

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

**DEPARTMENT:** Planning & Inspections Department  
**AGENDA DATE:** Consent Agenda 4/4/17  
**CONTACT PERSON/PHONE:** Larry F. Nichols, (915) 212-1550  
Nelson Ortiz, (915) 212-1606  
**DISTRICT(S) AFFECTED:** 3

**SUBJECT:**

A Resolution authorizing the City Manager to sign the Amended Declaration of Covenants, Conditions and Restrictions for Commercial Pebble Brook Subdivision Unit One Replat "A" between the City and Cielo Vista Church a nonprofit corporation. The amendment is to allow for the development of multi-family residential housing and for the payment of park fees for said development. Subject Property: West of Lee Trevino and South of Montana; Property Owner: Cielo Visa Church  
(District 3)

**BACKGROUND / DISCUSSION:**

The Housing Authority of the City of El Paso (HACEP) is acquiring property known as a portion of Lot 1, Block 1, Pebble Brook Unit One Replat A, to be used for a multi-family residential housing development. The recorded covenants, conditions and restrictions for this subdivision do not allow residential uses. HACEP wishes to amend the CCRs to permit the construction of the multi-family housing development. The City has determined that this property would be assessed parkland fees related to the development in accordance with Title 19. HACEP disputes the amount of parkland fees. The City and HACEP recommend that HACEP deposit the parkland fees upon closing of the sale of the property, into an escrow account held by WestStar Title Company, until a resolution of the dispute.

**PRIOR COUNCIL ACTION:**

N/A

**AMOUNT AND SOURCE OF FUNDING:**

N/A

**BOARD / COMMISSION ACTION:**

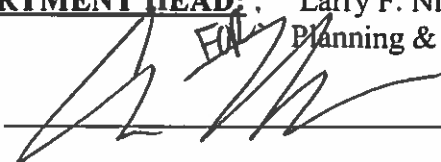
N/A

\*\*\*\*\*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:** \_\_\_\_\_

## RESOLUTION

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

That the City Manager be authorized to sign the Amended Declaration of Covenants, Conditions and Restrictions for Commercial Pebble Brook Subdivision Unit One Replat "A" between the City and Cielo Vista Church a nonprofit corporation. The amendment is to allow for the development of multi-family residential housing and for the payment of park fees for said development.

APPROVED this \_\_\_\_ day of \_\_\_\_\_ 2017.

CITY OF EL PASO

\_\_\_\_\_  
Oscar Leaser, Mayor

ATTEST:

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

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Karla M. Neman  
Assistant City Attorney

APPROVED AS TO CONTENT:

  
\_\_\_\_\_  
Tracy Novak, Director  
Parks and Recreation Department

AMENDED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

COMMERCIAL

PEBBLE BROOK SUBDIVISION UNIT ONE REPLAT "A"

CITY OF EL PASO, TEXAS

Cielo Vista Church, being the owner of the following described property in the City of El Paso, El Paso County, Texas:

Lot 1, Block 1, PEBBLE BROOK SUBDIVISION UNIT ONE REPLAT "A", an addition to the City of El Paso, El Paso County, Texas, according to the plat thereof on file in Volume 74, Page 62, Real Property Records, El Paso County, Texas ("*Property*"),

does hereby amend the Declaration of Covenants, Conditions and Restrictions recorded in Volume 2540, Page 1520 of the Real Property Records of El Paso County, Texas (the "*Original Declaration*") and does hereby agree to pay any park fees required as a condition of amending the Original Declaration. Article III. Use Restrictions applicable to the Property is hereby deleted in its entirety and replaced with the following:

**III. USE RESTRICTIONS**

The 11.1 acre portion of Lot 1, Block 1, Pebble Brook Subdivision Unit One Replat "A" (the "*Multi-Family Parcel*"), as designated on Exhibit "A" and Exhibit "A-1" attached hereto shall be entitled to have multi-family residential housing, including apartments and duplexes, and any customary appurtenances to such residential apartment buildings or duplexes, as allowed under the zoning designations of the Multi-Family Parcel provided, however, no more than 185 dwelling units shall be constructed on the Multi-Family Parcel. The proposed use of the remaining Property is limited to non-residential uses. Except with respect to the Multi-Family Parcel, the construction of single-family, two-family or multi-family units on the Property is expressly prohibited. Except with respect to the Multi-Family Parcel, no structure either of a temporary or permanent character, trailer or mobile home shall be located on the Property and used as a residence provided, however, that one caretaker's residence may be constructed and utilized in connection within each commercial or industrial use within the Subdivision".

Except as modified by this Amended Declaration of Covenants, Conditions and Restrictions, the Original Declaration shall remain in full force and effect.

[SIGNATURE AND ACKNOWLEDGEMENT PAGE FOLLOWS]

IN WITNESS WHEREOF, Owner and the City of El Paso have jointly executed this First Amendment to Declaration as of the 25 day of March, 2017.

**OWNER:**

CIELO VISTA CHURCH,  
a nonprofit corporation

By: Robert L. Carvalho  
Name: ROBERT L. CARVALHO  
Title: CFO

THE STATE OF TEXAS     )  
COUNTY OF EL PASO    )

This instrument was acknowledged before me on the 25 day of March, 2017, by Robert L. Carvalho, CFO of Cielo Vista Church, a nonprofit corporation on behalf of such nonprofit corporation, and authorized to make the amendments described herein.



Cynthia Lynn Smith  
Notary Public, State of Texas

[SIGNATURE AND ACKNOWLEDGEMENT PAGE FOLLOWS]

**CITY OF EL PASO:**

By: \_\_\_\_\_  
Name: Tommy Gonzalez  
Title: City Manager

THE STATE OF TEXAS     )  
COUNTY OF EL PASO    )

This instrument was acknowledged before me on the \_\_\_\_ day of \_\_\_\_\_, 2016, by \_\_\_\_\_, \_\_\_\_\_ of City of El Paso, on behalf of such \_\_\_\_\_, and authorized to make the amendments described herein.

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Karla M. Nicholson  
Assistant City Attorney

**Exhibit "A"**  
**Multi-Family Parcel**

A 11.100 acre portion, more or less, out of Lot 1, Block 1, PEBBLE BROOK SUBDIVISION UNIT ONE REPLAT "A", an addition to the City of El Paso, El Paso County, Texas, according to the plat thereof on file in Volume 74, Page 62, Real Property Records, El Paso County, Texas, said portion being more particularly described by metes and bounds in Exhibit "A-1" attached hereto.

**Exhibit "A-1"**  
**Multifamily Parcel**  
**Metes and Bounds Description**

**PROPERTY DESCRIPTION**  
**METES AND BOUNDS**

PROPERTY DESCRIPTION: A PORTION OF LOT 1, BLOCK 1, PEBBLE BROOK UNIT ONE, REPLAT "A", ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 74, PAGE 62, PLAT RECORDS OF EL PASO, EL PASO COUNTY, TEXAS AND BEING MORE PARTICULARLY DESCRIBE BY METES AND BOUNDS AS FOLLOWS:

COMMENCING AT A TX D.O.T. TYPE II CONCRETE RIGHT-OF-WAY MARKER LOCATED ON THE NORTHERLY RIGHT-OF-WAY LINE OF MONTANA AVENUE (U.S. HIGHWAY No. 62-180), A 200' WIDE PUBLIC RIGHT-OF-WAY; THENCE, SOUTH 84° 18' 12" WEST, WITH SAID RIGHT-OF-WAY LINE, A DISTANCE OF 609.48 FEET TO A POINT; THENCE, SOUTH 05° 41' 48" EAST, AWAY FROM SAID R.O.W. LINE, A DISTANCE OF 200.00 FEET TO A BOUNDARY CORNER LYING ON THE SOUTHERLY RIGHT-OF-WAY LINE OF SAID MONTANA AVENUE, ALSO BEING THE TRUE POINT OF BEGINNING OF THIS DESCRIPTION;

