

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

DEPARTMENT: Development Services Department, Planning Division

AGENDA DATE: Introduction: November 10, 2009
Public Hearing: December 1, 2009

CONTACT PERSON/PHONE: Linda Castle, (915) 541-4029, castlelj@elpasotexas.gov

DISTRICT(S) AFFECTED: 1

SUBJECT:

An Ordinance releasing conditions placed on property by Ordinance No. 9364 which changed the zoning Westport Unit Seven Amending Subdivision, City of El Paso, El Paso County, Texas. The penalty is as provided for in Chapter 20.24 of the El Paso City Code. ZON09-00048

BACKGROUND / DISCUSSION:

N/A

PRIOR COUNCIL ACTION:

N/A

AMOUNT AND SOURCE OF FUNDING:

N/A

BOARD / COMMISSION ACTION:

Development Coordinating Committee (DCC) – Unanimous Approval Recommendation
City Plan Commission (CPC) – Approval Recommendation (5-0)

CITY CLERK DEPT.
09 OCT 29 AM 7:51

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

LEGAL: (if required) N/A

FINANCE: (if required) N/A

DEPARTMENT HEAD: Victor Q. Torres
Director, Development Services



APPROVED FOR AGENDA:

CITY MANAGER: _____

DATE: _____

ORDINANCE NO. _____

**AN ORDINANCE RELEASING CONDITIONS PLACED ON PROPERTY BY
ORDINANCE NO. 9364 WHICH CHANGED THE ZONING WESTPORT UNIT SEVEN
AMENDING SUBDIVISION, CITY OF EL PASO, EL PASO COUNTY, TEXAS. THE
PENALTY IS AS PROVIDED FOR IN CHAPTER 20.24 OF THE EL PASO CITY
CODE.**

WHEREAS, the zoning of the property described as *Westport Unit Seven Amending Subdivision, City of El Paso, El Paso, County, Texas*, was changed by Ordinance No. 9364, approved by City Council on September 13, 1988; and,

WHEREAS, the rezoning was subject to the following zoning conditions:

2. *First Party shall contribute money toward the construction of two (2) entrance/exit ramps at the south side of Artcraft Road and Interstate 10 in El Paso.*
3. *Prior to final approval of any subdivision plats in Parcel 2, the First Party must dedicate a fire station site to Second Party. The fire station site must have one hundred seventy five (175) feet of frontage on the proposed Resler Drive at an intersection with a dedicated side street and a depth of one hundred fifty eight (158) feet. The exact located of the site shall be determined by the El Paso Fire Department and First Party.*
4. *A 75-foot wide Special Building Setback Line (S.B.S.L.) shall be established along the north portions of Parcels, 1C, 2A, 6 and 6A, adjacent to Woodrow Bean Transmountain Drive. In addition, First Party must landscape the S.B.S.L. area in accordance with the landscaping plan, which is on file with the Department of Planning, Research and Development, prior to the issuance of any building permits for said parcels.*

WHEREAS, placement of such conditions was necessitated by and attributable to the increased intensity of use generated by the change of zoning; and,

WHEREAS, the owner (applicant) submitted an application requesting the removal of the above conditions on the above described property; and,

WHEREAS, a public hearing regarding amendment of the conditions was held before the City Plan Commission, and the Commission recommended approval of the release; and,

WHEREAS, the City Council of the City of El Paso has determined that the release of the above conditions will protect the best interest, health, safety, and welfare of the public in general.

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

That zoning conditions imposed by Ordinance No. 9364 dated September 13, 1988

release three zoning conditions on the portion of land identified in Exhibit "A" because the conditions are no longer necessary.

2. *First Party shall contribute money toward the construction of two (2) entrance/exit ramps at the south side of Artcraft Road and Interstate 10 in El Paso. (Has been satisfied)*
3. *Prior to final approval of any subdivision plats in Parcel 2, the First Party must dedicate a fire station site to Second Party. The fire station site must have one hundred seventy five (175) feet of frontage on the proposed Resler Drive at an intersection with a dedicated side street and a depth of one hundred fifty eight (158) feet. The exact located of the site shall be determined by the El Paso Fire Department and First Party. (Has been satisfied)*
4. *A 75-foot wide Special Building Setback Line (S.B.S.L.) shall be established along the north portions of Parcels, 1C, 2A, 6 and 6A, adjacent to Woodrow Bean Transmountain Drive. In addition, First Party must landscape the S.B.S.L. area in accordance with the landscaping plan, which is on file with the Department of Planning, Research and Development, prior to the issuance of any building permits for said parcels. (Does not apply to this property)*

Except as herein amended, Ordinance 9364 shall remain in full force and effect.

PASSED AND APPROVED this _____ day of _____, 2009.

