



City of El Paso – City Plan Commission Staff Report

Case No: PZCR14-00003
Application Type: Zoning Condition Release
CPC Hearing Date: May 22, 2014
Staff Planner: Arturo Rubio, 915-212-1613, rubioax@elpasotexas.gov

Location: 8825 North Loop Drive
Legal Description: A portion of Lot 1, and portion of Lot 2, Block 1, Las Flores Subdivision, Unit 4, City of El Paso, El Paso County, Texas

Acreage: 9.07
Rep District: 7
Zoning: C-2/c/sc (Commercial/condition/special contract)
Existing Use: Community Shopping Center
C/SC/SP/ZBA/LNC Conditions/Special Contract, Ordinance Nos. 15816 and 7591
Request: Release all conditions imposed by Special Contract Ordinance No. 7591, dated September 14, 1982 and Rezoning Ordinance No. 15816, dated June 15, 2004
Proposed Use: Ballroom/Banquet Hall

Property Owner: Verde Paso Partners, LP
Representative: Mimco/Charlie Gomez

SURROUNDING ZONING AND LAND USE

North: R-3 (Residential) / Single-family dwellings
South: C-1/sc (Commercial/special contract) / Retail/Car wash
East: C-2/c/sc (Commercial/condition/special contract / P-C/sc (Planned Commercial/special contract) / Self-storage warehouse
West: R-F (Ranch and Farm) / Single-family dwellings / C-1 (Commercial) Light Retail / C-3/c (Commercial/conditions)

PLAN EL PASO DESIGNATION: G-3 Post-War (Mission Valley Plan Area)

NEAREST PARK: Pecan Grove Park #1 (4,386 feet)

NEAREST SCHOOL: Mission Valley Elementary School (798 feet)

NEIGHBORHOOD ASSOCIATIONS

There are no registered neighborhood associations in the area. This was verified through community development department data on recognized neighborhood associations.

NEIGHBORHOOD INPUT

Notice of a Public Hearing was mailed to all property owners within 300 feet of the subject property on May 5, 2014. The Planning Division has not received any letters or phone calls in opposition or support to the condition release request.

BACKGROUND HISTORY

On September 14, 1982, the City Council approved a rezoning to P-C (Planned Commercial) through Ordinance No. 7591 and imposed conditions by special contract. The conditions prohibited establishments which sell alcohol, billiard halls and adult book stores and theaters. In addition, conditions were imposed requiring the construction of sidewalks and a deceleration lane along North Loop Drive. The prohibited uses are currently not permitted in the C-2 zone district with the exception of alcohol sales, which is a

permitted use in the C-2 zone district with City code regulations prohibiting the location of alcohol use or storage within 300 feet proximity of schools, churches and day cares. The conditions requiring sidewalks and deceleration lanes have been satisfied.

On June 15, 2004, the City Council approved a rezoning request from P-C/sc (Planned Commercial/special contract) to C-2/c/sc (Commercial/condition/special contract) and imposed a condition for the submittal of a detailed site development plan at the time of rezoning. The condition has been satisfied and is no longer necessary.

APPLICATION DESCRIPTION

The applicant is requesting to release all conditions imposed by Special Contract Ordinance No. 7591 dated September 14, 1982 (see Attachment 4, pgs. 7-10). The conditions imposed by the rezoning special contract no longer apply to the subject property or have been satisfied.

The applicant is also requesting a condition release for the condition imposed by rezoning Ordinance No. 15816 dated June 15, 2004 (see Attachment 5, pgs. 11-12) as the condition has been satisfied.

CITY DEVELOPMENT DEPARTMENT-PLANNING DIVISION RECOMMENDATION

The Planning Division recommends **approval** of the condition release request, as the conditions no longer apply or have been satisfied.

Plan El Paso- Future Land Use Map Designation

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

G-3 – Post-War: This sector applies to transitional neighborhoods typically developed from the 1950s through the 1980s. Streets were laid out with curvilinear patterns without alleys and shopping centers are located at major intersections behind large parking lots. This sector is generally stale but would benefit from strategic suburban retrofits to supplement the limited housing stock and add missing civic and commercial uses.

