

ORDINANCE NO. 2017-O-154

AMENDING THE ZONING ORDINANCE (MAP) OF THE CITY OF LAREDO BY AUTHORIZING A SPECIAL USE PERMIT FOR A RESTAURANT SELLING ALCOHOL ON LOTS 1, 2, & 3, BLOCK 3, KHALEDI HEIGHTS SUBDIVISION, LOCATED AT 3910 E DEL MAR BOULEVARD, UNIT 3 SUITE 304; PROVIDING FOR PUBLICATION AND EFFECTIVE DATE.

WHEREAS, the owner of Lots 1, 2 & 3, Block 3, Khaledi Heights Subdivision, located at 3910 E Del Mar Boulevard, Unit 3 Suite 304, has requested a Special Use Permit for a restaurant selling alcohol; and,

WHEREAS, the required written notices were sent to surrounding property owners at least ten (10) days before the public hearing held before the Planning and Zoning Commission on September 21, 2017; and,

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

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

WHEREAS, the City Council has held a public hearing on October 16, 2017, on the request and finds the proposed Special Use Permit appropriate and consistent with the General Plan of the City of Laredo; and,

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

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

Section 1: A Special Use Permit is granted for a restaurant selling alcohol on Lots 1, 2 & 3, Block 3, Khaledi Heights Subdivision, located at 3910 E Del Mar Boulevard, Unit 3 Suite 304.

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

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

1. The Special Use Permit is issued to Khaledi Commercial Investments LP. / Edward A. Beckelhymer; Korean BBQ LLC. /Jong Wong Park & Yoon K. Park, for BBQ Park, and is non-transferable.
2. The Special Use Permit is restricted to 1,986 S.F. of interior space, eating area on Building 300, Suite 304 as per the site plan, Exhibit "A", which is made part hereof for all purposes.
3. The Special Use Permit is restricted to a restaurant serving alcohol and hours of operation from Monday through Saturday from 11:00 a.m. through 12:00 a.m.(midnight), as per Exhibit "B".
4. The establishment must make provisions to keep litter to a minimum, and to keep it from blowing onto adjacent streets and properties.
5. Signage shall be consistent with the City's Sign Ordinance and TABC rules or regulations.

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

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

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

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

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

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

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

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

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

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

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

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

(b) Procedures:

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

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

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

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

(d.) Should a citation result in a court, having jurisdiction or a jury finding the holder of the Special Use Permit guilty of a violation, or if a holder of an SUP pleads guilty, the Special Use

Permit will be suspended for such period of time as is necessary to remedy the violation, but in no event shall the suspension be for less than 24 hours to be implemented as follows:.

- i. The Zoning Officer or Fire Official shall immediately notify the Planning Director, in writing, of the result of the prosecution of the citation.
- ii. The Planning Director shall, within 48 hour notice of the court's determination (or as soon thereafter as is practicable) issue the permit holder written notification of the Special Use Permit's official suspension.
- iii. The Special Use Permit Holder shall suspend all business operations in accordance with the notice.
- iv. The Special Use Permit Holder shall not resume operation until the violation has been corrected and the establishment has been inspected. A "Notice of Termination of Suspension" shall be issued by the Planning Director upon his/her finding that all issues relevant to the suspension have been complied with and the 24 hour suspension period has run. The Planning Director shall issue such notice without unreasonable delay.

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

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

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

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

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

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

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

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

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

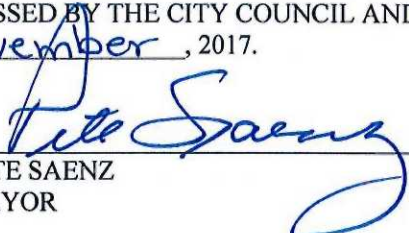
(b.) Should the twelve citations, issued during any twelve month period result in a court having jurisdiction or a jury find the holder of the Special Use Permit guilty of each violation or if a holder of an SUP pleads guilty to violation/s, the City of Laredo shall consider the Special Use Permit revoked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

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

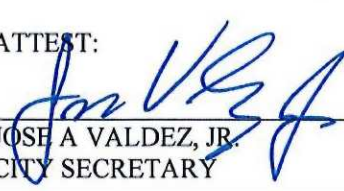
(d.) Once the holder of the Special Use Permit has been notified of the revocation, the permit holder may petition the City Council for reinstatement of the permit. The reinstatement shall be processed and proceed in the same manner as a new application for a Special Use Permit inclusive of all required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

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

PASSED BY THE CITY COUNCIL AND APPROVED BY THE MAYOR ON THIS THE 27 DAY OF November, 2017.