THE CITY OF EL PASO

John F. Cook
Mayor

ATTEST:

Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:

Lupe Cuellar
Assistant City Attorney

APPROVED AS TO CONTENT:

Mathew S. McElroy
Deputy Director – Planning
Development Services Department

Property description: Westport Unit Seven Amending Subdivision, El Paso, El Paso County, Texas

METES AND BOUNDS DESCRIPTION

The parcel of land herein described is Westport Unit Seven Amending Subdivision (Book 76, Page 36, Plat Records, El Paso County, Texas), El Paso, El Paso County, Texas, and is more particularly described by metes and bounds as follows:

COMMENCING at a city monument at the centerline intersection of Northwestern Drive (90-foot right-of-way, Westport Unit One, Book 63, Page 23, Plat Records, El Paso County, Texas) and Hoover Avenue (70-foot right-of-way, Westport Unit One, Book 63, Page 23, Plat Records, El Paso County, Texas), from which a city monument at the centerline P.I. of Hoover Avenue bears South 89°55'00" West, a distance of 693.15 feet; Thence, North 05°58'55" East, along the centerline of Northwestern Drive, a distance of 1007.74 feet; Thence, North 84°01'05" West, a distance of 45.00 feet to the intersection of the common boundary between Tract 10B, Nellie D. Mundy Survey 239 and Westport Unit Seven Amending Subdivision with the westerly right-of-way of Northwestern Drive, said point being the **POINT OF BEGINNING** of this description;

THENCE, South 05°58'55" West, along said right-of-way, a distance of 950.35 feet;

THENCE, 43.95 feet along the arc of a curve to the right, having a radius of 30.00 feet, a central angle of 83°56'05", and a chord which bears South 47°56'57" West, a distance of 40.12 feet to the northerly right-of-way line of Hoover Avenue;

THENCE, South 89°55'00" West, along said right-of-way, a distance of 524.63 feet;

THENCE, 203.11 feet continuing along said right-of-way and along the arc of a curve to the left, having a radius of 2186.98, a central angle of 05°19'16", and a chord which bears South 87°15'22" West, a distance of 203.03 feet;

THENCE, South 84°35'44" West, continuing along said right-of-way, a distance of 572.76 feet to the common boundary between Westport Unit Seven Amending Subdivision and Tract 2, Nellie D. Mundy Survey 240;

THENCE, North 05°49'54" East, along the westerly boundary of Westport Unit Seven Amending Subdivision, a distance of 1295.30 feet to the common boundary between Tract 10B, Nellie D. Mundy Survey 239 and Westport Unit Seven Amending Subdivision;

THENCE, South 84°10'06" East, along said boundary, a distance of 859.08 feet;

THENCE, 104.17 feet continuing along said boundary and along the arc of a curve to the right, having a radius of 140.00 feet, a central angle of 42°37'53", and a chord which bears South 62°51'10" East, a distance of 101.78 feet;

THENCE, South 41°32'13" East, continuing along said boundary, a distance of 74.62 feet;

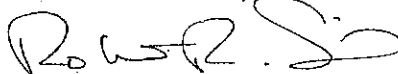
THENCE, 89.29 feet continuing along said boundary and along the arc of a curve to the left, having a radius of 120.00 feet, a central angle of 42°37'53", and a chord which bears South 62°51'10" East, a distance of 87.24 feet;

THENCE, South 84°10'06" East, continuing along said boundary, a distance of 223.72 feet to the **POINT OF BEGINNING** of this description.

Said parcel of land contains 34.647 acres (1,509,204 square feet) of land more or less.

NOTE: THIS DESCRIPTION IS BASED ON RECORD INFORMATION AND IS NOT INTENDED TO REPRESENT AN ON-THE-GROUND SURVEY. A PLAT OF EVEN DATE HERewith ACCOMPANIES THIS DESCRIPTION.

