

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

DEPARTMENT: Planning & Inspections Department
AGENDA DATE: Introduction 2/28/17; Public Hearing 3/7/17
CONTACT PERSON/PHONE: Larry F. Nichols, (915) 212-1550, nicholslf@elpasotexas.gov
Armida Martinez, (915) 212-1605, martinezar@elpasotexas.gov
DISTRICT(S) AFFECTED: 1

SUBJECT:

An ordinance allowing the City Manager to sign a correction instrument and a correction quitclaim deed to correct a scrivener's error in the quitclaim deed signed as a result of the vacation of a portion of City right of way under Ordinance 018621. Subject Property: East of Ochoa and North of University; Applicant: Maria Del Carmen and Daniel A. Casavantes SURW16-00006 (District 1)

BACKGROUND / DISCUSSION:

See attached report.

PRIOR COUNCIL ACTION:

City Council approved Ordinance 018621 on December 6, 2016.

AMOUNT AND SOURCE OF FUNDING:

N/A

BOARD / COMMISSION ACTION:

City Plan Commission (CPC) – Recommended approval on September 22, 2016, with the following requirement and condition:

- That the applicant dedicate a permanent 10' PSB easement on the western side of the vacated right-of-way to accommodate the existing water main along Ochoa Street.

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

LEGAL: (if required) N/A

FINANCE: (if required) N/A

DEPARTMENT HEAD: Larry F. Nichols, Director
Planning & Inspections Department



APPROVED FOR AGENDA:

CITY MANAGER: _____ DATE: _____

ORDINANCE NO. _____

AN ORDINANCE ALLOWING THE CITY MANAGER TO SIGN A CORRECTION INSTRUMENT AND A CORRECTION QUITCLAIM DEED TO CORRECT A SCRIVENERS ERROR IN THE QUITCLAIM DEED SIGNED AS A RESULT OF THE VACATION OF A PORTION OF CITY RIGHT OF WAY UNDER ORDINANCE 018621.

WHEREAS, On December 6th, 2016, the City Council Adopted Ordinance No. 018621 vacating a portion of city right of way over a portion of Ochoa Street out of Block 169 Alexander Addition, City of El Paso, El Paso County, Texas; and

WHEREAS, Ordinance No. 018621 authorized the City manager to sign an instrument quitclaiming all of the City's right, title and interest to such vacated property,

WHEREAS, due to a scrivener's error, the quitclaim deed was incorrectly made out to Maria Del Carmen and David A. Casavantes; and

WHEREAS, the quitclaim deed should have been made out to Maria Del Carmen Casavantes and spouse, Daniel A. Casavantes; and

WHEREAS, the parties wish to correct such scrivener's error.

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

That the City Manager is authorized to sign a correction instrument and a correction quitclaim deed quitclaiming all of the City's right, title, and interest to the property vacated by Ordinance No. 018621 to Maria Del Carmen Casavantes and spouse, Daniel A. Casavantes.

ADOPTED this _____ day of _____, 2017.

THE CITY OF EL PASO

Oscar Leeser
Mayor

(SIGNATURES ON THE FOLLOWING PAGE)

ATTEST:

Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:



Omar A. De La Rosa
Assistant City Attorney

APPROVED AS TO CONTENT:



Larry F. Nichols, Director
Planning and Inspections Department

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

THE STATE OF TEXAS }
 }
COUNTY OF EL PASO }

CORRECTION QUITCLAIM DEED

This Correction Quitclaim Deed is made to be effective as of December 6, 2016 by the City of El Paso ("City") and Maria Del Carmen Casavantes and spouse, Daniel A. Casavantes ("Grantees").

RECITALS

1. City conveyed the property vacated, closed, and abandoned by Ordinance No. 018621 by that Quitclaim Deed dated December 6, 2016 ("Original Deed") which Original Deed was filed and recorded on December 12, 2016 as Doc# 20160087567 in the Official Records of El Paso County, Texas.
2. Due to a scrivener's error, the property was erroneously quitclaimed in the Original Deed to Maria Del Carmen and David A. Casavantes, when in fact, the property should have been quitclaimed to Maria Del Carmen Casavantes and spouse, Daniel A. Casavantes.
3. City and Grantees desire to make and execute this Correction Quitclaim Deed ("Correction Deed") in order to correctly identify the parties as referenced in the Original Deed, which Correction Deed supersedes and replaces the Original Deed in its entirety.