PETE SAENZ
MAYOR

ATTEST:


JOSE A. VALDEZ, JR.
CITY SECRETARY

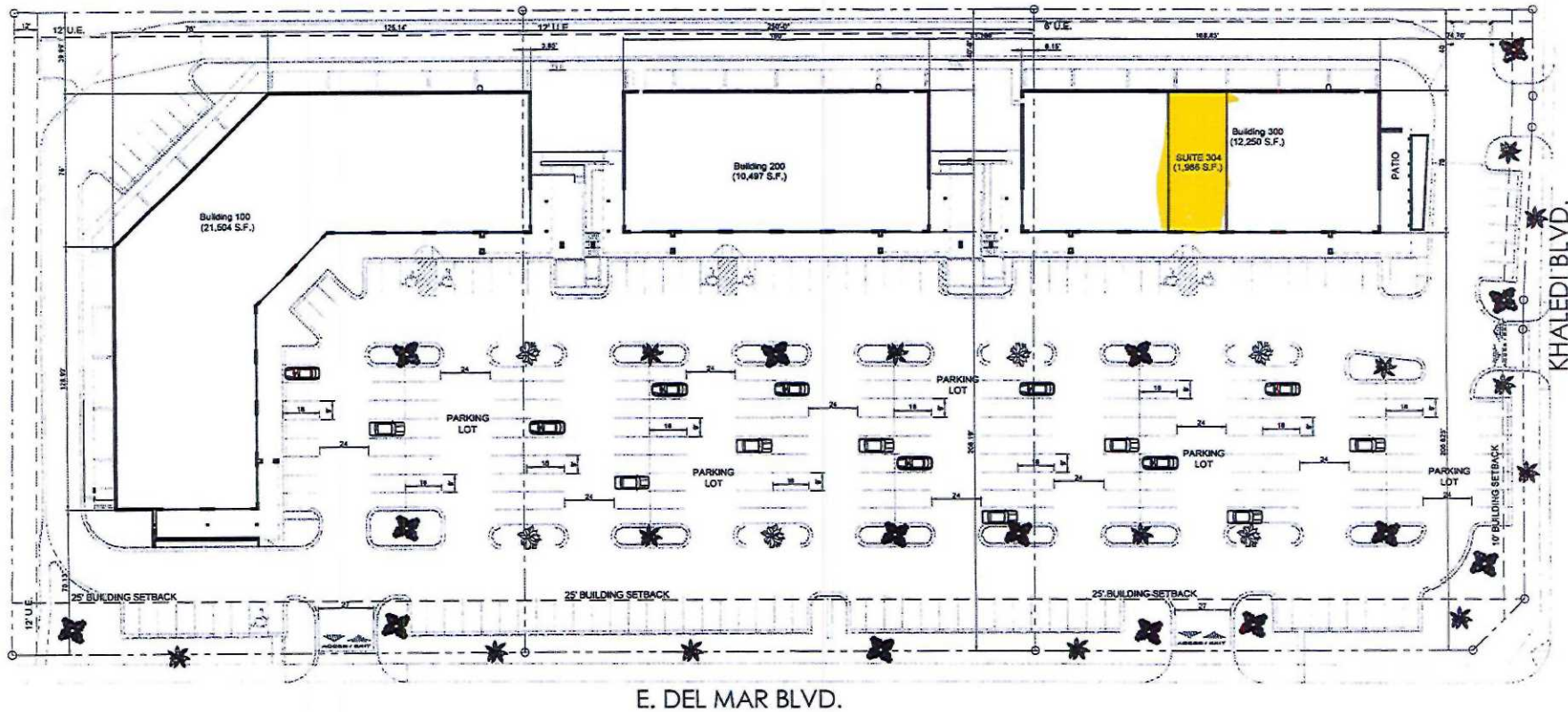


APPROVED AS TO FORM:


KRISTINA K. LAUREL HALE
ACTING CITY ATTORNEY

ADDRESS:
3910 E. DEL MAR BLVD
LAREDO, TX. 78045
PARKING:
281 SPACES
7 HANDICAPS

PROPOSED SUITES:
UNIT #304
APROX: 3,500 S.F. AREA (1,986 S.F.)

