

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

**DEPARTMENT:** City Development Department

**AGENDA DATE:** Introduction: December 11, 2012  
Public Hearing: January 2, 2013

**CONTACT PERSON/PHONE:** Andrew Salloum, (915) 541-4633, salloumam@elpasotexas.gov

**DISTRICT(S) AFFECTED:** 8

**SUBJECT:**

An Ordinance granting Special Permit No. PZST12-00014, to allow for infill development with reduced rear yard setbacks on the property described as being the East 90 feet of Lots 7 - 12 and the West 45 feet of the South 10 feet of Lot 7, Block 93, East El Paso Addition, City of El Paso, El Paso County, Texas, pursuant to Section 20.10.280 Infill Development of the El Paso City Code. The penalty being as provided for in Chapter 20.24 of the El Paso City Code. Subject Property: 3204 Montana Avenue. Property Owner: Enrique and Norma Garcia, PZST12-00014 (**District 8**)

**BACKGROUND / DISCUSSION:**

Revised staff report and memo attached.

**PRIOR COUNCIL ACTION:**

N/A

**AMOUNT AND SOURCE OF FUNDING:**

N/A

**BOARD / COMMISSION ACTION:**

City Plan Commission (CPC) – Approval Recommendation (6-0)

\*\*\*\*\*REQUIRED AUTHORIZATION\*\*\*\*\*

**LEGAL:** (if required) N/A

**FINANCE:** (if required) N/A

**DEPARTMENT HEAD:**

Mathew S. McElroy  
Director, City Development Department

**APPROVED FOR AGENDA:** \_\_\_\_\_

**CITY MANAGER:** \_\_\_\_\_

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

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE GRANTING SPECIAL PERMIT NO. PZST12-00014, TO ALLOW FOR INFILL DEVELOPMENT WITH REDUCED REAR YARD SETBACKS, ON THE PROPERTY DESCRIBED AS BEING THE EAST 90 FEET OF LOTS 7 TO 12 AND THE WEST 45 FEET OF THE SOUTH 10 FEET OF LOT 7, BLOCK 93, EAST EL PASO ADDITION, CITY OF EL PASO, EL PASO COUNTY, TEXAS, PURSUANT TO SECTION 20.10.280 INFILL DEVELOPMENT OF THE EL PASO CITY CODE. THE PENALTY BEING AS PROVIDED FOR IN CHAPTER 20.24 OF THE EL PASO CITY CODE.**

**WHEREAS**, Enrique and Norma Garcia, have applied for a Special Permit for infill development under Section 20.10.280 of the El Paso City Code, for a professional office and apartment units with reduced rear yard setbacks; and,

**WHEREAS**, a report was made to the City Plan Commission and a public hearing was held regarding such application; and,

**WHEREAS**, the City Plan Commission has recommended approval of the subject Special Permit; and,

**WHEREAS**, the subject Special Permit has been submitted to the City Council of the City of El Paso for review and approval; and,

**WHEREAS**, the City Council of the City of El Paso finds that the application conforms to all requirements of Sections 20.04.320 of the El Paso City Code.

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

1. That the property described as follows is in a **A-O/sc (Apartment/Office/special contract)** District:

*Being the East 90 feet of Lots 7 to 12 and the West 45 feet of the South 10 feet of Lot 7, Block 93, East El Paso Addition, City of El Paso, El Paso County, Texas; and as more particularly described by metes and bounds on the attached Exhibit "A"; and,*

2. That the City Council hereby grants a Special Permit under Sections 20.04.320 of the El Paso City Code, to allow for infill development with reduced rear yard setbacks; and,
3. That this Special Permit is issued subject to the development standards in the A-O/sc (Apartment/Office/special contract) District regulations and is subject to the approved Detailed Site Development Plan, signed by the Applicant, the

#141062/12/1007/542-Planning/ORD/PZST12-00014Infill Development

ORDINANCE NO. \_\_\_\_\_

Special Permit No. PZST12-00014

City Manager and the Executive Secretary of the City Plan Commission. A copy of this plan is attached hereto as Exhibit "B" and incorporated herein by reference for all purposes; and

- 4. That if at any time the Owners fail to comply with any of the requirements of this Ordinance, Special Permit No. **PZST12-00014** shall automatically terminate, and construction shall stop or occupancy shall be discontinued, until any such violation ceases; and,
- 5. That the Owners shall sign an Agreement incorporating the requirements of this Ordinance. Such Agreement shall be signed and filed with the Zoning Administrator and the Executive Secretary of the City Plan Commission before building permits are issued.

