



City of El Paso – City Plan Commission Staff Report

Case No: SURW15-00010 St. Charles Street Vacation
Application Type: Right-of-way Vacation
CPC Hearing Date: August 27, 2015
Staff Planner: Joaquin Rodriguez, (915) 212-1608
rodriguezjx3@elpasotexas.gov
Location: North of Fred Wilson and West of Patriot Freeway US 54
Acreage: .043 acres
Rep District: 2
Existing Use: Commercial Street
Existing Zoning: C-1 (Commercial)
Proposed Zoning: C-1 (Commercial)
Nearest Park: Logan Park (.69 Miles)
Nearest School: Burnet Elementary (.59 Miles)
Park Fees Required: N/A
Impact Fee Area: N/A
Property Owner: Luis H. De La Cruz
Applicant: Luis H. De La Cruz
Representative: Dorado Engineering

SURROUNDING ZONING AND LAND USE

North: R-4 (Residential/)
South: A-2 (Apartments)
East: C-1(Commercial)
West: C-1/c (Commercial/condition)

PLAN EL PASO DESIGNATION: G2, Traditional Neighborhood

APPLICATION DESCRIPTION

The applicant proposes to vacate a .043 acre portion of right-of-way along St. Charles Street in the City's northeast area. St. Charles is a 70 foot right-of-way dedicated by plat in 1941. The portion of right-of-way to be vacated lies between the existing sidewalk and the applicant's front property line. The applicant's front yard fence currently encroaches into the right-of-way, this encroachment has existed since at least 1956 as evidenced by Sanborn's aerial photography of that year. The existing sidewalk and street improvements will not be affected by this vacation.

DEVELOPMENT COORDINATING COMMITTEE

The development coordinating committee recommends approval of the vacation request subject to the following condition:

- Prior to or concurrent with final approval by City Council of this vacation request the applicant will dedicate a public utility easement along the northern 10 feet of the area to be vacated.

This easement will accommodate existing utility infrastructure at the request of EPWU.

Planning Division Recommendation

Planning recommends **approval** of the vacation request.

Additionally, the applicant has provided sufficient evidence that the encroachment of the applicant's front yard has existed more than 30 years and has met the requirements set forth in a resolution passed by City Council on February 21, 2012; as such, the applicant will be required to pay *ten percent* of the determined fair market value of the portion of right-of-way to be vacated.

Planning and Inspections Department - Land Development

We have reviewed subject plats and recommend **Approval**.

Capital Improvement Program - Parks

No comments received.

El Paso Water Utilities

EPWU's has reviewed the above reference street vacation request and provide the following comments:

1. EPWU's planning and development section does not object to this request with a condition that the north 10' of the street shall remain a full-width utility easement through the proposed street vacation in order to enable the construction, operation and maintenance of existing utility facilities.
2. Future improvements to the area contained within the 10' Utility Easement must receive approval from the El Paso Water Utilities prior to the construction of proposed improvements.

Water:

3. There is an existing 6-inch (6") diameter water main extending along St. Charles Street, the water main is located approximately 10 feet east from the center line of the right-of-way.
4. There is an existing 20-inch (20") diameter water main extending along Fred Wilson Rd., the water main is located approximately 20 feet south from the southern property line.
5. EPWU records indicate an active ¾-inch (¾") serving the subject property on Fred Wilson Rd. The service is located approximately 6-feet west of east property line. The service address for this meter is 4301 Fred Wilson Rd.

Sanitary Sewer:

6. There is an existing 8-inch (8") diameter sanitary sewer main extending along the north 10'

utility easement of the property that is available for service, the sewer main is located approximately 7 feet north from the southern easement line.

7. EPWU records indicate there are no sanitary sewer mains along St. Charles Street and Fred Wilson Rd.

8. EPWU records indicate a 4-inch (4") sanitary sewer service line serving the subject property within the north 10' utility easement of the property. The service address for this service is 4301 Fred Wilson Rd.

General:

9. EPWU-PSB requires access to the existing sewer facilities 24 hours a day, seven (7) days a week. No building, reservoir, structure or other improvement, other than asphaltic paving (HMAC), shall be constructed or maintained on the above referenced utility easement without the written consent of EPWU-PSB. The placement of trees or planters shall be 10-feet away from any water/sewer facility.

Streets and Maintenance Department

No comments received

Sun Metro

No Objections

El Paso County 911 District

No comments received.