The purpose of the C-2 (Commercial) district is to accommodate establishments providing goods or rendering services which are used in support of the community's trade and service establishments and serving multi-neighborhoods within a planning area of the city. The regulations of the districts will permit intensities designed to be compatible with each other and to provide for a wide range of types of commercial activity, including light automobile related uses.

City Development Department – Building and Development Permitting

Recommend approval of condition release.

City Development Department – Planning Division - Transportation

No objections.

Note:

All existing / proposed paths of travel (accessible sidewalks, wheelchair access curb ramps and driveways) within public rights-of-way shall be in compliance with current ADA/TAS rules and regulations and the current City of El Paso Design Standards for Construction.

City Development Department – Land Development

No comments received

Sun Metro

No comments received

EPWU

EPWU does not object to this request.

EPWU-PSB Comments

Water:

1. 2. There is an existing 8-inch diameter water main that extends along a 20-foot wide PSB easement located on the eastern portion of the property. Also, there is an existing 8-inch diameter water main that extends along the private access road located south of the property. These water mains are available for service.
2. There is an existing 8-inch diameter water main that extends along North Loop Drive, approximately 13-feet west of and parallel to the eastern North Loop right-of-way line. This main dead-ends 300-feet north of the Juan de Herrera Lateral. Also, there is an existing 8-inch diameter water main that extends along North Loop Drive and that dead-ends 150-feet south of Muralla Way. These water mains are available for service.

General:

1. EPWU-PSB records indicate several active water meters serving the retail shopping center
2. Previous water pressure readings from fire hydrant number 8132 located approximately 500 feet north of the intersection of Zaragoza Road and North Loop Drive have yielded a static pressure of 98 pounds per square inch (psi), residual pressure of 34 psi and a discharge of 1661 gallons per minute (gpm). The owner should, for his own protection and at his own expense, install at the discharge side of each water meter a pressure regulator, strainer and relief valve, to be set for pressure as desired by the customer. The Lot owner shall be responsible for the operation and maintenance of the above-described water pressure regulating device.

Sanitary Sewer:

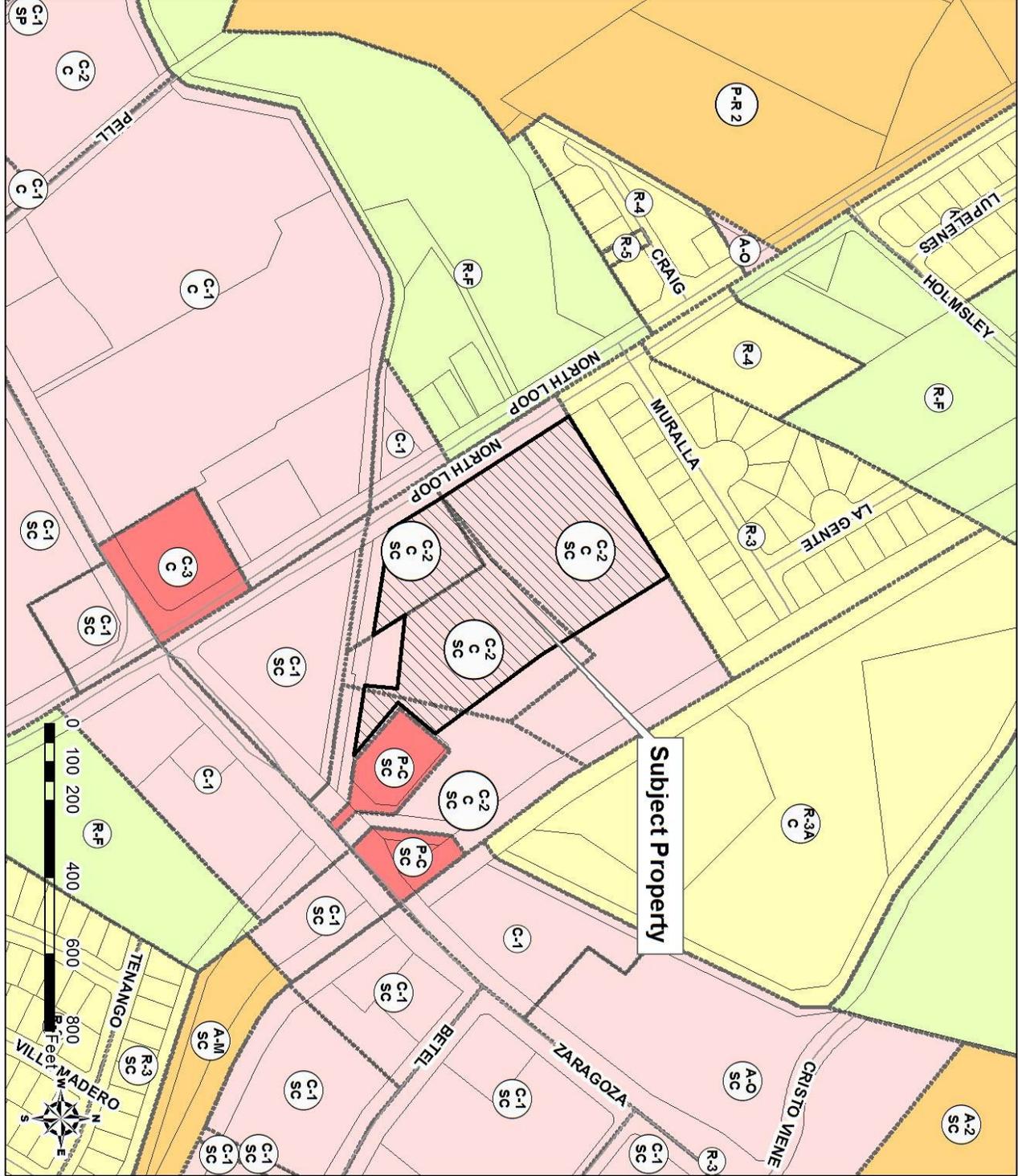
1. There is an existing 8-inch diameter sewer main that extends along the private access road located south of the property. This main dead-ends approximately 500-feet west of Zaragoza Road. This main is available for service.
2. There is an existing 8-inch diameter sewer main that extends along North Loop Drive, approximately 21-feet west of and parallel to the eastern North Loop right-of-way line. This main dead-ends 260-feet north of the Juan de Herrera Lateral.
3. North Loop Dr. is a Texas Department of Transportation (TxDOT) right-of-way. All proposed utility work to be performed within the North Loop Dr. right-of-way requires written permission from TxDOT.
4. All easements dedicated for public water and sanitary sewer facilities shall comply with the EPWU-PSB Easement Policy. No buildings or other structures shall be constructed or maintained on the above referenced easements. EPWU-PSB requires access to the water and sanitary sewer facilities within the easements 24 hours a day, seven days a week.
5. EPWU requires a new service application to provide additional services. A site plan, utility plan, grading and drainage plans, landscaping plan, the legal description of the property and a certificate-of-compliance are required at the time of application. Service will be provided in accordance with the current EPWU – PSB Rules and Regulations. The applicant is responsible for the costs of any necessary on-site and off-site extensions, relocations or adjustments of water and sanitary sewer lines and appurtenances.

Attachments

1. Location Map
2. Aerial Map
3. Detailed Site Plan
4. Special Contract Ordinance No. 7591 dated September 14, 1982
5. Rezoning Ordinance No. 15816 dated June 15, 2004