**PASSED AND APPROVED** this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

**THE CITY OF EL PASO**

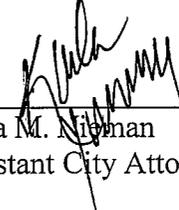
\_\_\_\_\_  
John F. Cook  
Mayor

**ATTEST:**

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

CITY CLERK DEPT.  
2012 DEC -5 AM 8:02

**APPROVED AS TO FORM:**

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

**APPROVED AS TO CONTENT:**

  
\_\_\_\_\_  
Mathew S. McElroy, Director  
City Development



# EXHIBIT "A"

Being the East 90 feet of Lots 7 to 12 and the West  
45 feet of the South 10 feet of Lot 7, Block 93,  
East El Paso Addition,  
City of El Paso, El Paso County, Texas

September 06, 2012

## METES AND BOUNDS DESCRIPTION

3204 Montana Avenue  
Exhibit "A"

**FIELD NOTE DESCRIPTION** of the East 90 feet of Lots 7 to 12 and the West 45 feet of the South 10 feet of Lot 7, Block 93, East El Paso Addition, City of El Paso El Paso County, Texas and being more particularly described by metes and bounds as follows:

**COMMENCING FOR REFERENCE** at a found chiseled "x" at the northeast boundary corner of Lot 12, Block 93, East El Paso Addition, same being the southerly right-of-way line of Montana Avenue (70' R.O.W.) and the **POINT OF BEGINNING** of the herein described parcel;

**THENCE**, leaving said northeast boundary corner and southerly right-of-way line, South 00°00' 00" West, a distance of 150.00 feet to a found iron rod for corner;

**THENCE**, North 90°00'00" West, a distance 135.00 feet to a found chiseled "x" for corner;

**THENCE**, North 00°00' 00" West, a distance of 10.00 feet to a found chiseled "x" for corner;

**THENCE**, North 90°00'00" East, a distance 45.00 feet to a found iron rod for corner;

**THENCE**, North 00°00' 00" West, a distance of 140.00 feet to a found chiseled "x" for corner;

**THENCE**, North 90°00'00" East, a distance of 90.00 feet to the **POINT OF BEGINNING** of the herein described lot and containing 13,950.00 square feet or 0.3202 Acres of land more or less.

Carlos M. Jimenez  
Registered Professional Land Surveyor  
Texas No. 3950.



CAD CONSULTING COMPANY.  
1790 Lee Trevino Suite # 503  
El Paso, Texas 79936  
(915) 633-6422  
12-1727.wpd



**MEMORANDUM**

**DATE:** December 3, 2012

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

**FROM:** Andrew Salloum, Planner

**SUBJECT: PZST12-00014**

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The City Plan Commission (CPC) on October 18, 2012, voted **6-0** to recommend **APPROVAL** of the special permit application to allow for infill development.

The CPC found that the special permit is in conformance with the Plan for El Paso and that the proposed use is in conformance with the Plan El Paso-Future Land Use Map Designation for the Central Planning Area. The proposed development is compatible with adjacent land uses. The CPC also determined that the special permit protects the best interest, health, safety, and welfare of the public in general; and the special permit 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 one opposition to this request.

