City of El Paso – City Plan Commission Staff Report
(REVISED)

Case No:	PZDS16-00013
Application Type:	Detailed Site Development Plan Review
CPC Hearing Date:	June 2, 2016
Staff Planner:	Andrew Salloum, 915-212-1643, salloumam@elpasotexas.gov
Location:	2810 George Dieter Drive
Legal Description:	A portion of Lot 1, Block 54, East Glen Unit #4, City of El Paso, El Paso County, Texas
Acreage:	2.99 acres
Rep District:	3
Existing Zoning:	C-1/sc (Commercial/special contract)
Existing Use:	Vacant
C/SC/SP/ZBA/LNC:	Special Contract Conditions: Ordinance No. 6344 dated October 24, 1978
Request:	Detailed Site Development Plan Review per Ordinance No. 6344
Proposed Use:	Self-storage facility
Property Owner:	Dick Aber
Representative:	Pablo Aguirre Jr.

SURROUNDING ZONING AND LAND USE
North: R-5/sc (Residential/special contract) / Single-family dwellings
South: A-O/sc/sp (Apartment/Office/special contract/special permit) / Church
East: S-D (Special Development) / Single-family dwellings and ponding area
West: C-1/sc (Commercial/special contract) / Vacant

PLAN EL PASO DESIGNATION: G-4, Suburban (Walkable) (East Planning Area)
NEAREST PARK: Indian Ridge 10 Park (4,853 feet)
NEAREST SCHOOL: Indian Ridge Middle School (2,670 feet)

NEIGHBORHOOD ASSOCIATION
Eastside Civic Association

NEIGHBORHOOD INPUT
Detailed Site Development Plan Review does not require public notification as per Section 20.04.520, Notice of the El Paso City Code.

CASE HISTORY
On October 24, 1978, the subject property (Parcel 4) was rezoned from R-4 (Residential) to A-O/sc (Apartment/Office/special contract) with the following conditions imposed by Ordinance No. 6344 (Attachment 5) summarized as follows:

> *1. Prior to the issuance of any building permits, a detailed site development plan shall be reviewed and approved by the City Plan Commission.*
>
> Condition #1 will be satisfied by this detailed site development plan application.
>
> *2. (a) Prior to the issuance of any building permits, a final subdivision plat shall be reviewed and approved by the City Plan Commission and filed for record. (b), Construct a six-foot high rock wall along the southerly boundary of Parcel 2.*

Condition #2 has been satisfied.

3. No bar, private club or other establishment where alcoholic beverages are sold on the premise shall be permitted on the property.

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

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

Conditions #3, 4, and 5 are satisfied as the proposed use is new self-storage facility development.

APPLICATION DESCRIPTION

The request is for a detailed site development plan review as required by Ordinance No. 6344 dated October 24, 1978 (see Attachment 5). The detailed site development plan shows a new 371 units of self-storage and office development. The development requires a minimum of 13 parking spaces and the applicant is providing 14 parking spaces and 3 bicycle spaces. The development complies with the minimum landscape area requirements of Title 18.46. Access to the subject property is proposed from George Dieter Drive and Long John Drive.

PLANNING DIVISION RECOMMENDATION

The Planning Division recommends **APPROVAL** of the detailed site development plan request as it meets all the requirements of Section 20.04.150, Detailed Site Development Plan.

ANALYSIS

20.04.140 When required.

Except as stated herein, a detailed site development plan is required prior to development in a special purpose district or with a special permit application and may be required if a zoning condition exists on a particular piece of property. Detailed site development plans are not required for any projects for development in the Mixed Use District (RMU, GMU and IMU) or for any other projects other than those located in special purpose districts or as otherwise required herein.

Note: Detailed Site Development Plan review is required by special contract condition imposed on the subject property.

20.04.150 Procedure.

C. Administrative approval. Detailed site development plans meeting the following conditions shall be reviewed and approved by the zoning administrator:
   1. The site is two acres or less in size, and
   2. The site plan contains no more than two buildings, and
   3. The site plan complies with any zoning conditions and all city code provisions, to include the tables for uses and density and dimensional standards and;
   4. The city's department of transportation has no concerns with access or restriction of access to the site; and,
   5. The site plan complies with staff recommendations concerning the location of stormwater drainage structures and easements to include onsite ponding areas; the location and arrangement of structures, vehicular and pedestrian ways; open spaces and landscape planted areas. Staff recommendations shall not require that the site plan have landscaping in excess of what is required under the city code or any zoning condition.

      If the zoning administrator does not approve an applicant's detailed sited development plan, the applicant may appeal the decision to the city plan commission. The applicant must file the appeal with the zoning administrator within fifteen business days from the date of the

zoning administrator's decision. The zoning administrator shall place the appeal on the city plan commission agenda to be heard by the commission within thirty business days from the date the appeal was received. The zoning administrator shall include the detailed site plan, the appeal, and a summary of the zoning administrator's reasons for disapproving the detailed site plan.

Note: The detailed site development plan review is not eligible for administrative approval, due to a condition imposed on the subject property which requires review and approval by City Plan Commission.

D. City plan commission approval. Pursuant to this Code, the city plan commission, in addition to the powers and duties identified in this chapter, shall have final authority on approval of all other detailed site development plans, unless a zoning condition, contract provision, other city code provision or state law require the detailed site development plan to be approved by city council.

