



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

DEPARTMENT: Development Services Department, Planning Division

AGENDA DATE: Introduction: CCA Resolution, Public Hearing: 3/10/09

CONTACT PERSON/PHONE: Arturo Rubio, 541-4633

DISTRICT(S) AFFECTED: 1

SUBJECT:

A Resolution approving a detailed site development plan to reduce lot area, width and setbacks, for the Southerly 130 feet of Lot 20, Block 2, Old Farm Subdivision Replat "A", an addition to the City of El Paso, El Paso County, Texas. The penalty is as provided for in Chapter 20.24 of the El Paso City Code. Subject Property: 5851 Oleaster Drive. Applicant: Edmundo A. Lewis, ZON08-00074 (District 1).

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 Vote 5-1

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

LEGAL: (if required) N/A

FINANCE: (if required) N/A

DEPARTMENT HEAD: Victor Q. Torres
Director, Development Services

APPROVED FOR AGENDA:

CITY MANAGER: _____ **DATE:** _____

Mayor
John F. Cook

City Council

District 1
Ann Morgan Lilly

District 2
Susannah M. Byrd

District 3
Emma Acosta

District 4
Melina Castro

District 5
Rachel Quintana

District 6
Eddie Holguin Jr.

District 7
Steve Ortega

District 8
Beto O'Rourke

City Manager
Joyce A. Wilson

RESOLUTION

A RESOLUTION APPROVING A DETAILED SITE DEVELOPMENT PLAN TO REDUCE LOT AREA, WIDTH AND SETBACKS, FOR THE SOUTHERLY 130 FEET OF LOT 20, BLOCK 2, OLD FARM SUBDIVISION REPLAT "A", AN ADDITION TO THE CITY OF EL PASO, EL PASO COUNTY, TEXAS. THE PENALTY IS AS PROVIDED FOR IN CHAPTER 20.24 OF THE EL PASO CITY CODE.

WHEREAS, Edmundo A. Lewis, (the "Applicant") has applied for approval of a detailed site development plan pursuant to Section 20.10.360 of the City Code, which requires the City Plan Commission approval of detailed site development plans and requires City Council approval for the construction and development of a single family dwelling with reduced lot area, width and setbacks in a Planned Residential District; and,

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

WHEREAS, the City Plan Commission has approved and herein recommends Council approval of the subject detailed site development plan for reduced lot area, width, and set backs; and,

WHEREAS, the City Council finds that the detailed site development plan meets all applicable requirements of Section 20.10.360 and Section 20.04.150of the El Paso City Code.

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

1. That the City Council hereby approves the detailed site development plan submitted by the Applicant, to permit a residential dwelling with reduced lot area, width and set backs on the following described property which is located in a P-R I (Planned Residential) District:

The Southerly 130 feet of Lot 20, Block 2, Old Farm Subdivision Replat "A", an addition to the City of El Paso, El Paso County, Texas, and as more particularly described by metes and bounds on the attached Exhibit "A" and incorporated herein by reference.

A copy of the approved detailed site development plan, signed by the Applicant, the City Manager and the Secretary of the City Plan Commission, is attached hereto, as Exhibit "B" and incorporated herein by reference.

2. All construction and development on the property shall be done in accordance with the approved detailed site development plan and the development standards applicable in the P-R I (Planned Residential) District regulations and Section 20.10.360 and Section 20.04.15 of the El Paso City Code.

3. The Applicant shall sign an agreement to develop the property and to perform all construction thereon in accordance with the approved detailed site development plan and the standards applicable in the P-R I (Planned Residential) District. 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.

4. This approval shall be void if construction on the property is not started in accordance with the approved detailed site development plan within four (4) years from the date hereof.

ADOPTED this _____ day of _____, 2009.

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

Mathew S. McElroy
Deputy Director-Planning
Development Services Department

(Agreement on following page)

BARRAGAN & ASSOCIATES

Land Planning & Land Surveying

EXHIBIT "A"

10950 Pellicano Dr. Building "F", El Paso, Texas 79936

Ph. (915) 591-5709

Fax (915) 591-5706

DESCRIPTION

Description of a parcel of land being the southerly 130 feet of Lot 20, Block 2, Old Farm Subdivision Replat "A", (filed in volume 58, page 12, Plat Records of El Paso County, Texas), City of El Paso, El Paso County, Texas, being more particularly described as follows:

Commencing at an existing city monument located at a P.I. of a curve of the centerline of Oleaster Drive (50' right-of-way), and being in front of Lot 20, of said Block 2; **THENCE**, N 53°25'14" E, a distance of 50.11 feet to a found 5/8" rebar on the westerly right-of-way line of Oleaster Drive, marking the southeasterly corner for a boundary recorded in volume 2649, page 619, Real Property Records of El Paso County, Texas said rebar also being the "**Point of BEGINNING**" of this description;

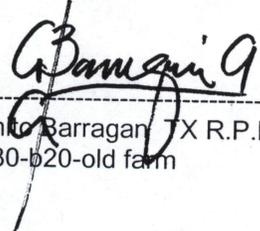
THENCE, 141.40 feet, along said right-of-way line and along an arc of a curve to the right, with an interior angle of 12°32'06" , a radius of 646.34 feet and a chord which bears, S 05°57'03" E, a distance of 141.12 feet to a set 5/8" rebar for the most southerly corner for said Lot 20, Block 2;

THENCE, N 28°51'00" W, along the westerly boundary line of said Lot 20, a distance of 130.00 feet, to a found 5/8" rebar for the southwesterly corner for said property in volume 2649, page 619, Real Property Records of El Paso County, Texas;

THENCE, N 61°09'00" E, along the southerly line of said boundary recorded in volume 3047, page 1504, Real Property Records of El Paso County, Texas, a distance of 54.91 feet, to the "**POINT OF BEGINNING**" for the parcel of land herein described, containing 0.09 acres of land more less.

NOTES:

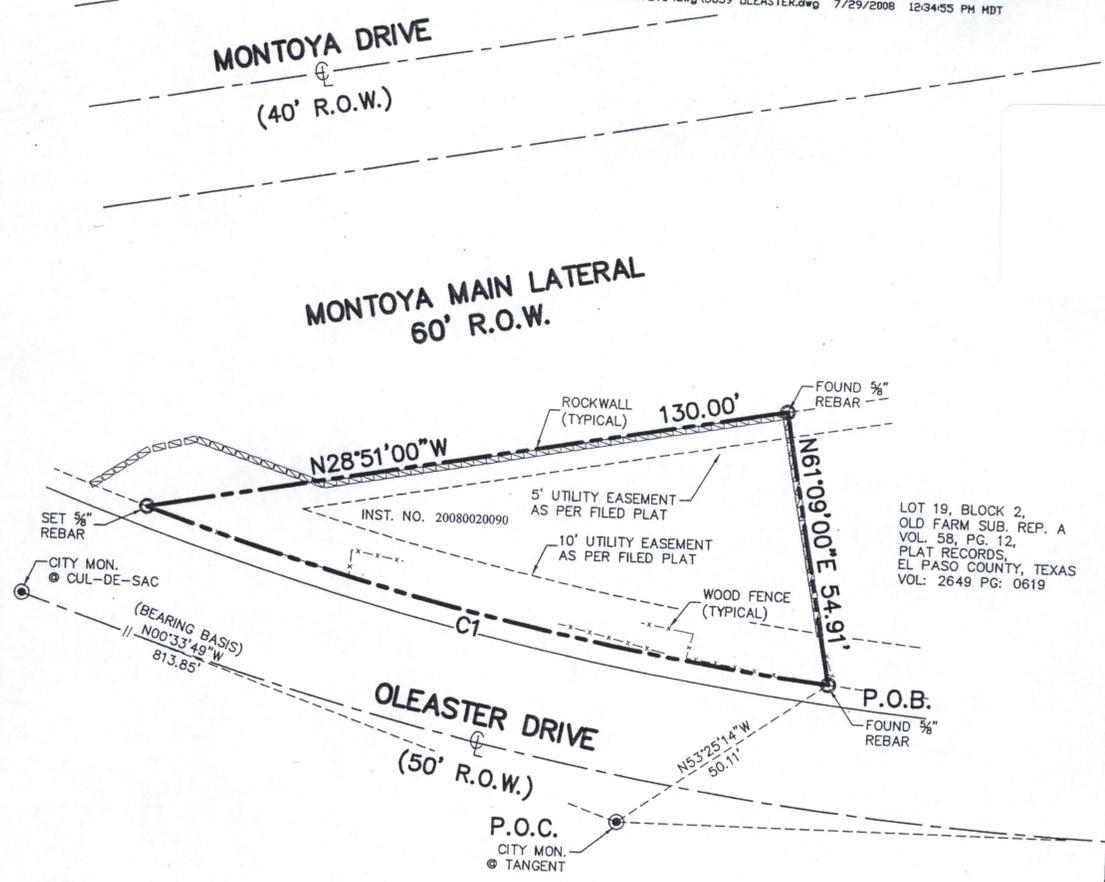
1. A Plat of Survey of even date accompanies this Description.
2. Bearings recited herein are based on the centerline of Oleaster Drive, as shown on the filed plat for Old Farm Subdivision Replat "A".