ATTACHMENT 1: LOCATION MAP

PZCR14-00003



PZCR14-00003

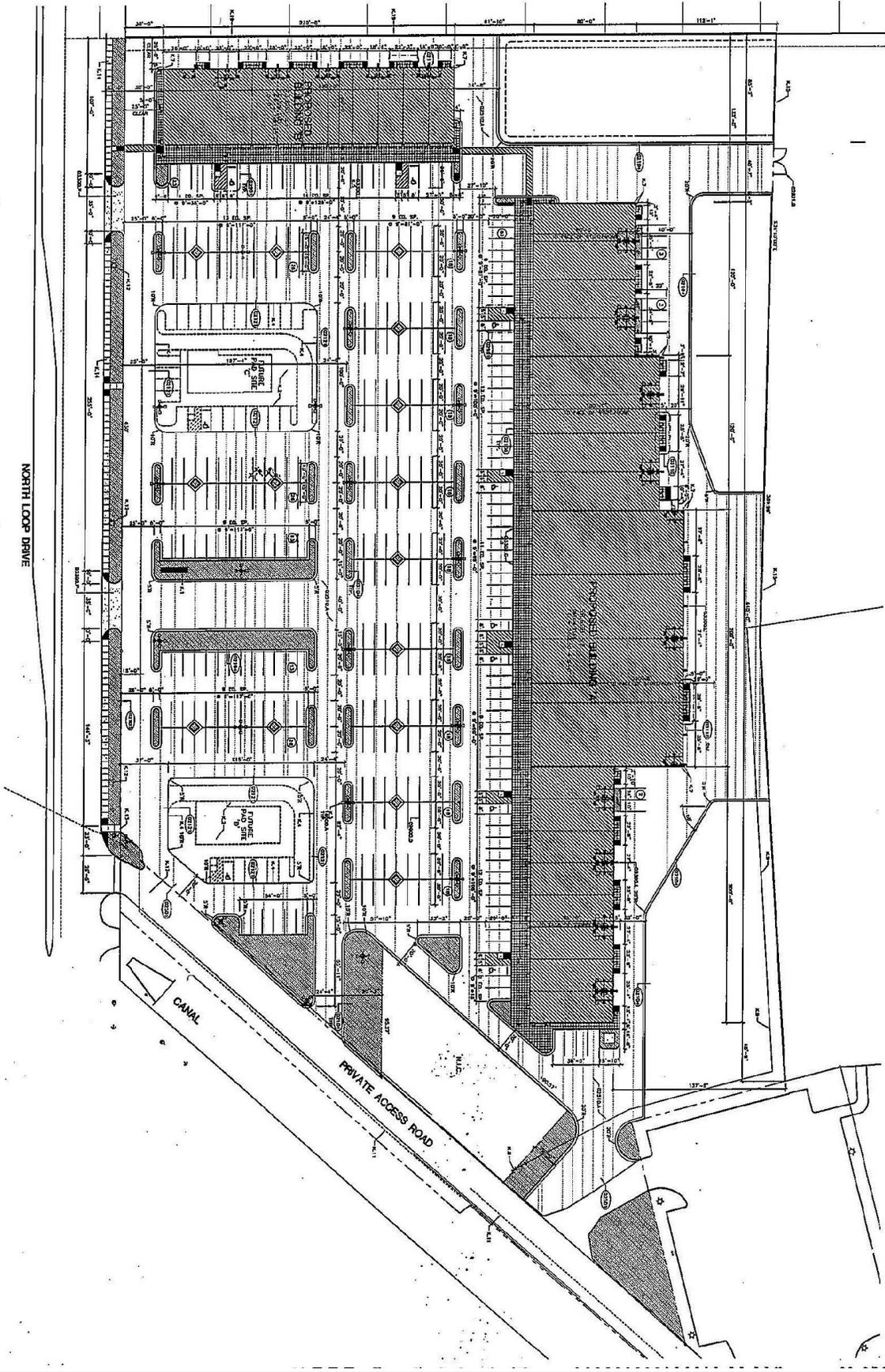


ATTACHMENT 3: DETAILED SITE PLAN

⊗ SITE PLAN

SCALE: 1" = 30'-0"

NORTH LOOP DRIVE



CONTRACT

THIS CONTRACT, made this 14th day of September, 1982, by and between MSG PROPERTIES, A TEXAS GENERAL PARTNERSHIP COMPOSED OF GERALD J. RUBIN AND IRVING I. RUBIN, First Parties, and the CITY OF EL PASO, Second Party, witnesseth:

Application has been made to the City of El Paso for rezoning of Tracts 12B, 13A and 13B, Block 6, Ysleta Grant, City of El Paso, El Paso County, Texas, such property being more particularly described in Ordinance No. 7591, now pending before the City Council of the City of El Paso, a copy of which is attached hereto, marked Exhibit "A" and made a part hereof by reference. To remove certain objections to such rezoning, First Parties covenant that if the property is rezoned to P-C (Planned Commercial) District 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. No package store, unless operated with supermarkets, drugstores or other retail operation, or any establishment whose principal purpose is the serving or selling of alcoholic beverages without food service, by the drink for consumption on the premises shall be allowed on the property. This shall not be construed to prohibit the operation of a restaurant which sells alcoholic beverages in connection with food service.

