

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

DEPARTMENT: Development Services Department, Planning Division

AGENDA DATE: Introduction: January 22, 2008
Public Hearing: February 12, 2008

CONTACT PERSON/PHONE: Esther Guerrero, 541-4720

DISTRICT(S) AFFECTED: 7

SUBJECT:

An ordinance changing the zoning of a portion of Lot 25, Block 22A, Vista Granada Unit Two, Replat B, City of El Paso, El Paso County, Texas from A-2/sc/sp (Apartment/special contract/special permit) to C-1/sc/sp (Commercial/special contract/special permit). The penalty is as provided for in Chapter 20.24 of the El Paso City Code. Subject Property: 1395 George Dieter Drive. Applicant: Highlands Regional Properties, L.P., ZON07-00148, (District 7)

BACKGROUND / DISCUSSION:

See attached report .

PRIOR COUNCIL ACTION:

N/A

AMOUNT AND SOURCE OF FUNDING:

N/A

BOARD / COMMISSION ACTION:

Development Coordinating Committee (DCC) – Unanimous Approval Recommendation
City Plan Commission (CPC) – Approval Recommendation (5-0)

*****REQUIRED AUTHORIZATION*****

LEGAL: (if required) N/A

FINANCE: (if required) N/A

DEPARTMENT HEAD: Kelly Carpenter

APPROVED FOR AGENDA:

CITY MANAGER: _____

DATE: _____

ORDINANCE NO. _____

CITY CLERK DEPT.

08 JAN 14 PM 1:45

AN ORDINANCE CHANGING THE ZONING OF A PORTION OF LOT 25, BLOCK 22A, VISTA GRANADA UNIT TWO, REPLAT B, CITY OF EL PASO, EL PASO COUNTY, TEXAS FROM A-2/SC/SP (APARTMENT/SPECIAL CONTRACT/SPECIAL PERMIT) TO C-1/SC/SP (COMMERCIAL/SPECIAL CONTRACT/SPECIAL PERMIT). THE PENALTY IS AS PROVIDED FOR IN CHAPTER 20.24 OF THE EL PASO CITY CODE.

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

That the zoning of *a portion of Lot 25, Block 22A, Vista Granada Unit Two, Replat B, City of El Paso, El Paso County, Texas*, and as more particularly described by metes and bounds on the attached Exhibit "A", incorporated by reference, be changed from **A-2/sc/sp (Apartment/special contract/special permit)** to **C-1/sc/sp (Commercial/special contract/special permit)**, within the meaning of the zoning ordinance, and that the zoning map of the City of El Paso be revised accordingly.

PASSED AND APPROVED this _____ day of _____, 2008.

THE CITY OF EL PASO

ATTEST:

John F. Cook
Mayor

Richarda Duffy Momsen, City Clerk

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

Lupe Cuellar
Assistant City Attorney

for 

Kelly Carpenter, AICP, Deputy Director
Development Services Department –
Planning Division

ORDINANCE NO. _____

Zoning Case No: ZON07-00148

Being a portion of
Lot #25, Block 22A,
Vista Granada Unit Two, Replat "B",
City of El Paso,
El Paso County, Texas.
May 30, 2007
(Private Easement)

METES AND BOUNDS DESCRIPTION

Description of a parcel of land being a portion of Lot #25, Block 22A, Vista Granada Unit Two, Replat "B", City of El Paso, El Paso County, Texas, and being more particularly described by metes and bounds as follows:

Commencing for reference at a existing city monument at the centerline intersection of Sabrina Lyn Drive and Taffy Bagley Drive within Vista Granada Unit Two, Replat "A" referenced in Volume 59, Page 12 & 12A, whence a found city monument at the centerline intersection of Sabrina Lyn Drive and James Kelley Drive bears South 00°00'00" East a distance of 260.00 feet, thence along the centerline of Taffy Bagley Drive North 90°00'00" East a distance of 997.95 feet to a point; Thence leaving said centerline and along the westerly right of way line of George Dieter Dr, South 00°30'11" East a distance of 303.15 feet to a point on the southerly line of Lot #26, Block 22A, Vista Granada Unit Two, Replat "B", referenced in Volume 80, Page 69, for the "TRUE POINT OF BEGINNING".