Benito Barragan TX R.P.L.S. No. 5615 , 07/29/08
S130-b20-old farm



EXHIBIT "A"



LOT 19, BLOCK 2,
OLD FARM SUB. REP. A
VOL. 58, PG. 12,
PLAT RECORDS,
EL PASO COUNTY, TEXAS
VOL: 2649 PG: 0619



NOTE:

1. SUBJECT PROPERTY SHOWN HEREON APPEARS TO BE LOCATED IN FLOOD ZONE "X", AREA OF MINIMAL FLOODING, PER F.I.R.M. PANEL NUMBER 125B, LAST REVISION DATE SEPTEMBER 4, 1991. THIS SURVEYOR MAKES NO GUARANTEES AS TO THE ACCURACY OF THE ABOVE INFORMATION. THE LOCAL F.E.M.A. AGENT SHOULD BE CONTACTED FOR VERIFICATION.
2. BEARINGS SHOWN ARE BASED ON THE FILED PLAT FOR OLD FARM SUBDIVISION REPLAT "A".
3. THIS PROPERTY MAY BE SUBJECT TO EASEMENTS WHETHER OF RECORD OR NOT, (NOT SHOWN).
4. THE PROPERTY OWNERS ARE SOLELY RESPONSIBLE FOR COMPLYING WITH ALL TITLE COMMITMENT PROVISIONS AND CONFIRMING THE SIZE AND USE OF ALL RECORDED EASEMENTS PERTAINING TO THIS PROPERTY, IN SPITE OF THE ACCURACY OR DEFECTS OF THIS PLAT.
5. THIS SURVEY WAS DONE WITHOUT THE BENEFIT OF A TITLE COMMITMENT.
6. A WRITTEN DESCRIPTION OF EVEN DATE ACCOMPANIES THIS PLAT.

CURVE TABLE						
CURVE	LENGTH	RADIUS	BEARING	CHORD	DELTA	TANGENT
C1	141.40	646.34	S05°57'03"E	141.12	12°32'06"	70.99

REV. 7/29/08

Barragan & Associates

LAND PLANNING & SURVEYING
10950 Pellicano Dr. Building-F,
El Paso, Tx 79935
Phone (915) 591-5709 Fax (915) 591-5706

Plat of Survey

SOUTHERLY 130 FT OF LOT 20,
BLOCK 2,
OLD FARM SUBDIVISION REPLAT "A",
AN ADDITION TO THE
CITY OF EL PASO,
EL PASO COUNTY, TEXAS.
AREA 0.09 ACRES ±

Plat reference vol/bk 58 pages 12
Scale 1"=30' Date 6/4/08 Drawn by OE

PREPARED BY AND UNDER THE SUPERVISION OF

Benito Barragan, R.P.S.S. Tex. No. 5615
Job No. 080522-21 Copy Rights ©



**DEVELOPMENT SERVICES
PLANNING DIVISION
MEMORANDUM**

DATE: February 23, 2009
TO: The Honorable Mayor and City Council
Joyce A. Wilson, City Manager
FROM: Arturo Rubio, Planner
SUBJECT: **ZON08-00074**

The City Plan Commission (CPC), on January 08, 2009, voted 5-1 to recommend **APPROVAL** of detailed site development plan.

The CPC found that the detailed site development plan is in conformance with all applicable requirements of the El Paso City Code, 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 detailed site development plan 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 detailed site development plan will have no effects on the natural environment, social economic conditions, and property values in the vicinity and the city as a whole.

The CPC recommended approval of Detailed Site Development Plan on November 05, 2008, however was presented for reconsideration to the CPC on January 08, 2009 due to a requirement of the Detailed Site Development Plan by 20.04.150 *Detailed Site Development Plan*. The CPC recommended approval on January 08, 2009.

There was a petition with 57 signatures, three visits to Planning Division and 9 e-mails in opposition

Attachment: Staff Report

Mayor
John F. Cook

City Council

District 1
Ann Morgan Lilly

District 2
Susannah M. Byrd

District 3
Emma Acosta

District 4
Melina Castro

District 5
Rachel Quintana

District 6
Eddie Holguin Jr.

District 7
Steve Ortega

District 8
Beto O'Rourke

City Manager
Joyce A. Wilson



City of El Paso – City Plan Commission Staff Report

Case No: ZON08-00074 (**Reconsideration**)
Application Type: Detailed Site Development Plan Review
CPC Hearing Date: January 08, 2009
Staff Planner: Arturo Rubio, 915-541-4633, rubioax@elpasotexas.gov

Location: 5851 Oleaster
Legal Description: The Southerly 130 feet of Lot 20, Block 2, Old Farm Subdivision Replat A, City of El Paso, El Paso County, Texas

Acreage: 0.09 acres
Rep District: 1
Existing Use: Vacant
Existing Zoning: P-R I (Planned Residential I)
Request: Reduce lot size, lot width and set-backs

Property Owner: Edmundo A. Lewis
Applicant: Edmundo A. Lewis
Representative: Edmundo A. Lewis

SURROUNDING ZONING AND LAND USE:

North: P-R I (Planned Residential I), Single-Family dwelling
South: P-R I (Planned Residential I), Single-Family dwelling
East: P-R I (Planned Residential I), Single-Family dwelling
West: P-R I (Planned Residential I), Single-Family dwelling

THE PLAN FOR EL PASO DESIGNATION: Residential (Northwest Planning Area)

NEIGHBORHOOD ASSOCIATIONS: Save the Valley, Coronado Neighborhood Association, Upper Mesa Hills Neighborhood Association, Upper Valley Neighborhood Association, Upper Valley Improvement Association and Mountain Arroyos Neighborhood Association.

APPLICATION DESCRIPTION

The Detailed Site Development Plan was approved by City Plan Commission on November 5, 2008. The Detailed Site Development Plan is being brought back to City Plan Commission for reconsideration of changes to the plan that include a car port size reduction and Professional Engineers seal on plan.

The detailed site development plan review is a requirement of the P-R I (Planned Residential) district for modification of density and dimensional standards section 20.12 covered under Supplemental Standards section 20.10.360, C. (c) of the El Paso Zoning Ordinance. Section 20.10.360 C, (c) states, “Where the development is for single-family detached dwellings but does not meet the requirements set forth in Chapter 20.12 (Density & Dimensional Standards); or where the development proposes permitted uses other than single-family detached dwellings, a

detailed site development plan shall be submitted in accordance with Chapter 20.04. Additional reasonable conditions may be recommended by the City Plan Commission and approved by the City Council in order to protect the public, health, safety and welfare". The applicant is proposing a 1,139.13 sq. ft. single family dwelling with reduced lot size, lot depth and yard setbacks. Access is proposed via Oleaster Drive. The setback requirements and proposed reduced lot depth and yard set-backs for P-R I are as follows:

Required Dimensional Standards:

The existing P-R I district set-back requirements for single-family detached dwelling development are as follows: Lot area 4,000 square feet, Front setback 10' except that a 20' driveway must be provided, Rear yard set-back, 10' with no cumulative required, side yard, set back, 10' between structures and side street yard setback, 10'. Lot depth requirement is 100' and average lot width is 40'.

Proposed Dimensional Standards: The applicant is requesting to reduce the lot area to 3,922.93 square feet for a total reduction of 77.07' square feet, reduce the side setbacks to 4' and 5' to reflect the required 10' between structures, in reference to a structure (dwelling area) to structure (dwelling area) and reduction of lot depth to 70' feet from the required 100' feet. The applicant is also proposing a 20' driveway as required.

