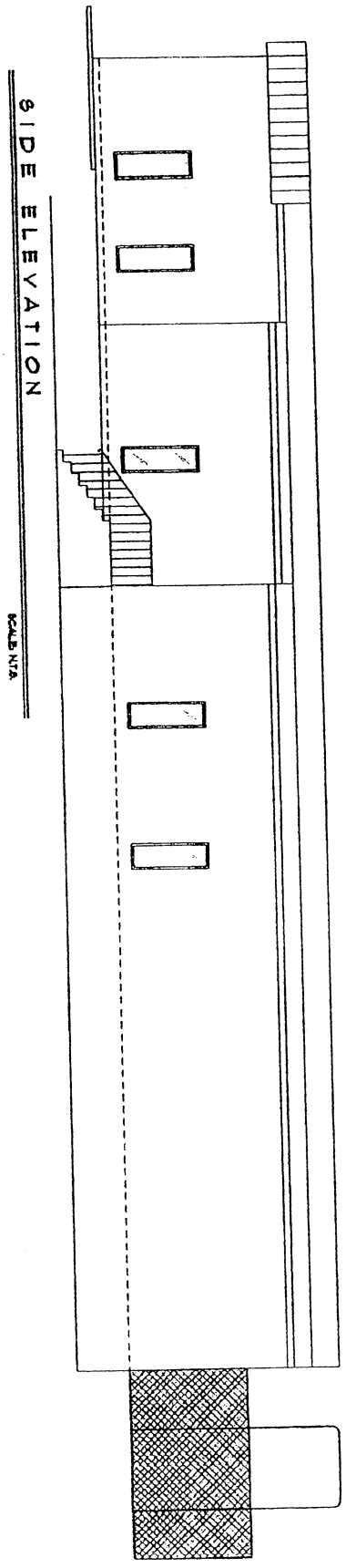
Detailed site plan

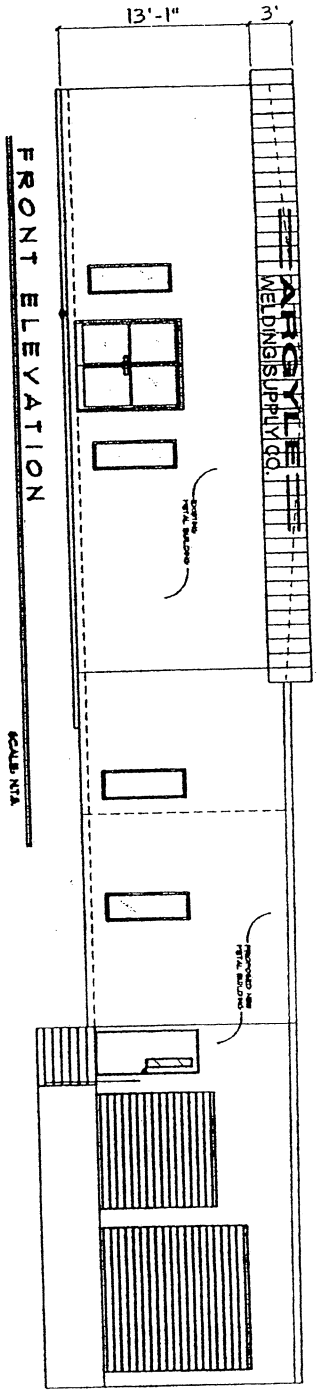