El Paso Fire Department

Recommends Approval.

Central Appraisal District

No objections.

El Paso Electric Company

No comments received

Texas Gas Company

No comments received.

Attachments

1. Location map
2. Aerial map
3. Survey
4. Metes & Bounds
5. Application
6. 1956 Sanborn Aerial Photo
7. Resolution

ATTACHMENT 1

St. Charles R.O.W. Vacation

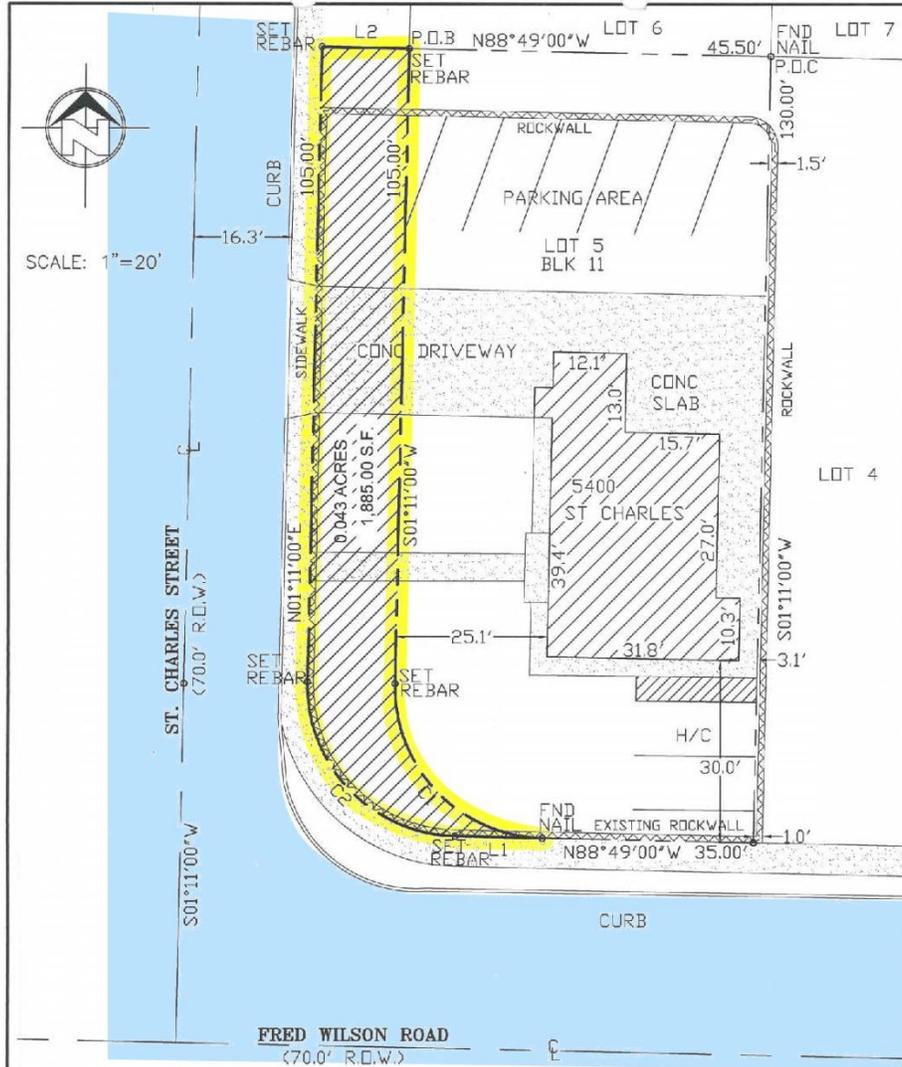


ATTACHMENT 2

St. Charles R.O.W. Vacation



ATTACHMENT 3



CURVE	DELTA	CHD BEARING	TANGENT	RADIUS	ARC LEN	CHD LEN
C1	90°00'00"	S 43°49'0" E	25.00	25.00	39.27	35.36
C2	90°00'00"	N 43°49'0" W	25.00	25.00	39.27	35.36

LINE	LENGTH	BEARING
L1	14.50	N 88°49'0" W
L2	14.50	S 88°50'46" E

S:\drawings\DELA\STCHARLES.dwg
 THIS IS TO CERTIFY THAT THIS PLAN
 REPRESENTS AN ACTUAL FIELD SURVEY
 PERFORMED BY ME OR UNDER MY SUPERVISION



5400 SAINT CHARLES ST
 LOT 5, BLOCK 11 BEAUMONT ADDITION
 CITY OF EL PASO, EL PASO COUNTY, TEXAS

DORADO
ENGINEERING, INC.