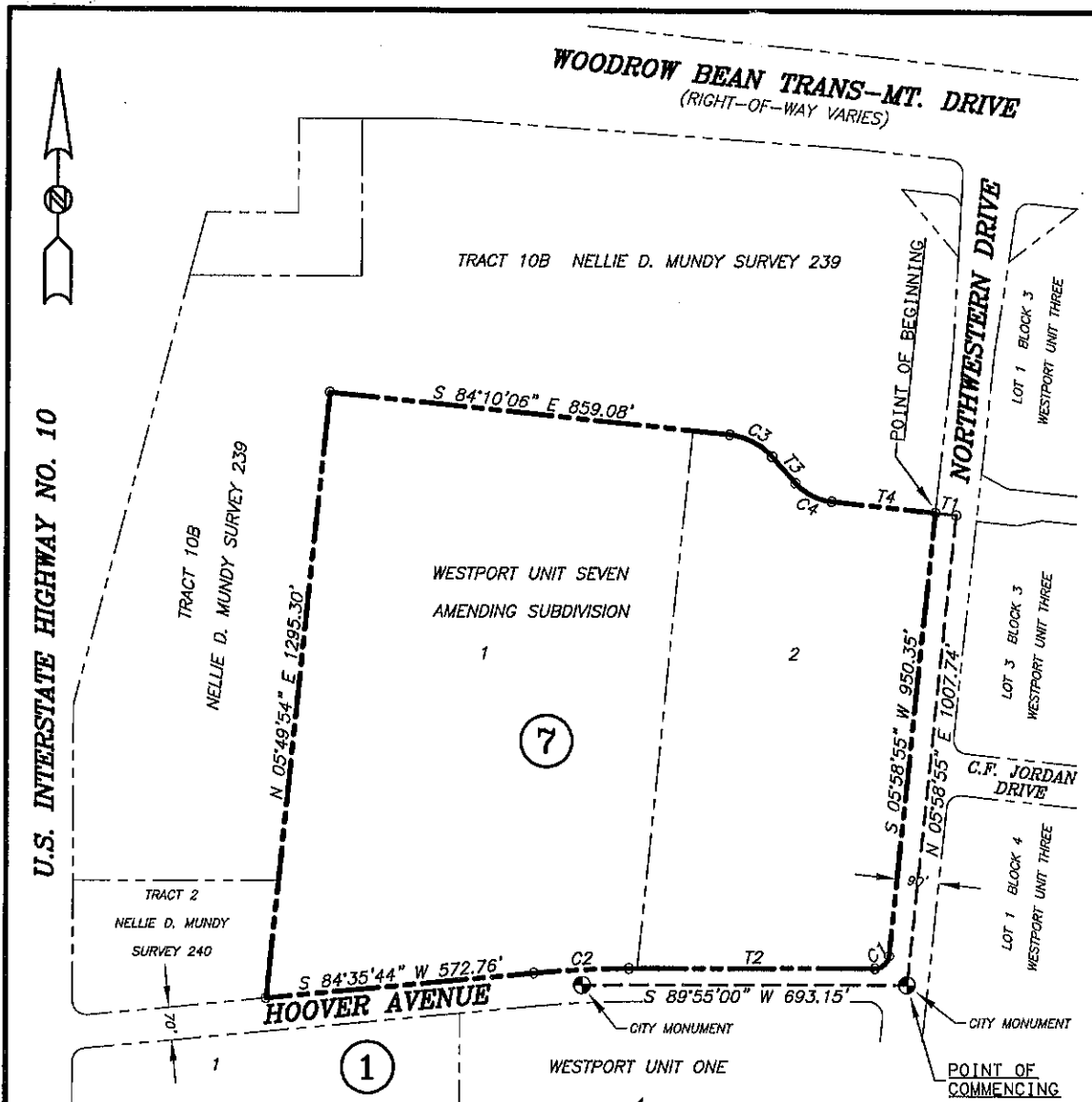
ROBERT SEIPEL ASSOCIATES, INC.
Professional Land Surveyors



Robert R. Seipel, R.P.L.S.
President
Texas License No. 4178

Job Number 09-0028
July 23, 2009

09-0028.doc
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NOTES:

1. THIS PLAT IS BASED ON RECORD INFORMATION AND IS NOT INTENDED TO REPRESENT AN ON-THE-GROUND SURVEY. A NARRATIVE METES AND BOUNDS DESCRIPTION OF EVEN DATE HERewith ACCOMPANIES THIS PLAT.

3. BASIS OF BEARINGS IS THE MONUMENTED CENTERLINE OF NORTHWESTERN DRIVE FROM THE PLAT OF EL PASO WEST UNIT ONE IN BOOK 57, PAGE 5, PLAT RECORDS, EL PASO COUNTY, TEXAS.

5. THE RIGHTS-OF-WAY OF NORTHWESTERN DRIVE AND HOOVER AVENUE ARE FROM THE PLAT OF WESTPORT UNIT ONE IN BOOK 63, PAGE 23, PLAT RECORDS, EL PASO COUNTY, TEXAS.

7. WESTPORT UNIT SEVEN AMENDING SUBDIVISION IS RECORDED IN BOOK 76, PAGE 36, PLAT RECORDS, EL PASO COUNTY, TEXAS.

PARCEL AREA
34.647 ACRES
1,509,204 SQ. FT.

SCALE: 1" = 300'
0 150 300 600

NUMBER	DELTA ANGLE	RADIUS	ARC	TANGENT	CHORD	CHORD BEARING
C1	83°56'05"	30.00	43.95	26.98	40.12	S 47°56'57" W
C2	05°19'16"	2186.98	203.11	101.63	203.03	S 87°15'22" W
C3	42°37'53"	140.00	104.17	54.63	101.78	S 62°51'10" E
C4	42°37'53"	120.00	89.29	46.82	87.24	S 62°51'10" E

NUMBER	BEARING	DISTANCE
T1	N 84°01'05" W	45.00'
T2	S 89°55'00" W	524.63'
T3	S 41°32'13" E	74.62'
T4	S 84°10'06" E	223.72'



ROBERT SEIPEL ASSOCIATES, INC.
PROFESSIONAL LAND SURVEYORS

1845 NORTHWESTERN DR. SUITE C EL PASO, TX 79912 915-877-1928

EXHIBIT

WESTPORT UNIT SEVEN AMENDING SUBDIVISION,
EL PASO, EL PASO COUNTY, TEXAS.