1. The planning division shall make its recommendations to the city plan commission within thirty days after a complete application is submitted.
2. The city plan commission shall hold a public hearing at its regular meeting that is within thirty days from receipt of department recommendations.
3. The commission shall consider the following information when approving a proposed detailed site development plan: the boundaries of the tract proposed for development; location and arrangement of structures; determine if the use conforms to applicable zoning regulations, determine if historic landmark commission approval has been granted for architectural design of all structures if located in a historic district and the design conforms to such approval; location of utility rights-of-way and easements and stormwater drainage; vehicular and pedestrian ways; on-site parking areas; location of open spaces and landscape planted areas.
4. In no instance shall the city plan commission have authority to vary the yard standards applicable to the district.
5. The city plan commission shall approve the plan if it complies with all applicable code provisions.

Planning Staff has reviewed the detailed site development plan, and it meets all requirements of 20.04.150, Detailed Site Development Plan and the special contract condition.

Plan El Paso- Future Land Use Map Designation
All applications for detailed site plan review shall demonstrate compliance with the following criteria:

G-4, Suburban (Walkable): This sector applies to modern single-use residential subdivisions and office parks, large schools and parks, and suburban shopping centers. This sector is generally stable 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-1(Commercial) district is to serve the needs of surrounding residential neighborhoods by providing compatible neighborhood convenience goods and services that serve day-to-day needs. The regulations of the districts will permit location of business and professional offices and retail category uses within adjacent residential areas of medium and high densities.

COMMENTS:

Planning and Inspections Department - Planning Division - Transportation
No objections to the detailed site development plan.

Note:
All existing and/or proposed paths of travel (accessible sidewalks, wheelchair access curb ramps and driveways) located within public rights-of-way shall follow the City of El Paso Design Standards for

Construction and be ADA/TAS compliant.

TXDOT
This is not on a state roadway.

Planning and Inspections Department – Plan Review and Landscaping Division
No objections to proposed detailed site development plan.

At the time of submittal for building permits the project will need comply with all the applicable provisions of the IBC, TAS and local municipal code. On building A, designer should review section 1027.3 Exit discharge location of the IBC. Exterior balconies, stairways and ramps shall be located at least 10 feet (3048 mm) from adjacent lot lines and from other buildings on the same lot unless the adjacent building exterior walls and openings are protected in accordance with Section 704 based on fire separation distance.

Planning and Inspections Department – Land Development
1. No objections to proposed detailed site plan.
2. Approval of the site plans by CPC constitutes a determination that the applicant is in compliance with the minimum provisions. Applicant is responsible for the adequacy of such plans, insuring that stormwater is in compliance with ordinances, codes, DSC, and DDM. Failure to comply may require the applicant to seek re-approval of the site plans from CPC.

Fire Department
Recommend approval.

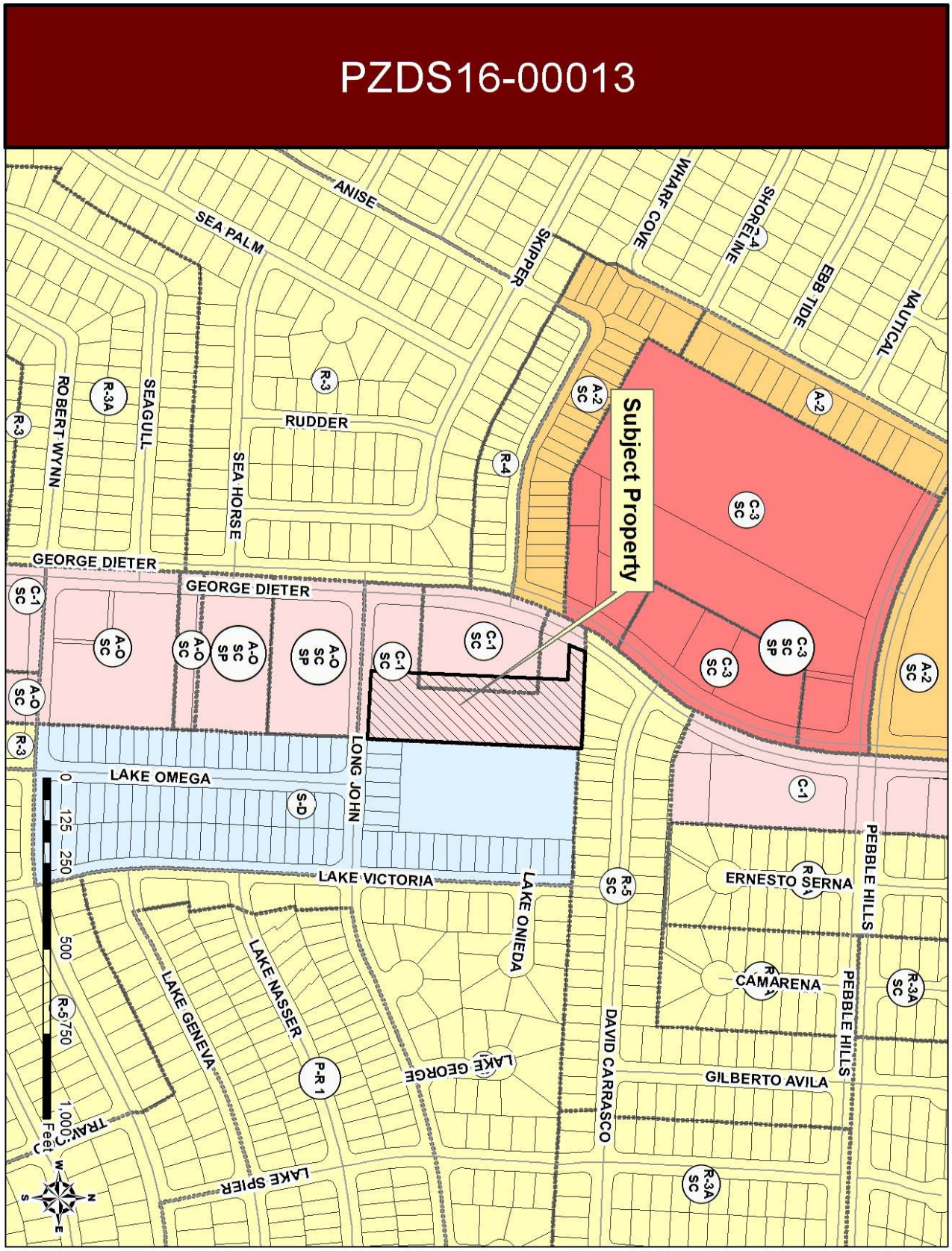
Sun Metro
Sun Metro does not oppose this request. Recommends the construction of sidewalks along property boundary adjacent to streets in order to permit pedestrian access to nearby mass transit options.