Proposed building elevations*

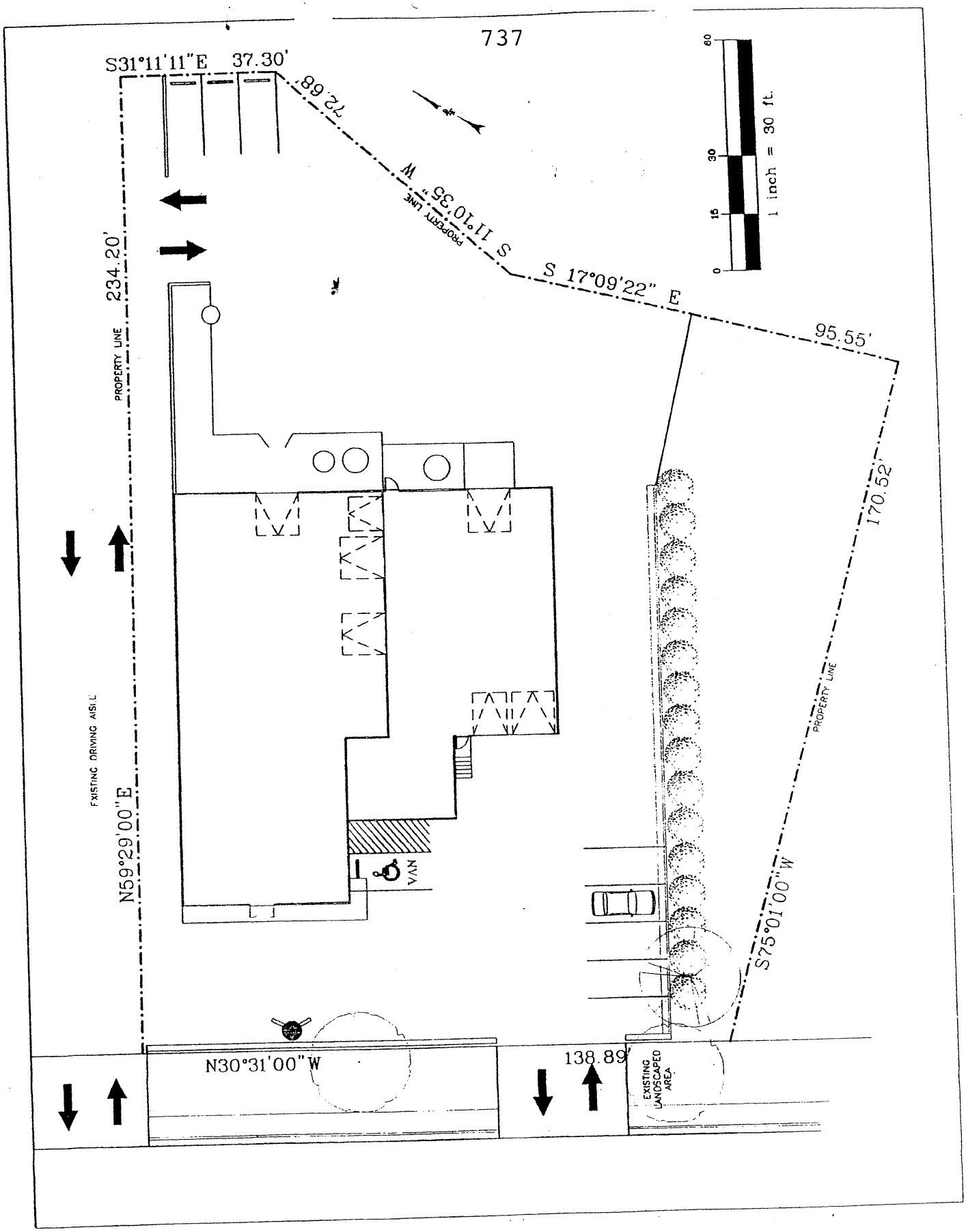
Renderings or architectural or site design features*