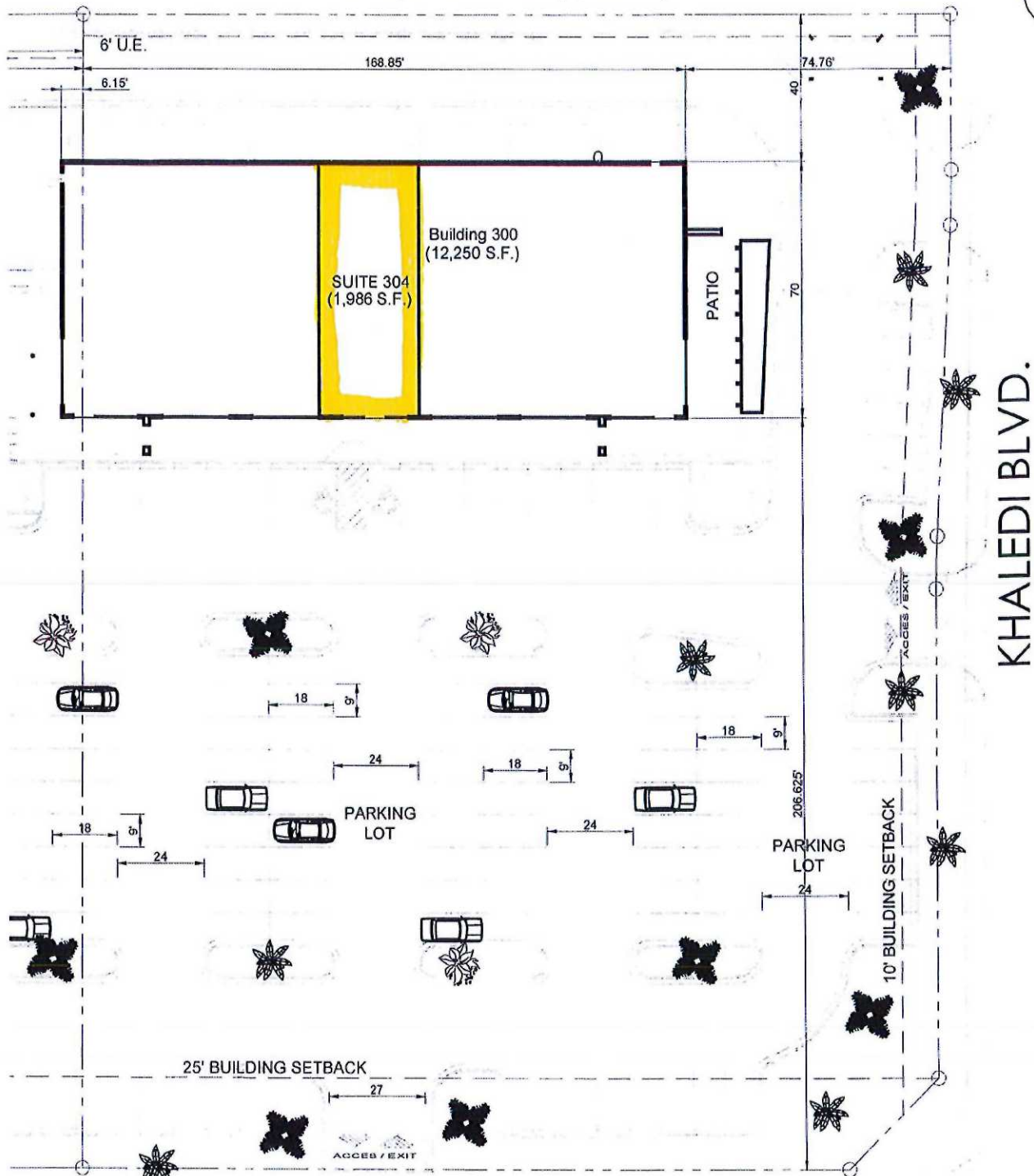
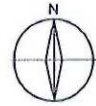


E. DEL MAR BLVD.

KHALEDI BLVD.

20 10 0 20 40 60 80
SCALE 1/32"
when printed on 11" x 17"

PROPOSED SUITES:
UNIT #304
APROX:3,500 S.F. AREA (1,986 S.F.)



20 10 0 20 40 60 80 FEET
SCALE 1:40
when printed on 8.5" x 11"