Texas Gas Service
Texas Gas Service does not foresee any issues in the construction of this self-storage facility; also, Texas Gas Service requires that all streets be public right-of-way and have dedicated utility easements. Texas Gas Service has no objections to the proposed project limits. It is the consultant and/or surveyor to illustrate the lines on the plans and to notify Texas Gas Service if the proposed improvements will be in conflict with our existing facilities. It is the contractor responsibility to call for line sports before digging.

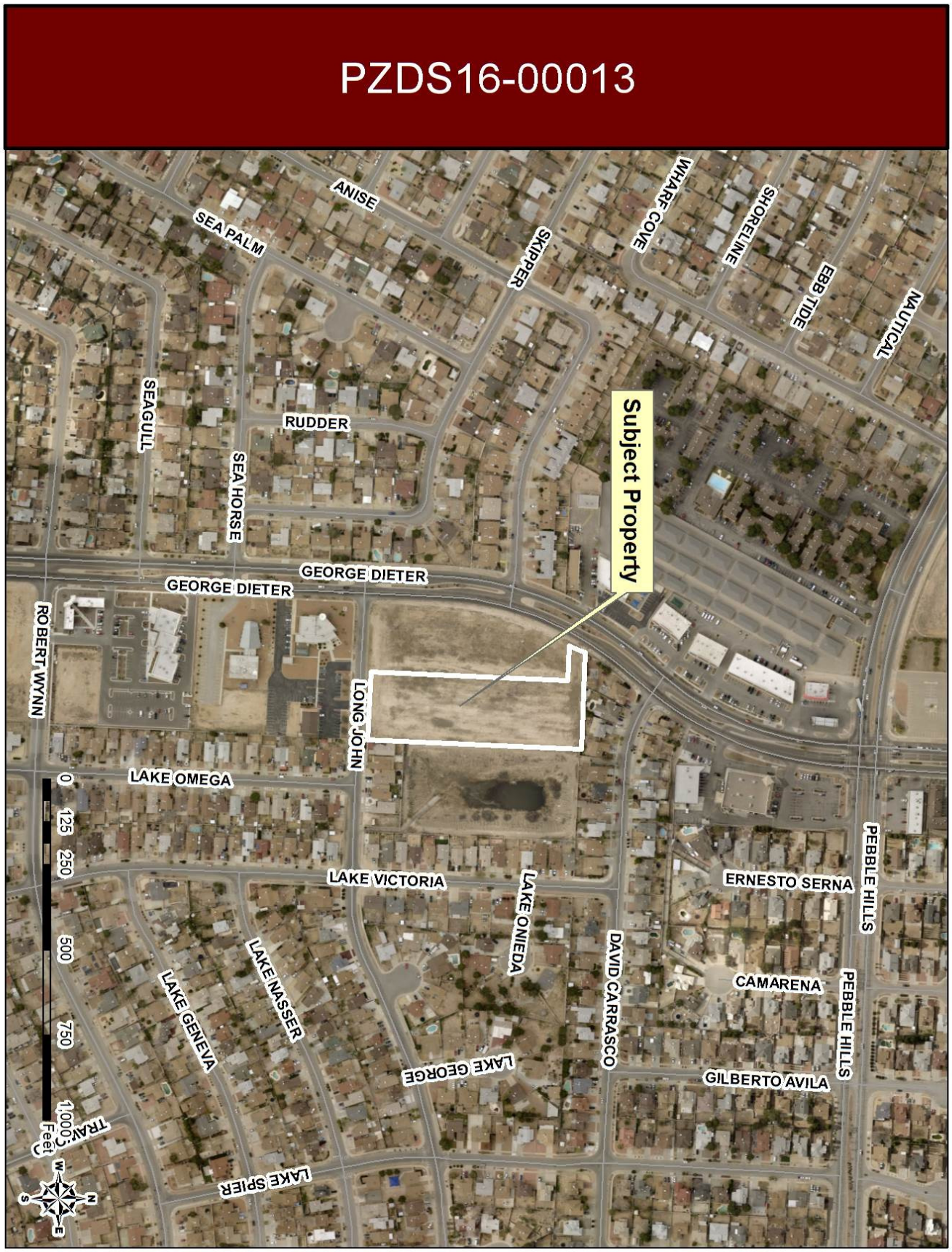
El Paso Water Utilities
No comments received.