Other pertinent information*

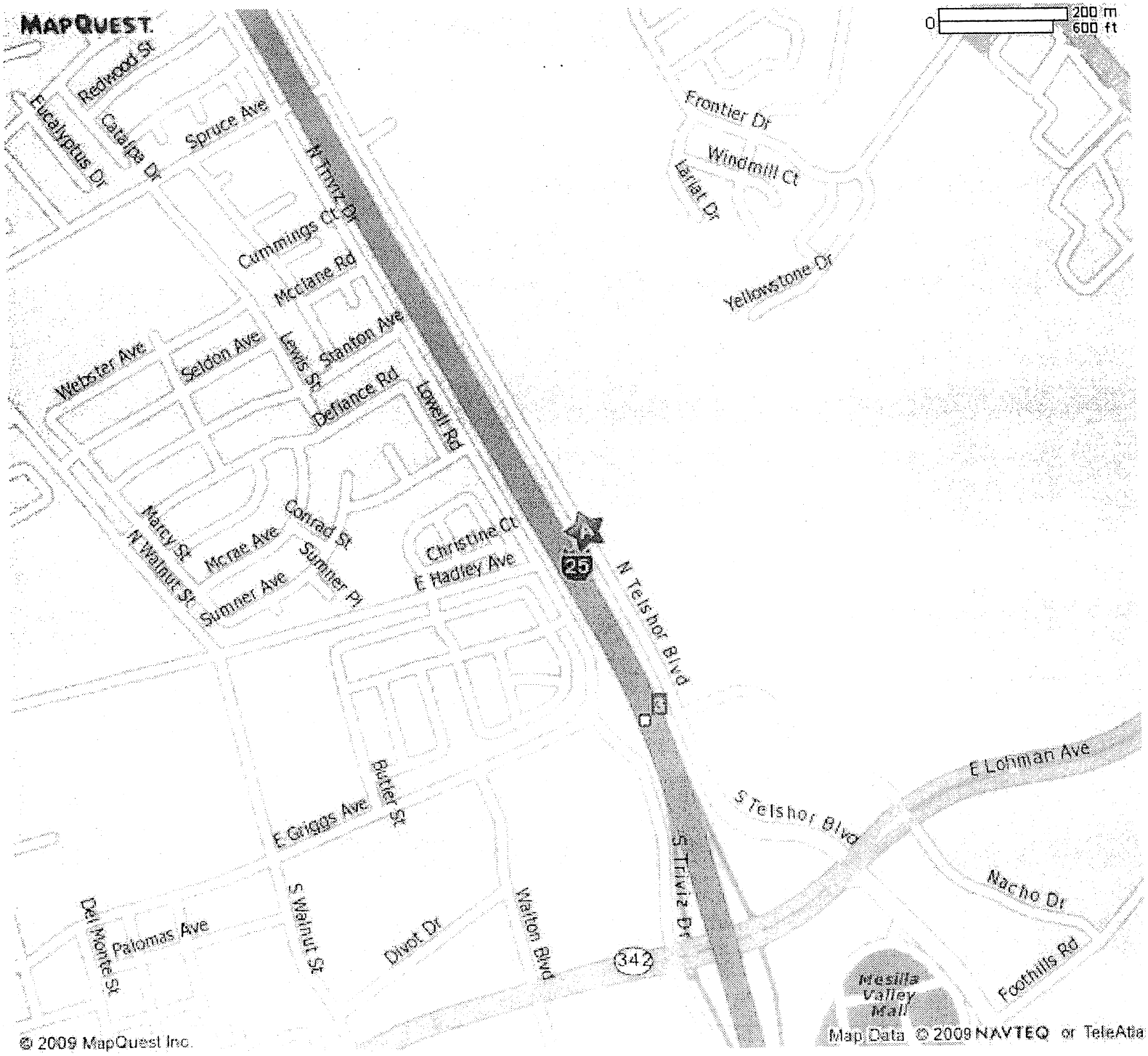
Attachment #2




S31°11'11"E 37.30'
72.68'
PROPERTY LINE
S 11°10'35" W
S 17°09'22" E
95.55'
234.20'
PROPERTY LINE
170.52'
PROPERTY LINE
EXISTING DRIVING AISLE
N59°29'00"E
VAN
S75°01'00"W
N30°31'00"W
138.89'
EXISTING LANDSCAPED AREA
60
30
15
0
1 inch = 30 ft.