DATE: 07-23-09

SCALE: 1" = 300'

DRAWN BY: RRS

CHK'D BY: RRS

FB: ~

FILE #: 09-0028

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MEMORANDUM

DATE: October 26, 2009

TO: The Honorable Mayor and City Council
Joyce A. Wilson, City Manager

FROM: Linda Castle, Senior Planner

SUBJECT: ZON09-00048

The City Plan Commission (CPC), on October 8, 2009, voted **5-0** to recommend **APPROVAL** of releasing Special Contract Conditions 2, 3 and 4 that were placed on the subject property by Ordinance No. 9364 dated August 9, 1988.

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

There was **NO OPPOSITION** to this request.

Attachment: Staff report



City of El Paso – City Plan Commission Staff Report

Case No: ZON09-00048
Application Type: Zoning Condition Release
CPC Hearing Date: October 08, 2009
Staff Planner: Angelica Bryant, 915-541-4904, bryantam@elpasotexas.gov

Location: 7811 Hoover and 1945 Northwestern
Legal Description: Westport Unit Seven Amending Subdivision, City of El Paso, El Paso County, Texas
Acreage: 34.647 acres

Rep District: 1
Zoning: C-4/c/sc (Commercial/conditions/special contract)
Existing Use: Manufacturing and Warehouse
Request: Release zoning conditions 2, 3 and 4 imposed by Ordinance 9364, dated September 13, 1988
Property Owner: Plexxar Joint Venture and James A. Dick Limited Partnership
Representative: Brent D. Harris

SURROUNDING ZONING AND LAND USE

North: C-4/c/sc/sp (Commercial/conditions/special contract/special permit), C-4/c/sc (Commercial/conditions/special contract) / Vacant and Industrial
South: M-1 (Light Manufacturing) / Industrial
East: M-1/sc (Light Manufacturing/special conditions) / El Paso Electric Company, Church, Vacant
West: C-4/c/sc (Commercial/conditions/special contract) / Vacant

Plan for El Paso Designation: Industrial and Commercial (Northwest Planning Area)

Nearest Park: Westside Park (2,287 Feet)

Nearest School: Canutillo High (2,518 Feet)

NEIGHBORHOOD ASSOCIATIONS

Save the Valley Neighborhood Association
Coronado Neighborhood Association
Upper Mesa Hills Neighborhood Association
Mountain Arroyo Neighborhood Association
Upper Valley Improvement Association

NEIGHBORHOOD INPUT

Notices of the October 8, 2009 City Plan Commission hearing were mailed out to property owners within 300 feet of the subject property on September 22, 2009. The Planning Division has received no responses to the application for zoning conditions release.

APPLICATION DESCRIPTION

The total property consists of 40.33 acres and Parcel 1 consists of a manufacturing facility and Parcel 2: consists of a warehouse. The request is to release three zoning conditions imposed by Ordinance 9364:

2. *First Party shall contribute money toward the construction of two (2) entrance/exit ramps at the south*

side of Artcraft Road and Interstate 10 in El Paso. **(Has been satisfied)**

3. Prior to final approval of any subdivision plats in Parcel 2, the First Party must dedicate a fire station site to Second Party. The fire station site must have one hundred seventy five (175) feet of frontage on the proposed Resler Drive at an intersection with a dedicated side street and a depth of one hundred fifty eight (158) feet. The exact located of the site shall be determined by the El Paso Fire Department and First Party. **(Has been satisfied)**
4. A 75-foot wide Special Building Setback Line (S.B.S.L.) shall be established along the north portions of Parcels 1C, 2A, 6 and 6A, adjacent to Woodrow Bean Transmountain Drive. In addition, First Party must landscape the S.B.S.L. area in accordance with the landscaping plan, which is on file with the Department of Planning, Research and Development, prior to the issuance of any building permits for said parcels. **(Does not apply to this property)**

DEVELOPMENT COORDINATING COMMITTEE RECOMMENDATION

The Development Coordinating Committee provides the following comments:

The DCC recommends **APPROVAL** of releasing the above referenced conditions attached to Ordinance 9364 for the subject property, as conditions 2 and 3 have been satisfied and condition 4 does not apply to this property.

DEVELOPMENT SERVICES DEPARTMENT-PLANNING DIVISION RECOMMENDATION

Planning recommends **APPROVAL** of releasing the above referenced conditions attached to Ordinance 9364 for the subject property, as conditions 2 and 3 have been satisfied and condition 4 does not apply to this property.

The Plan for El Paso –City-wide Land Use Goals

All applications for zoning condition release shall demonstrate compliance with the following criteria:

- a. Goal: develop a balanced and complete community which contains a mix of land uses and densities, housing types and styles, economic development, job opportunities, educational opportunities, and outlets for social and cultural expression.
- b. Goal: provide designated locations for industrial development that do not adversely affect the health, safety, and welfare of the community and where essential infrastructure is available to serve development.
- c. Goal: provide a pattern of commercial and office development which best serves community needs and which complements and serves all other land uses.