Landscape Required:

Landscape is not required in residential development; however applicant has listed landscaped areas along the front of the property.

NEIGHBORHOOD INPUT

Notice of the public hearing not required on detailed site development plan per El Paso City Zoning Ordinance. Planning did receive one letter, one phone call and a visit in opposition to the detailed site development plan.

The Plan for El Paso –City-wide Land Use Goals:

Detailed Site Development Plan for Planned Residential Development

- a. Goal: develop a balanced and complete community which contains a mix of land uses and densities, housing types and styles, economic development, job opportunities, educational opportunities, and outlets for social and cultural expression.
- b. Goal: provide and enforce standards for providing decent, safe and sanitary housing for all El Pasoans in accordance with federal, state and local regulations.
- c. Goal: provide a wide range of housing types that respond to the needs of all economic segments of the community.
- d. Goal: protect residential areas from incompatible land uses and encroachment which may have a negative impact on the residential living environment.

The purpose of the Planned Residential Development District I is to encourage planned developments as a means of creating superior living environment through unified planning and building operations at lower residential densities.

The regulations of the district are designed to encourage a variety in housing needed to meet

changing housing demands. The P-R I district offers an opportunity for design flexibility and use of open space. The P-R I district also encourages innovations which may result in improved relationships between uses of different types and transportation facilities.

The proposed development conforms to all applicable zoning and detailed site development plan regulations in the P-R I (Planned Residential I) district. The requested reductions to lot size, lot depth and setbacks are permitted through the submission and approval of a detailed site development plan by the City Plan Commission in accordance to section 20.04, 20.10.360 and 20.12 of the El Paso City Code. The detailed site development plan will serve to protect the overall character, architectural integrity, economic vitality, and livability of the neighborhoods.

The detailed site development plan also ensures that the requirements of the location arrangement of structures, utility rights of way and easements, storm water drainage, vehicular and pedestrian ways, on-site parking, density and dimensional standards and location of open spaces are met.

DEVELOPMENT COORDINATING COMMITTEE

The Development Coordinating Committee provides the following comments:

The DCC recommends **Approval** of detailed site development plan.

Development Services - Building Permits and Inspections Division:

Zoning Review: No objection to the proposed Detailed Site Development Plan.

Development Services - Planning Division:

Current Planning: Recommends **Approval**; request meets the requirements of the detailed site development plan section 20.04.150 and modifications to Density and Dimensional Standards 20.12 and Supplemental Use Regulations Section 20.10.360, C (c) PR- I (Planned Residential I) of the City of El Paso Zoning Ordinance.

Land Development: No comments received.

Engineering Department, Traffic Division:

No objections.

Fire Department:

No comments received.

El Paso Water Utilities:

EPWU-PSB 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 detailed site plan application

- 1 Recommend approval of the application finding that the detailed site development plan 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 detailed site development plan 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 detailed site development plan 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