ENGINEERS SURVEYORS PLANNERS
 2717 E. YANDELL, EL PASO, TEXAS 79903 (915)562-0002

DATE: 06/25/15
 SCALE: 1" = 20'
 DRAWN BY: GM
 CHECKED BY: FD
 FLOOD ZONE: C
 PANEL NUMBER:
 480214-0029B
 DATED: 10/15/82
 ZONING: R-4
 VOLUME:
 PAGE:

ATTACHMENT 4

DORADO ENGINEERING GROUP, INC.
2717 E. Yandell El Paso, Texas 79903 (915) 562-0002 Fax (915) 562-7743

5400 Saint Charles

Metes and Bound description of a parcel of land being a portion of Right-of-Way of Saint Charles Street, Beaumont Subdivision, located in the city of El Paso, county of El Paso, Texas, to be vacated and being more particularly described as follows;

From a found nail located at the common corner of Lots 4, 5, 6, and Lot 7, Block 11, Beaumont Subdivision, Thence North 88° 49' 00" West along the common line of Lots 5 and 6, Block 11, Beaumont Subdivision, a distance of forty five and fifty hundredths (45.50) feet to a set rebar at the Northeast corner of the portion of Saint Charles Street to be vacated, said corner being the Point of Beginning for this description.

Thence South 01° 11' 00" West along the Easterly line of the portion of Saint Charles Street to be vacated a distance of one hundred five and no hundredths (105.00) feet to a set rebar for a curve to the left;

Thence along an arc of a curve to the left a distance of thirty nine and twenty seven (39.27) feet, a delta 90° 00' 00", a radius of twenty five and no hundredths (25.00) feet with a chord bearing of South 43° 49' 00" East and a chord distance of thirty five and thirty six hundredths (35.36) feet to a found nail on the Northerly Right-of-Way line of Fred Wilson Road;

Thence North 88° 49' 00" West along the Northerly Right-of-Way line of Fred Wilson Road, a distance of fourteen and fifty hundredths (14.50) feet to a set rebar for a point on a curve to the right;

Thence along an arc of a curve to the right, a distance of thirty nine and twenty seven hundredths (39.27) feet, a delta of 90° 00' 00", a radius of twenty five and no hundredths (25.00) feet, a chord bearing of North 43° 49' 00" West and a chord distance of thirty five and thirty six hundredths (35.36) feet to a set rebar at the Easterly Right-of-Way line of Saint Charles Street;

Thence North 01° 11' 00" East along the Easterly Right-of-Way line of Saint Charles Street a distance of one hundred five and no hundredths (105.00) feet to a set rebar at the common corner of Lots 5 and 6, Block 11, Beaumont Subdivision.

Thence South 88° 50' 46" East along the common line of said mentioned Lots 5 and 6, a distance of fourteen and fifty hundredths (14.50) feet to a set rebar on the Northeasterly corner of the proposed Saint Charles Street vacation said corner being the Point of Beginning for this description.

Said portion of Saint Charles Street has 1,885.00 square feet or 0.043 acres more or less.



Fermin Dorado, R.P.L.S.



July 1, 2015

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ATTACHMENT 5

INVOICE # 1425800



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

Date: 7-15-2015 File No. SURW15-00010

1. APPLICANTS NAME Luis H. DeLa Cruz
ADDRESS 9013 Lait Dr. ZIP CODE 79925 TELEPHONE (915) 598-0571

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

Street Alley Easement Other

Street Name(s) Saint Charles Subdivision Name Beaumont Addition

Abutting Blocks 3 11 Abutting Lots 5

3. Reason for vacation request: for yard purposes

4. Surface Improvements located in subject property to be vacated:
None Paving Curb & Gutter Power Lines/Poles Fences/Walls Structures Other

5. Underground Improvements located in the existing rights-of-way:
None Telephone Electric Gas Water Sewer Storm Drain Other

6. Future use of the vacated right-of-way:
Yards Parking Expand Building Area Replat with abutting Land Other

7. Related Applications which are pending (give name or file number):
Zoning Board of Adjustment Subdivision Building Permits Other

8. Signatures: All owners of properties which abut the property to be vacated must appear below with an adequate legal description of the properties they own (use additional paper if necessary).

