

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

**DEPARTMENT:** Development Services Department, Planning Division

**AGENDA DATE:** Public Hearing: January 13, 2009

**CONTACT PERSON/PHONE:** Andrew Salloum, 541-4027

**DISTRICT(S) AFFECTED:** 7

**SUBJECT:**

A resolution releasing conditions placed on property by a contract dated November 8, 1983, which imposed conditions on a portion of Lot 28, Block 22A, Vista Granada Unit Two Replat B, City of El Paso, El Paso County, Texas. Subject Property: South of Taffy Bagley Drive and West of George Dieter Drive. Applicant: Doniphon Property, L.P., ZON08-00084 (District 7).

**BACKGROUND / DISCUSSION:**

**PRIOR COUNCIL ACTION:**

**AMOUNT AND SOURCE OF FUNDING:**

N/A

**BOARD / COMMISSION ACTION:**

Development Coordinating Committee (DCC) – Unanimous Approval Recommendation  
City Plan Commission (CPC) – Approval Recommendation (7-0)

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

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

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

**DEPARTMENT HEAD:** Victor Q. Torres  
Director, Development Services

*for Philip Stone*  
\_\_\_\_\_

**APPROVED FOR AGENDA:**

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

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

CITY CLERK DEPT.  
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## RESOLUTION

**A RESOLUTION RELEASING CONDITIONS PLACED ON PROPERTY BY A CONTRACT DATED NOVEMBER 8, 1983, WHICH IMPOSED CONDITIONS ON A PORTION OF LOT 28, BLOCK 22A, VISTA GRANADA UNIT TWO REPLAT B, CITY OF EL PASO, EL PASO COUNTY, TEXAS.**

**WHEREAS**, the zoning of the property described as *a portion of Lot 28, Block 22A, Vista Granada Unit Two Replat B, City of El Paso, El Paso County, Texas*, was changed by City Council on November 8, 1983; and,

**WHEREAS**, the rezoning was subject to the property owner entering into a contract with the city and such contract imposed the following zoning conditions:

- a) No building permits will be issued for construction on Parcel 3 until 120 feet of right of way adjacent to Parcel 3 is dedicated and improved for Rojas Drive.*
- b) No Certificates of occupancy shall be issued by the City until all of the portion of George Dieter Drive as shown on Exhibit "D" that is presently owned by Pendale but not improved, has been dedicated and improved.*

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

**WHEREAS**, Condition (a) does not apply at the subject-property, it is not abutting Rojas Drive; and Condition (b) has been satisfied, George Dieter Drive has been dedicated and improved; and,

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

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

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

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

1. That the following conditions imposed by a contract dated November 8, 1983 be released on the portion of land identified as a portion of Lot 28, Block 22A, Vista Granada Unit Two Replat B, City of El Paso, El Paso County, Texas:

CITY CLERK DEPT.

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- a) *No building permits will be issued for construction on Parcel 3 until 120 feet of right of way adjacent to Parcel 3 is dedicated and improved for Rojas Drive.*
- b) *No Certificates of occupancy shall be issued by the City until all of the portion of George Dieter Drive as shown on Exhibit "D" that is presently owned by Pendale but not improved, has been dedicated and improved.*

**PASSED AND APPROVED** this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

**THE CITY OF EL PASO**

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

**ATTEST:**

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

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Lupe Cuellar  
Assistant City Attorney

**APPROVED AS TO CONTENT:**

\_\_\_\_\_  
*Mathew S. McElroy*  
Mathew S. McElroy  
Deputy Director - Planning  
Development Services Department



**JOHN COOK**  
MAYOR

**JOYCE WILSON**  
CITY MANAGER

**VICTOR Q. TORRES**  
DIRECTOR, DEVELOPMENT SERVICES

**MATHEW S. McELROY**  
DEPUTY DIRECTOR, PLANNING

**CITY COUNCIL**

ANN MORGAN LILLY, DISTRICT 1  
SUSANNAH M. BYRD, DISTRICT 2  
EMMA ACOSTA, DISTRICT 3  
MELINA CASTRO, DISTRICT 4  
RACHEL QUINTANA, DISTRICT 5  
EDDIE HOLGUIN, JR., DISTRICT 6  
STEVE ORTEGA, DISTRICT 7  
BETO O'ROURKE, DISTRICT 8