Thence along said line North 90°00'00" West a distance of 199.61 feet to a point;

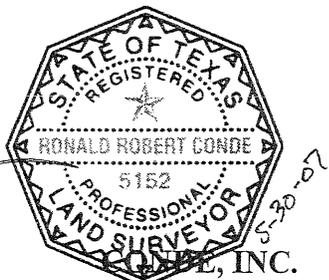
Thence leaving said line South 00°00'00" West a distance of 65.58 feet to a point;

Thence South 90°00'00" East a distance of 200.19 feet to a point on the westerly right of way line of George Dieter Dr.;

Thence along said right of way line North 00°30'11" West a distance of 65.59 feet to "TRUE POINT OF BEGINNING" and containing in all 13,110.192 square feet or 0.3010 acres of land more or less.

Not a ground survey, description based on record information on plat of Vista Granada Unit Two, Replat B, recorded in volume 80, page 69, Plat records of El Paso County, Texas.


Ron R. Conde
R.P.L.S. No. 5152



job #507-90

08 JAN 14 PM 1:45
CITY CLERK DEPT.

ENGINEERING / LAND SURVEYING / PLANNING
1790 LEE TREVINO SUITE 400 / EL PASO, TEXAS 79936 / (915) 592-0283

CITY CLERK DEPT.