NOW THEREFORE, in consideration of the receipt by the **CITY OF EL PASO** of TEN and No/100THS DOLLARS (\$10.00) and other valuable consideration, the sufficiency of which is acknowledged, **THE CITY OF EL PASO**, has released and quitclaimed and by these presents does release and quitclaim unto Maria Del Carmen Casavantes and spouse, Daniel A. Casavantes (the "Grantees"), all its rights, title interest, claim and demand in and to the property which was vacated, closed and abandoned by Ordinance No. 018621, passed and approved by the City Council of the City of El Paso and described as **A PORTION OF OCHOA STREET OUT OF BLOCK 169, ALEXANDER ADDITION, CITY OF EL PASO, EL PASO COUNTY, TEXAS**, which is more fully described in the attached metes and bounds description, identified as Exhibit "A" and in the attached survey identified as Exhibit "B" and made a part hereof by reference.

Reservation of Easement: The City reserves to itself, for the use of the El Paso Water Utilities-Public Service Board ("EPWU-PSB") a permanent 10' easement on the western side of the vacated right-of-way to accommodate an existing water main along Ochoa Street as shown in Exhibit "B" ("Easement"). The Grantee will not install any buildings, reservoirs, structures, or other improvements on the Easement without the written consent of EPWU-PSB. The Grantee,

ORDINANCE NO. _____

SURW16-00006

16-1007-1850 / 625831

Ochoa Street Vacation Amendment

OAR

upon receipt of written notice from the City or the EPWU-PSB, will remove at its own expense any interferences which prevent the use of the Easement by EPWU-PSB. The Grantee will allow 24-hour, 7 days a week, access to the City and the EPWU-PSB to enter the Grantee's property to access the Easement. **THE GRANTEE WILL INDEMNIFY THE CITY AND EPWU-PSB FROM AND AGAINST ALL CLAIMS, LIABILITY, ACTIONS, AND DAMAGES FOR BODILY INJURY AND PROPERTY DAMAGE TO PARTIES OR TO EPWU-PSB WHICH MAY BE CAUSED BY OR ARISE OUT OF THE MAINTENANCE AND EXISTENCE OF THE WATER MAIN IN THE EASEMENT AREA.**

This Correction Deed supersedes and replaces the Original Deed in its entirety and is made to correct the above described error. The Correction Deed will be effective as of the date of the Original Deed.

EXECUTED on the dates set forth in the acknowledgements below to be EFFECTIVE December 6, 2016.

CITY OF EL PASO

Tomás González, City Manager

ATTEST:

Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:



Omar A. De La Rosa
Assistant City Attorney

APPROVED AS TO CONTENT:



Larry F. Nichols, Director
Planning and Inspections Department

GRANTEE:



Maria Del Carmen Casavantes

GRANTEE:



Daniel A. Casavantes

(Acknowledgements on following page)

ORDINANCE NO. _____
16-1007-1850 / 625831
Ochoa Street Vacation Amendment
OAR

SURW16-00006

ACKNOWLEDGMENTS

THE STATE OF TEXAS)
)
COUNTY OF EL PASO)

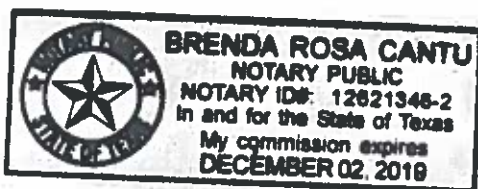
This instrument is acknowledged before me on this _____ day of _____, 2017,
by Tomás González, as City Manager for the CITY OF EL PASO.

Notary Public, State of Texas
Notary's Printed or Typed Name:

My Commission Expires:

THE STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument is acknowledged before me on this 6th day of February, 2017,
by Maria Del Carmen Casavantes for the Grantees.



Brenda Rosa Cantu

Notary Public, State of Texas
Notary's Printed or Typed Name:

My Commission Expires:
December 2, 2019

(Acknowledgments continue on the following page)

THE STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument is acknowledged before me on this 2nd day of February, 2017,
by Daniel A. Casavantes for the Grantees.