**DEVELOPMENT SERVICES  
PLANNING DIVISION**

**MEMORANDUM**

**DATE:** December 15, 2008  
**TO:** The Honorable Mayor and City Council  
Joyce A. Wilson, City Manager  
**FROM:** Andrew Salloum, Planner  
**SUBJECT: ZON08-00084**

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The City Plan Commission (CPC), on November 20, 2008, voted **7-0** to recommend **APPROVAL** of releasing conditions placed on property by Ordinance No. 007903 dated November 8, 1983.

The CPC found that the release of conditions is in conformance with The Plan for El Paso and the Year 2025 Projected General Land Use Map. The CPC also determined that the release of conditions protects the best interest, health, safety and welfare of the public in general; that the proposed use for release of conditions is compatible with adjacent land uses; and the release of conditions will have no effect on the natural environment, social economic conditions, and property values in the vicinity and the city as a whole.

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

**Attachment:** Staff report, zoning map, aerial map, conceptual site plan, and special contract for Ordinance 7903 dated November 8, 1983.



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

**Case No:** ZON08-00084  
**Application Type:** Special Contract Release  
**CPC Hearing Date:** November 20, 2008  
**Staff Planner:** Andrew Salloum, 915-541-4027, [salloumam@elpasotexas.gov](mailto:salloumam@elpasotexas.gov)

**Location:** South of Taffy Bagley Drive and West of George Dieter Drive  
**Legal Description:** A portion of Lot 28, Block 22A, Vista Granada Unit Two Replat B, City of El Paso, El Paso County, Texas

**Acreage:** 6.02 acres  
**Rep District:** 7  
**Existing Use:** Vacant  
**Existing Zoning:** A-2/sc (Apartment/special contract)  
**Request:** To remove two (2) conditions placed by Special Contract on Zoning Ordinance No. 007903 dated November 8, 1983.

**Property Owner:** Doniphan Property, L.P.  
**Applicant:** Doniphan Property, L.P.  
**Representative:** Eduardo Torres

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

**North:** A-2/sc/sp (Apartment/special contract/special permit), C-1/sc/sp (Commercial/special contract/special permit), C-1/sc (Commercial/special contract); Hospital  
**South:** C-1 (Commercial), P-R II/sc (Planned Residential II/special contract); Restaurant  
**East:** C-1 (Commercial), C-3 (Commercial); Vacant  
**West:** P-R II/sc (Planned Residential II/special contract), P-R II (Planned Residential II); Duplex and Single-Family Dwellings.

**THE PLAN FOR EL PASO DESIGNATION:** Residential/Mixed Use (East Planning Area)

**NEAREST PARK:** Zaragoza Park (3,970 Feet)

**NEAREST SCHOOL:** James R. Vasquez Head Start (968 Feet)

### **NEIGHBORHOOD ASSOCIATIONS:**

East Side Civic Association  
Las Palmas Neighborhood Association

**NEIGHBORHOOD INPUT:** Notice of a Public Hearing was mailed out to all property owners within 300 feet of subject property on October 22, 2008. Planning Division did not receive any letters or phone calls in support or opposition of contract release request.

**APPLICATION DESCRIPTION:** The applicant is requesting to remove two (2) conditions imposed by a special contract Ordinance No. 7903 dated November 8, 1983. This request is associated with rezoning request ZON08-00083.

The conditions are as follows:

- a) No building permits will be issued for construction on Parcel 3 until 120 feet of right of way adjacent to Parcel 3 is dedicated and improved for Rojas Drive.
- b) No Certificates of occupancy shall be issued by the City until all of the portion of George Dieter Drive as shown on Exhibit "D" that is presently owned by Pendale but not improved, has been dedicated and improved.