Development Services – Engineering:

There are no objections to the special conditions release request.

- ADA accessible Sidewalks, Wheel-chair ramp(s), and Driveway(s) will be required.*
- Grading plan and permit shall be required.*
- Storm Water Pollution Prevention Plan and/or permit required.*
- Drainage plans must be approved by the Development Services Department, Engineering Section.*
- Coordination with TXDOT.
- No water runoff allowed outside the proposed development boundaries, (On-site ponding required)*
- Additional Comments: Site location is located within a Special Flood Hazard Area, Flood Zones A1, B, Panel 480214 0016 C.

*** This requirement will be applied at the time of development.**

Engineering Department - Traffic Division

The Engineering Department – Traffic Division has no objections to the zoning condition release request.

Fire Department

No opposition to the request at this time.

El Paso Police Department

There are no objections to the special conditions release request.

El Paso Water Utilities

EPWU does not object to this request.

Sun Metro

There are no objections to the special conditions release request.

CITY PLAN COMMISSION OPTIONS

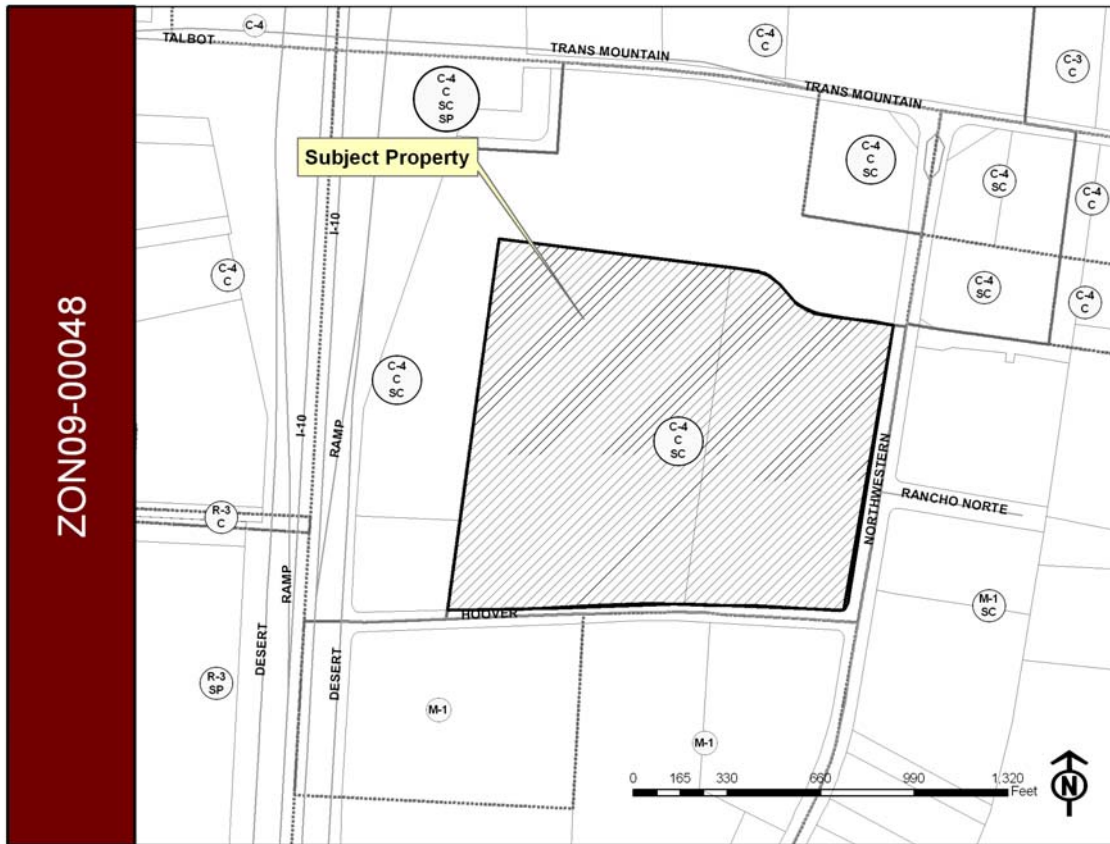
The City Plan Commission may consider the following options and additional options that it identifies when reviewing the zoning condition release application:

1. Recommend approval of the application finding that the zoning condition release is in conformance with the review criteria of The Plan for El Paso as reflected in CPC report or other criteria that the CPC identifies from the Plan
2. Recommend approval of the application with modifications to bring the zoning condition release into conformance with the review criteria in The Plan for El Paso as reflected in CPC report or other criteria from the Plan as identified by the CPC.
3. Deny the application finding that the zoning condition release does not conform to the review criteria in The Plan for El Paso as reflected in CPC report or other criteria identified from the Plan by the CPC.