Attachments
1. Zoning Map
2. Aerial Map
3. Future Land Use Map
4. Detailed Site Development Plan
5 Elevations
6. Ordinance No. 6344 dated October 24, 1978

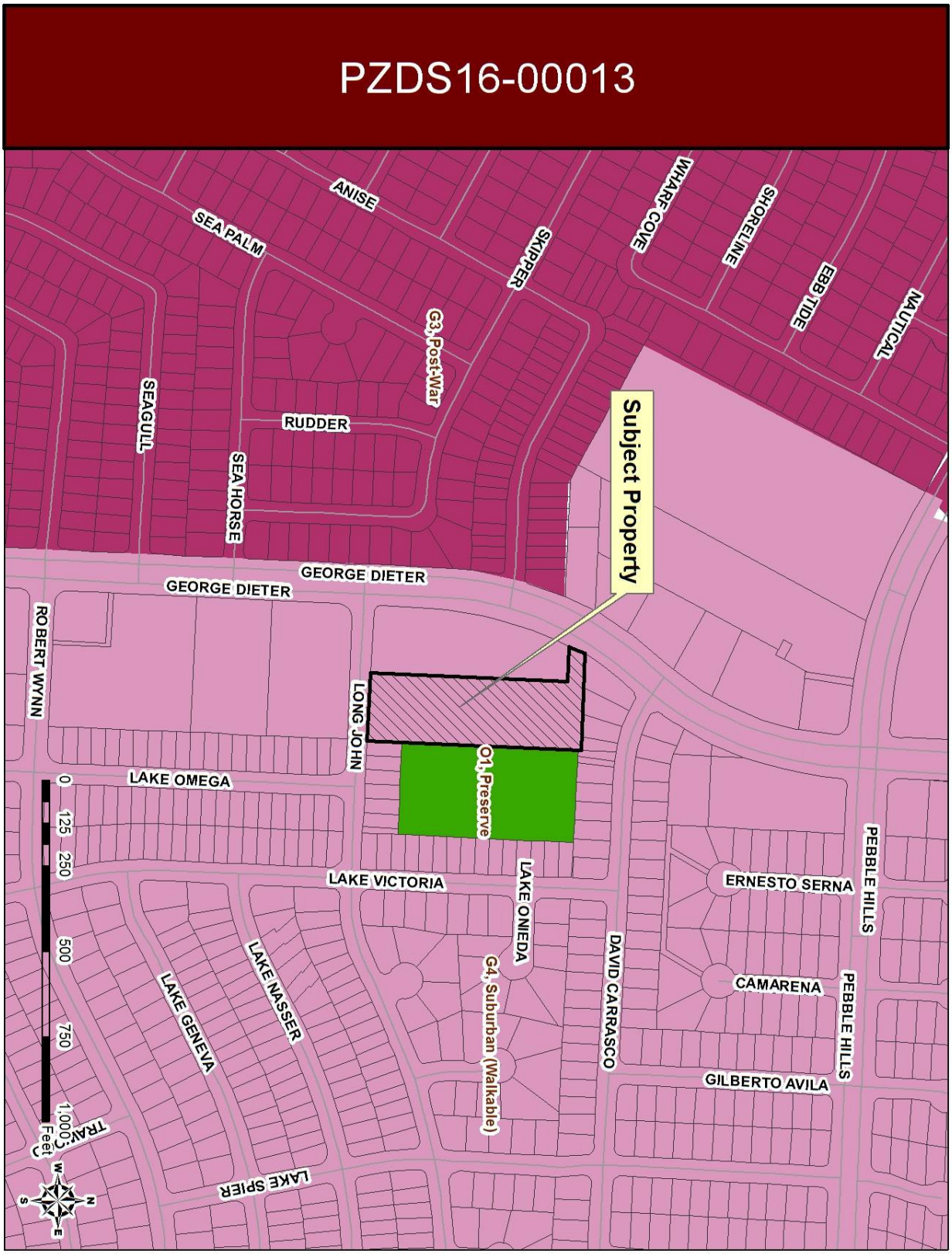
ATTACHMENT 1: ZONING MAP



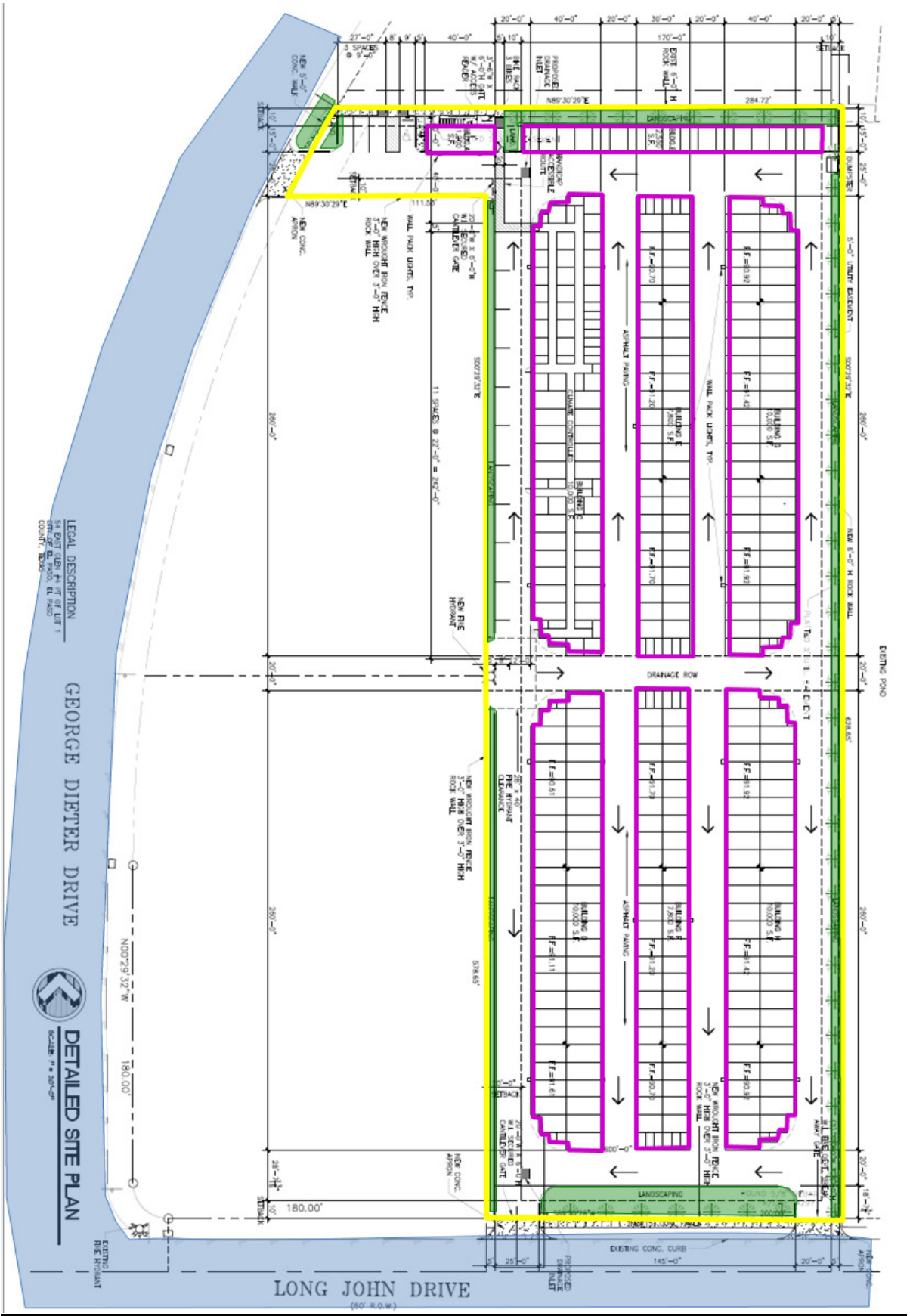
ATTACHMENT 2: AERIAL MAP



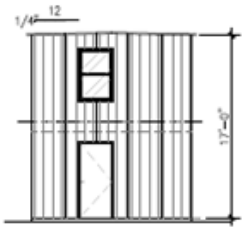
ATTACHMENT 3: FUTURE LAND USE MAP



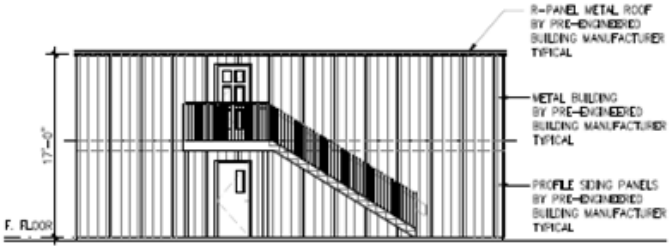
ATTACHMENT 4: DETAILED SITE DEVELOPMENT PLAN



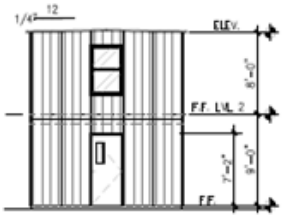
ATTACHMENT 5: ELEVATION



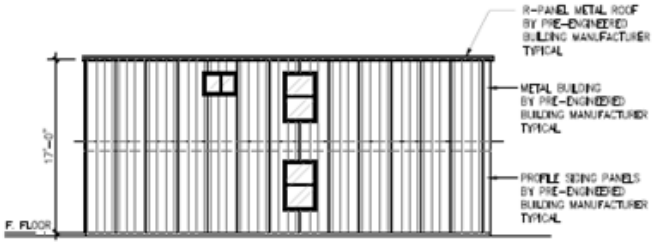
REAR - WEST ELEV.
BLDG. A



LEFT - NORTH ELEVATION BLDG. A



FRONT - EAST ELEV.
BLDG. A



RIGHT - SOUTH ELEVATION BLDG. A

ATTACHMENT NO. 6: ORDINANCE NO. 6344 DATED OCTOBER 24, 1978

FIRST READING
Date 9-26-78
City Clerk

ADOPTED
Date 10-24-78
City Clerk

6344

AN ORDINANCE CHANGING THE ZONING OF A PORTION OF SECTION 42, BLOCK 80, TOWNSHIP 2, T & P RR COMPANY SURVEYS, THE PENALTY BEING AS PROVIDED IN SECTION 25-10 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 Section 42, Block 80, Township 2, T & P RR Company Surveys, as more particularly described below, be changed to A-2 (Apartment), C-3 (Commercial), A-O (Apartment-Office) and R-4 (Residential) within the meaning of the zoning ordinance, and the zoning map be revised accordingly:

Parcel 1 from R 4-1 (Residential-Interim) to A-2 (Apartment)

A 5.713 acre parcel of land out of Section 42, Block 80, Township 2, T & P RR Co. Surveys, El Paso, El Paso County, Texas, more particularly described as follows:

A line from the Northeast corner of Section 42, Block 80, Township 2, T & P RR Co. Surveys; said point also being the proposed Northeast corner of East Glen Addition, Unit Four, bears North 89°58'10" West, 65.00 feet to the point of beginning of this description;

THENCE, 100.61 feet along an arc of a curve to the right; whose interior angle is 8°33'28"; whose radius is 673.62 feet; and whose chord bears South 3°47'12" West, 100.52 feet to a point;

THENCE, 100.61 feet along an arc of a curve to the left; whose interior angle is 8°33'28"; whose radius is 673.62 feet; and whose chord bears South 3°47'12" West, 100.52 feet to a point;

THENCE, South 00°29'32" East, 180.11 feet;

THENCE, 31.42 feet around an arc of a curve to the right; whose interior angle is 90°00'00"; whose radius is 20.00 feet; and whose chord bears South 44°30'28" West, 28.28 feet to a point;

THENCE, 566.02 feet along an arc of a curve to the right; whose interior angle is 26°09'32"; whose radius is 1239.75 feet; and whose chord bears North 77°24'46" West, 561.12 feet to a point;

THENCE, North 64°20'00" West, 196.88 feet;

THENCE, North 0°01'50" East, 193.73 feet;

THENCE, South 89°58'10" East, 756.54 feet to the point of beginning;

Parcel 2 from R-4-1 (Residential-Interim) to C-3 (Commercial)

A 17.238 acre parcel of land out of SEction 42, Block 80, Township 2, T & P RR Co. Surveys, El Paso, El Paso County, Texas, more particularly described by metes and bounds as follows:

6344

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Exhibit "A"

BEGIWNING at the Northeast corner of Lot 1, Block 31, East Glen Addition, Unit Two;

THENCE, South 64°20'00" East, 117.03 feet;

THENCE, 620.81 feet around an arc of a curve to the left; whose interior angle is 26°09'32"; whose radius is 1359.75 feet; and whose chord bears South 77°24'46" East, 615.42 feet to a point;

THENCE, 31.42 feet around an arc of a curve to the right, whose interior angle is 90°00'00"; whose radius is 20.00 feet; and whose chord bears South 45°29'32" East, 28.28 feet to a point;

THENCE, 605.32 feet along an arc of a curve to the right; whose interior angle is 40°35'00"; whose radius is 854.60 feet; and whose chord bears South 19°47'58" West, 592.75 feet to a point;

THENCE, 321.59 feet along an arc of a curve to the left; whose interior angle is 18°54'21"; whose radius is 974.60 feet; and whose chord bears South 30°38'18" West, 320.13 feet to a point;

THENCE, South 89°30'28" West, 343.80 feet;

THENCE, North 64°20'00" West, 467.53 feet;

THENCE, North 25°40'00" East, 930.00 feet to the point of beginning.

Parcel 3 from R-4-1 (Residential-Interim to A-2 (Apartment)

A 3.362 acre parcel of land out of Section 42, Block 80, Township 2, T & P RR Co. Surveys, El Paso, El Paso County, Texas, more particularly described by metes and bounds as follows:

BEGINNING at the Southeast corner of Lot 1, Block 31, East Glen Addition, Unit Two;

THENCE, 25°40'00" West, 110.00 feet;

THENCE, South 64°20'00" East, 467.53 feet;

THENCE, North 89°30'28" East, 343.80 feet;

THENCE, 110.97 feet around an arc of a curve to the left; whose interior angle is 06°31'25", whose radius is 974.60 feet; and whose chord bears South 17°55'25" West, 110.91 feet to a point;

THENCE, 26.13 feet around an arc of a curve to the right; whose interior angle is 74°50'46"; whose radius is 20.00 feet; and whose chord bears South 52°08'49" West, 24.31 feet to a point;

THENCE, South 89°30'28" West, 224.43 feet;

THENCE, 182.81 feet around an arc of a curve to the right; whose interior angle is 26°09'32"; whose radius is 400.42 feet; and whose chord bears North 77°24'46" West, 181.23 feet to a point;

THENCE, North 64°20'00" West, 288.79 feet;

THENCE, 13.53 feet around an arc of a curve to the right; whose interior angle is 25°50'31"; whose radius is 30.00 feet; and whose chord bears North 51°24'44" West, 13.42 feet to a point;

THENCE, 173.10 feet around an arc of a curve to the left; whose interior angle is 141°41'02"; whose radius is 70.00 feet; and whose chord bears South 70°40'00" West, 132.25 feet to a point;