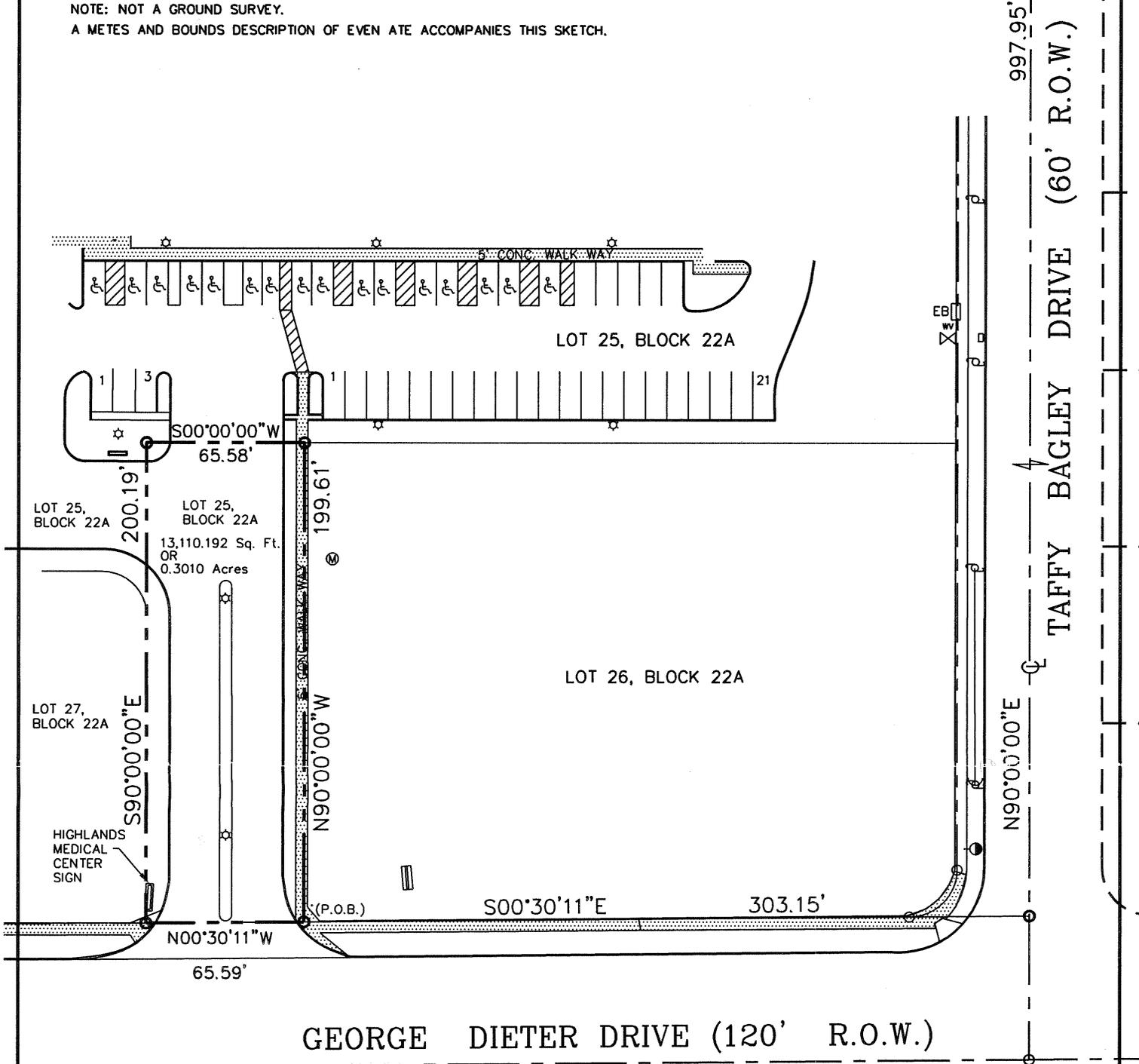
08 JAN 14 PM 1:45

SABRINA LYN DRIVE
(60' R.O.W.)

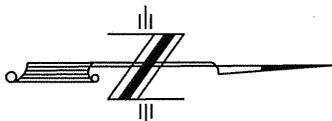
FND. MON.
(P.O.C.)

NOTE: NOT A GROUND SURVEY.

A METES AND BOUNDS DESCRIPTION OF EVEN ATE ACCOMPANIES THIS SKETCH.



GEORGE DIETER DRIVE (120' R.O.W.)



SCALE: 1"=60'

RON R. CONDE

R.P.L.S. NO. 5152

JOB # 1107-16

DATE: NOVEMBER 8, 2007

OFFICE: R.C.

VOLUME 80, PAGE 69, PLAT RECORDS OF EL PASO COUNTY, TEXAS

SKETCH OF A PORTION OF LOT 25, BLOCK 22A
VISTA GRANADA UNIT TWO REPLAT B
CITY OF EL PASO, EL PASO COUNTY, TEXAS

CONDE ENGINEERING INC.
1790 LEE TREVINO SUITE 400
EL PASO, TEXAS 79936



JOHN COOK
MAYOR

JOYCE WILSON
CITY MANAGER

R. ALAN SHUBERT
DIRECTOR, DEVELOPMENT SERVICES

KELLY CARPENTER, AICP
DEPUTY DIRECTOR, PLANNING

CITY COUNCIL

ANN MORGAN LILLY, DISTRICT 1
SUSANNAH M. BYRD, DISTRICT 2
VACANT, 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: January 10 2007

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

FROM: Esther Guerrero, Planner

SUBJECT: ZON07-00148

The City Plan Commission (CPC), on January 3, 2008, voted 5-0 to recommend APPROVAL of rezoning the subject property from A-2/sc/sp (Apartment/special contract/special permit) to C-1/sc/sp (Commercial/special contract/special permit), concurring with staff recommendation.