**CASE HISTORY:**

On September 1, 1987, the subject property was rezoned from R-3 (Residential) to A-2 (Apartment) to permit development of duplexes, apartments, and commercial uses. The property is a 6.02 acres parcel that was originally 19.401 acres adjacent to George Dieter Drive and Rojas Drive that has been subsequently subdivided. The subject property does not include the portion that is adjacent to Rojas Drive and has been satisfied, George Dieter Drive has been dedicated and improved.

**DEVELOPMENT COORDINATING COMMITTEE RECOMMENDATION:**

The DCC recommends **APPROVAL** of release conditions.

**PLANNING DIVISION RECOMMENDATION:**

Current Planning: Recommends **APPROVAL** of release conditions on special contract. Condition a) does not apply as the subject property is not abutting Rojas Drive, Condition b) has been satisfied, George Dieter Drive has been dedicated and improved

**The Plan for El Paso-City-Wide Land Use Goals:**

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

- a. Goal: provide a pattern of commercial and office development which best serves community needs and which complements and serves all other land uses.
- b. Goal: preserve, protect, and enhance the integrity, economic vitality and livability of the city's neighborhoods.
- c. Goal: encourage the provision of neighborhood commercial services which are compatible with a neighborhood's residential character.

The purpose of the C-1 (Commercial) district is to serve the needs of surrounding residential neighborhoods by providing compatible neighborhood conveniences 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.

**Development Services Department - Building Permits and Inspections Division:**

Zoning Review:

No objection to the removal of contract conditions.

Landscape Review:

No comments received.

**Development Services Department - Planning Division:**

Current Planning: Recommends approval of removing conditions on special contract.

Condition a) does not apply at the subject property is not abutting Rojas Drive, Condition b) has been satisfied, George Dieter Drive has been dedicated and improved.

Land Development:

ADA accessible Sidewalks, Wheel-chair ramps, and Driveways will be required.\*

Grading plan and permit required.\*

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

Drainage plans must be approved by the Development Services, Engineering Section.\*

On-site ponding will be required for Development run-off, as per Engineering Department.\*

Additional Comments: Site location is **not** located within a Special Flood Hazard Area, Flood Zone X Panel **480214 045C**.

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

**Engineering Department - Traffic Division:**

No objections to proposed contract release.

**Fire Department:**

No comments received.

**El Paso Water Utilities:**

EPWU does not object to this request.

**Parks:**

No comments received.

**Sun Metro:**

No comments received.

**School Districts:**

No comments received.

**CITY PLAN COMMISSION OPTIONS**

The City Plan Commission may consider the following options and additional options that it identifies when reviewing the special contract release application