**Attachments:** Staff Report  
Opposition Letter



## City of El Paso – City Plan Commission Staff Report

**(REVISED)**

**Case No:** PZST12-00014  
**Application Type:** Special Permit  
**CPC Hearing Date:** October 18, 2012  
**Staff Planner:** Andrew Salloum, (915) 541-4633, salloumam@elpasotexas.gov

**Location:** 3204 Montana Avenue  
**Legal Description:** Being the East 90 feet of Lots 7 to 12 and the West 45 feet of the South 10 feet of Lot 7, Block 93, East El Paso Addition, City of El Paso, El Paso County, Texas  
**Acreage:** 0.32-acre  
**Rep District:** 8  
**Zoning:** A-O/sc (Apartment/Office/special contract)  
**Existing Use:** Office  
**Request:** Infill Development/request reduced rear setback  
**Proposed Use:** Office and Apartment

**Property Owner:** Enrique and Norma Garcia  
**Representative:** CAD Consulting Company

### **SURROUNDING ZONING AND LAND USE**

**North:** A-2 (Apartment) / Single-family dwellings  
**South:** R-5 (Residential) / Single-family dwellings  
**East:** R-5 (Residential) / Single-family dwellings  
**West:** R-5 (Residential) / Single-family dwellings

**The Plan for El Paso Designation:** G-2, Traditional neighborhood (Walkable) (Central Planning Area)  
**NEAREST PARK:** Mary Webb Park (2,141 feet)  
**NEAREST SCHOOL:** Alta Vista Elementary (1,954 feet)

### **NEIGHBORHOOD ASSOCIATIONS**

El Paso Central Business Association  
Five Points Development Association  
Leona Ford Washington Neighborhood Association

### **NEIGHBORHOOD INPUT**

Notice of a Public Hearing was mailed to all property owners within 300 feet of the subject property on October 3, 2012. The Planning Division received a letter in opposition to the special permit request.

### **APPLICATION DESCRIPTION**

The applicant is requesting a special permit for infill development and a detailed site development plan. The detailed site development plan shows a new 5,120 sq. ft. two-story apartment complex with 4 units and an existing 4,059 sq. ft., 2-story office building. The applicant is requesting the following reductions in yard setback: from 25-foot required rear yard setback to 10-foot. The development requires 18 parking spaces and the applicant is providing 9 parking spaces and 3 bicycle spaces. The infill development includes an automatic 50% parking reduction. The development complies with the Special Contract Ordinance No. 7962, dated February 28, 1984, see attachment 4, page 9. Access to the subject property is proposed from Montana Avenue.

### **PLANNING DIVISION RECOMMENDATION**

The Planning Division recommends **approval** of the special permit and detailed site development plan review request for infill development as the development meets all guidelines for infill development, special permit 20.04.320 and detailed site development plan 20.04.150.

**Plan El Paso-Future Land Use Map Designation**

All applications for special permit shall demonstrate compliance with the following criteria:

G-2 – Traditional Neighborhood: This sector includes the remainder of central El Paso as it existed through World War II. Blocks are small and usually have rear alleys; buildings directly faced streets; schools, parks, and small shops are integrated with residential areas. This sector is well-suited for use of the Smart Code as a replacement for current zoning when planned in conjunction with specific neighborhood plans or identified in this Comprehensive Plan.

The purpose of the A-O (Apartment/Office) district is to promote and preserve residential development within the city associated with a landscape more urban in appearance and permitting a mixture of housing types. It is intended that the district regulations allow for medium densities of dwelling units supported by higher intensity land uses located at the periphery of single-family neighborhoods providing that the overall character and architectural integrity of the neighborhood is preserved. The regulations of the districts will permit building types designed for transition from areas of low density residential neighborhoods to other residential areas, and certain nonresidential uses and support facilities.

**COMMENTS:**

**City Development Department - Planning Division - Transportation**

No objections to the special permit request. There is adequate, available on-street parking to accommodate the nine spaces.

Notes:

1. The property is located along the Montana Rapid Transit System (RTS) Corridor. Location and arrangement of bus stops and/or bus turn in bays shall be coordinated with Sun Metro.
2. 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 – Plan Review**

No objections.