2. No billiard hall or skill or pleasure coin-operated machine establishment shall be permitted on the property.

- (a) "Billiard hall" as used in this paragraph shall mean a place at which a billiard table or tables are provided to be played on for compensation.
- (b) "Billiard table" as used in this paragraph means any table (whether coin-operated or not) surrounded by a ledge or cushion with or without pockets, upon which balls are impelled by a stick or cue.
- (c) The term "skill or pleasure coin-operated machine establishment" as used in this paragraph means any place where five or more skill or pleasure coin-operated machines are maintained or made available for use or operation.
- (d) The term "skill or pleasure coin-operated machine" means every machine or device of any kind or char-

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acter whatsoever which is operated by or with coins, currency, metal slugs, tokens or checks, when such machine dispenses, uses or is capable of being used or operated for any purpose other than dispensing or vending of merchandise, music, or service exclusively. "Skill or pleasure coin-operated machine" shall include, but not be limited to the following: marble machines, marble table machines, marble shooting machines, miniature racetrack machines, miniature football machines, miniature golf machines, miniature bowling machines, pinball machines, and all other coin-operated machines, which dispense or afford skill or pleasure. Every machine or device of and kind or character which dispenses or vends merchandise, commodities or confections or plays music in connection with or in addition to such games or dispensing of pleasure or skill shall be considered a "skill or pleasure coin-operated machine."

3. No adult bookstore, adult motion picture theater or nude live entertainment club shall be permitted on the property.

(a) "Adult bookstore" as used in this paragraph shall mean an establishment having as a substantial or significant portion of its stock in trade, books, magazines and other periodicals, and "peep shows" or film strips which are distinguished or characterized by their emphasis on pictorial or photographic representations of "specified sexual activities" or "specified anatomical areas" (as defined herein) or an establishment with a segment or section devoted to the sale or display of such material.

A "significant or substantial portion" shall mean more than one-third of the stock in trade or sales of the described material in excess of \$5,000 retail value per year.

(b) "Adult motion picture theater" as used in this paragraph shall mean an enclosed building or outdoor screen presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" (as defined herein) for observation by patrons of such establishments, and which offers such materials for at least any 120 days in any 12-month period.

(c) "Nude live entertainment club" as used in this paragraph shall mean any bar, club, theater, lounge or establishment which offers live nude entertainment by dancers, models, actors, actresses, players, waitresses or waiters. "Nude live entertainment" shall mean live human dancers, models, actors, actresses, players, waitresses or waiters whose pubic area, buttock or genitals are exposed to the view of patrons at any time.

(d) "Specified sexual activities" as used in this paragraph shall mean:

- (1) human genitals in a state of actual or simulated sexual stimulation or arousal;
 - (2) acts of human masturbation, sexual intercourse or sodomy;
 - (3) fondling or other erotic touching of human genitals, pubic region, buttock, or female breast;
 - (4) "sexual intercourse," "sexual contact," or deviate sexual intercourse" as defined in Sec. 31.01, Texas Penal Code.
- (e) "Specified anatomical areas" as used in this paragraph shall mean less than completely covered human genitals, pubic region, buttock, and female breast below a point immediately above the top of the areola.

4. No certificates of occupancy and compliance shall be issued for any building constructed on the property until First Parties have, at no cost to the City, done the following:

- (a) Installed a concrete sidewalk along the boundary of the property which is adjacent to North Loop Drive.
- (b) Constructed a deceleration lane along North Loop Drive including grading, paving, curbing and gutters.

Such improvements shall be done in accordance with specifications to be approved by the City Engineer of the City of El Paso; in addition, plans and specifications for the deceleration lane to be constructed and installed under paragraph 4(b) above must be approved by the Director of Traffic and Transportation of the City of El Paso. The City Engineer and the Director of Traffic and Transportation must certify that such improvements have been satisfactorily installed before certificates of occupancy and compliance shall be issued.

5. First Parties shall, at no cost to the City, execute and deliver to the City a written instrument dedicating to the City a strip of right of way varying in width from a maximum of 35 feet to a minimum of approximately 30 feet for the future widening of North Loop Drive. A legal description will be furnished by the City.