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

**Attachments:**

Attachment 1: Zoning Map

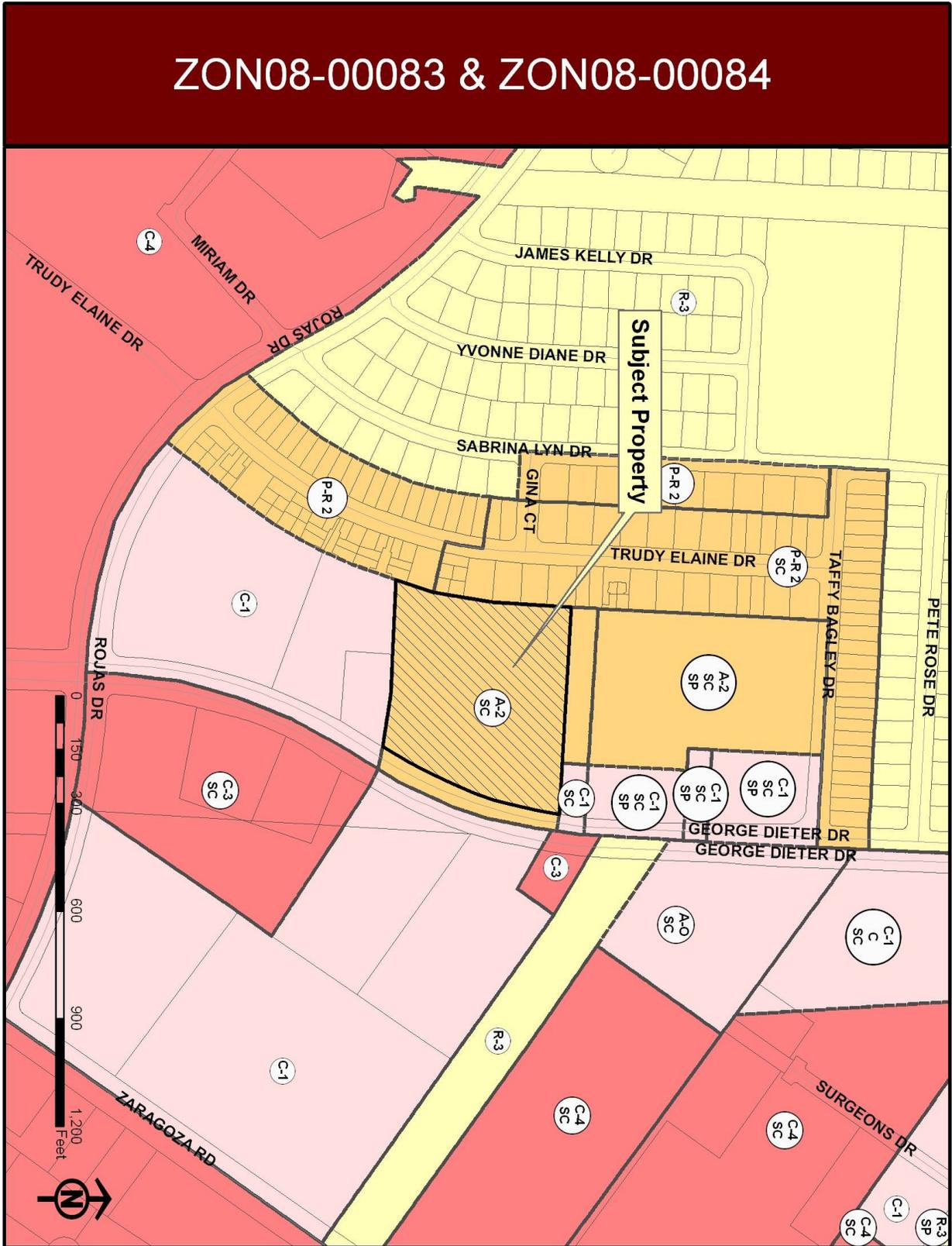
Attachment 2: Aerial Map

Attachment 3: Conceptual Site Plan

Attachment 4: Special Contract

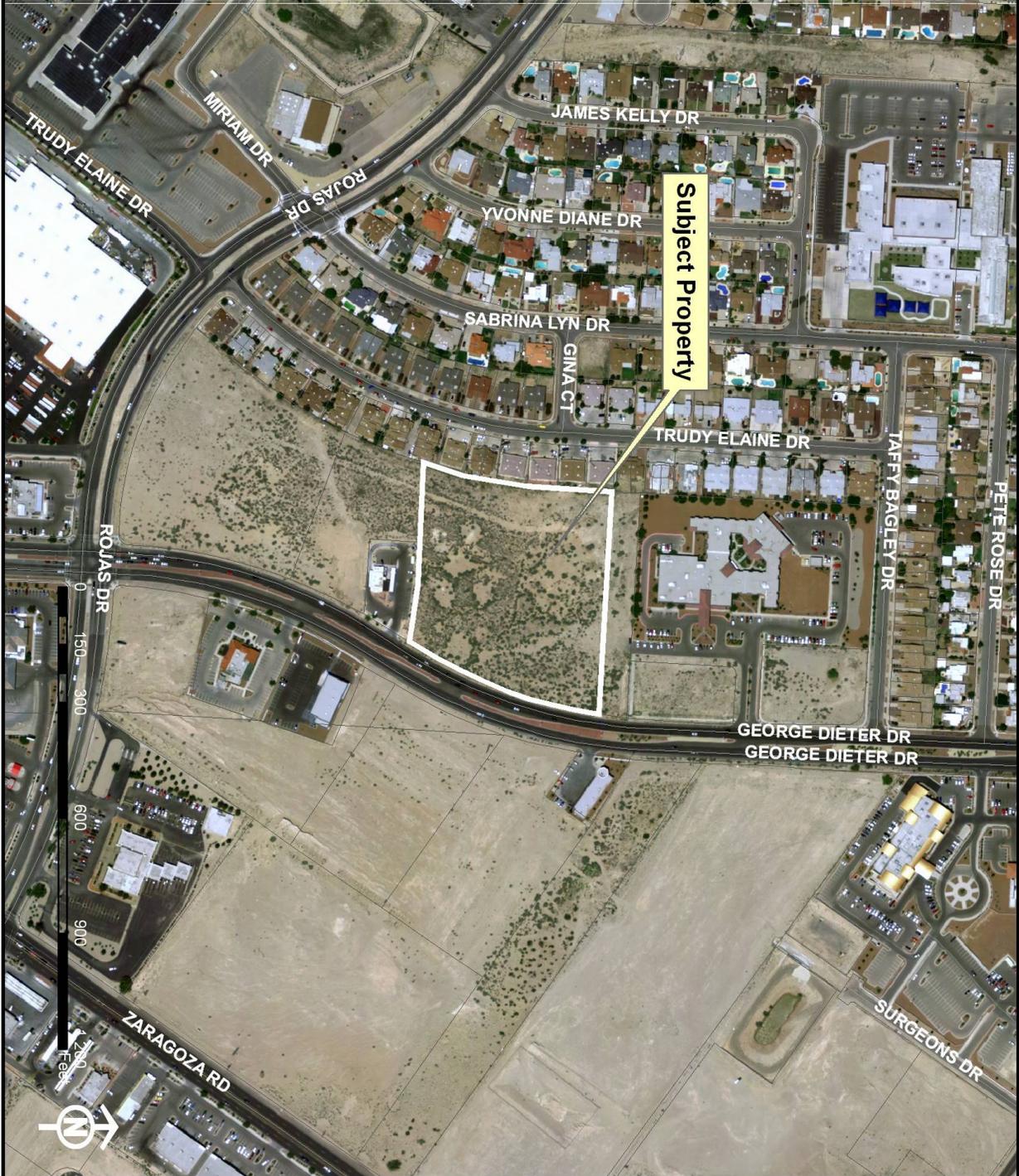
ATTACHMENT 1: ZONING MAP

ZON08-00083 & ZON08-00084

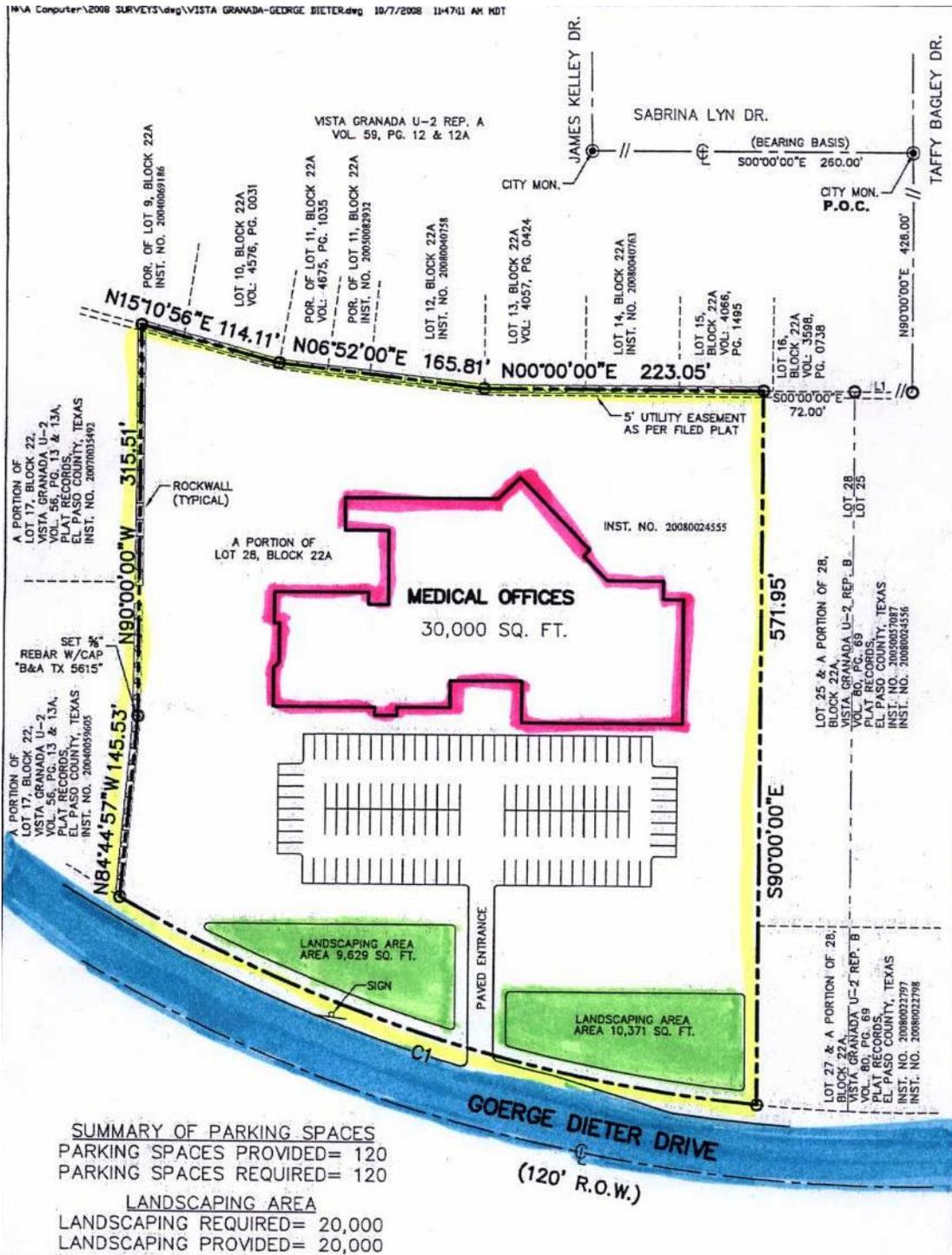


ATTACHMENT 2: AERIAL MAP

ZON08-00083 & ZON08-00084



# ATTACHMENT 3: CONCEPTUAL SITE PLAN



**ATTACHMENT 4: SPECIAL CONTRACT FOR ORDINANCE 7903**



THE STATE OF TEXAS )  
                                  )  
COUNTY OF EL PASO  )

CONTRACT

THIS CONTRACT, made this 8<sup>th</sup> day of November,  
1983, by and between PENDALE JOINT VENTURE, hereinafter called  
"Pendale," and the CITY OF EL PASO, hereinafter called "City,"  
witnesseth:

RECITALS

1. Pendale owns certain parcels of land in the City of El Paso, El Paso County, Texas, more particularly described as follows:

A portion of Tract 1B, O.A. Danielson Survey No. 309; a portion of Tract 41, O.A. Danielson Survey No. 310; all of Block 17; and portions of Blocks 18, 19, 20 and 21; portions of Taffy Bagley Drive, James Kelly Drive, Esther Gina Drive, Yvone Diana Drive and Trudy Elaine Drive, Vista Granada Unit Two, City and County of El Paso, Texas which are more particularly described by metes and bounds in the attached Exhibits "A, B, and C" which are made a part hereof by reference,

hereinafter called the "Land."

2. The City desires to construct an extension of George Dieter Drive in the vicinity of Pendale's Land, hereinafter called the "Project." The location of the Project is more particularly shown by metes and bounds on the map which is attached hereto, marked Exhibit "D," and made a part hereof by reference.

3. Since the Project will provide better access to Pendale's Land, and will facilitate the development thereof, Pendale hereby agrees to pay a portion of the City's share of the cost of constructing the Project as hereinafter provided.