**City Development Department - Landscaping Division**

No comments received.

**City Development Department - Land Development**

General Comments:

Coordinate with TxDOT for grading, drainage and driveway access.

Grading plan and permit shall be required.\*

Storm Water Pollution Prevention Plan and/or permit required.\*

Drainage plans must be approved by the City Development Department, Land Development Section.\*

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

**Fire Department**

Recommend approval of “site plan” as presented. It does not adversely affect fire department at this time.

\*\* Note, A more detailed reviewed will be done by fire plan review during the permitting process.

**Police Department**

Based on the information provided the El Paso Police Department has no issues on this request.

**Sun Metro**

Sun Metro does not oppose this request.

## **El Paso Water Utilities**

We have reviewed the zoning change request described above and provide the following comments:

EPWU does not object to this request.

### **EPWU-PSB Comments**

#### **Water:**

Along Estrella Street between Montana Avenue and Tularosa Street there is an existing twenty-four (24) inch diameter water transmission main. No direct service connections are allowed to this main as per the El Paso Water Utilities - Public Service Board (EPWUPSB) Rules and Regulations.

Along Montana Avenue between Estrella Street and Cebada Street there are no existing water mains.

Along the alley located between Estrella Street and Cebada Street, south of Montana Street there is an existing four (4) inch diameter water main.

As per EPWU-PSB Records, 3204 Montana Avenue Spaces A, B, C, D and E each have a three-quarter (3/4) inch diameter water service. Records indicate a single three-quarter (3/4) inch diameter irrigation water service (yard meter) for 3204 Montana Avenue.

#### **Sanitary Sewer:**

Along Estrella Street between Montana Avenue and Tularosa Street there are no existing sanitary sewer mains.

Along Montana Avenue between Estrella Street and Cebada Street there is an existing twenty-four (24) inch diameter sanitary sewer main. No direct service connections are allowed to this main as per the El Paso Water Utilities - Public Service Board (EPWUPSB) Rules and Regulations.

Along the alley located between Estrella Street and Cebada Street, south of Montana Street there is an existing ten (10) inch diameter sanitary sewer main.

Records indicate a single four (4) inch diameter sanitary sewer service for 3204 Montana Avenue.

#### **General:**

Water and sanitary sewer service is available from the above described mains.

If the City of El Paso Fire Department requires additional fire hydrants on public right-of-way and/or an on-site fire protection system within the private property, the property owner is responsible for all costs incurred to extend, relocate and construct water mains and appurtenances to provide this service.

Application for water and sanitary sewer services should be made 6 to 8 weeks prior to construction to ensure water for construction work. New service applications are available at 1154 Hawkins, 3<sup>rd</sup> Floor. 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.