## A: 250 N Telshor Blvd, Las Cruces, NM 88011-8200

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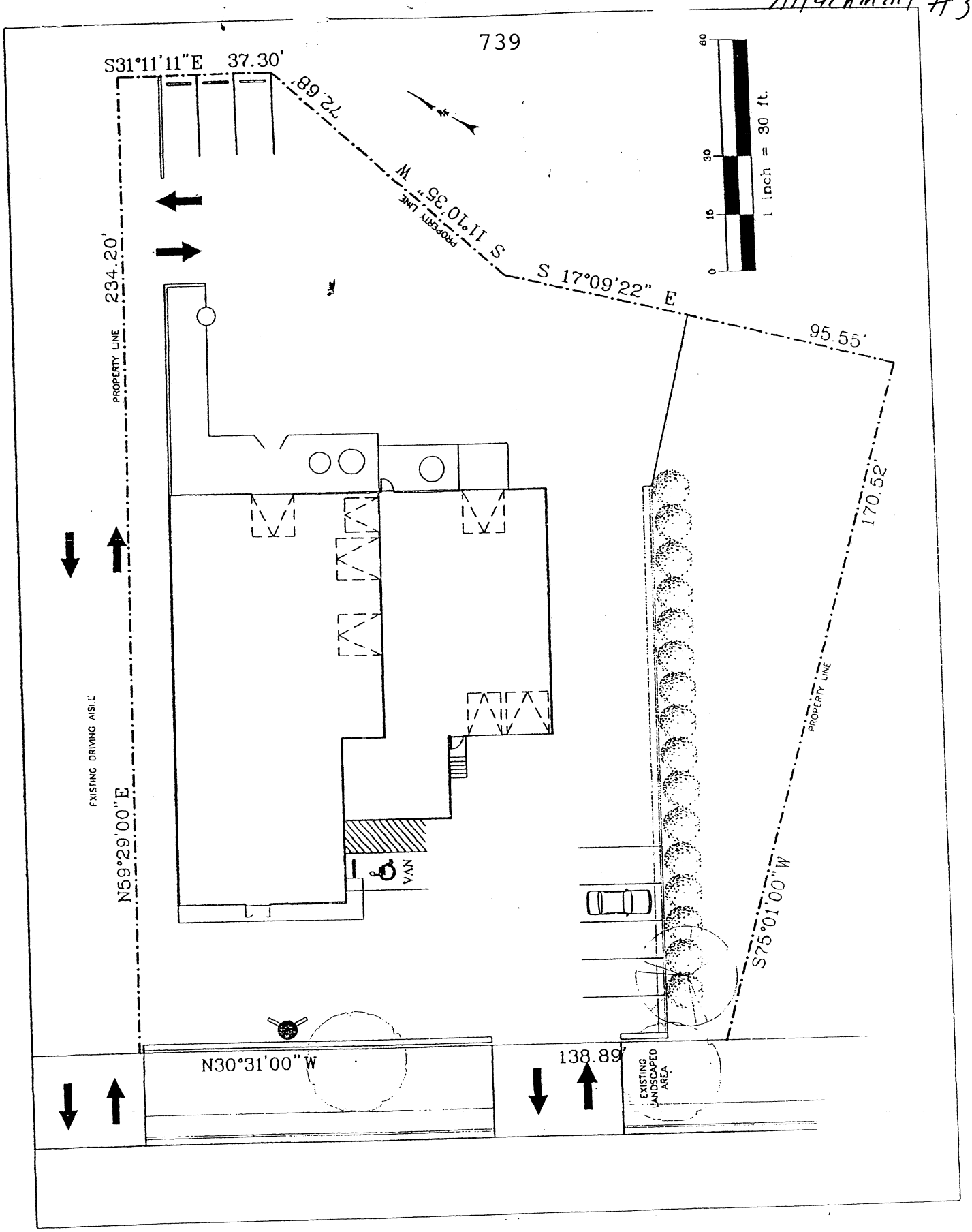
Attachment #3