4. This contract sets forth the understandings and agreements of the City and the owner relative to construction of and payment for the project contract.

CONTRACT

NOW, THEREFORE, in consideration of the mutual promises and agreements herein contained, the parties agree as follows:

1. Within the two-year period following the date of this agreement, the City shall acquire or make good faith effort to acquire the right-of-way for the project from the various owners of the abutting property as shown in the attached Exhibits.

2. To secure payment hereunder, Pendale tenders and delivers herewith to the City an irrevocable letter of credit in the amount of

*Ord. 7903*

*83-4884*

\$80,000 from the STATE NATIONAL Bank, El Paso, Texas. Such amount represents Pendale's portion of the City's cost of the Project's paving costs. Receipt of said letter of credit is hereby acknowledged by the City. Such letter of credit contains an expiration date of December 19, 1985.

3. Pendale agrees to submit street improvement plans for George Dieter Drive described in the attached Exhibit "D," to the City Engineer, and street construction must commence within six months of demand by the City for paving on any portion of George Dieter Drive which has been acquired by the City.

4. Should the City determine that any of the street improvements must be performed pursuant to competitive bidding requirements, Pendale agrees to submit a bid proposal, and the City agrees to assess the adjacent property for paving liens, and to assign, to the extent permitted by law, its pavement liens to Pendale, or any other successful bidder, in consideration of street improvements performed. Should there be no assessable lien on any portion paved, the City agrees to pay for the construction within twelve months from the date of such construction.

5. The City shall use its best efforts to have the project constructed; however, the City does not guarantee that construction will occur. The City shall not, therefore, be liable for any damages which occur if the project is not constructed because of the conduct of third parties or other factors beyond the City's control. Pendale hereby releases the City from any such liability; provided, however, that nothing contained herein shall release the City from liability which may occur as a result of the City's negligence or intentional misconduct. This release is subject, however, to the refund provisions of Paragraph 8 hereof.

6. After any portion of the Project has been completed to the City's satisfaction, the same shall become the property of the City and shall be accepted by the City for maintenance. The City shall thereafter be responsible for maintaining the project in good repair, for regulating traffic, and preventing encroachment on the right of way, all in accordance with governing policies and regulations of the State of Texas.

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7. Pendale agrees that its parcel of land, as described herein shall be subject to the following restrictions, conditions, and covenants:

- a) No building permits will be issued for construction on Parcel 3 until 120 feet of right of way adjacent to Parcel 3 is dedicated and improved for Rojas Drive.
- b) No certificates of occupancy shall be issued by the City until all of the portion of George Dieter Drive as shown on Exhibit "D" that is presently owned by Pendale but not improved, has been dedicated and improved.

} conditions  
to be released

The provisions of this paragraph shall be a restriction, condition, and covenant running with the land and a charge and servitude thereon, and shall bind the owner and its successors and 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 the condition of this paragraph by injunction or any other legal or equitable remedy. The City may release this restriction, condition, and covenant without the consent of any third party that may be benefited thereby.

8. If at any time any portion of improvements on the Project has not begun after six months' demand on Pendale by the City, the City may draw upon the letter of credit in an amount as may be necessary to pay for such portion of improvement. From time to time the City may also release all or part of the letter of credit in proportion to the amount of paving performed. If as of the date of expiration of the letter of credit, the City should be engaged in pending condemnation proceedings, Pendale will renew its letter of credit in an amount equal to the proportional cost of paving that property which is involved in the condemnation proceedings.

9. The City may enforce this agreement by injunction or any other legal or equitable remedy.

10. The City and Pendale agree to execute any and all other legal documents which may reasonably be required to effectuate the purposes of this contract. Time is of the essence in this contract as to both parties. Any notices required under this contract shall be sufficient if sent by certified mail, return receipt requested to: (1) City at 2 Civic Center Plaza, El Paso, Texas 79999 ATTN: City Clerk, and (2) Pendale Joint Venture, at 1790 Lee Trevino, El Paso, Texas 79936 ATTN: John Foster.

WITNESS THE FOLLOWING SIGNATURES AND SEALS.

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