Attachments

1. Zoning Map
2. Aerial Map
3. Ordinance 9364

ATTACHMENT 1: LOCATION MAP



ATTACHMENT 2: AERIAL MAP



ATTACHMENT 3: ORDINANCE 9364 – CONDITIONS

AN ORDINANCE CHANGING THE ZONING OF
A PORTION OF NELLIE D. MUNDY SURVEYS NO. 239,
240 AND 243; A PORTION OF TRACTS 61 AND 62, W.H. GLENN
SURVEY NO. 241; A PORTION OF TRACT 1B, S.J. LARKIN
SURVEY NO. 266; A PORTION OF TRACT 6, W.H. LENOX SURVEY
NO. 432; AND PORTIONS OF TRACTS 1 AND 8, S.A. AND
M.G. SURVEY NO. 266.

THE PENALTY BEING AS PROVIDED IN
SECTION 20.68.010 OF THE EL PASO CITY CODE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the zoning of a portion of Nellie D. Mundy Surveys No. 239, 240 and 243; a portion of Tracts 61 and 62, W.H. Glenn Survey No. 241; a portion of Tract 1B, S.J. Larkin Survey No. 266; a portion of Tract 6, W.H. Lenox Survey No. 432; and portions of Tracts 1 and 8, S.A. and M.G. Survey No. 266, as more particularly described by metes and bounds in the attached Exhibit "A" (pages 1 - 15), be changed as follows:

Parcel No. 1: from R-3 (Residential) to C-4
(Commercial) - 8.425 acres
Parcel No. 1C: from PMD (Planned Mountain District)
to C-4 (Commercial) - 7.581 acres
Parcel No. 2: from R-3 (Residential) to M-1 (Light
Manufacturing) - 273.607 acres
Parcel No. 2A: from PMD (Planned Mountain District)
to M-1 (Light Manufacturing) - 19.077
acres
Parcel No. 3: from R-3 (Residential) to C-4
(Commercial) - 132.273 acres
Parcel No. 4: from R-3 (Residential) to A-2
(Apartment) - 16.241 acres
Parcel No. 5: from A-2 (Apartment) to C-4
(Commercial) - 4.255 acres
Parcel No. 6: from R-3 (Residential) to M-1 (Light
Manufacturing) - 67.329 acres
Parcel No. 6A: from PMD (Planned Mountain District)
to M-1 (Light Manufacturing) - 3.397
acres

000364
Contract 8-9-88
88-5353

RECEIVED

AUG 18 1988

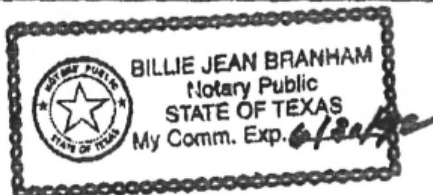
PLANNING DEPT.
LAND DEVELOPMENT

This instrument was acknowledged before me on this 100 day
of August, 1988, by JONATHAN W. ROGERS, as Mayor
of THE CITY OF EL PASO.

My Commission Expires:

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

ENG6:5353.88
08/09/88



RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the Mayor be authorized to sign a contract between THE CITY OF EL PASO and LAWYER'S TITLE, INC., Trustee for Westside Joint Venture, placing certain restrictions, conditions and covenants on the property being rezoned by Ordinance No. 00536, more particularly described as a portion of Nellie D. Mundy Surveys No. 239, 240 and 243; a portion of Tracts 61 and 62, W.H. Glenn Survey No. 241; a portion of Tract 1B, S.J. Larkin Survey No. 266; a portion of Tract 6, W.H. Lenox Survey No. 432; and portions of Tracts 1 and 8, S.A. and M.G. Survey No. 266, City and County of El Paso, Texas.

ADOPTED this 26th day of April, 1988.

Mayor

WITEST:

Carole Hunter
City Clerk

APPROVED AS TO FORM:

C. Catronis
Assistant City Attorney

ZNG6:5353.88

RECEIVED

AUG 17 1988

PLANNING DEPT.
LAND DEVELOPMENT

THE STATE OF TEXAS)
COUNTY OF EL PASO)

CONTRACT

*Original
April 26, 1988*

THIS CONTRACT made this _____ day of _____, 1988,
by and between WESTSIDE JOINT VENTURE and LAWYER'S TITLE OF EL
PASO, INC., as Trustee for Westside Joint Venture, hereinafter
referred to collectively as First Party, and the CITY OF EL PASO,
Second Party, witnesseth:

Application has been made to the City of El Paso for the
rezoning of a portion of Nellie D. Mundy Surveys No. 239, 240 and
243; a portion of Tracts 61 and 62, W.H. Glenn Survey No. 241; a
portion of Tract 1B, S.J. Larkin Survey No. 266; a portion of
Tract 6, W.H. Lenox Survey No. 432; and portions of Tracts 1 and
8, S.A. and M.G. Survey No. 266, City and County of El Paso,
Texas, which are more particularly described by metes and bounds
in the attached Exhibit "A" (pages 1 - 15) which is made a part
hereof by reference. To remove certain objections to such
rezoning, First Party covenants that if the property is rezoned
as follows:

- Parcel No. 1: from R-3 (Residential) to C-4
(Commercial) - 8.425 acres
- Parcel No. 1C: from PMD (Planned Mountain District)
to C-4 (Commercial) - 7.581 acres
- Parcel No. 2: from R-3 (Residential) to M-1 (Light
Manufacturing) - 273.607 acres
- Parcel No. 2A: from PMD (Planned Mountain District)
to M-1 (Light Manufacturing) - 19.077
acres
- Parcel No. 3: from R-3 (Residential) to C-4
(Commercial) - 132.273 acres
- Parcel No. 4: from R-3 (Residential) to A-2
(Apartment) - 16.241 acres

Parcel No. 5: from A-2 (Apartment) to C-4
(Commercial) - 4.255 acres
 Parcel No. 6: from R-3 (Residential) to M-1 (Light
Manufacturing) - 67.329 acres
 Parcel No. 6A: from PMD (Planned Mountain District)
to M-1 (Light Manufacturing) - 3.397
acres
 Parcel No. 7: from R-3 (Residential) to A-O
(Apartment/Office) - 0.485 acres
 Parcel No. 8: from R-5 (Residential) to A-O
(Apartment/Office) - 13.382 acres
 Parcel No. 9: from R-5 (Residential) to C-4
(Commercial) - 4.896 acres
 Parcel No. 10: from A-O (Apartment/Office) to
A-2 (Apartment) - 9.435 acres

within the meaning of the zoning ordinance of the City of El Paso, it shall be subject to the following restrictions, conditions and covenants:

1. Prior to the issuance of a building permit(s) for any parcel, a subdivision plat must be filed of record for said parcel.
2. First Party shall contribute money toward the construction of two (2) entrance/exit ramps at the south side of Artcraft Road and Interstate 10 in El Paso in accordance with the following provisions:
 - a. Prior to the City Engineer's final signature on any subdivision plat, First Party shall obtain a proportionate release for each plat by contributing an amount calculated according to the following formula:

Acres of land to be released	X	\$500,000	X	Artcraft Interchange Cost Index
560.4 acres				

The "Artcraft Interchange Cost Index" shall be the most current Construction Cost Index published in the Engineering News Record as of the date the City Engineer signs

a final plat or approves a proportionate release, divided by the same index as of AUGUST 9, 1988 which was 4541.59.

- b. Alternatively, First Party may at any time, according to the formula in Paragraph 2a above, pay the remaining contribution due on any or all acreage within the above-referenced parcels for which final plats have not been approved by the City Plan Commission.
- c. At the time First Party makes any proportionate contribution, First Party may prepare and submit proportionate release documents which will evidence receipt by the City of that contribution toward the Artcraft Road and Interstate 10 slip ramps. Upon approval of the form of any release document by the City Attorney's Office and the City Engineering Department, First Party shall be proportionately released from the terms of Paragraph 2 of this agreement.
- d. All payments made under the terms of this Paragraph 2 shall proportionately release First Party from the requirements of Paragraph 2 of this agreement.
- e. The money for the two (2) slip ramps shall be paid by First Party as provided above, or in any event, within thirty (30) days after receipt of a written request for payment from Second Party, to be delivered to First Party immediately prior to advertisement for bids by the State Department of Highways and Public Transportation.
- f. All monies paid for proportionate releases, from the requirements of this Paragraph 2, as above provided, shall be deposited in a separate and interest bearing

escrow account controlled by Second Party and earmarked solely for the payment of the cost of the slip ramps. In the event construction is not commenced within five (5) years from the date hereof as above required, all funds in the escrow account shall revert and be paid to the First Party upon written request, and the requirements of this Paragraph 2 shall automatically terminate and cease to be an encumbrance on title.

3. Prior to final approval of any subdivision plats in Parcel 2, the First Party must dedicate a fire station site to Second Party. The fire station site must have one hundred seventy five (175) feet of frontage on the proposed Resler Drive at an intersection with a dedicated side street and a depth of one hundred fifty eight (158) feet. The exact location of the site shall be determined by the El Paso Fire Department and First Party. Unless otherwise agreed by both parties, the dedication of the site shall be by metes and bounds, subject to the approval of this exception by the Planning Commission and City Council. It is understood and agreed that the legal description of the site might shift, depending on the final development of the subdivision of which the site will be a part, thereby requiring an amendment of this Special Contract and such amendment may occur with the approval of the El Paso Fire Department and without any necessity of going back to the Planning Commission and to City Council.
4. A 75-foot wide Special Building Setback Line (S.B.S.L.) shall be established along the north portions of Parcels 1C, 2A, 6 and 6A, adjacent to Woodrow Bean Transmountain Drive. In addition, First Party must landscape the S.B.S.L. area in accordance with the landscaping plan, which is on file with the Department of Planning, Research and Development, prior to the issuance of any building permits for said parcels.

This agreement is a restriction, condition and covenant

running with the land and a charge and servitude thereon, and shall bind First Party and its successors in title. Any future conveyance of the land shall contain this restriction, condition and covenant and shall embody this agreement by express reference.