## **CITY PLAN COMMISSION OPTIONS**

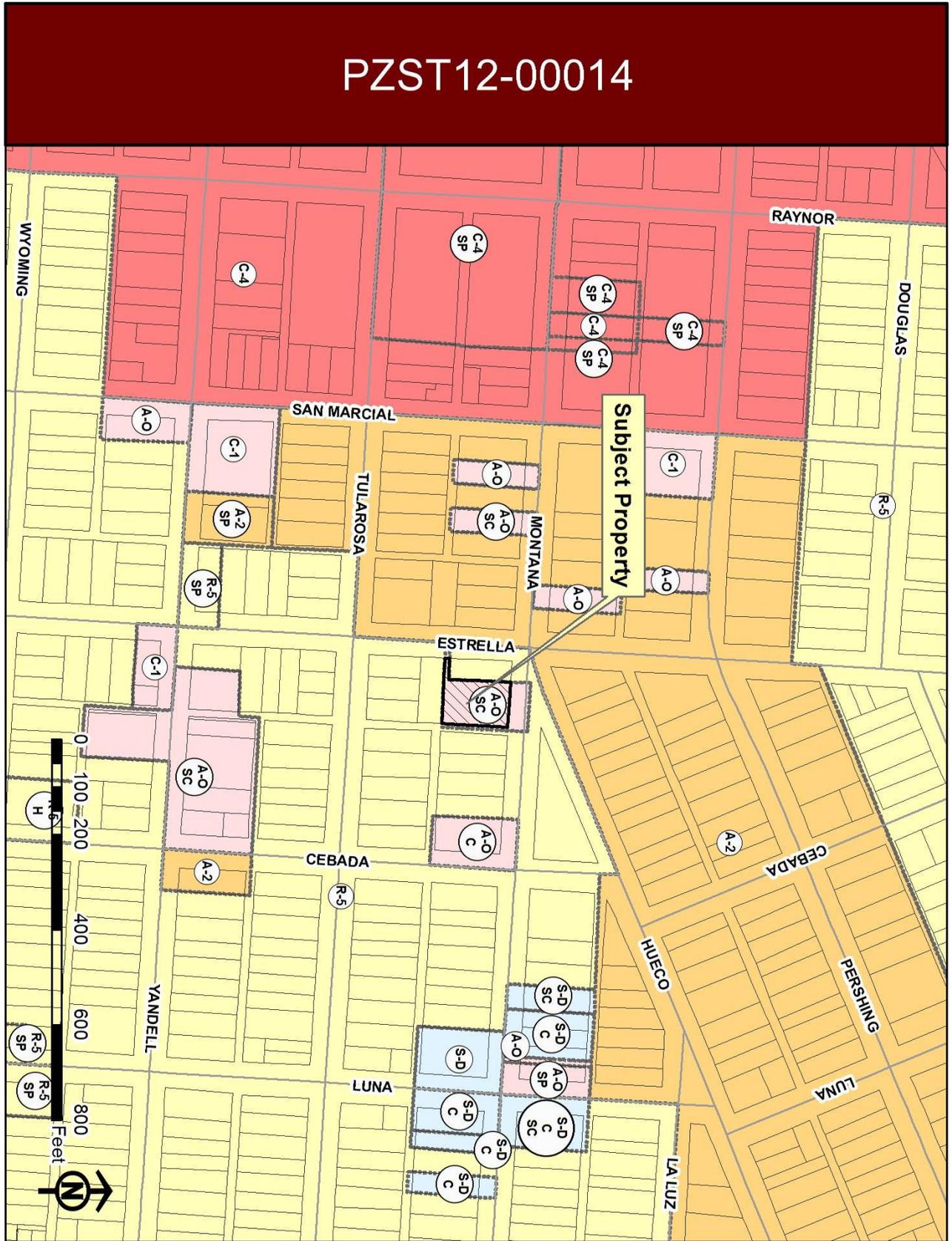
The City Plan Commission may consider the following options and additional options that it identifies when reviewing the special permit and detailed site development plan application:

1. Recommend approval of the application finding that the special permit and detailed site development plan is in conformance with the review criteria of Plan 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 special permit and detailed site development plan into conformance with the review criteria in Plan 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 special permit and detailed site development plan does not conform to the review criteria in Plan El Paso as reflected in CPC report or other criteria identified from the Plan by the CPC.