Armida R. Martinez
Notary Public, State of Texas
Notary's Printed or Typed Name:

My Commission Expires:
January 22, 2019

AFTER FILING RETURN TO:
Maria Del Carmen and Daniel A. Casavantes
701 E. University Street
El Paso, Texas 79902

EXHIBIT "A"

0Prepared for: Jose Murgin
July 25, 2016

METES AND BOUNDS DESCRIPTION

Description of a parcel of land being a portion of Ochoa Street out of Block 169, Alexander Addition, City of El Paso, El Paso County, Texas, and being more particularly described by metes and bounds as follows:

Commencing for reference at an existing city monument at the intersection of Ochoa Street and Blacker Street from which an existing City monument at the intersection of Blacker Street and St. Vrain Street bears, North 52°23'00" East a distance of 660.00 feet; Thence along the centerline of Ochoa Street North 37°37'00" West a distance of 695.00 feet; Thence leaving said centerline North 52°23'00" East a distance of 15.00 feet to a set chiseled v in concrete for the "TRUE POINT OF BEGINNING".

Thence, North 36°44'11" West a distance of 100.40 feet to a set chiseled v in concrete for a point of curve;


Thence 13.43 feet along the arc of a curve to the right which has a radius of 15.17 feet a central angle of 50°23'21" a chord which bears North 04°30'02" West a distance of 12.92 feet to a set chiseled v in concrete;

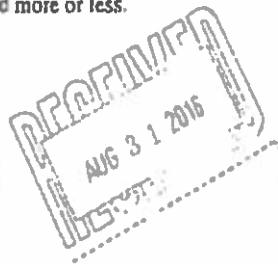
Thence, North 50°06'34" East a distance of 11.41 feet to a set chiseled v in concrete on the easterly right of way line of Ochoa Street;

Thence along said right of way line, South 37°37'00" East a distance of 111.66 feet to a set x chiseled in concrete sidewalk on the northerly right of way line of University Street;

Thence, South 52°23'00" West a distance of 20.00 feet to the "TRUE POINT OF BEGINNING" and containing 2,107 square feet or 0.0484 acres of land more or less.

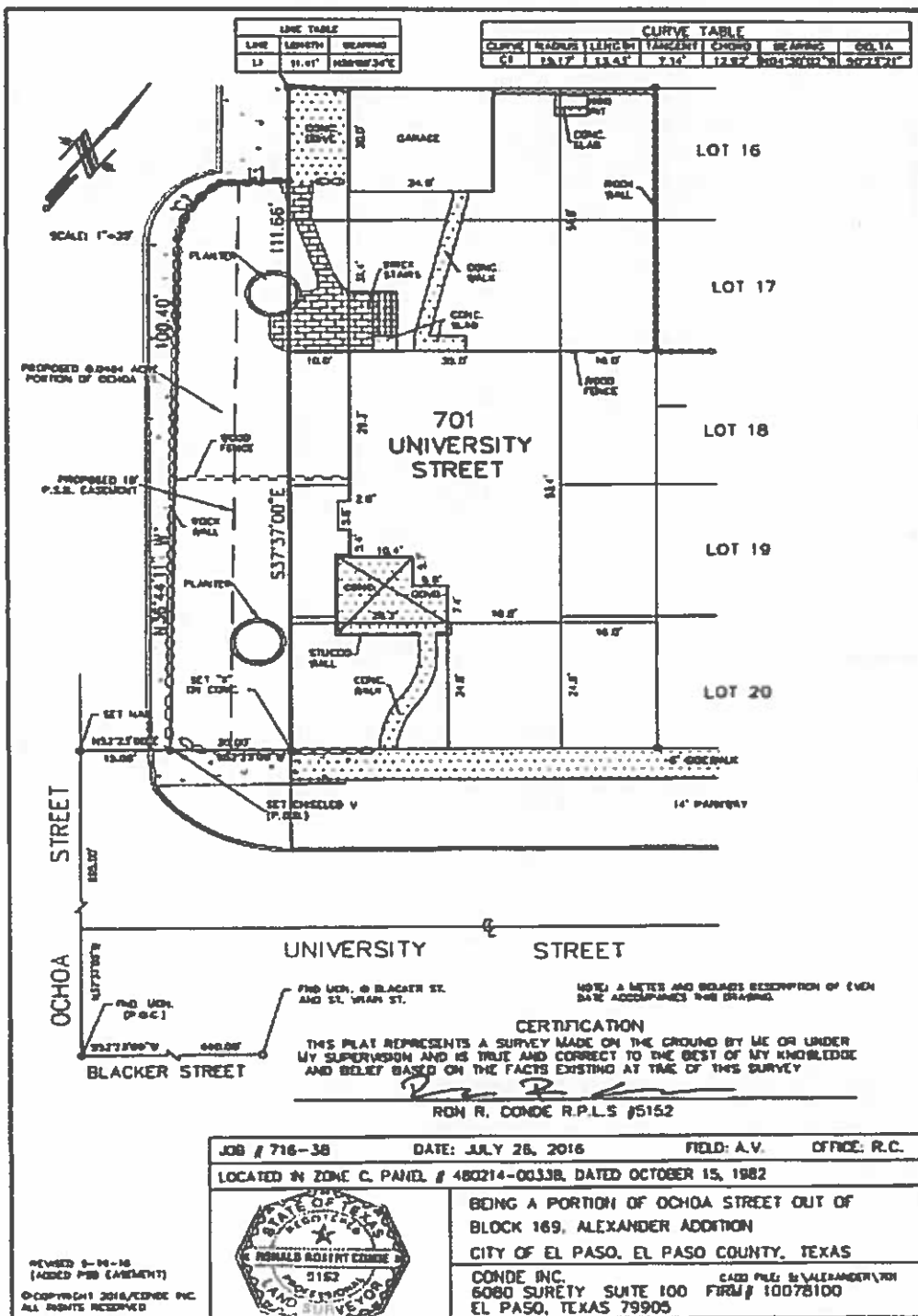
Note: A drawing of even date accompanies this description