The City may enforce this agreement by injunction or any other legal or equitable remedy. The City Council of the City of El Paso may amend or release the above restrictions, conditions and covenants in its discretion without the consent of any third person who may be benefited thereby, and without affecting the validity or necessitating the amendment of the ordinance passed by the City Council embodying this change of zoning and subject to this contract.

WITNESS THE FOLLOWING SIGNATURES AND SEALS:

FIRST PARTY:
WESTSIDE JOINT VENTURE

By _____

Title _____

LAWYER'S TITLE OF EL PASO, INC.,
Trustee for Westside Joint Venture

By _____

Title _____

ATTEST:

Secretary

SIGNATURES CONTINUED ON NEXT PAGE

SECOND PARTY:
THE CITY OF EL PASO

By _____
Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

C. Colonius
Assistant City Attorney

APPROVED AS TO CONTENT:

Roy Hilgand
Department of Planning,
Research and Development

THE STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me on this _____ day
of _____, 1988, by _____ as
_____ on behalf of WESTSIDE JOINT VENTURE.

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

My Commission Expires:

THE STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me on this _____ day
of _____, 1988, by _____ as
_____ on behalf of LAWYER'S TITLE OF EL
PASO, INC., as Trustee for Westside Joint Venture.

My Commission Expires: _____
Notary Public, State of Texas
Notary's Printed or Typed Name: _____

ACKNOWLEDGEMENTS CONTINUED ON NEXT PAGE

THE STATE OF TEXAS)
)
COUNTY OF EL PASO)

 This instrument was acknowledged before me on this _____ day
of _____, 1988, by JONATHAN W. ROGERS, as Mayor
of THE CITY OF EL PASO.

My Commission Expires:

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

ZNG6:5353.88
08/09/88

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the Mayor be authorized to sign a Contract Amendment between the CITY OF EL PASO and WESTSIDE JOINT VENTURES, INC., amending one of the conditions on the property rezoned by Ordinance Number 9364, more particularly described as a portion of Nellie D. Mundy Surveys No. 239, 240 and 243; a portion of Tracts 61 and 62, W.H. Glenn Survey No. 241; a portion of Tract 1B, S.J. Larkin Survey No. 266; a portion of Tract 6, W.H. Lenox Survey No. 432; and portions of Tracts 1 and 8, S.A. and M.G. Survey No. 266, City and County of El Paso, Texas.

ADOPTED THIS 13th day of September, 1988.

THE CITY OF EL PASO

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

Carol Colonis by bmm
Assistant City Attorney

ZNG7:5353.88
09/07/88

ORD # 9364 (4-26-88)

88-5353

THE STATE OF TEXAS)
)
COUNTY OF EL PASO)

CONTRACT AMENDMENT

THIS Contract Amendment is made this 13th day of September, 1988 by and between WESTSIDE JOINT VENTURE and LAWYER'S TITLE OF EL PASO as Trustee for WESTSIDE JOINT VENTURE, collectively referred to as First Party, and the CITY OF EL PASO, Second Party.

WHEREAS, on August 9, 1988, First Party and the CITY OF EL PASO entered into a contract in connection with Ordinance Number 9364 which rezoned a portion of Nellie D. Mundy Surveys No. 239, 240 and 243; a portion of Tracts 61 and 62, W. H. Glenn Survey No. 241; a portion of Tract 1B, S. J. Larkin Survey No. 266; a portion of Tract 6, W. H. Lenox Survey No. 432; and portions of Tracts 1 and 8, S. A. and M. G. Survey No. 266, City and County of El Paso, Texas; and

WHEREAS, the Parties hereto wish to amend such contract as hereinafter provided;

NOW, THEREFORE, the Parties do mutually agree to amend the contract by deleting condition number four and by adding following condition:

4. A 75-foot Special Building Setback Line (S.B.S.L.) shall be established along the north portions of Parcels 1C, 2A, 6, and 6A adjacent to Woodrow Bean Transmountain Drive. The S.B.S.L. shall only be required until such time as the property owner dedicates 75 feet of right-of-way to the City through a

subdivision plat. The 75-foot S.B.S.L. and the 75 feet dedicated shall not be graded or developed so that the natural vegetation and topsoil remain intact except as is required for driveways and streets.

Except as expressly modified herein, all other terms and provisions of the contract shall remain in full force and effect.

WITNESS THE FOLLOWING SIGNATURES AND SEALS:

FIRST PARTY:
WESTSIDE JOINT VENTURE

By: _____
Title: _____

LAWYER'S TITLE OF EL PASO, INC.,
Trustee for Westside Joint Venture

By: _____
Title: _____

ATTEST:

Secretary

SECOND PARTY:
THE CITY OF EL PASO

By: _____
Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

Carol Cotsonis by bmm
Assistant City Attorney

APPROVED AS TO CONTENT:

Ray Gileard
Department of Planning,
Research and Development

ACKNOWLEDGEMENTS CONTINUE ON NEXT PAGE