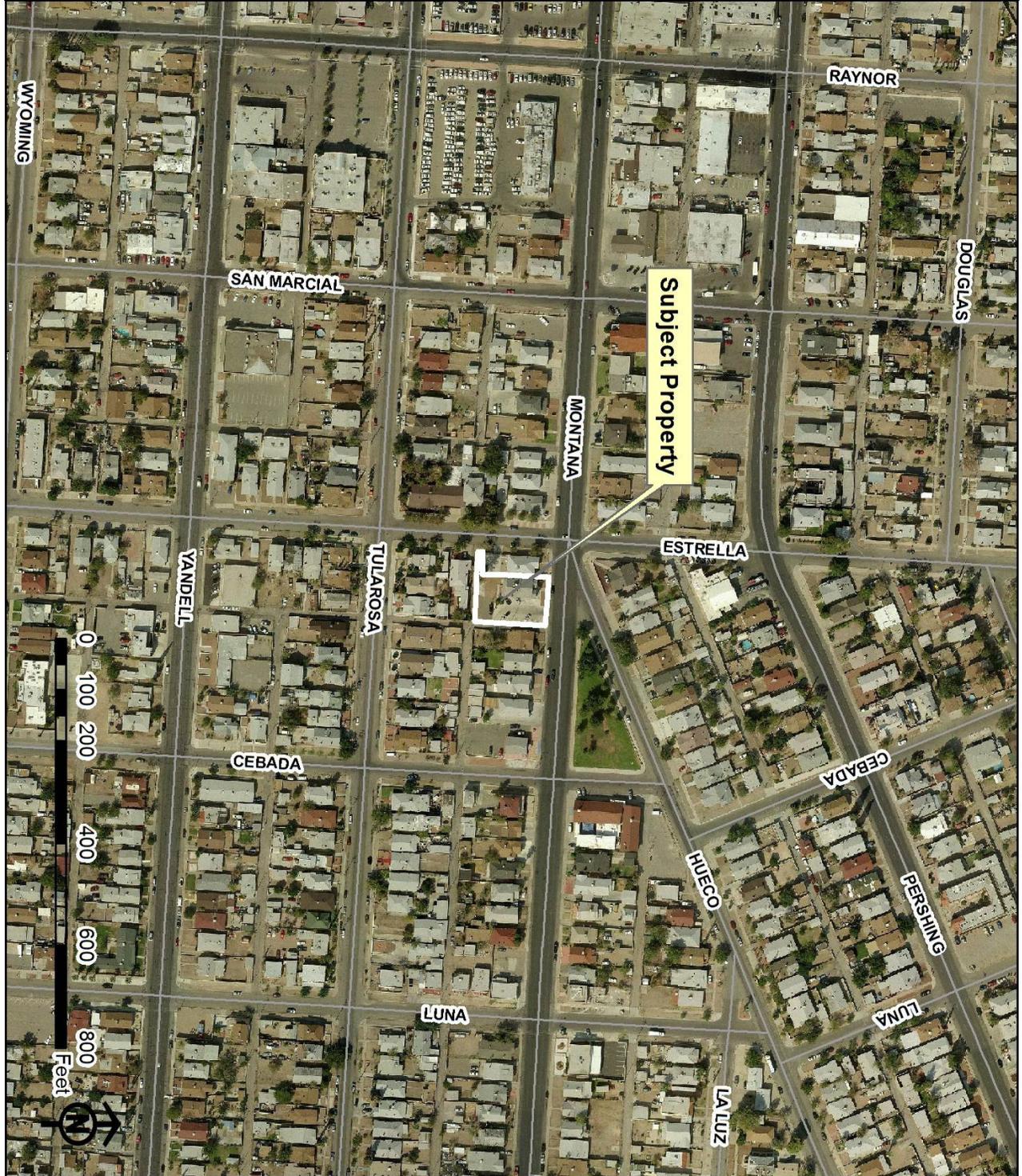
### **Attachments**

1. Zoning Map
2. Aerial Map
3. Detailed Site Development Plan
4. Ordinance No. 7962
5. Opposition Letter

# PZST12-00014



PZST12-00014





ATTACHMENT 4: ORDINANCE NO. 7962

7962  
562

AN ORDINANCE CHANGING THE ZONING OF THE EASTERLY 90' OF LOTS 7 - 12 (INCLUSIVE), AND SOUTHERLY 10' OF THE WESTERLY 45' OF LOT 7, BLOCK 93, EAST EL PASO ADDITION, THE PENALTY BEING AS PROVIDED IN SECTION 25-96 OF THE EL PASO CITY CODE

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

That the zoning of the easterly 90' of Lots 7 - 12 (inclusive) and southerly 10' of the westerly 45' of Lot 7, Block 93, East El Paso Addition, as more particularly described in the attached Exhibit "A" made a part hereof by reference, be changed from R-5 (Residential) to A-O (Apartment/Office) District within the meaning of the zoning ordinance and the zoning map of the City of El Paso be revised accordingly.