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



CONDE, INC.
ENGINEERING / LAND SURVEYING / PLANNING
6080 SURETY DRIVE, SUITE 100 / EL PASO, TEXAS 79905 / (915) 592-0283
FIRM # 10078100

EXHIBIT B



ORDINANCE NO. _____
16-1007-1850 / 625831
Ochoa Street Vacation Amendment
OAR

SURW16-00006

**Correction Instrument
(Nonmaterial Correction)**

Date:

Person Executing this Correction Instrument:

Tomas Gonzalez

Mailing Address of Person Executing this Correction Instrument:

City of El Paso
ATTN: City Manager
P.O. Box 1890
El Paso, Texas 79950-1890

Description of Conveyance Being Corrected: Quitclaim Deed

Date:

December 6, 2016

Grantor:

City of El Paso

Grantees:

Maria Del Carmen and David A. Casavantes

Recording Data:

Doc#20160087567 Filed and Recorded in the Official Records of El Paso County.

Error Being Corrected:

Name of one of the Grantees.

Correction:

Correcting Grantees' name to now read Maria Del Carmen Casavantes and spouse, Daniel A. Casavantes.

Facts Relevant to the Correction:

Due to a scrivener's error the subject property was erroneously quitclaimed to Maria Del Carmen and David A. Casavantes when it should have been conveyed to Maria Del Carmen Casavantes and spouse, Daniel A. Casavantes.

Basis for Personal Knowledge of Facts Relevant to the Correction:

The person executing this Correction Instrument signed the Quitclaim Deed dated December 6, 2016 on behalf of the City of El Paso.

The Person Executing This Correction Instrument Changes the Conveyance by the Correction Instrument and the Correction Quitclaim Deed signed by Grantor and Grantees.

The Person Executing This Correction Instrument has Personal Knowledge of the Facts Relevant to the Correction

The Person Executing this Correction Instrument has provided a copy of this Correction Instrument and notice to each party to the conveyance.

Tomas Gonzalez

ACKNOWLEDGMENT

THE STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument is acknowledged before me on this _____ day of _____, 2017,
by Tomás González.

Notary Public, State of Texas
Notary's Printed or Typed Name:

My Commission Expires:

MEMORANDUM

DATE: February 15, 2017

TO: The Honorable Mayor and City Council
Tommy Gonzalez, City Manager

FROM: Armida Martinez, Planner

SUBJECT: Right-of-Way Vacation SURW16-00005 (East of Ochoa and North of University)

This ordinance authorizes the City Manager to sign a correction instrument and a correction quitclaim deed quitclaiming all of the City's right, title, and interest to the property vacated by Ordinance No. 018621 to Maria Del Carmen Casavantes and spouse, Daniel A. Casavantes.