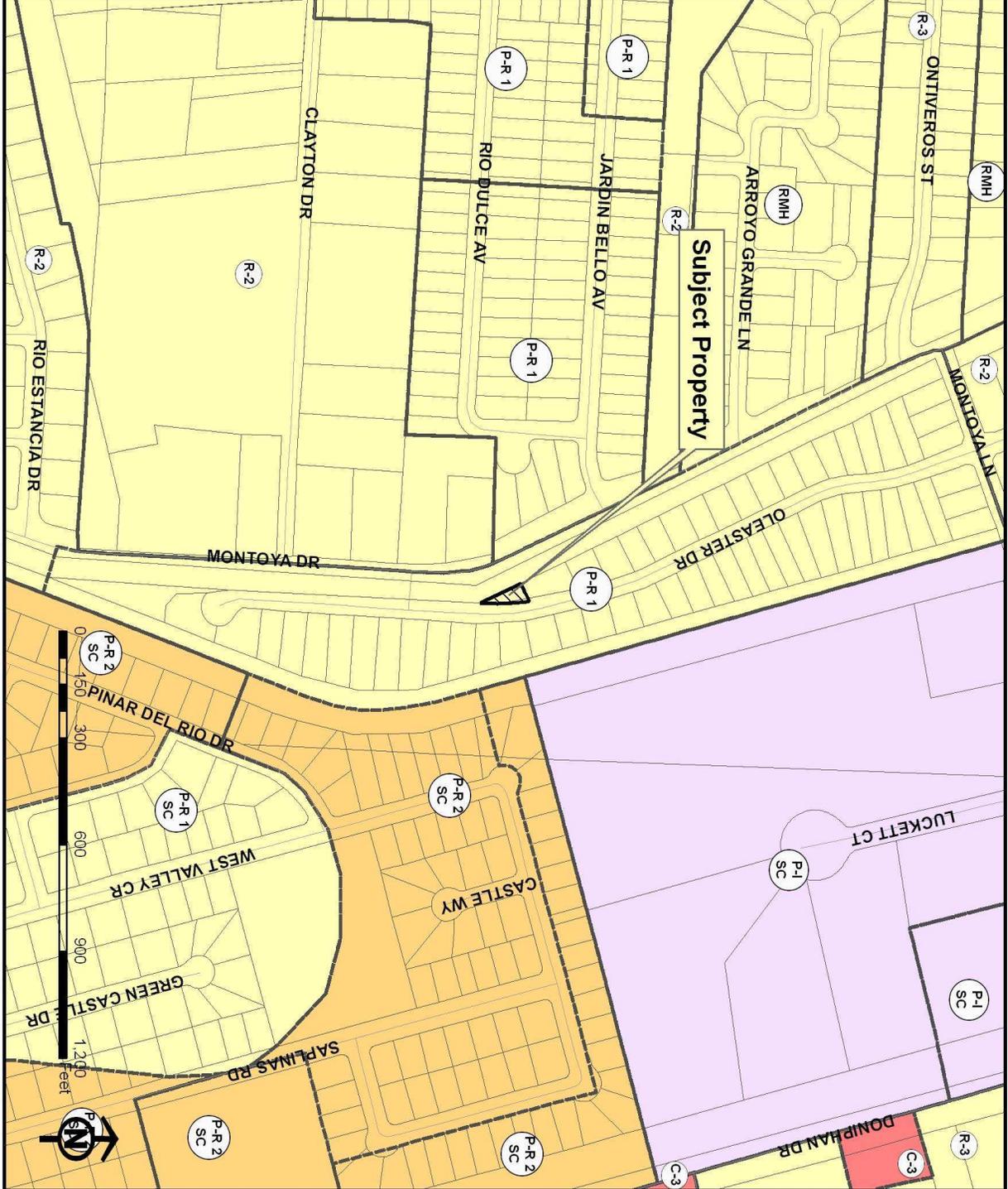
Attachment 2: Aerial Map

Attachment 3: Detailed Site Development Plan and Side Elevations

Attachment 4: Opposition Letters & Petitions

Attachment 1: Zoning Map

ZON08-00074

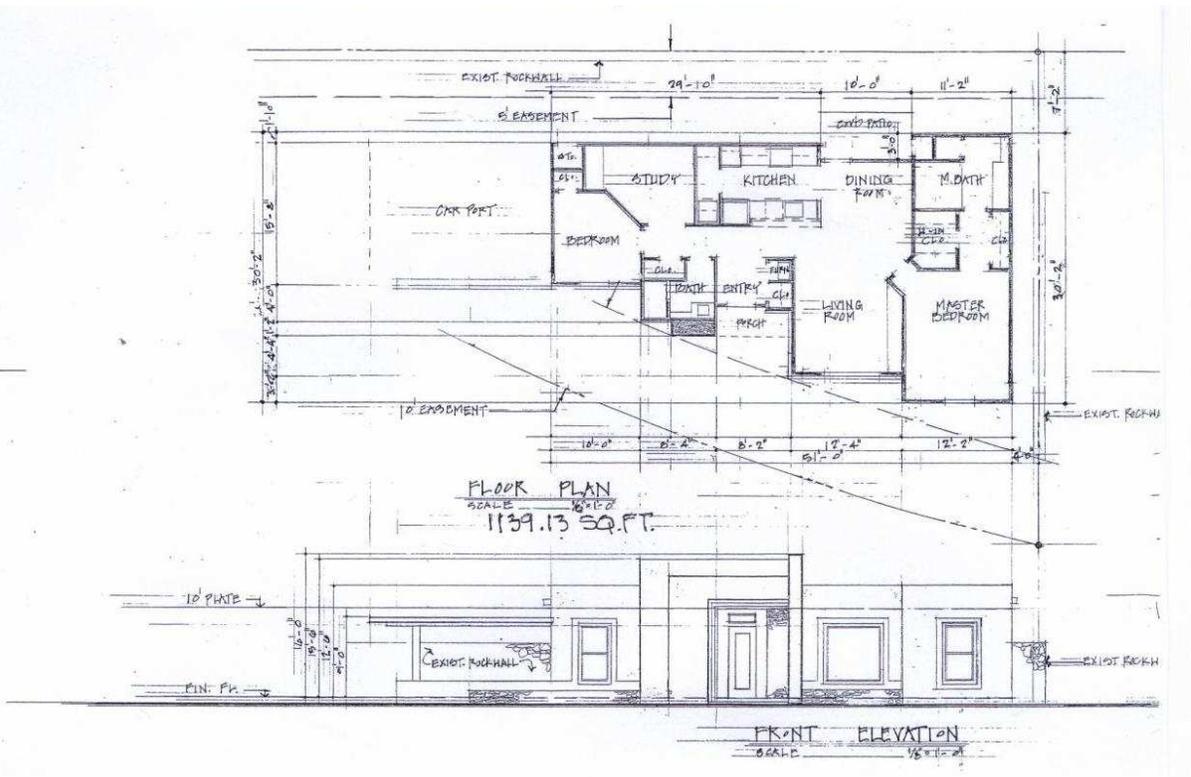
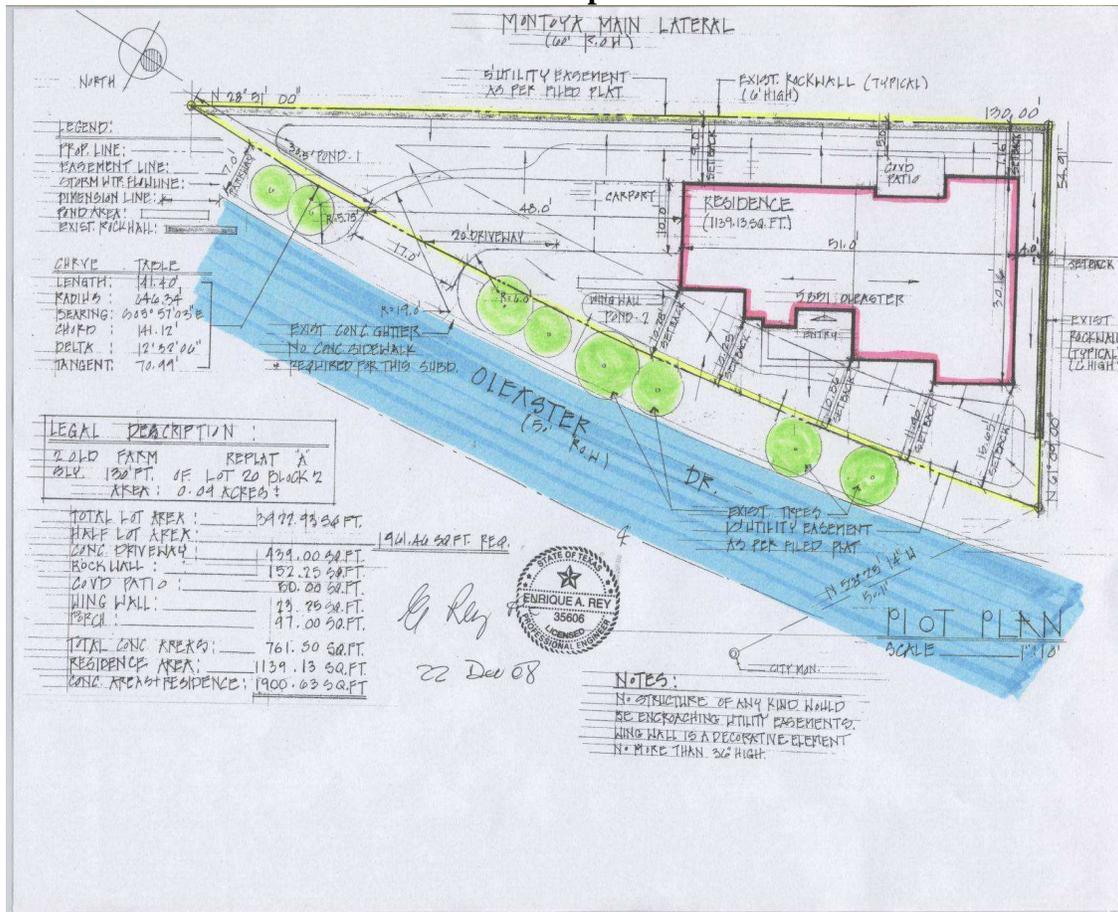


Attachment 2: Aerial Map

ZON08-00074



Attachment 3: Detailed Site Development Plan and Side Elevations



Attachment 4: Opposition Letter

Page 1 of 4

Rubio, Arturo

From: Save The Valley.whc [savethevalley@whc.net]
Sent: Monday, October 20, 2008 4:07 PM
To: McElroy, Mathew; Rubio, Arturo
Subject: Old Farm ZON08-00074 comments for CPC Oct 23 2008
Importance: High
Attachments: Old Farm Zon08-00074001.pdf, Old Farm ZON08-00074 Comments for CPC Oct 23 2008.docx

Dear Mr. Rubio and Mr. McElroy,

Please forward these comments from Mr. Zemans, a member of Save the Valley Neighborhood/Civic Association, to the City Plan Commissioners so that they may have time to review the detailed comments before the hearing on October 23, 2008.

Thank you.

Mary Frances Keisling, President
Save the Valley Neighborhood/Civic Association
5701 Vista Linda, El Paso, Texas 79932
915-440-0679 915-584-3040

To: City Plan Commission
From: Jeffrey Zemans
5846 Oleaster Drive, El Paso
Subject: ZON08-00074, Zoning District PR-1 Comments

20.10.010 General Restrictions

B. Lot Required. Every building hereafter erected, altered, expanded, placed, converted, or otherwise located shall be on a lot or lots, and in no case shall there be more than one main building on one lot unless otherwise provided in this title.

Legal description of property is, "The southerly 130 feet of Lot 20, Block 2, Old Farm Subdivision, Replat 'A'." A single family dwelling at 5859 Oleaster occupies Lot 20, Block 2, therefore construction of a second single family dwelling on same lot would violate 20.10.010 B.

20.12.020 Table of density and dimensional standards

PR-1 requires a minimum lot depth of 100 feet. Code defines "lot depth" as follows:

20.02.532 Lot depth.

"Lot depth" means the distance between the front and rear lot lines, measured as follows:

10/20/2008

Attachment 4: Opposition Letter

Page 2 of 4

1. Where the lot lines are straight, from the midpoints thereof;
2. Where the lot line curves in or out, from the midpoint of the arc between the side property lines;
3. Where there is no rear lot line, the lot depth shall be the length of a straight line connecting the bisecting point of the front lot line and the intersection of the two sidelines. (Ord. 16653 § 2 (part), 2007)

The applicant's property is three-sided with no rear lot line. A line drawn according to definition is 73.4 feet. Therefore subject property does not meet required minimum.

PR-1 requires a minimum side yard of 10 feet between structures. A "structure" is defined as follows:

20.02.1048 Structure.

"Structure" means that which is built or constructed, an edifice or building of any kind, or other artificially built or constructed work. (Ord. 16653 § 2 (part), 2007)

A wall is defined as follows:

20.02.1142 Wall, screening.

"Screening wall" means any structure or device forming a physical barrier which is constructed so that the vertical surface is solid, thus preventing the passage of light, air and vision. The material of which a wall is constructed may be masonry, brick, concrete, metal, wood or other similar materials. Measurement of height shall be from the high ground. (Ord. 16653 § 2 (part), 2007)

Therefore, the rockwall on the sides of the subject property is a "structure". Furthermore, the definition of required side yard is as follows:

20.02.1166 Yard, required side.

"Required side yard" means that part of a lot that is between the side property line and the required side yard setback line and is not a rear yard. (Ord. 16653 § 2 (part), 2007)

The definition of required rear yard is as follows:

20.02.1164 Yard, required rear.

"Required rear yard" means that part of a lot between the rear lot line and the required rear yard setback line, and extended to both side lot lines. (Ord. 16653 § 2 (part), 2007)

Without a rear lot line, there can be no rear yard. Using definitions previously cited, applicant is requesting a side yard on the north side of the property of 3.375 feet and a side yard on the west side of 3.75 feet. Therefore neither side yard conforms to 20.12.020.