2 of 2

Applicant : Korean BBQ/ DBA BBQ Park

Applicant: Korean BBQ / DBA BBQ Park

Address: 3910 E. Del Mar Blvd. Suite 304

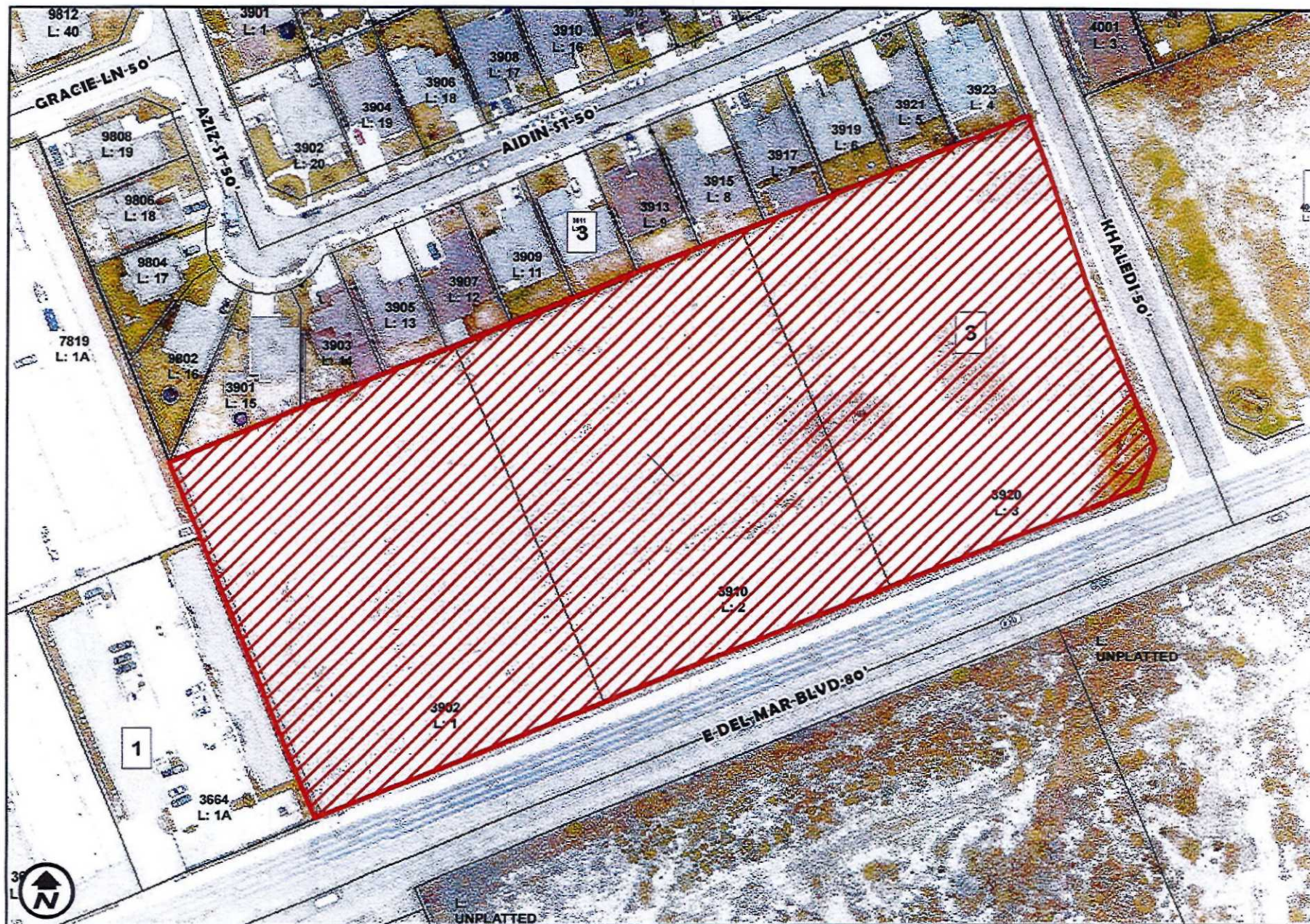
Laredo, TX 78045

Type of SPU requested: Restaurant

We are applying for the Special Use Permit for our new restaurant. Our restaurant will be a family restaurant and this Special Use Permit will be used to serve our customers for variety of beer and wine with our foods. If you have any questions or comments, please contact us at jay1018us@gmail.com any time. Thank you.

Our business hours will be 11:00am to 12:00am on Monday to Saturday. Our employees will be 5 or more/less..