City Council **approved** Ordinance 018621 on December 6, 2016.

The City Plan Commission (CPC), on September 22, 2016, voted to recommended **approval** of the proposed right-of-way vacation with the following requirement and condition:

- That the applicant dedicate a permanent 10'PSB easement on the western side of the vacated right-of-way to accommodate the existing water main along Ochoa Street.

Applicant: Maria Del Carmen and Daniel A. Casavantes

Attachments: Staff Report



City of El Paso – City Plan Commission Staff Report

Revised

Case No: SURW16-00006 Ochoa Street Vacation
Application Type: Right-of-Way Vacation
CPC Hearing Date: September 22, 2016
Staff Planner: Armida Martinez, (915) 212-1605, martinezar@elpasotexas.gov
Location: East of Ochoa and North of University
Acreage: 0.0484
Rep District: 1
Existing Use: Unimproved right-of-way
Existing Zoning: R-3/NCO (Residential / Neighborhood Conservancy Overlay)
Proposed Zoning: N/A
Nearest Park: Bill Rogers Arroyo (.18 miles)
Nearest School: El Paso High School (.89 miles)
Property Owner: City of El Paso
Applicant: Maria Del Carmen and Daniel A. Casavantes
Representative: Jose Antonio Murgia Jr.

SURROUNDING ZONING AND LAND USE

North: R-3/NCO - Residential Development
South: R-3/NCO - Residential Development
East: R-3/NCO - Residential Development
West: R-3/NCO - Residential Development

PLAN EL PASO DESIGNATION: G-2 Traditional Neighborhood (Walkable)

APPLICATION DESCRIPTION

The applicant is requesting to vacate 20' by 111.66' of an unimproved portion of Ochoa Street. The proposed vacation is to address an existing encroachment. The property abutting the unimproved right-of-way has improvements that encroach onto the right-of-way. The applicant will also be dedicating a 10' PSB easement on the western side of the vacated right-of-way to accommodate the existing water main along Ochoa Street. Staff will be applying the Resolution adopted by City Council which allows the City to convey property for 10% of the appraised market value as this request meets the criteria.

NEIGHBORHOOD INPUT

Notice of a Public Hearing was published in the El Paso Times on September 8, 2016 and a notice was mailed to all property owners within 300 feet of the subject property. The Planning Division did not receive any communication in support or in opposition to the request.

DEVELOPMENT COORDINATING COMMITTEE

The Development Coordinating Committee recommends **approval** of Ochoa Street right-of-way vacation subject to the following condition and requirement:

- That the applicant dedicate 10' PSB easement on the western side of the vacated right-of-way to accommodate the existing water main along Ochoa Street.

Planning Division Recommendation:

Staff recommends approval of the ROW vacation with the condition as stated above.

Planning and Inspections Department - Land Development

No objections.

El Paso Water Utilities

EPWater has reviewed the above reference street vacation request and provide the following comments:

EPWater requires the dedication of a 10' PBS easement on the western side of the vacation to accommodate the existing water main along Ochoa Street. (Show easement on vacation survey).

Water:

There is an existing 8-inch diameter water main extending along Ochoa Street, the main is located 20 feet west from the eastern of property line.

EPWater records indicate (2) 3/4" services meter (Actives) on the properties with 701 E. University Avenue and 619 E. University Avenue as the services address.

Sanitary Sewer:

EPWater records indicate there are no sanitary sewer mains along Ochoa Street.

General:

Easement grantor shall indemnify, defend, and hold harmless the EPWU from and against any and all claims, liability, actions, and damages for bodily injury and property damage to third parties or to EPWU which may be caused by or arise out of the maintenance and existence of water main in the easement area.

No building, reservoir, structure or other improvement, other than asphaltic paving (HMAC), shall be constructed or maintained on the above references easement without the written consent of EPWU.

EPWU requires access to the existing water facilities, appurtenances, located within the easement 24 hours a day, seven (7) days a week.