20.14.050 Table C Minimum Parking Requirements:

10/20/2008

Attachment 4: Opposition Letter

Page 3 of 4

"line 13.31 single family detached dwelling 2/dwelling unit"

Applicant's plot plan shows only 1 off-street parking space. Parking on the public right-of-way as depicted on plot plan would violate prohibition in 20.14.040 A. Therefore, application does not comply with off-street parking Code requirement.

On-Site Ponding is a contract provision and a covenant. It requires,

"That all lots in Old Farm Subdivision shall be subject to on-site ponding and have the capacity to accommodate storm waters up to a depth of 15 inches following the design storm."

"That no more than 50% of the area of land covered by the deed shall be covered by improvements of any kind either temporary or permanent (house, driveways, patios, auxiliary buildings, landscaping having impenetrable material under it and so forth) which will shed storm waters on to the lot."

A corollary is that no less than 50% of the land shall have the capacity to accommodate storm waters up to a depth of 15 inches. This would necessitate that the difference in elevation between a dwelling and on-site ponding areas must be 15 inches at a minimum.

Applicant's plot plan clearly shows (i.e. pond 1 & pond 2) less than 25% of lot area as ponding areas.

Other errors abound: Summation of impermeable areas omits horizontal area of 130 feet X 1.25 feet rockwall and 45 feet X 0.625 foot rockwall shown on plot plan. Additionally, plot plan does not show a walkway to dwelling's front entry. The altered 10/09/08 plot plan expands the dwelling depth dimension by an average of 0.712 foot (compare front setbacks on the 10/09 version vs. the original plot plan).

Including just the rockwalls would bring impermeable area to 1,981.38 sq. feet, exceeding the maximum allowable limit of 1,961.46 sq.ft. Including the altered dwelling area (0.712 foot X 51.0 feet) and the absent required second off-street parking space (9 feet X 18 feet minimum) would add respectively 36.31 and 162 sq.ft. to the summation bringing it to 2,179.69 sq.ft.

Because ponding areas on plot plan are less than half the area required and impenetrable area exceeds maximum allowable as well as the fact that the plan lacks any meaningful gradation or elevation detail sufficient to show that all on-site ponding areas are capable of retaining 15 inches of storm water without run-off to Oleaster Drive, applicant's plan fails to demonstrate any ability to meet contractual provisions. I understand that were CPC to approve the Detailed Site Plan Application, deviations from contract provisions and yard standards would require a City Council ruling.

ZON08-00074 exemplifies the sort of helter-skelter approach to errant development that the zoning code evolved to prevent. I respectfully request that the Commission reject this Application.

Sincerely,

10/20/2008

Attachment 4: Opposition Letter

Page 4 of 4

Jeffrey T. Zemans

10/20/2008

Attachment 4: Opposition Letter

Rubio, Arturo

From: Jeffrey Zemans [palaver_1@yahoo.com]
Sent: Monday, October 27, 2008 11:12 AM
To: Rubio, Arturo
Cc: save-the-valley@whc.net; marcos@utep.edu; teranandrea@hotmail.com
Subject: ZON08-00074 10/20/08 Plot Plan

Dear Mr. Rubio:

Please consider and present the following information at your DCC meeting:

1. Plan shows only one off-street parking space, whereas Code requires two. The second parking space would use an additional 200 square feet of impermeable area.
2. Plan shows less than 25% area devoted to on-site ponding whereas Contract/Covenant requires no less than 50% area capable of holding 15 inches.
3. Residence floor area is shown as 1,139 square feet, whereas for the purpose of determining impermeable area, outside dimensions are applicable. I measure outside wall length to be 163 feet and assuming a wall thickness of 1.0 foot, calculate the actual impermeable area to be the sum of 1,139 and 163 square feet for a total of 1,302 square feet.
4. Plan shows rock walls as contributing a total of 152.25 square feet to impermeable area, whereas 130 feet of wall is shown to be within the west property line and 44 feet of wall is shown to be on and equally divided by the north property line. I measured these walls to be 15 inches thick. Therefore, the west wall adds 162.5 (i.e. 130X1.25) square feet and the north wall adds 27.5 (i.e. 44X1.25/2) square feet for a total of 190 square feet of rockwall impermeable area. $190 - 152.25 = 37.75$ additional.

In summary, items 1, 3, and 4 would add respectively $200 + 163 + 37.75$ square feet to the plan's summation or an additional 400.75 square feet. This disparity brings the actual total impermeable area to a contractually prohibited 2,301.38. Considering this along with the gross deficiency outlined in item 3, I respectfully submit that the Development Coordinating Committee has no choice but to reject applicant's proposal.

Sincerely,

Jeffrey T. Zemans

Attachment 4: Opposition Letter

Rubio, Arturo

From: Jeffrey Zemans [palaver_1@yahoo.com]
Sent: Monday, October 27, 2008 11:38 AM
To: Marcos Aguilar; Mary Frances Keisling; Rubio, Arturo; Jason & Andrea Sykes
Subject: ZON08-00074 10/20/08 Plot Plan

Within the last sentence in the last paragraph of the email I just sent, please replace, "in item 3" with, "in item 2".

Sincerely,

Jeffrey Zemans

FW ZON08-00074

From: McElroy, Mathew
Sent: Thursday, March 05, 2009 8:17 AM
To: Rubio, Arturo
Subject: FW: ZON08-00074

Importance: High

Art, please update council packet with the following letter if you did not receive a separate copy.

Mathew S. McElroy
Deputy Director
Development Services Department - Planning
2 Civic Center Plaza, 5th Floor
El Paso, Texas 79901
Office: (915) 541-4193
Mobile: (915) 873-6310

-----Original Message-----

From: Jeffrey Zemans [mailto:palaver_1@yahoo.com]
Sent: Friday, February 20, 2009 2:39 AM
To: McElroy, Mathew
Subject: ZON08-00074

Dear Mr. McElroy:

Please relay these comments to City Council for their consideration on February 24, 2009.

I oppose ZON08-00074 for the following reasons:

1. Applicant seeks an unprecedented and unwarranted approval to alter existing zoning standards in an established planned residential neighborhood. The City Code cited in the application (20.10.360 C) only describes a single process for predevelopment rezoning of a district as a new planned residential subdivision. No language pertains to individual lots or modification of standards of an existing developed neighborhood. Therefore, ZON08-00074 is premised on fallacy.
2. Applicant's lot abuts the western boundary line of the Old Farm subdivision. Applicant proposes to place a residence within 5 feet of that line. The PR-1 ordinance (20.10.360 C3) prohibits location of any structure within 10 feet of the outside boundary line. Therefore, ZON08-00074 would violate City Code.
3. This proposed development would not conform with 4 of 7 minimum dimensional standards of chapter 12. Additionally, ZON08-00074 is aptly described in chapter 22 as a nonconforming situation which is, "undesirable and incompatible with surrounding conforming uses.

Submitted by,

Jeffrey Zemans
5846 Oleaster Dr.
El Paso

We the community of Old Farm subdivision strongly oppose the construction of a residence on 5851 Oleaster. For over twenty years the Old Farm Park has been a valuable asset to our neighborhood. Our properties were purchased, under the impression that this property was to serve as Old Farm Park. Many community members have fond memories of their children playing in this area. According to the City Council the declaration of parks, private or public, were for the well being and enjoyment of the community. Not only did we purchase our properties with this ideal but, we bought into the impression of the neighborhood. Lot sizes are large, and all houses have a pleasant aesthetic quality to them. Old Farm homeowners have had a vested interest in the park, an attractive, integral feature of our planned subdivision. Last year, without notification to or consideration of the residents, the city seized the park, removed its playground equipment, and sold the land to a developer. The taking of the Old Farm Park contradicts City Council's declaration, harms public welfare and is a disservice to the neighborhood. That developer has submitted a plan to the Development Services Department and the Department is recommending approval to build a house in a triangular space with a single bay carport without a rear yard and only a ten foot front yard, totally out of character with the planned layout of Old Farm Subdivision.