Signature	Legal Description	Telephone
<u>[Signature]</u> City of El Paso	<u>lot 5 Block 11 Beaumont Addition</u> <u>Street R.O.W.</u>	<u>915-598-0571</u>

The undersigned Owner/Applicant/Agent understands that the processing of this Application will be handled in accordance with the procedure for Requesting Vacations and that no action on processing will be taken without payment of the non-refundable processing fee. It is further understood that acceptance of this application and fee in no way obligates the City to grant the Vacation. I/We further understand that the fee, if the Vacation is granted will be determined by the City of El Paso and a Certified or Cashier's Check must be presented before the request will be recommended for Council action.

The undersigned acknowledges that he or she is authorized to do so, and upon the City's request will provide evidence satisfactory to the City confirming these representations.

The granting of a vacation request shall not be construed to be a waiver of or an approval of any violation of any of the provisions of any applicable City ordinances.

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

OWNER SIGNATURE: [Signature]

REPRESENTATIVE: Luis H. DeLa Cruz

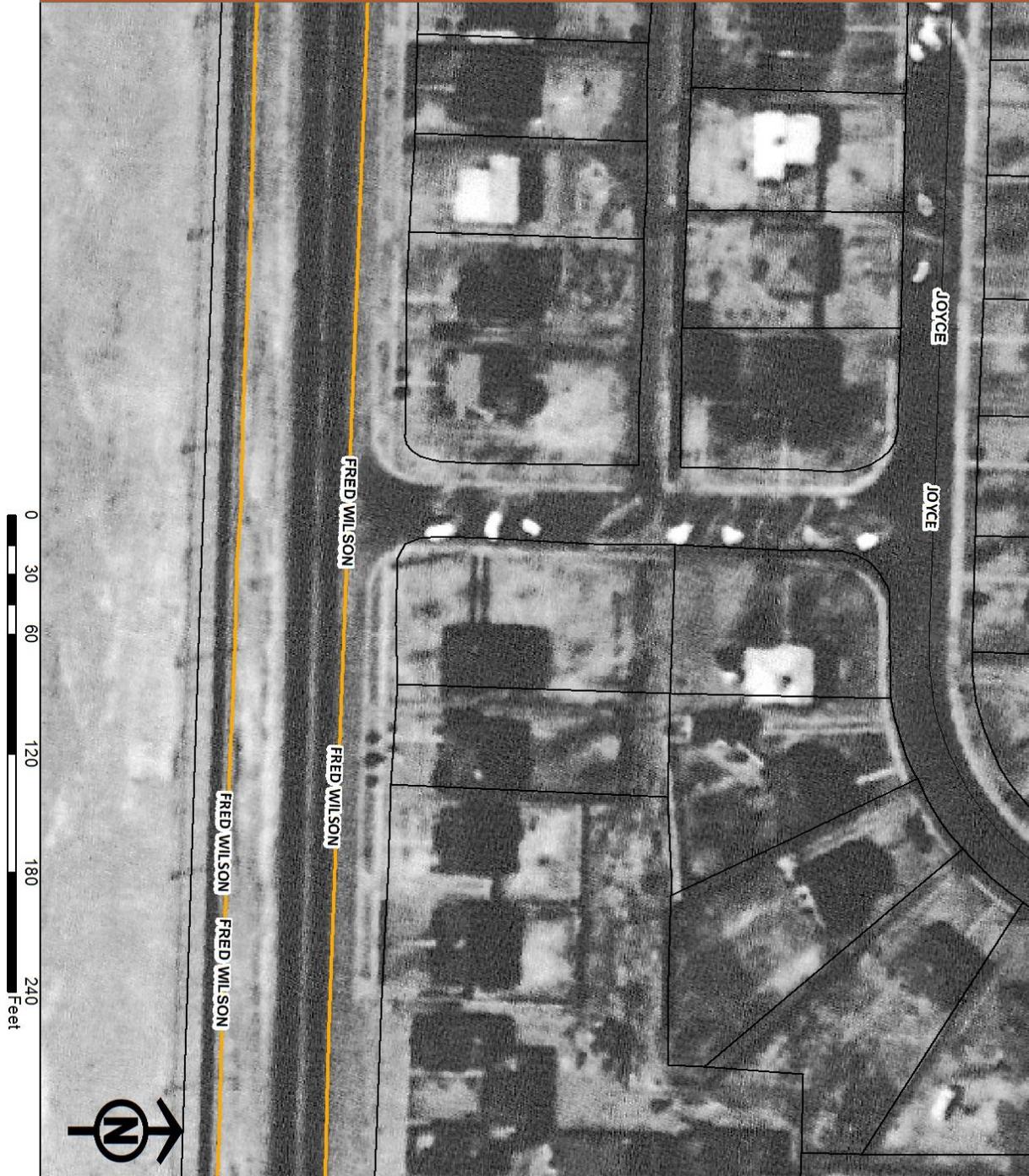
NOTE: SUBMITTAL OF AN APPLICATION DOES NOT CONSTITUTE ACCEPTANCE FOR PROCESSING UNTIL THE PLANNING DEPARTMENT REVIEWS THE APPLICATION FOR ACCURACY AND COMPLETENESS.