Capital Improvements Department - Parks

No objections.

Texas Gas Company

No comments received.

El Paso Electric Company:

No comments received.

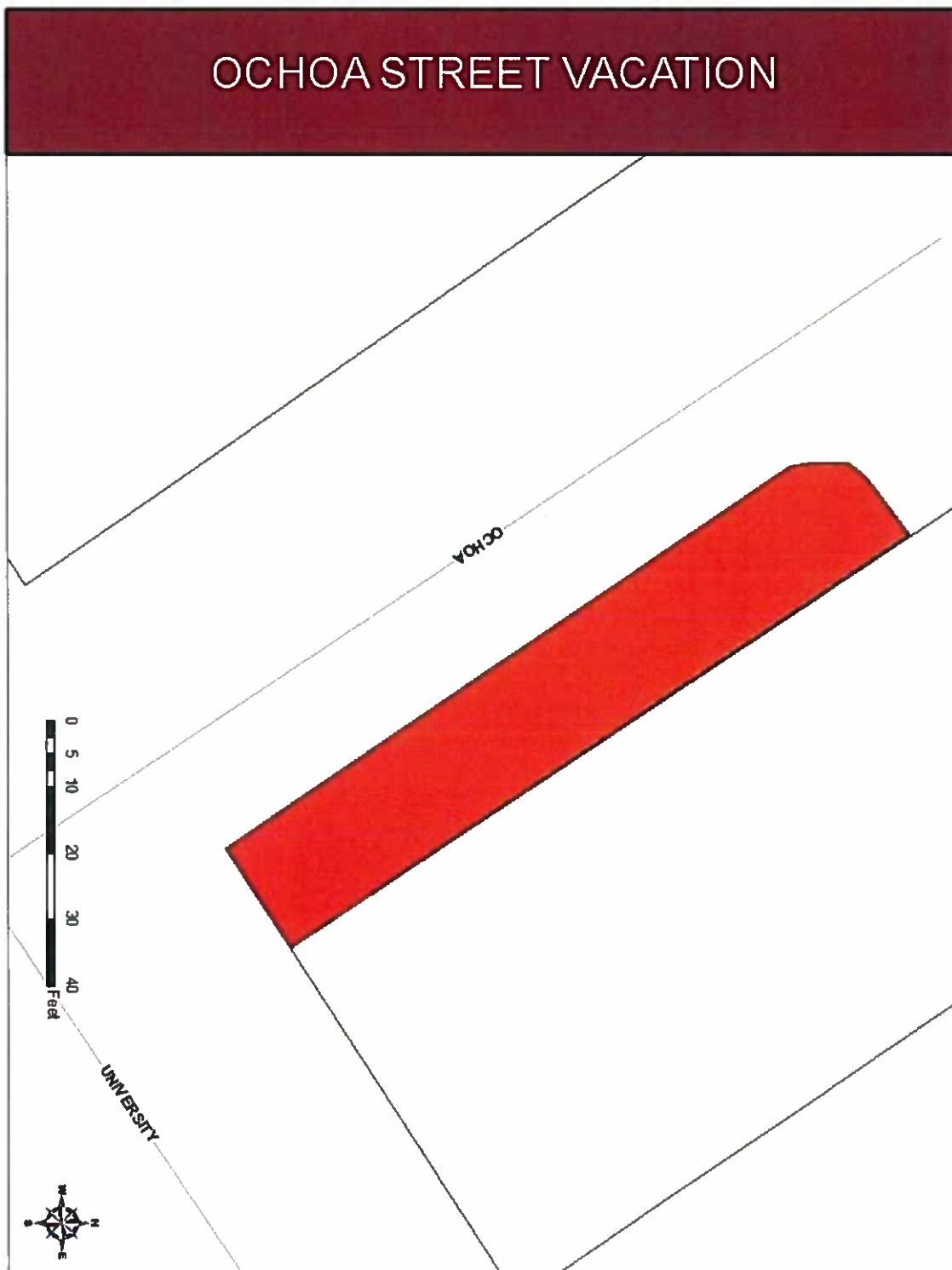
911:

No comments received.