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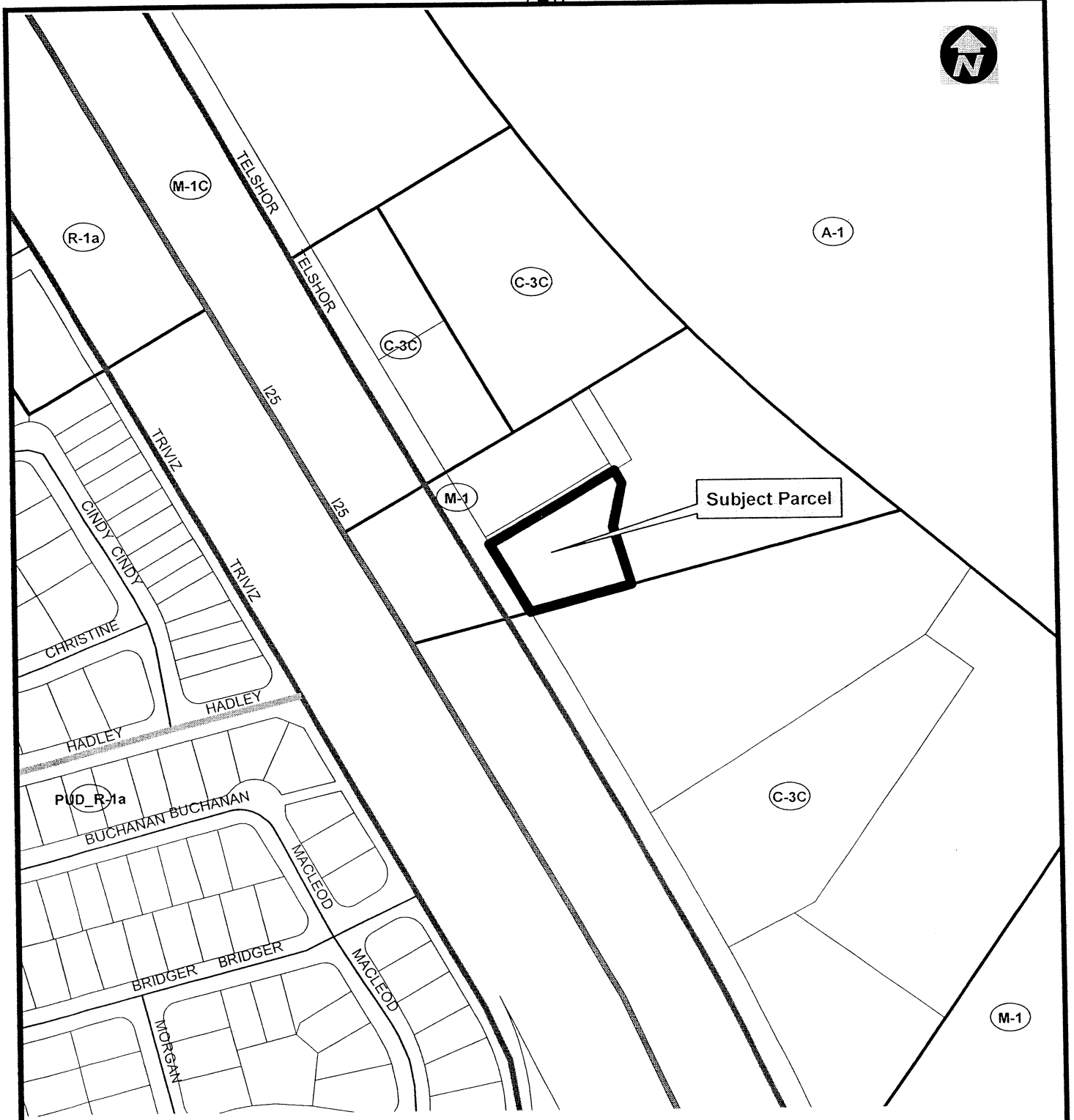