THENCE, 13.53 feet around an arc of a curve to the right; whose interior angle is 25°50'31"; whose radius is 30.00 feet; and whose chord bears South 12°44'45" West, 13.42 feet to a point;

THENCE, South 25°40'00" West, 56.41 feet;

THENCE, North 64°20'00" West, 145.00 feet;

THENCE, North 25°40'00" East, 106.38 feet;

THENCE, 92.65 feet around an arc of a curve to the left; whose interior angle is 75°50'12"; whose radius is 70.00 feet; and whose chord bears North 37°44'35" East, 86.04 feet to a point;

THENCE, 13.53 feet around an arc of a curve to the right; whose interior angle is 25°50'31"; whose radius is 30.00 feet; and whose chord bears North 12°44'45" East, 13.42 feet to a point;

THENCE, North 25°40'00" East, 186.41 feet;

THENCE, South 64°20'00" East, 120.00 feet to the point of beginning.

Parcel 4 from R-4-1 (Residential-Interim) to A-O Apartment-Office)

A 5.6237 acre parcel of land out of Section 42, Block 80, Township 2, T & P RR Co. Surveys, El Paso, El Paso County, Texas, more particularly described by metes and bounds as follows:

A line from the Northeast corner of SEction 42, Block 80, Township 2, T & P RR Co. Surveys, bears South 00°29'32" East, 1266.35 feet to the point of beginning of this description;

THENCE, South 00°29'32" East, 663.65 feet along the East line of Section 42;

THENCE, South 89°30'28" West, 380.00 feet;

THENCE, 31.42 feet along an arc of a curve to the right; whose interior angle is 90°00'00"; whose radius is 20.00 feet; and whose chord bears North 45°29'32" West, 28.28 feet to a point;

THENCE, North 00°29'32" West, 180.00 feet;

THENCE, 490.07 feet along an arc of a curve to the right; whose interior angle is 32°51'23"; whose radius is 854.60 feet; and whose chord bears North 15°56'09" East, 483.38 feet to a point;

THENCE, North 89°30'28" East, 263.29 feet to the point of beginning.

Parcel 5 from R-4-1 (Residential-Interim) to A-O (Apartment-Office)

A 4.6223 acre parcel of land out of Section 42, Block 80, Township 2, T & P RR Co. Surveys, El Paso, El Paso County, Texas, more particularly described by metes and bounds as follows:

A line from the Northeast corner of Section 42, Block 80, Township 2, T & P RR Co. Surveys, El Paso, El Paso County, Texas, bears South 00°29'32" East, 1990.00 feet to the point of beginning of this description; and said point being on the East line of Section 42;

THENCE, South 00°29'32" East, 505.41 feet;

THENCE, North 89°58'10" West, 400.02 feet;

THENCE, North 00°29'32" West, 481.76 feet;

THENCE, 31.42 feet around an arc of a curve to the right; whose interior angle is 90°00'00"; whose radius is 20.00 feet; and whose chord bears North 44°30'28" East, 28.28 feet to a point;

THENCE, North 89°30'28" East, 380.00 feet to the point of beginning.

Parcel 6 from R-4-1 (Residential-Interim) to R-4 (Residential)

A 1.789 acre parcel of land out of Section 42, Block 80, Township 2, T & P RR Co. Surveys, El Paso, El Paso County, Texas more particularly described by metes and bounds as follows:

A line from the centerline intersection of Skipper Drive and Anise Drive, East Glen Addition, Unit Two, El Paso, El Paso County, Texas, bears North 25°40'00" East, 50.00 feet and South 64°20'00" East, 30.00 feet and North 25°40'00" East, 80.00 feet to the point of beginning of this description;

THENCE, South 64°20'00" East, 332.38 feet;

THENCE, South 67°28'14" East, 61.34 feet;

THENCE, South 74°30'01" East, 76.09 feet;

THENCE, South 82°17'07" East, 76.09 feet;

THENCE, South 88°20'06" East, 42.19 feet;

THENCE, North 89°30'28" East, 213.01 feet;

THENCE, 77.37 feet around an arc of a curve to the right; whose interior angle is 04°32'56"; whose radius is 974.60 feet; and whose chord bears North 06°29'26" East, 77.36 feet to a point;

THENCE, 34.65 feet around an arc of a curve to the left; whose interior angle is 99°15'26"; whose radius is 20.00 feet; and whose chord bears North 40°51'49" West, 30.47 feet to a point;

THENCE, South 89°30'28" West, 202.67 feet;

THENCE, 210.21 feet around an arc of a curve to the right; whose interior angle is 26°09'32"; whose radius is 460.42 feet; and whose chord bears North 77°24'46" West, 208.38 feet to a point;

THENCE, North 64°20'00" West, 302.38 feet;

THENCE, 47.12 feet around an arc of a curve to the left; whose interior angle is 90°00'00"; whose radius is 30.00 feet; and whose chord bears South 70°40'00" West, 42.43 feet to a point;

THENCE, South 25°40'00" West, 70.00 feet to the point of beginning.

PASSED AND APPROVED this 24 day of October, 1978.