Attachments

1. Location Map
2. Aerial Map
3. Survey
4. Metes & Bounds
5. Application

ATTACHMENT 1

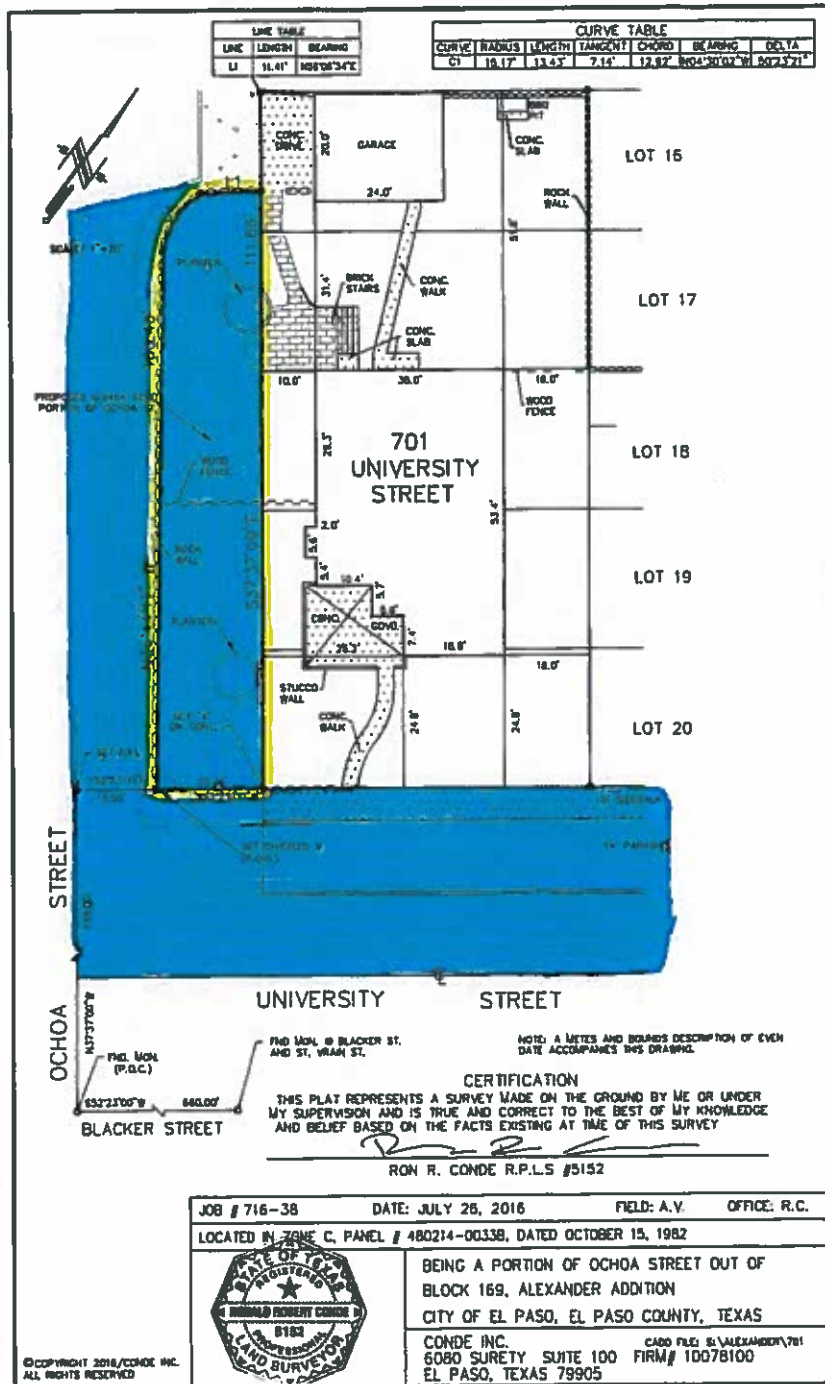


ATTACHMENT 2

OCHOA STREET VACATION



ATTACHMENT 3



ATTACHMENT 4

0Prepared for: Jose Murgia
July 25, 2016

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Thence 13.43 feet along the arc of a curve to the right which has a radius of 15.17 feet a central angle of 50°23'21" a chord which bears North 04°30'02" West a distance of 12.92 feet to a set chiseled v in concrete;

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Note: A drawing of even date accompanies this description