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

ATTACHMENT 6

St. Charles R.O.W. Vacation



ATTACHMENT 7

3A

RESOLUTION

WHEREAS, Texas Local Government Code Section 272.001(a) requires a municipality selling or conveying land to sell or convey such land at fair market value, which must be determined by either an appraisal or the price obtained at public auction, with certain exceptions provided; and,

WHEREAS, Texas Local Government Code Section 272.001(b)-(j) contains exceptions that would not require the municipality to determine the fair market value in the manner specified above, one of which is land sold or conveyed to an abutting property owner if the property owner owns the underlying fee simple of the land being sold or conveyed; and

WHEREAS, the state statute allows the City to establish an alternate method of determining the fair market value for land being sold or conveyed to an abutting property owner if the property owner owns the underlying fee simple of the land being sold or conveyed and the City wishes to establish an alternative method; and,

WHEREAS, on February 15, 2011, the El Paso City Council adopted a policy establishing an alternate method of appraisal for the vacation of a public street, alley or easement to an abutting property owner owning the underlying fee simple; and,

WHEREAS, Texas Local Government Code Section 272.001(b)-(j) also allows the city to sell or convey land to an abutting property owner owning the underlying fee simple of the land being sold or conveyed for less than the fair market value of the land; and,

WHEREAS, City Council wishes to amend policy adopted on February 15, 2011, to allow for land to be sold or conveyed to an abutting property owner owning the underlying fee simple for less than the fair market value of the land; and,

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

THAT, policy adopted by the City Council of the City of El Paso on February 15 is amended in its entirety.

THAT, the City Council of the City of El Paso hereby adopts the following method for determining the compensation for the sale or conveyance of land dedicated to the City as a public street, alley, or easement to the abutting property owner owning the fee simple.

1. Available comparables for the area shall be used to determine the fair market value of the land to be vacated and a property owner meeting the criteria specified in paragraph two below shall pay the city ten percent of the determined fair market value.

2. The property owner must meet the following criteria in order for this policy to apply to the conveyance or sale of the public street, public alley or public easement.

a. The land or interest to be sold or conveyed was dedicated as a public street, public alley or public easement; and,

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- b. The sale or conveyance must be to the abutting property owner and the abutting property owner must own the underlying fee simple to the land being sold or conveyed; and,
- c. City Council must make a finding that the land or interest is no longer needed as a public street, public alley or public easement; and,
- d. If the full width of the public street, alley or easement is to be vacated, then the abutting property owners on both sides of the public street, alley or easement must agree to the vacation, and,
- e. The public street, alley or easement contains one or more building encroachments that have existed for a minimum of 30 years or existed prior to the area being annexed into the City.

3. The City may initiate the vacation of the public street, alley or easement, via plat or separate instrument, where the City determines the encroachments have existed for a minimum of 30 years or where multiple encroachments into a public street, alley or easement create a lack of conformity within neighborhoods and between lots. The City finds that there is public purpose for initiating the vacation in order to rectify the existing conditions of the meandering lot lines to clearly distinguish and reflect the lot lines of private property owners from any existing public street, alley or easement and so that a uniform solution can be provided.

ADOPTED this 21st day of February, 2012.

CITY OF EL PASO

John Cook
John Cook
Mayor

ATTEST:

Richarda Duffy-Momson
Richarda Duffy-Momson
City Clerk

APPROVED AS TO FORM:

Lupe Cuellar
Lupe Cuellar
Assistant City Attorney

APPROVED AS TO CONTENT:

Mathew S. McElroy
Mathew S. McElroy, Deputy Director
Planning and Economic Development Dept.

CITY CLERK DEPT.
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