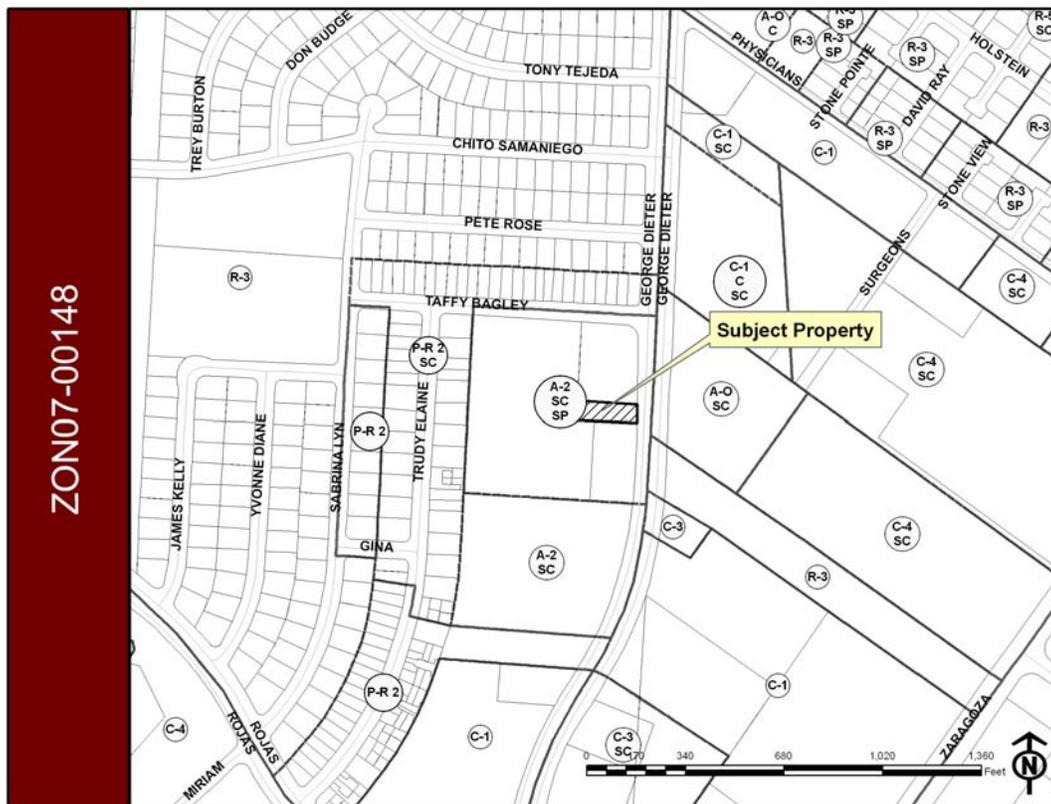
The CPC found that this rezoning is in conformance with The Plan for El Paso; and the proposed use is in conformance with the Year 2025 Projected General Land Use Map. The CPC also determined that this rezoning protects the best interest, health, safety and welfare of the public in general; that the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

Attachment: Staff Report



ZON07-00148

Application Type:	Rezoning
Property Owner(s):	Highlands Regional Properties, L.P.
Representative(s):	Francis S. Ainsa, Jr.
Legal Description:	A portion of Lot 25, Block 22A, Vista Granada Unit Two, Replat B, City of El Paso, El Paso County, Texas
Location:	1395 George Dieter Drive
Representative District:	7
Area:	0.3010 acres
Present Zoning:	A-2/sc/sp (Apartments/ special contract/special permit)
Present Use:	Driveway
Proposed Zoning:	C-1/sc/sp (Commercial/ special contract/special permit)
Recognized Neighborhood	
Associations Contacted:	Eastside Civic Association, Las Palmas Neighborhood Association
Public Response:	None
Surrounding Land Uses:	North: A-2/sc/sp / vacant; South: A-2/sc/sp / vacant; East: A-O/sc, R-3, C-3 / vacant, vacant, automotive, West: A-2/sc/sp, A-2/sc / convalescent home, vacant
Year 2025 Designation:	Residential (East Planning Area)



General Information

The applicant requests a rezoning from A-2/sc/sp (Apartment/special contract/special permit) to C-1/sc/sp (Commercial/ special contract/special permit) to permit access to the proposed commercial development to the north and south of this parcel. A concurrent application to rezone 3 parcels of land will also be considered (ZON07-00045).