# VICINITY MAP

**CASE NO.** Z2802
**PARCEL:** 02-13431
**OWNER:** TIR NA DRAIOCHTA PROPERTIES, LLC
**ADDRESS:** 250 N. TELSHOR
**ZONING:** M-1/M-2 TO C-3

0 62.5125 250 375 500
Feet

*This map was created by Community Development to assist in the administration of local zoning regulations. Neither the City of Las Cruces or the Community Development Department assumes any legal responsibilities for the information contained in this map. Users noting errors or omissions are encouraged to contact the Community Development Department at (505) 528-3043.*

Community Development Department
575 S Alameda Blvd.
Las Cruces, NM 88001
(505) 528-3222

Attachment "B"

Scholz: Obviously. So we'll move you up to board members present. I have a correction too, it says under call to order that I represent district 1, I actually represent district 6. And I know that and I don't know why I said that. Any other additions or corrections? Okay, I'll entertain a motion to accept the minutes.

Bustos: I make a motion.

Scholz: Is there a second?

Crane: On point of order, the minutes as amended.

Scholz: The minutes as amended. Thank you.

Crane: Second.

Scholz: Okay. All those in favor, say aye.

ALL COMMISSIONERS - AYE.

Scholz: Those opposed same sign. The minutes are approved as amended.

**III. POSTPONEMENTS - NONE**

Scholz: Staff, are there any postponements? No postponements.

**IV. WITHDRAWALS - NONE**

Scholz: Any withdrawals?

Rodriguez: None.

Scholz: No withdrawals. All right.

**V. CONSENT AGENDA**

1. **Case Z2802:** A request for a zone change from M-1/M-2 (Industrial Standard) to C-3 (Commercial High Intensity) for 0.7494 +/- acres located at 250 N. Telshor. The purpose of the zone change is to allow the use of a furniture store. Submitted by property owner Scott H. Achen, Tir Na Draiochta Properties, LLC.

2. **Case Z2804:** A request for a zone change from R-1a (Single-Family Medium Density) to O-2 (Office, Professional-Limited Retail Service) for 0.576 +/- acres located at 2145 El Paseo Road. The purpose of the zone change is to

allow the use of the existing home as a professional mental health office. Submitted by property owners Stuart S. Kelter & Leora R. Zeitlin.
**MOVED TO NEW BUSINESS.**

Scholz: Then we move to the consent agenda. This is how the consent agenda works folks: we have two items on the consent agenda today, Case Z2802 and Case Z2804; both are requests for zone change. And if there is anyone who wants to speak to this or anybody who opposes it I'd like them to indicate that now. Staff, any comments?

Rodriguez: If there is any member of the public who wishes this removed from the consent agenda I invite them to the podium to state their name for the record and ask for them to remove it.

Scholz: Right, I was just going to say that, thank you. Yes, sir, which item are you referring to, sir?

Hays: My name is John Hays. I'm a resident of Heritage Farm Subdivision. We'd like to talk to the Case Z2804.

Scholz: Okay, fine. I'll put that at the top of the new business agenda. So we'll remove Case Z2804 from the consent agenda. Anyone else? All right. I'll entertain a motion to accept the consent agenda which consists of Case Z2802.

Crane: So moved.

Scholz: Is there a second?

Beard: Second.

Bustos: Second.

Scholz: All those in favor say aye.

ALL COMMISSIONERS - AYE.

Scholz: Those opposed same sign. All right the consent agenda is approved.