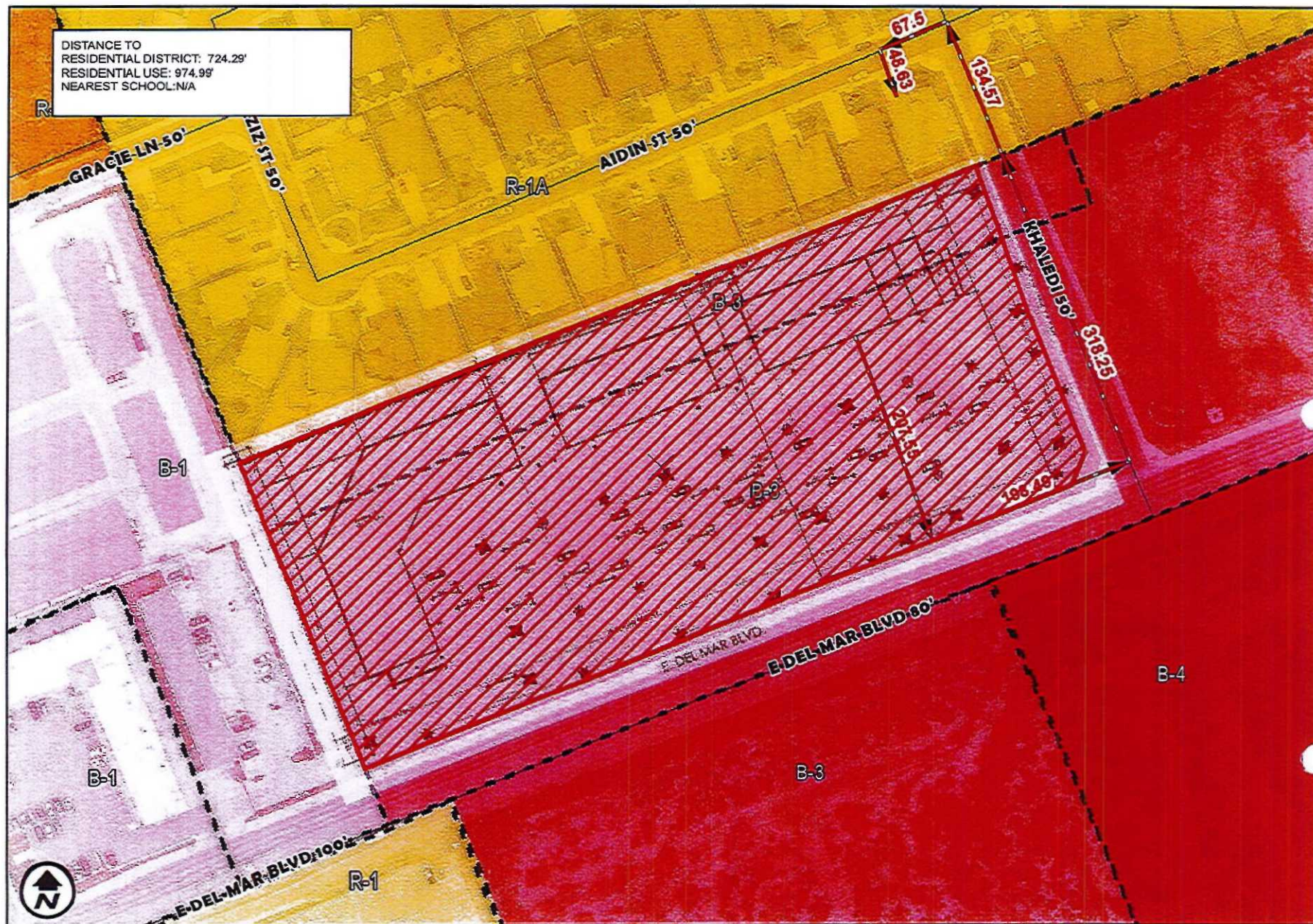
Yoon K. Park

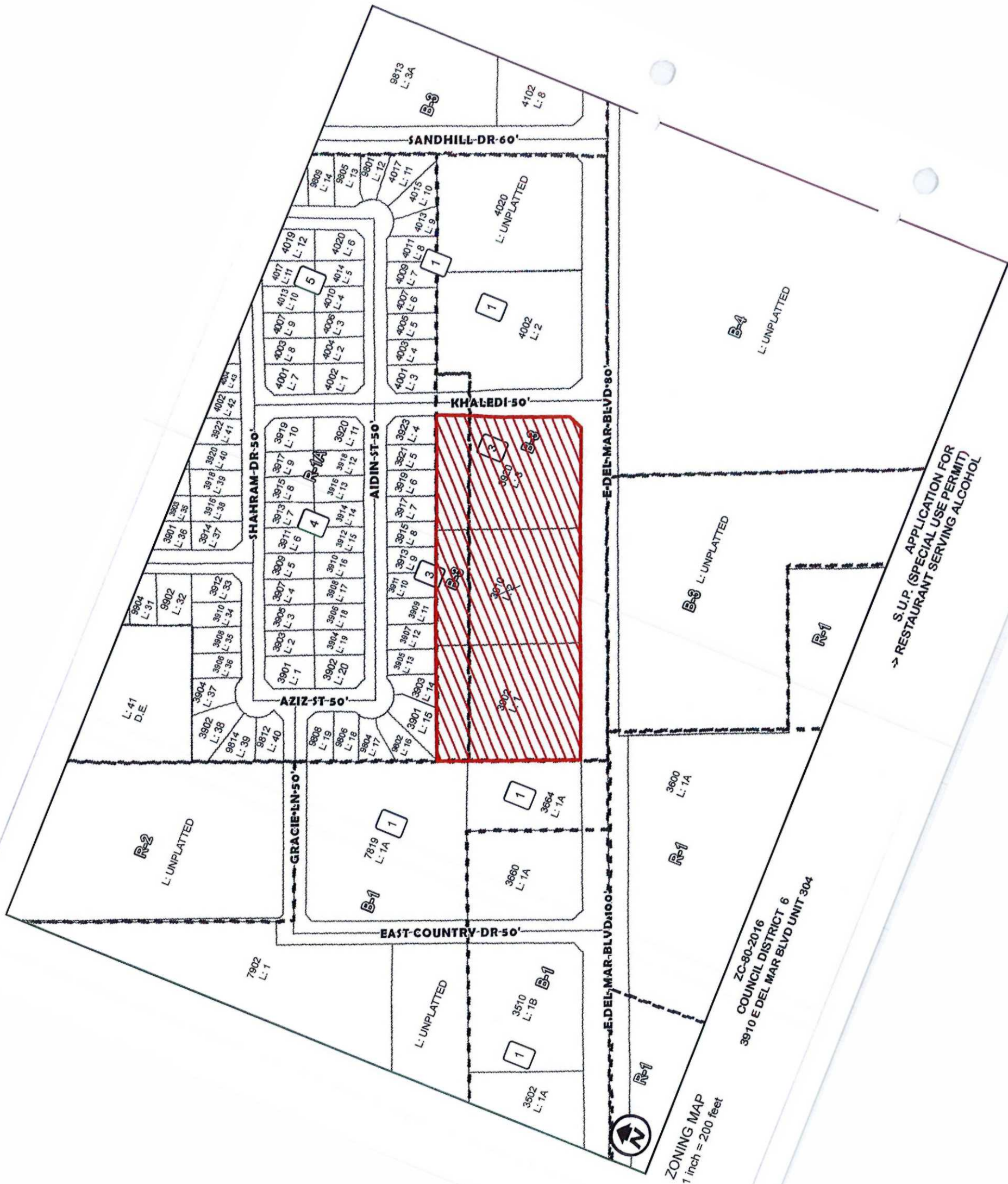
AERIAL MAP
1 inch = 100 feet

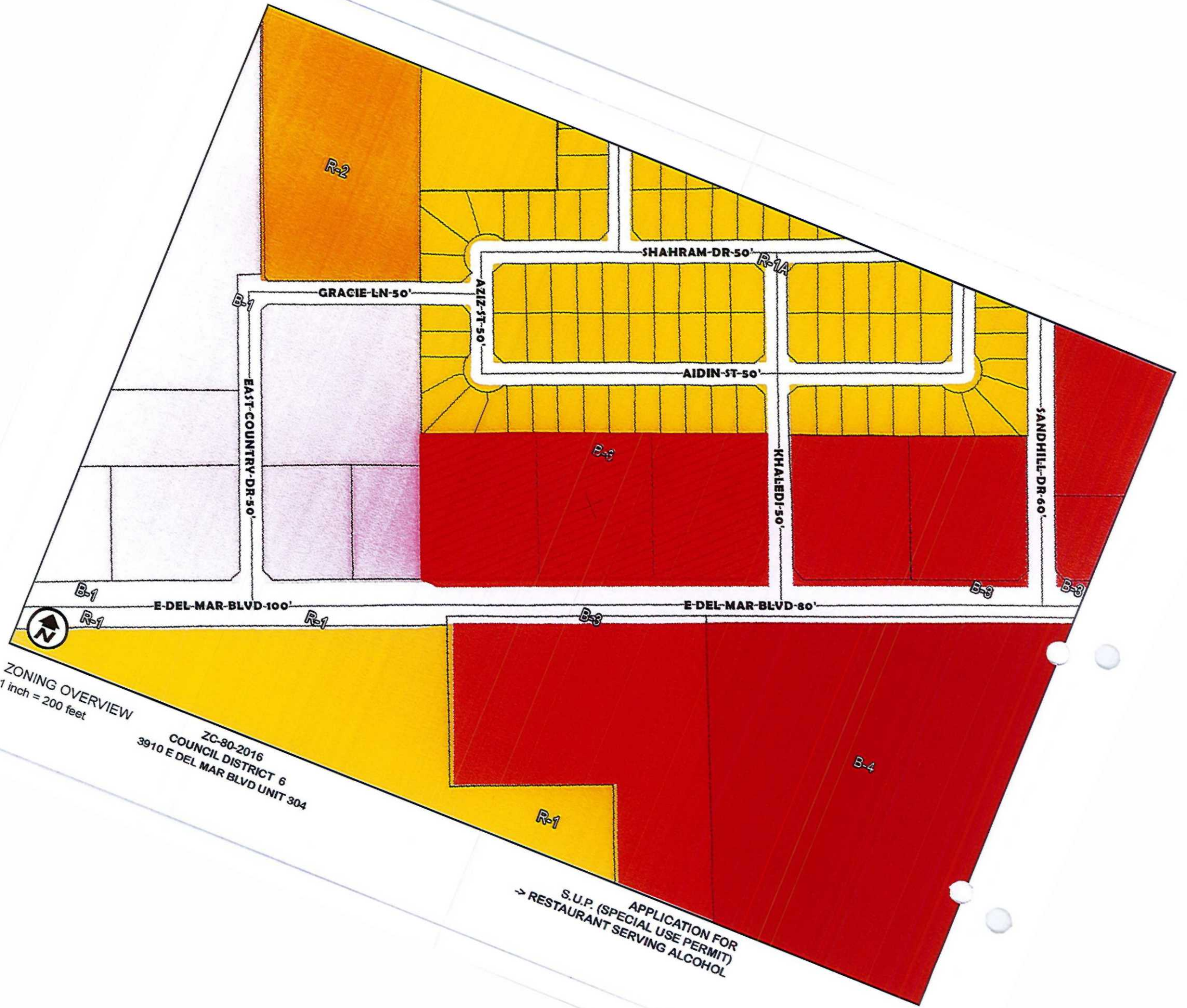
ZC-80-2016
COUNCIL DISTRICT 6