This petition is to state our concerns and voice our disappointment of this situation.

We the community members of Old Farm ask:

1. That the city return and restore or replace the Old Farm Park.
2. That the City Plan Commission not approve the proposed development.

NAME	ADDRESS	SIGNATURE
MARCOS AGUILAR	5859 Oleaster	[Signature]
Nora Ariza-Aguilar	5859 Oleaster	[Signature]
Joyce Watts	5800 Oleaster	[Signature]
JACOB HOEY	271 BRIDALWAY	[Signature]
CHRIS D. SMITH	5858 OLEASTER DR.	[Signature]
G.E. RIVERA	5942 OLEASTER	[Signature]
Lupe Rivera Mye Rivera	5948 Oleaster	[Signature]
DAN PARISI	5948 OLEASTER	[Signature]
Dana Parisi	5948 Oleaster	[Signature]
Jacqueline Parisi	5948 Oleaster	[Signature]
Silvia Rivera	5949 Oleaster	[Signature]
Luis F. Rivera	5949 Oleaster	[Signature]
Amanda Marquez	5941 Oleaster	[Signature]
MAT Marquez	5941 Oleaster	[Signature]
Viginia Mason	5936 Oleaster	[Signature]
Jim W. Mason	5936 CHEASTER	[Signature]
Kathleen Blancas	5804 Oleaster Drive	[Signature]
Elena Lujan	5806 Oleaster	[Signature]
Carlos Acosta	5822 Oleaster	[Signature]
IRIS ROBERTS	5826 OLEASTER	[Signature]

CITY CLERK DEPT.
09 FEB 23 PM 2:55

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NAME	ADDRESS	SIGNATURE
COLBEN McAMMOND	5838 OLGASTGA	<i>[Signature]</i>
Jason Sykes	5842 Oleaster	<i>[Signature]</i>
Andrea Sykes	5842 Oleaster	<i>[Signature]</i>
SKIP ROSENTHAL	5850 OLEASTER	<i>[Signature]</i>
Yolie Hernandez	5871 Oleaster	<i>[Signature]</i>
Bill Bennett	5876 Oleaster	<i>[Signature]</i>
John Hey	5871 OLEASTER	<i>[Signature]</i>
JAMES MEEK	5866 OLEASTER	<i>[Signature]</i>
MARJORIE MEEK	5866 OLEASTER	<i>[Signature]</i>
SALVADOR HERRERA	5904 Oleaster	<i>[Signature]</i>
SANNY HONIS	5900 Oleaster	<i>[Signature]</i>
JoAnn Toder	5908 Oleaster	<i>[Signature]</i>
_____	_____	_____
_____	_____	_____
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2. That the City Plan Commission not approve the proposed development.

NAME	ADDRESS	SIGNATURE
Shauna Thomas	5818 Oleaster Dr.	<i>Shauna Thomas</i>
Cynthia GARCIA	5814 Oleaster	<i>Cynthia Garcia</i>
Alma Locatelli	5932 Oleaster	<i>Alma Locatelli</i>
Luis PASTRAN	5932 OLEASTER	<i>Luis Pastro</i>
Antonio MALDONADO	5940 OLEASTER	<i>A. Maldonado</i>
BLANCA MALDONADO	5940 OLEASTER	<i>Blanca Maldonado</i>
Karen Bennett	5870 Oleaster	<i>Karen Bennett</i>
Ernie Watts	5800 Oleaster	<i>Ernie Watts</i>
Lauren Cragin	5800 Oleaster	<i>Lauren Cragin</i>
_____	_____	_____
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_____	_____	_____

CITY CLERK DEPT.
 09 FEB 23 PM 2:55

Rubio, Arturo

From: Jeffrey Zemans [palaver_1@yahoo.com]
Sent: Monday, November 03, 2008 3:09 PM
To: Rubio, Arturo
Subject: ZON08-00074 CPC Staff Report 11/06/08

To: City Plan Commission
From: Jeffrey Zemans
5846 Oleaster Dr., El Paso

ERRORS & OMISSIONS

The City Plan Commission Staff Report - Neighborhood Input states, "Notice of public hearing not required on detailed site development plan per El Paso City Zoning Ordinance." Development Services has accepted and recommended approval of an application which, under 20.10.360 and 20.04.150, seeks to change zoning conditions. Under Article III - Detailed Site Development Plan Approval Process, 20.04.150 D., a CPC public hearing is required. Under 20.04.520, "Where a public hearing is required by this chapter, notice shall be given in the manner specified below:

A. Content of Notice. Required mailed notices and notices by publication shall include the date, time, and place of the hearing, a description of the subject matter of the hearing and the body holding the hearing. Required on site posting of notice shall be as specified in subsection (B)(2)(c) of this section.

B. Provision of Notice. Notice will be given as per Chapter 2.102 of this code and additionally in the following manner:

1. In all cases, by mail to the applicant, or owner of the property that is subject of the application, if different; 2. On applications for special permits, amendments to zoning conditions, and amendments to the district map, additional notice shall be given as follows:

a. Notice of hearing before the city plan commission shall be given by mail to all owners of real property, as indicated by the most recently approved municipal tax roll within three hundred feet of the lot line of the subject property."

Also, under 2.102 a zoning change request requires neighborhood association notification.

The only notification I received was aural - the din of a chain saw as Applicant cut trees on his property and on the public-right-of-way in front of his property. Development Services continues to insist that notice of public hearing is not necessary and has not complied with Title 20 or Title 2 notification requirements.

The CPC Staff Report - Application Description misstates the applicability and purpose of 20.10.360 C. Planned Residential Development Standards. The report's reference to, "20.10.360 C, (c)" is in error, as the subsection quoted is actually 20.10.360 C.4.c. The distinction is critical as subsection 4 carries the heading, "Review Standards for Establishment of P-R District." 4.a, b, and c unambiguously and exclusively refer to development of an entire P-R district. The Staff Report misconstrues "development" under subsection 4 to pertain to a single parcel of land as small as 0.09 acre. By approving submittal of a Detailed Site Development Plan under Section 360 of Chapter 10, Development Services has placed Applicant on the wrong regulatory path. It is a mistake to apply to establish a 0.09 acre mixed use district when 20.12 Appendix B, Table of Density and Dimensional Standards, Subpart A sets a minimum district area of 1 acre. Also, when reading

the other three subsections, (i.e., 20.10.360 C.1, 2, and 3) the irrelevance of Applicant's plan is obvious. The Staff Report - Application Description has no basis. Thus, Applicant's plan must conform to the Table of Density and Dimensional Standards.

I informed Deputy Director Mathew McElroy of his Department's misapplication of 20.10.360 Development Standards by letter dated October 22, 2008. That letter is included with these comments. Other letters I submitted to Development Services are related to

different aspects of ZON08-00074 and are dated October 20, 2008 (Rubio and McElroy) and October 27, 2008 (Rubio).

The 11/06/08 Staff Report fails to advise the Commission that Applicant's plot plan does not provide a 2nd off-street parking space as required by Table C 13.31 of 20.14.050.

Plot Plan shows a 180 square foot floor area carport as encroaching upon the front yard. This violates 20.12.040 4. and is omitted from the Staff Report.

The Staff Report omits any reference to the On-Site Ponding Contract dated March 29, 1983 between the City and developers of the Old Farm Subdivision. The contract was signed by Mayor Jonathan W. Rogers, the City Clerk, an Assistant City Attorney and a representative of Planning, Research and Development. The agreement is a restriction, condition and covenant enforceable by the City and to which Applicant is subject. As shown in my October 20 and 27 letters, Applicant has misrepresented the actual impermeable area depicted on his plot plan and the plan substantially exceeds the maximum allowed by the Contract. Furthermore, the plot plan provides less than half the contractually required ponding area. As stated in 20.04.150 E., CPC does not have final plan approval authority if a zoning condition or a contract provision requires City Council approval. This issue is critical because improper street and lot drainage could flood applicant's dwelling and could cause flooding of adjacent residences on Oleaster Drive.