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ENGINEERING / LAND SURVEYING / PLANNING
6080 SURETY DRIVE, SUITE 100 / EL PASO, TEXAS 79905 / (915) 592-0283
FIRM # 10078100

ATTACHMENT 5



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

Date: 08/20/2016

File No. SURW16-00006

1. APPLICANTS NAME JOSE ANTONIO MURGUIA JR
ADDRESS 701 E. UNIVERSITY ZIP CODE 79902 TELEPHONE (915) 443 8848

2. Request is hereby made to vacate the following: (check one)

Street ☒ Alley ☐ Easement ☐ Other ☐

Street Name(s) OCTOIA Subdivision Name ALEXANDER ADDITION

Abutting Blocks BLOCK 169 Abutting Lots 16-20 / 11-15 / W 1/2 OF 16 TO 20

3. Reason for vacation request: LEGALIZE ENROACHMENT IN TO PUBLIC RIGHT OF WAY

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 rights-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 ☐ Replat with abutting 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.

*Effective September 1, 2014, a 3% technology fee has been added to all Planning application fees.

OWNER SIGNATURE: _____

REPRESENTATIVE: _____

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

City Development Department
811 Texas | P.O. Box 1890 | El Paso, Texas 79950-1890 | (915) 212-0085



Recommendation

- **Planning & Inspections Recommendation:** Approval

Strategic Goal #3-Promote the Visual Image of El Paso

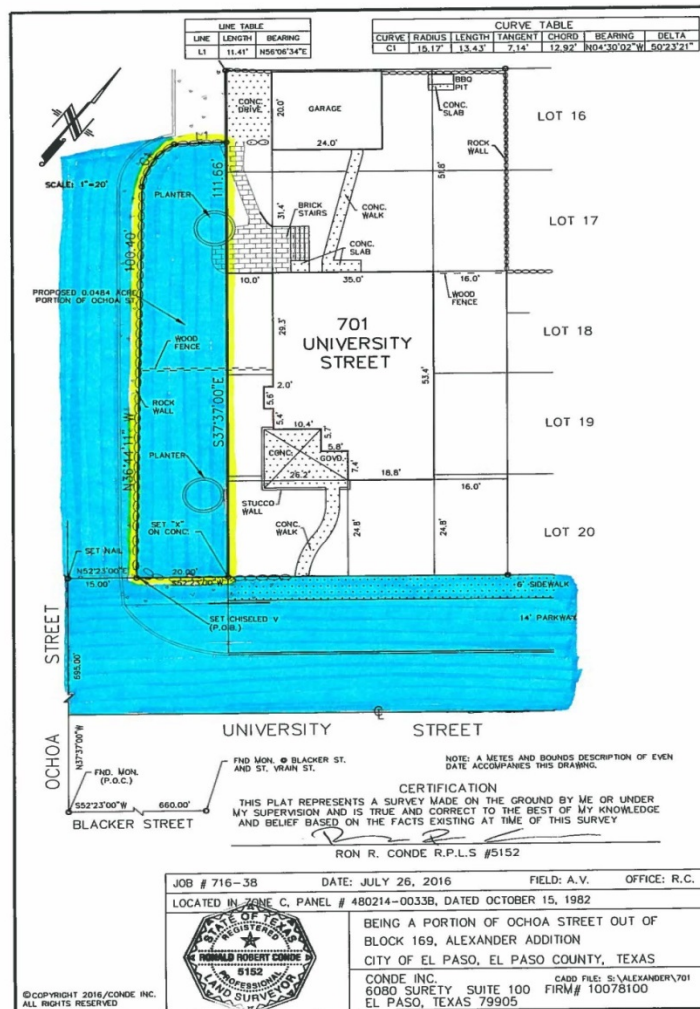
- 3.1 Provide business-friendly permitting and inspection processes
- 3.2 Improve the visual impression of the community



OCHOA STREET VACATION



An Ordinance allowing the City Manager to sign a correction instrument and a correction quitclaim deed to correct a scrivener's error in the quitclaim deed signed as a result of the vacation of a portion of City right of way under Ordinance.



An Ordinance allowing the City Manager to sign a correction instrument and a correction quitclaim deed to correct a scrivener's error in the quitclaim deed signed as a result of the vacation of a portion of City right of way under Ordinance.