3910 E DEL MAR BLVD UNIT 304

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





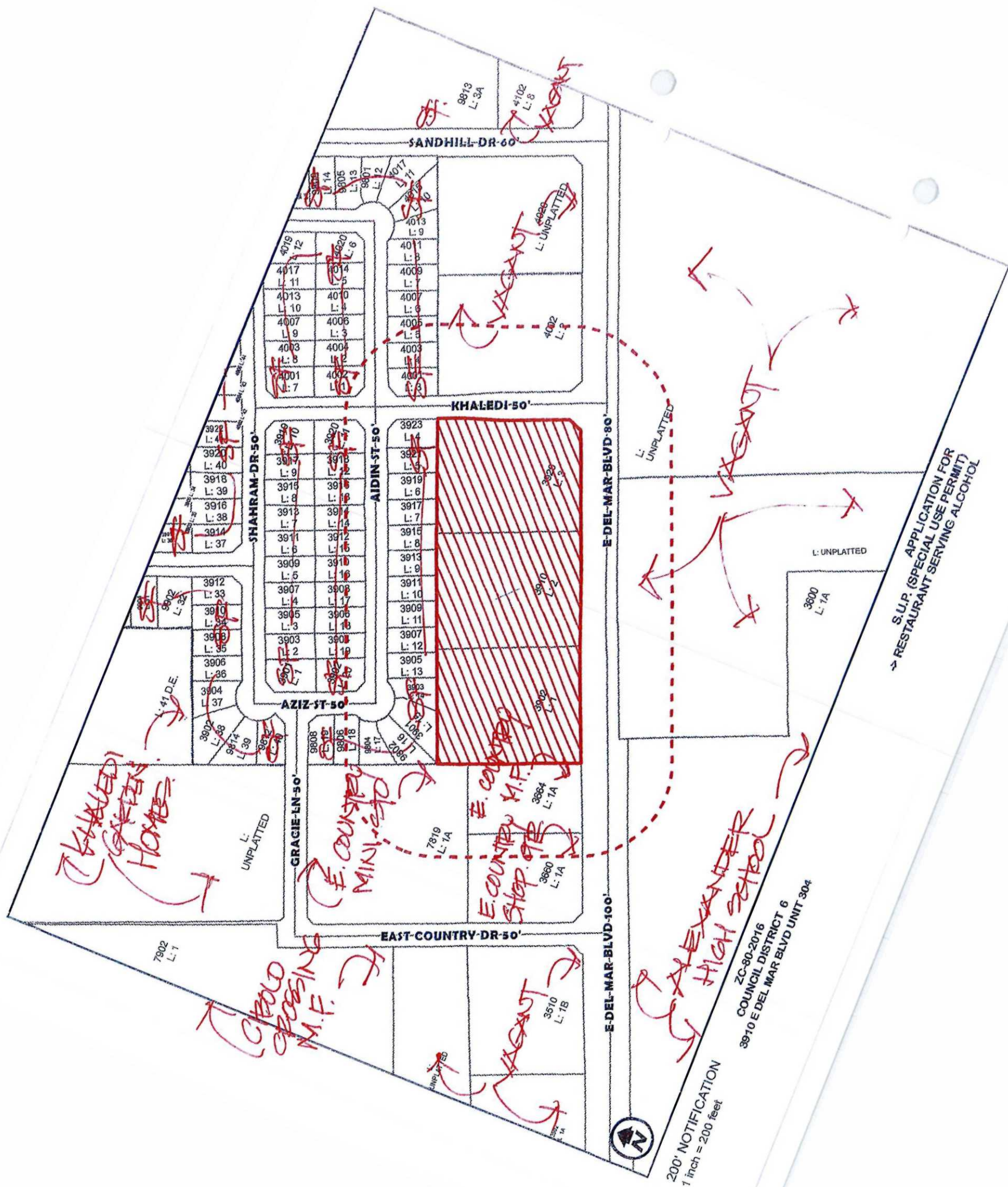




ZONING OVERVIEW
1 inch = 200 feet

ZC-80-2016
COUNCIL DISTRICT 6
3910 E DEL MAR BLVD UNIT 304

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



ZC-80-2017
3910 E Del Mar Blvd. Suite 304
B3 to SUP for a Restaurant/Selling/Alcohol