This contract is a restriction, condition and covenant running with the land and a charge and servitude thereon, and shall bind First Parties and their successors in title. Any future conveyance of the land shall embody this contract by express reference.

The City may enforce this agreement by injunction or any other

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ORDINANCE NO. 15816

AN ORDINANCE CHANGING THE ZONING OF PARCEL 1: LOT 2 AND A PORTION OF LOT 1, BLOCK 1, LAS FLORES SUBDIVISION UNIT 4, EL PASO, EL PASO COUNTY, TEXAS FROM P-C/SC (PLANNED COMMERCIAL DISTRICT/SPECIAL CONTRACT) TO C-2/SC (COMMERCIAL/SPECIAL CONTRACT); AND PARCEL 2: A PORTION OF LOT 1, BLOCK 1, LAS FLORES SUBDIVISION UNIT 4, EL PASO, EL PASO COUNTY, TEXAS FROM P-C/SC (PLANNED COMMERCIAL DISTRICT/SPECIAL CONTRACT) TO C-2/SC (COMMERCIAL/SPECIAL CONTRACT). THE PENALTY BEING AS PROVIDED IN CHAPTER 20.68 OF THE EL PASO MUNICIPAL CODE.

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

That the zoning of Parcel 1: *Lot 2 and a portion of Lot 1, Block 1, Las Flores Subdivision Unit 4, El Paso, El Paso County, Texas*, as more particularly described by metes and bounds in the attached Exhibit "A", be changed **from P-C/sc (Planned Commercial District/special contract) to C-2/sc (Commercial/special contract)**; and Parcel 2: *A portion of Lot 1, Block 1, Las Flores Subdivision Unit 4, El Paso, El Paso County, Texas*, as more particularly described by metes and bounds in the attached Exhibit "B", be changed **from P-C/sc (Planned Commercial District/special contract) to C-2/sc (Commercial/special contract)**; within the meaning of the zoning ordinance, and that the zoning map of the City of El Paso be revised accordingly; and

That Parcels 1 and 2 be subject to the following conditions which are necessitated by and attributable to the increased intensity of use generated by the change of zoning from P-C/sc (Planned Commercial District/special contract) to C-2/sc (Commercial/special contract) for Parcel 1, and from P-C/sc (Planned Commercial District/special contract) to C-2/sc (Commercial/special contract) for Parcel 2, in order to protect the health, safety and welfare of adjacent property owners and the residents of this city:

That a Detailed Site Development Plan be reviewed and approved pursuant to the El Paso Municipal Code prior to the issuance of any building permits, and that the site development plan submitted with this rezoning application be accepted to meet this requirement.

ORDINANCE NO. 15816

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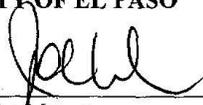
6/16/2004

Zoning Case No. ZON04-00050

These conditions run with the land, are a charge and servitude thereon, and bind the current property owner and any successors in title. The City may enforce these conditions by injunction, by rescission of the zoning which is made appropriate as a result of these conditions, or by any other legal or equitable remedy. The City Council of the City of El Paso may amend or release the above conditions in its discretion without the consent of any third person who may be benefitted thereby, and without affecting the validity of this ordinance.

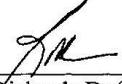
PASSED AND APPROVED this 15th day of June, 2004.

THE CITY OF EL PASO



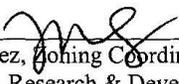
Joe Wardy, Mayor

ATTEST:

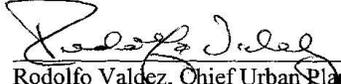


Richarda Duffy Momsen, City Clerk

APPROVED AS TO CONTENT:



Fred Lopez, Zoning Coordinator
Planning, Research & Development



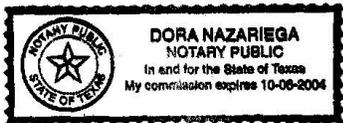
Rodolfo Valdez, Chief Urban Planner
Planning, Research & Development

Acknowledgment

THE STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument is acknowledged before me on this 21st day of June, 2004,
by JOE WARDY as MAYOR of THE CITY OF EL PASO.

My Commission Expires:





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

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6/16/2004

ORDINANCE NO. 15816

Zoning Case No. ZON04-00050