A special contract (Ordinance 7903) exists on all the subject property and abutting properties (see Attachment 3). A special permit is also in place to allow a rehabilitation hospital on the site. If the rezoning is approved, the special contract and special permit will carry over on their respective parcels. The conditions of the special contract have been satisfied.

Staff Recommendation

The Development Coordinating Committee (DCC) recommends **APPROVAL** of this rezoning request.

The recommendation is based on the following:

- **The Plan for El Paso** City-Wide Land Use Goals recommends that El Paso “provide a pattern of commercial and office development which best serves community needs and which complements and serves all other land uses.”
- **The Year 2025 Projected General Land Use Map** for the East Planning Area designates this property for **Residential** land uses; however, there are existing uses that are similar in nature adjacent to and in the immediate area of the subject property.
- **C-1 (Commercial) zoning** permits medical offices and the sale of medical devices and **is compatible** with adjacent development.

Findings

The Commission must determine the following:

1. Will C-1 (Commercial) zoning protect the best interest, health, safety and welfare of the public in general?
2. Will medical offices and the sale of medical devices be compatible with adjacent land uses?
3. What is the relation of the proposed change to the City’s Comprehensive Plan?
4. What effects will the rezoning have on the natural environment, social and economic conditions and property values in the vicinity and the city as a whole?

Development Services - Building Permits and Inspections Division

No objection to proposed re-zoning.

Development Services - Planning Division

Current Planning: Recommends approval; proposed use is compatible with existing surrounding uses.

Engineering Department, Traffic Division

No objection to proposed zoning change.

NOTE: Access to subject property from George Dieter shall not be allowed. The Traffic Division has requested a restriction of additional driveways from George Dieter Drive. This access easement currently serves an existing rehabilitation hospital.

Fire Department

No comments received.

El Paso Water Utilities

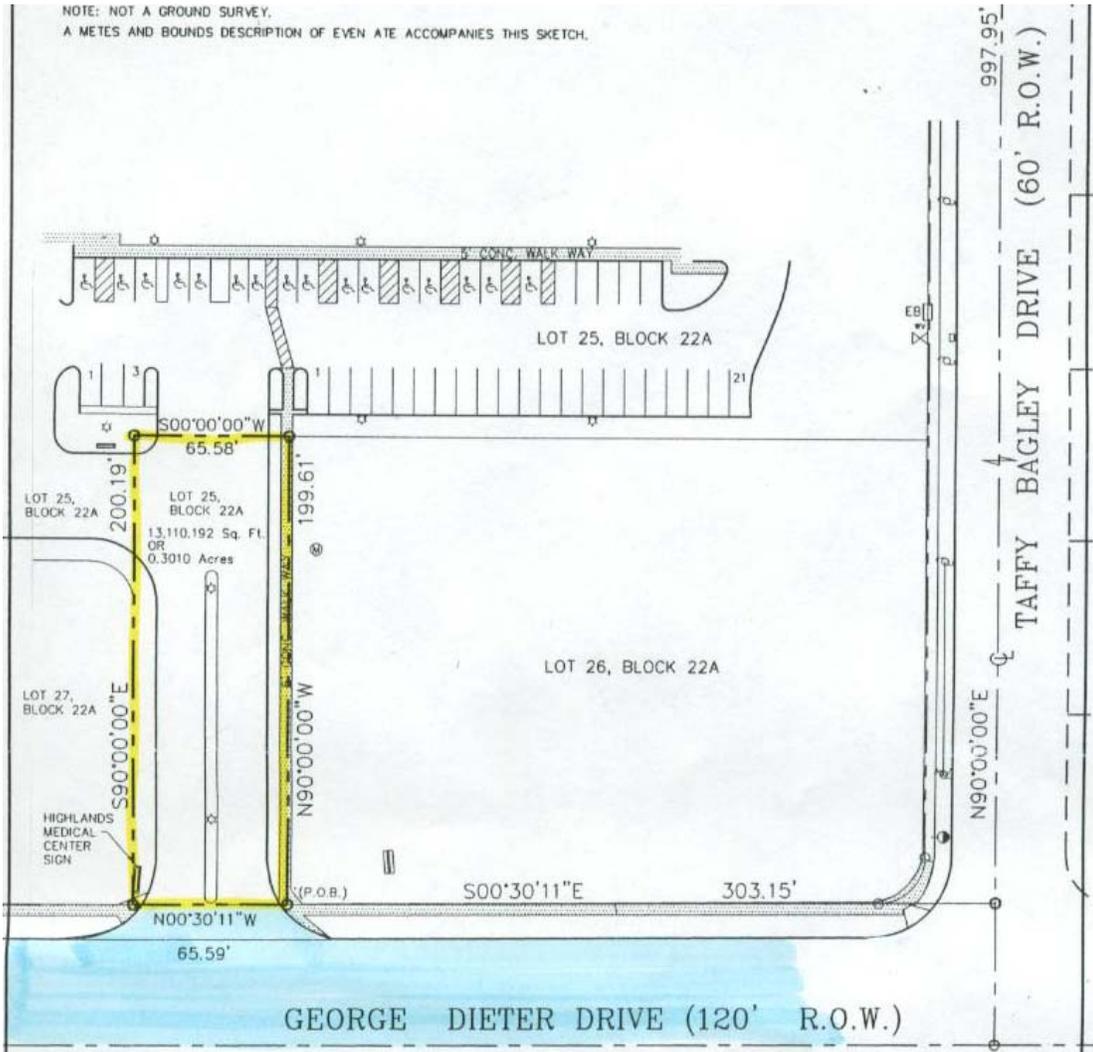
EPWU does not object to this rezoning request.