20.04.150 E.2. states that, "In no instance shall the city plan commission have authority to vary the yard standards applicable to the district." Yet, in addition to recommending nonconformance with minimum depth and area standards, the Staff Report is proposing that the CPC reduce side yard standards. The recommendation of approval by Development Services - Planning Division erroneously asserts that the request meets CPC's 20.04.150 approval requirements when both yard standards and contract provisions explicitly prevent approval. Their assertion that the request meets, "modifications to Density and Dimensional Standards 20.12 and Supplemental Use Regulations Section 20.10.360,C(c)...." is false. A 20.10.360 application to develop a district was not submitted and cannot be submitted. *Zoning*

Last year the Applicant acquired a nonconforming piece of a lot and has now put before the Commission a Detailed Site Development Plan which, through error and omission, would violate the following:

20.04.150 Procedure
20.04.520 Notice
20.10.010 General Restrictions
20.12.020 Density and Dimensional Standards 20.14.050 Minimum Parking Requirements
Contract/Covenant Provisions

The nonconforming situations policy statement 20.22.010 expresses my sentiment succinctly, "...nonconforming uses ... are ... undesirable and incompatible with surrounding conforming uses and require compliance with the regulations of this code, having due regard for the property rights of the persons affected, the public welfare, compatibility, and the character of the surrounding area." I respectfully ask the Commission to reject ZON08-00074.

Sincerely,

Jeffrey T. Zemans

Rubio, Arturo

From: Jeffrey Zemans [palaver_1@yahoo.com]
Sent: Monday, November 03, 2008 3:27 PM
To: Rubio, Arturo
Subject: 10/22/08 Letter to Mr. Mathew McElroy

Arturo, please forward this to the CPC for the 11/06/08 meeting.

Subject: ZON08-00074

To: Mr. Mathew McElroy

Subject: Misapplication of 20.10.360 setback reduction provision in Appendix "B" of Table of Density & Dimensional Standards

City Code, modeled after the Administrative Procedure Act, is arranged in the following hierarchy: Title, Chapter, Article, Section, and Subsection. Code by design, intent, and purpose is logical and is written as a pathway to action. A top to bottom page arrangement and sequential enumeration provide further guidance serving to clearly show which rules pertain to which circumstance. A Subsection serves no other purpose nor has any other applicability than to clarify the Section above it. A Chapter deals with a specific subject and every part below that Chapter pertains exclusively to that subject.

The section of Appendix "B" dealing with the zoning district category of P-R1 under a column heading of, "Other Standards" makes the following statement, "See section 20.10.360 setbacks may be reduced if approved on site development plan." Development Services has been construing this as an invitation for developers of lots smaller than one acre to submit a Detailed Site Development Plan Application to the CPC for the purpose of deviating from the minimum standards set forth in the Table of Density and Dimensional Standards.

Chapter 10 pertains to, "Supplemental Use Regulations" and Section 20.10.360 pertains to, "Mixed Use Development" and includes the following Subsections: A. Special Development (S-D); B. Union Plaza (U-P); C. Planned Residential (PR-1 and PR-2); D. Planned Commercial (P-C); E. Planned Industrial (P-I); F. Special Residential Revitalization (SRR); and G. Residential, General and Industrial Mixed Use Districts (RMU, GMU and IMU). Text within these Subsections clearly pertains to "districts," and the criteria within comprehensively identify how to establish a new zoning district (Union Plaza, an existing district being unique).

20.10.360 C. Planned Residential (PR-1 and PR-2)

1. Open Space and Recreation Area. The amount and arrangement of open space and recreation area should be in accord with the comprehensive plan and the purposes of the design of the development, including preservation of natural landscape, active recreation, passive recreation, and improvement of view as may be appropriate to a particular case. Both private and common use open space are to be encouraged. Open space proposed for common or general public access shall be so designated on the detailed site plan and subdivision plat. Satisfactory provision shall be made for the maintenance of common open space in accordance with the procedure in Chapter 20.04.

2. Preservation of the Environment. In all P-R developments, the elements of natural environment, including existing vegetation, arroyos, flood-prone areas, mountains, steep slopes and other features, shall be considered in planning and design and layout of buildings, location of streets and preservation of open spaces, in order to further the preservation of the natural environment.

3. Perimeter Treatment.

a. The perimeter of the planned development shall be designed to insure compatibility with adjacent existing or potential development by provision of compatible uses and structures; masonry walls; and landscaping or other treatment.

b. A minimum setback of ten feet plus two additional feet of separation for each story above two shall be maintained between any structure and the outside boundary line of the planned residential development.

4. Review Standards for Establishment of P-R District.

a. The city plan commission and the city council shall review the conformity of the proposed development or redevelopment with the comprehensive plan. The commission and the city council shall study the relationship between uses of high intensity permitted in the P-R district and uses of low intensity, existing or future, outside the proposed P-R district to ascertain compatibility, but shall not reduce the amount of such uses below the maximum established by this section unless such uses create immediate land use conflicts along project boundary lines.

b. Where the development is for single-family detached dwellings that meet all minimum requirements set forth in Chapter 20.12 (Density and Dimensional Standards) a detailed site development shall not be required.

c. Where the development is for single-family detached dwellings but does not meet the requirements set forth in Chapter 20.12 (Density and Dimensional Standards); or where the development proposes permitted uses other than single-family detached dwellings, a detailed site development shall be submitted in accordance with Chapter 20.04. Additional reasonable conditions may be recommended by the city plan commission and approved by the city council in order to protect the public health, safety and welfare.

C. is a Subsection dealing exclusively with Mixed Use Development and C. 4. c. is to be applied exclusively to the intended creation of a new zoning district, no more, no less. Application otherwise amounts to misfeasance and should be stopped forthwith.

Sincerely,

Jeffrey T. Zemans

82610

CONTRACT

THIS CONTRACT, made this ~~29th~~ day of March, 1983, by and between WESTGATE CENTER JOINT VENTURE, a joint venture composed of Harry W. Anderson, Willis G. Schoemaker and Willis Construction Company, First Party and the CITY OF EL PASO, Second Party, witnesseth:

First Party desires to file a replat of a subdivision to be named Old Farm Subdivision Replat A, being the same land presently identified as Old Farm Subdivision, in the City and County of El Paso, Texas. To remove certain objections to that replat, certain verbal covenants were made on behalf of First Party at the City Council meeting of March 8, 1983. In consideration thereof, Second Party accepted said replat. It was understood and agreed at that time by the parties that the verbal agreement would be superseded by a written version to the same effect, which is as follows.

The property described as Old Farm Subdivision, to be renamed Old Farm Subdivision Replat A, shall be subject to the following restrictions, conditions and covenants:

1. The proposed Amended and Restated Declaration of Covenants, Conditions and Restrictions shall provide as follows:
 - (a) That all lots in OLD FARM SUBDIVISION shall be subject to on-site ponding and have the capacity to accommodate storm waters up to a depth of 15 inches following the design storm.
 - (b) That permanent markers shall be placed on each lot prior to occupancy at various locations so as to establish the maximum elevation to which the lot may be raised without altering the ponding areas.
 - (c) That the permanent markers shall not be moved or altered and that the lot shall not be filled or changed in any manner to raise it above the permanent markers.
 - (d) That the City of El Paso and its inspectors, surveyors, agents and independent contractors shall have a permanent right of ingress to and egress from each lot for the purpose of checking the elevation markers and the on-site ponding areas.
 - (e) That the owner of each lot shall not be permitted to do any act which impairs or hinders the on-site ponding characteristics of his lot.
 - (f) That in the event the on-site ponding areas of a lot are altered, the owner shall restore the original on-site ponding areas to their original design and capacity.

1338-2090

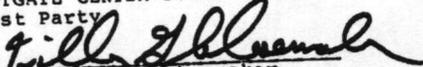
- (g) That no more than 50% of the area of land covered by the deed shall be covered by improvements of any kind either temporary or permanent (house, driveways, patios, auxiliary buildings, landscaping having impenetrable material under it and so forth) which will shed storm waters on to the lot.
- (h) That the owner of property utilizing on-site ponding waive any claim or cause of action against the City of El Paso, its officials or employees for any death, injury or property damage resulting from alterations of the ponding capacity for that lot.
- (i) That each owner of a lot is obligated to comply with any lawful order of the City regarding correction of any violation of the approved drainage plan for the subdivision insofar as is pertains to his lot within fourteen (14) calendar days of being given such notice in writing of the violation.
- (j) That deed restrictions shall be enforceable by injunctive relief without the requirement for a bond or other security.
- (k) That every conveyance of property permitting on-site ponding declare in conspicuous language in the deed that the property is subject to on-site ponding of storm waters, the placement of permanent elevation markers, the existence of standing water on the lot and inspection by the City of El Paso and other restrictions as set forth in the Declaration.