ZC-80-2017
3910 E Del Mar Blvd. Suite 304
B3 to SUP for a Restaurant/Selling/Alcohol



ZC-80-2017
3910 E Del Mar Blvd. Suite 304
B3 to SUP for a Restaurant/Selling/Alcohol



ZC-80-2017
3910 E Del Mar Blvd. Suite 304
B3 to SUP for a Restaurant/Selling/Alcohol



ZC-80-2017
3910 E Del Mar Blvd. Suite 304
B3 to SUP for a Restaurant/Selling/Alcohol



ZC-80-2017
3910 E Del Mar Blvd. Suite 304
B3 to SUP for a Restaurant/Selling/Alcohol



Final Reading of Ordinances 15.

City Council-Regular

Meeting Date: 11/06/2017

Initiated By: Horacio A. De Leon, City Manager

Initiated By: Khaledi Commercial Investments LP. / Edward A. Beckelhymer, Owner;
Korean BBQ LLC DBA BBQ Park/Jong Wong Park & Yoon K. Park,
Applicants

Staff Source: Nathan R. Bratton, Planning Director

SUBJECT

2017-O-154 Amending the Zoning Ordinance (Map) of the City of Laredo by authorizing a Special Use Permit for a Restaurant Serving Alcohol, on Lots 1, 2, and 3, Block 3, Khaledi Heights Subdivision, located at 3910 E Del Mar Blvd., Unit 3, Suite 304; providing for publication and effective date.
ZC-80-2017

District VI

PREVIOUS COUNCIL ACTION

This item was introduced by the Honorable Charlie San Miguel at the regular Council meeting of October 16, 2017.

BACKGROUND

Council District: VI – The Honorable Charlie San Miguel

Proposed use: Restaurant Serving Alcohol

Site: Commercial Plaza (23 Suites, Costa Grill, KRK Offices and vacant suites).

Surrounding land uses: Abutting the property to the north is residential uses (Khaledi Garden Homes). West of the property are East Country Mini-Storage, East Country Village Apartments, vacant lots, and East Country Shopping Center and Cibolo Crossing Apartments. East of the property are vacant lots and single family residential uses. South of the property is vacant undeveloped land and Alexander High School.

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

Transportation Plan: The Long Range Thoroughfare Plan identifies Del Mar Boulevard

as a Modified Major Arterial. Khaledi St. is not identified in the Plan.

Letters sent to surrounding property owners: 56

In Favor: 1

Opposed: 1

COMMITTEE RECOMMENDATION

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

STAFF RECOMMENDATION

Staff supports the proposed Special Use Permit.

STAFF COMMENTS

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

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

1. The proposed SUP is appropriate at this location because is in conformance with the Comprehensive Plan's designation for the area as Light Commercial.
2. The proposed location meets the distance requirements as per Ordinance 2013-O-005.
3. The proposed SUP for a restaurant selling alcohol is compatible with the existing zones and surrounded uses in this section of Del Mar Blvd.
4. The proposed location meets parking requirements as per current uses within the property.

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

1. The Special Use Permit is issued to Khaledi Commercial Investments LP. / Edward A. Beckelhymer; Korean BBQ LLC. /Jong Wong Park & Yoon K. Park, for BBQ Park, and is non-transferable.
2. The Special Use Permit is restricted to 1,986 S.F. of interior space, eating area on Building 300, Suites 304 as per the site plan, Exhibit "A", which is made part hereof for all purposes.
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a.m.(midnight), as per Exhibit "B".

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9. The restaurant shall not exceed the "Occupant Load" as set forth in the Certificate of Occupancy with Occupant Load issued to SUP business holder.
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11. The restaurant shall undergo an annual Fire Inspection.
12. All permits, licenses, certifications and inspections required by the codes and ordinances of the City of Laredo shall be kept up to date and current including but not limited to Food Manager License (annual), Food Handler's Permit (annual), and Certificate of Occupancy with Occupant Load, Occupant Load being the approved capacity of a building or portion thereof.
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17. The restaurant shall maintain and comply with the BLUE Gun Sign regulations as per TABC (not to exceed the required alcohol sales percentage).
18. The restaurant shall provide the City of Laredo, Planning Department with a copy of the current TABC License to include but not limited to any renewals or amendments as they occur.

Fiscal Impact

Fiscal Year:

Budgeted Y/N?:

Source of Funds:

Account #:

Change Order: Exceeds 25% Y/N:

FINANCIAL IMPACT:

N/A

Attachments

Ordinance 2017-O-154

Exhibits A & B

Color Maps

Color Pictures