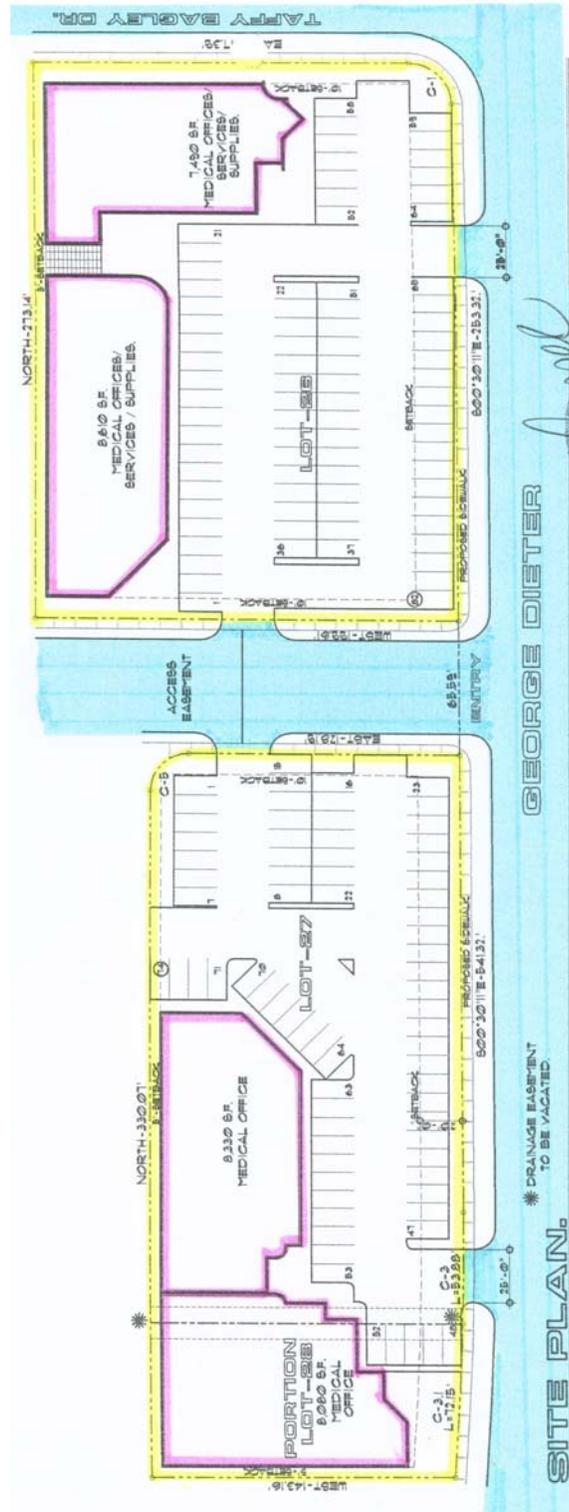
List of Attachments

- Attachment 1: Survey
- Attachment 2: Conceptual Site Plan for ZON07-00045
- Attachment 3: Special Contract (Ordinance 7903)
- Attachment 4: Application

Attachment 1: Survey



Attachment 2: Conceptual Site Plan for ZON07-00045



\$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.

4884

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.

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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Attachment 4: Application

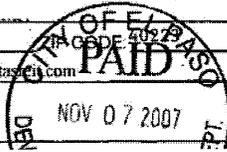


**REZONING APPLICATION
DEVELOPMENT SERVICES DEPARTMENT
PLANNING DIVISION**

**City of El Paso, Texas
2 Civic Center Plaza
El Paso, TX 79901-1196
915-541-4024**

1. CONTACT INFORMATION

PROPERTY OWNER(S): Highlands Regional Property, LP
 ADDRESS: 10350 Omsby Park Place, Ste. 300, Louisville, KY PHONE: 502-357-9000
 E-MAIL ADDRESS: cgrandinetti@fmbd.com; ccommunins@ventasre.com FAX: 502-588-2020
 REPRESENTATIVE(S): Francis S. Ainsa Jr.



2. PARCEL ONE INFORMATION

PROPERTY IDENTIFICATION NUMBER: V894999022A2550
 LEGAL DESCRIPTION: Portion of 22A Vista Granada #2, Replat B, Lot 25 (see metes & bounds)
 STREET ADDRESS OR LOCATION: 1395 George Dieter REP DISTRICT: 7