THENCE, NORTH 84° 18' 12" EAST, WITH SAID R.O.W. LINE, A DISTANCE OF 637.52 FEET TO A BOUNDARY CORNER;

THENCE, SOUTH 05° 44' 10" EAST, AWAY FROM SAID R.O.W. LINE, A DISTANCE OF 845.30 FEET TO A BOUNDARY CORNER;

THENCE, NORTH 80° 23' 19" WEST, WITH THE COMMON BOUNDARY LINE OF SAID LOT 1, BLOCK 1, PEBBLE BROOK SUBDIVISION AND THE NORTHERLY BOUNDARY LINE OF PEBBLE HILLS UNIT 2 SUBDIVISION, A DISTANCE OF 558.15 FEET TO A BOUNDARY CORNER;

THENCE, NORTH 80° 58' 38" WEST, A DISTANCE OF 26.51 FEET TO A PROPERTY CORNER;

THENCE, NORTH 83° 39' 30" WEST, WITH SAID BOUNDARY LINE, A DISTANCE OF 75.31 FEET TO A BOUNDARY CORNER;

THENCE, NORTH 05° 44' 10" WEST, WITH THE COMMON BOUNDARY LINE OF SAID LOT 1, BLOCK 1 BEING DESCRIBED HEREIN, AND TRACT 2-G-3 [2-G-3-B RECORDS], A DISTANCE OF 675.50 FEET BACK TO THE TRUE POINT OF BEGINNING OF THIS DESCRIPTION.

SAID PARCEL OF LAND CONTAINING 11.100 ACRES (483,516 SQ.FT.) OF LAND, MORE OR LESS.

## MEMORANDUM

**DATE:** March 28, 2017

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

**FROM:** Nelson Ortiz, Lead Planner

**SUBJECT:** Amend Declaration of CCRs for Pebble Brook Subdivision #1 Replat A

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The Housing Authority of the City of El Paso (HACEP) is acquiring property known as a portion of Lot 1, Block 1, Pebble Brook Unit One Replat A, to be used for a multi-family residential housing development. The recorded covenants, conditions and restrictions for this subdivision do not allow residential uses. HACEP wishes to amend the CCRs to permit the construction of the multi-family housing development. The City has determined that this property would be assessed parkland fees related to the development in accordance with Title 19. HACEP disputes the amount of parkland fees. The City and HACEP recommend that HACEP deposit the parkland fees upon closing of the sale of the property, into an escrow account held by WestStar Title Company, until a resolution of the dispute.

Staff recommends **approval**.

**Property Owner:** Cielo Vista Church





# Recommendation/Public Input

- **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.



# CCR Amendment

## AMENDED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

### COMMERCIAL

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[SIGNATURE AND ACKNOWLEDGEMENT PAGE FOLLOWS]

| (8229.22/JRHO/06499527.4)  
17-1049-329 / 648062\_2  
Park Fees- Commissioner's Corner and Gonzalez Project / Amended Declaration of Covenants  
KMN

Page 1 of 5

The Housing Authority of the City of El Paso (HACEP) is acquiring property known as a portion of Lot 1, Block 1, Pebble Brook Unit One Replat A, to be used for a multi-family residential housing development. The recorded covenants, conditions and restrictions for this subdivision do not allow residential uses. HACEP wishes to amend the CCRs to permit the construction of the multi-family housing development. The City has determined that this property would be assessed parkland fees related to the development in accordance with Title 19. HACEP disputes the amount of parkland fees. The City and HACEP recommend that HACEP deposit the parkland fees upon closing of the sale of the property, into an escrow account held by WestStar Title Company, until a resolution of the dispute.