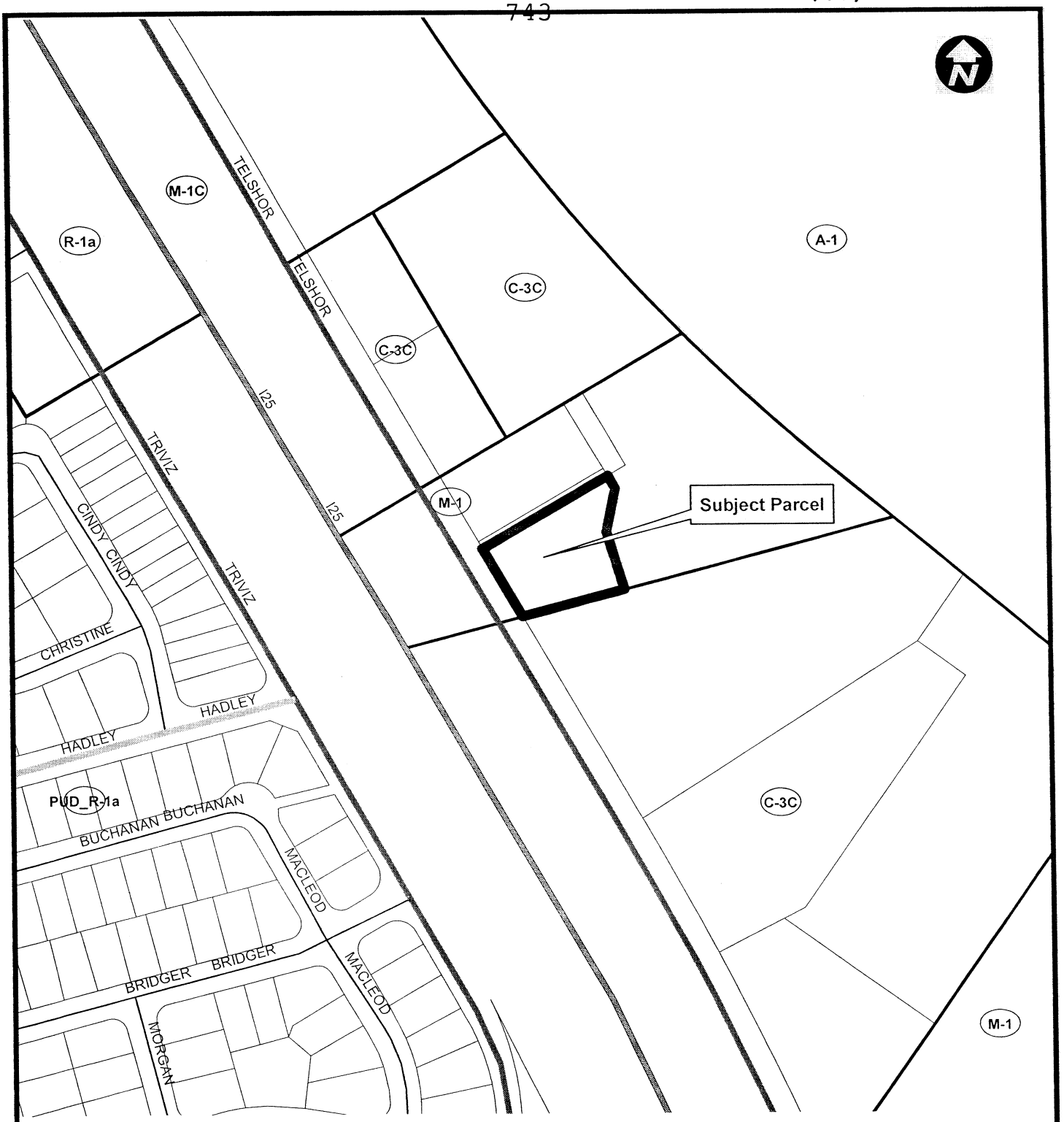
## VI. OLD BUSINESS - NONE

## VII. NEW BUSINESS

**Case Z2804:** A request for a zone change from R-1a (Single-Family Medium Density) to O-2 (Office, Professional-Limited Retail Service) for 0.576 +/- acres located at 2145 El Paseo Road. The purpose of the zone change is to

Attachment "C"






# VICINITY MAP

**CASE NO.** Z2802
**PARCEL:** 02-13431
**OWNER:** TIR NA DRAIOCHTA PROPERTIES, LLC
**ADDRESS:** 250 N. TELSHOR
**ZONING:** M-1/M-2 TO C-3

0 62.5125 250 375 500
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