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

0044

CONTRACT

This contract, made this 24 day of October 1978, by and between BONDED DEVELOPERS, INC., a corporation, MORTGAGE AND TRUST, INC., a corporation, and EL PASO SAND PRODUCTS CONSTRUCTION DIVISION, INC., a corporation, Co-Partners doing business as EAST GLEN JOINT VENTURE, First Parties, JOSEPHINE JOHNS, a feme sole, Second Party, and the CITY OF EL PASO, Third Party, witnesseth:

Application has been made to the City of El Paso for rezoning of a portion of Section 42, Block 80, Township 2, Texas & Pacific Railroad Company Surveys in the City of El Paso, El Paso County, Texas, such property being more particularly described in Ordinance No. 6344 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. In order to remove certain objections to such rezoning, First Parties covenant that if the property is rezoned as indicated in the attached ordinance, it shall be subject to the following restrictions, conditions and covenants:

1. No development of any kind shall be done on the property and no building permits shall be issued for construction thereon until complete and detailed site development and architectural plans of the proposed development have been approved by the City Plan Commission of the City of El Paso. All development and construction shall be done in accordance with the approved plans.

2. No certificates of occupancy and compliance shall be issued by the City for any building constructed on the property until the following conditions have been met:

(a) A final subdivision plat of the property shall be submitted by First Parties, approved by the City Plan Commission and filed for record. Such plat must comply with all applicable laws, codes and ordinances and must provide that any extension of Skipper Drive within the property shall terminate in a cul-de-sac or dead end at the easterly end thereof so that Skipper Drive does not connect with George Dieter Drive.

(b) First Parties shall, at no cost to the City, construct a six-foot high rock wall along the southerly boundary of Parcel 2 which is more particularly described in Exhibit "A." Such wall is to provide a buffer between adjacent property and the commercial uses to be conducted on Parcel 2. Such wall shall be installed and constructed in accordance with plans and specifications to be approved by the City Engineer of the City of El Paso and the City Engineer must certify that such wall has been satisfactorily completed before certificates of occupany and compliance shall be issued.

3. No bar, private club or other establishment where alcoholic beverages are sold for consumption on the premises shall be permitted on the property other than a restaurant that serves alcoholic beverages as an accompaniment to meals.

4. 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 character 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."

5. 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.

This agreement 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 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 release the above restrictions, conditions and covenants in its discretion without the consent of any third person who may be benefited thereby.

Second Party is the owner and holder of recorded liens on the property and consents to this contract.

WITNESS THE FOLLOWING SIGNATURES AND SEALS:

EAST GLEN JOINT VENTURE:

BONDED DEVELOPERS, INC., a corporation

By _____
President

ATTEST:

_____
Secretary

TEXAS CENTRAL MORTGAGE CO., a corporation

By _____
Vice President

ATTEST:

_____
Secretary

EL PASO SAND PRODUCTS CONSTRUCTION DIVISION, INC., a corporation

By _____
President

ATTEST:

_____
Secretary

_____
Josephine Johns, a feme sole

THE CITY OF EL PASO

By _____
Mayor

ATTEST:

_____
City Clerk

THE STATE OF TEXAS)
)
COUNTY OF EL PASO)

BEFORE ME, the undersigned authority, on this day personally appeared Dan O. O'Leary, President of BONDED DEVELOPERS, INC., a corporation, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged before me in my county aforesaid that the same was the act of said corporation, and that he executed the same as the act of such corporation for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 24th day of October, 1978.

Amanda S. Flores
Notary Public, El Paso County, Texas

My Commission Expires:
Sept 9, 1979

THE STATE OF TEXAS)
)
COUNTY OF EL PASO)

BEFORE ME, the undersigned authority, on this day personally appeared Harry Culpepper, President of MORTGAGE AND TRUST, INC., a corporation, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged before me in my county aforesaid that the same was the act of said corporation, and that he executed the same as the act of said corporation for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 24th day of October, 1978.

Amanda S. Flores
Notary Public, El Paso County, Texas

My Commission Expires:
Sept 9 1979

THE STATE OF TEXAS)
)
COUNTY OF EL PASO)

BEFORE ME, the undersigned authority, on this day personally appeared Don McElroy, President of EL PASO SAND PRODUCTS CONSTRUCTION DIVISION, INC., a corporation, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged before me in my county aforesaid that the same was the act of said corporation, and that he executed the same as the act of said corporation for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 24th day of October, 1978.

Amanda S. Flores
Notary Public, El Paso County, Texas

My Commission Expires:
Sept 9 1979

THE STATE OF TEXAS)
)
COUNTY OF EL PASO)

BEFORE ME, the undersigned authority, on this day personally appeared JOSEPHINE JOHNS, a feme sole, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 24 day of October, 1978.

Notary Public, El Paso County, Texas

My Commission Expires:
ANGELA C. GUILLEN, Notary Public
and for the County of El Paso, Texas
My Commission Expires 9/30/80

THE STATE OF TEXAS)
)
COUNTY OF EL PASO)

BEFORE ME, the undersigned authority, on this day personally appeared Ray Salazar, Mayor of the City of El Paso, known to me to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged before me in my county aforesaid that he had executed the same for the purposes and consideration and in the capacity therein expressed, and as the act and deed of the City of El Paso.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 24 day of October 1978.

Notary Public, El Paso County, Texas

My Commission Expires:
ANGELA C. GUILLEN, Notary Public
and for the County of El Paso, Texas
My Commission Expires 9/30/80

APPROVED AS TO FORM:

City Attorney