PASSED AND APPROVED this 28<sup>th</sup> day of February, 1984.

Juanita W. Rogers  
Mayor

ATTEST:

William Rogers  
City Clerk

APPROVED AS TO FORM:

Steven L. Gentry  
Assistant City Attorney

APPROVED AS TO CONTENT:

Loren W. DeBruin  
Planning, Research and Development

I certify that the zoning map has been revised to reflect the amendment of ordinance #7962 No. 7962 Date 3-9-84

I CERTIFY THAT THE FOLLOWING ZONING MAPS HAVE BEEN REVISED: 4 D.  
3-9-84 COUNTER  
3-9-84 ORIGINAL  
3-9-84 Billy Inspeccion  
3-9-84 CONTROL Henry Iles

83-4905  
MAR 2 - 1984  
DEPARTMENT OF PLANNING

7962  
562  
Contract dated 2/28/84

CONTRACT

THIS CONTRACT, made this 28<sup>th</sup> day of February, 1984, by and between ROSEMARY E. MCCLELLAN and AMERICAN BANK OF COMMERCE, administrator for the Estate of Charlie Watkins, First Parties, and the CITY OF EL PASO, Second Party, witnesseth:

Application has been made to the City of El Paso for rezoning the easterly 90' of Lots 7 -12 (inclusive), and southerly 10' of the westerly 45' of Lot 7, Block 93, East El Paso Addition, City and County of El Paso, Texas, which are more particularly described by metes and bounds in the attached Exhibit "A" which is made a part hereof by reference. To remove certain objections to such rezoning, First Parties covenants that if the property is rezoned to A-O (Apartment/Office) 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. A detailed site development plan must be approved by the Plan Commission and the City Council prior to the issuance of any building permits.
2. Off-street parking will not be permitted in the required front yard.

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.

WITNESS THE FOLLOWING SIGNATURES AND SEALS.



ATTEST:

Secretary  
Ord. #7962 (2/28/84)

FIRST PARTIES

Rosemary E. McClellan  
Rosemary E. McClellan

American Bank of Commerce

By Scott Fisher  
Title Vice President, Trust Officer and Manager

**ATTACHMENT 5: OPPOSITION LETTER**

001 10 12 00:00:00

Leff Chiropractic

010000000



**Dr. William M. Leff, D.C.**

Leff Chiropractic Center

October 15, 2012

3130 Montana Ave.  
El Paso, Texas 79903  
Telephone: (915) 566-9671  
Fax: (915) 566-8838

TO: Andrew Salloum  
City Development Department  
2 Civic Center Plaza  
El Paso, Texas 79901

RE: Letter of Opposition to Special Permit at 3204 Montana  
Case Number PZST12-00014

Dear Mr. Salloum;

I am a long standing property owner adjacent and near the 3204 Property applying for a special permit. I own the adjacent property at 3200 Montana that is currently a single family rental unit and I am the owner of the Property and the business located at 3130 Montana Ave, that has been a continuous Chiropractic business since 1949.

At this time there is simply not enough parking for this type of in fill development. The parking lot at 3204 is often already full as it is. It is my understanding that there is three existing apartments and a two attorney law office. It is my understanding, that there should currently be at least 2 spaces per apartment and at least 6 spaces for employees and customers for the two attorney law practice. This means he currently should have about 12 parking spaces. Additional apartments would mean a number of cars on the street with no off street parking. There is simply not enough room for 18 spaces.

We already have an old established business of C and J Dental lab which is two doors away that seems to have inadequate parking as is and already uses the streets in the immediate area for business purposes. Since my business is a very old established business, I have to use the street for my patients as well. This type of in fill development will harm my business.

I am strongly opposed to any additional in fill development in this area. There simply is not enough parking.

Sincerely,

William M. Leff  
Owner of Property at 3200 and 3130 Montana Ave  
3130 Montana Ave  
El Paso, TX 79903