 ACREAGE: 0.3010 PRESENT ZONING: A-2 PRESENT LAND USE: Driveway
 PROPOSED ZONING: C-1 PROPOSED LAND USE: driveway

3. PARCEL TWO INFORMATION

PROPERTY IDENTIFICATION NUMBER: _____
 LEGAL DESCRIPTION: _____
 STREET ADDRESS OR LOCATION: _____ REP DISTRICT: _____
 ACREAGE: _____ PRESENT ZONING: _____ PRESENT LAND USE: _____
 PROPOSED ZONING: _____ PROPOSED LAND USE: _____

4. PARCEL THREE INFORMATION

PROPERTY IDENTIFICATION NUMBER: _____
 LEGAL DESCRIPTION: _____
 STREET ADDRESS OR LOCATION: _____ REP DISTRICT: _____
 ACREAGE: _____ PRESENT ZONING: _____ PRESENT LAND USE: _____
 PROPOSED ZONING: _____ PROPOSED LAND USE: _____

5. ADDITIONAL INFORMATION

OWNER(S) OF RECORD FOR THE ABOVE DESCRIBED PARCEL(S): MISSING SURVEY
MAP - TO BE PROVIDED
BY 11-9-07
 Highlands Regional Property, LP
 By: United Rehab Realty Holdings, LLC, its General Partner
 By: T. Richard Riney
 T. Richard Riney, Executive Vice President, General Counsel and Secretary

OFFICE USE ONLY		
ZON <u>07-00148</u>	RECEIVED DATE: <u>11/7/07</u>	APPLICATION FEE: \$ <u>715.00</u>
DCC REVIEW DATE: <u>11/5/07</u> (8:30 am, Conference Room, 2 nd Floor, City Hall Building)		
CPC REVIEW DATE: <u>1/3/08</u> (1:30 pm, City Council Chambers, 2 nd Floor, City Hall Building)		
ACCEPTED BY: <u>KUF</u>		