This Agreement is a restriction, condition and covenant running with the land and a charge and servitude thereon, and shall bind First Party and its 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 benefitted thereby.

WITNESS THE FOLLOWING SIGNATURES AND SEALS.

WESTGATE CENTER JOINT VENTURE
First Party

BY: 
Willis G. Schoemaker,
Managing Venturer

WILLIS CONSTRUCTION COMPANY

BY: 
Willis G. Schoemaker,
President

ATTEST:

Willis G. Schoemaker
City Clerk

APPROVED AS TO FORM:

Don Ryan
Assistant City Attorney

THE CITY OF EL PASO

BY:

James P. ...
Mayor

APPROVED AS TO CONTENT:

Joan M. ...
Planning, Research and
Development

THE STATE OF TEXAS)

COUNTY OF EL PASO)

This instrument was acknowledged before me this 29 day of March, 1983, by Willis G. Schoemaker, Managing Venturer of WESTGAGE CENTER JOINT VENTURE.

Carolyn Campbell
Notary Public, State of Texas
CAROLYN CAMPBELL, Notary Public
in and for the County of El Paso, Texas
My commission expires: _____

My commission expires:

4/15/85

THE STATE OF TEXAS)

COUNTY OF EL PASO)

This instrument was acknowledged to before me on this 29th day of March, 1983, by JONATHAN W. ROGERS as Mayor of the City of El Paso.

Leslie B. Hunter
Notary Public, State of Texas

My commission expires:

2-19-86

THE STATE OF TEXAS)

COUNTY OF EL PASO)

This instrument was acknowledged to before me on this 29th day of March, 1983, by Willis G. Schoemaker, President of WILLIS CONSTRUCTION COMPANY.

Carolyn Campbell
Notary Public, State of Texas

CAROLYN CAMPBELL, Notary Public
in and for the County of El Paso, Texas
My commission expires: _____

My commission expires:

6/15/85

82610 *EX 1583-7.0*

FILED FOR RECORD

'83 APR 8 PM 3:41

EL PASO COUNTY CLERK

Bonnie R. Chastain

STATE OF TEXAS
I hereby certify that this instrument was filed on the date and time stamped hereon by me and was duly recorded in the volume and page of the Official Public Records of El Paso County, El Paso County, Texas.



APR 8 1983

[Signature]
COUNTY CLERK, El Paso County, Texas

RETURN TO:
City Clerk
#2 Civic Center Plaza
El Paso, TX 79999

1338-2093

Rubio, Arturo

From: Jeffrey Zemans [palaver_1@yahoo.com]
Sent: Tuesday, November 04, 2008 11:38 PM
To: Rubio, Arturo
Cc: Marcos Aguilar; Mary Frances Keisling; Jason & Andrea Sykes
Subject: ZON08-00074 Conflicts with City Ordinance #7714 & City Code

Attachments: Ordinance 7714.pdf



Ordinance 7714.pdf
(1 MB)

Dear Mr. Rubio:

Please forward the following comments and attachments to the CPC for their consideration in advance of the 11/06/08 hearing:

The Plat of the Old Farm planned residential subdivision, recorded on April 8, 1983 states that, "All lots on this plat are subject to on-site ponding of storm waters." The Subdivision Ordinance of the City of El Paso, the standard to which Old Farm conforms, contains a chapter (IX.B.) which states that, "in no case may a lot be less than 10,000 square feet if on-site ponding is being provided." All 57 lots of Old Farm, including Block 2, lot 20, conform to this drainage requirement which is the only means available to prevent flooding of homes in the subdivision.

The developer of Old Farm walled off a 3,923 square foot piece of lot 20. A single family dwelling was built on the north side of the wall - permissible because that portion still exceeded 10,000 square feet. IX.B.4 prohibits remnants of land which do not conform to lot requirements with exceptions for easements, rights-of-way, or approved open space in a planned unit development. The developer used that remnant to create a park with children's playground equipment, a split rail fence, and a sign bearing the Old Farm logo and the words, "Old Farm Private Park." The park served the neighborhood for 24 years until 2007 when it was seized from the developer by the City and auctioned off for delinquent taxes. Residents were never advised that their park was in jeopardy. The park had been created in conformance with the City Subdivision Ordinance, was an enhancement to the neighborhood, and served the necessary function of receiving storm water runoff from its 140 feet of Oleaster Drive frontage and the adjacent elevated berm and access road on the east side of Montoya canal. No considerations of area drainage design are found in the 11/06/08 Staff Report to the CPC.

It is ironic and disturbing that, at the same time the City seized Old Farm Park and tore out its playground equipment, city council passed an ordinance (Code 19.20.010) in which, "It is declared by the city council that recreation areas in the form of neighborhood parks, community parks ... and open space areas are necessary and in the public welfare ..."

19.14.030 Utility easements on platted lots.

2. The property owner whose property is subject to such easement shall be responsible for its maintenance and shall keep it free and clear of any permanent building or structure with the exception of fencing. No building permits shall be issued to place any building or other improvement on, over, or within such easement, in whole or part.

Applicant's Plot Plan shows the carport as encroaching 2 feet on the 10 foot utility easement. This conflict is also omitted from the CPC Staff Report.

In the interest of preserving the flood control drainage design of the Old Farm residential development mandated by Ordinance #7714 and in enforcing Code 19.14.030, I respectfully urge the Commission to deny application ZON08-00074.

Sincerely,

Jeffrey Zemans



ORD. No.
7714

SUBDIVISION ORDINANCE OF THE CITY
OF EL PASO, THE PENALTY BEING AS
PROVIDED IN SECTION XIIIIB THEREOF

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

To promote the health, safety, morals and general welfare of the community and the safe, orderly and healthful development thereof, as authorized by Article 974a, Sec. 4 of Vernon's Texas Civil Statutes, the City Council hereby adopts the following Subdivision Ordinance for the City of El Paso:

7714

161

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IX. SUBDIVISION PLAT DESIGN STANDARDS

A. Applicability

The standards and principles as set forth herein shall apply to all subdivisions, revisions, replats, or divisions of property. Where appropriate, these standards and principles shall be applied at the preliminary level.

B. Lots

All land divisions shall result in the creation of lots which are capable of being developed or built upon in accordance with the following standards:

1. Lot Area and Dimensions

a. Inside the City Limits

The minimum area and dimensions of all lots shall conform to the requirements of the Zoning Ordinance for the district in which the subdivision is located; provided however, corner lots shall be platted a minimum of five feet wider than the minimum width permitted by the Zoning Ordinance to permit appropriate building setback from and orientation to both streets.

b. Outside of the City Limits

(1) Lots shall conform to standards set for "Construction Standards for Private Sewage Facilities" published by the Texas Department of Health.

(2) In a subdivision where public water and public sewers are provided, and on-site ponding is not used, the minimum lot area shall be 5,000 square feet with an average lot width of 50' and a minimum lot depth of 90'.

- (3) Exceptions to lot size may be made by the City-County Health Department, however in no case may a lot be less than 10,000 square feet if on-site ponding is being provided.
2. All lots, public parks, schools, or quasi-public parcels shall have frontage on a public street, provided however, within a planned unit development, frontage may be on an approved private street and may be through a common open space lot.
3. Double Frontage Lots
- a. The subdivider shall indicate the front and rear of double frontage lots at the time of the preliminary plat approval.
- b. The subdivider shall provide a document releasing access rights to a non-arterial street abutting the rear of double frontage lots.
- c. The subdivider shall provide a document releasing access rights to an arterial street abutting the rear of a double frontage one or two family residential lot.
- d. The document releasing access rights, in a form acceptable to the City Attorney, shall be recorded in the office of the County Clerk.*
- e. An information note, indicating the release of access rights shall be placed on the face of the subdivision map.
4. No remnants of land shall be allowed in the subdivision which do not conform to lot requirements unless otherwise approved by the City Plan Commission; provided however, this shall not apply to required easements, rights-of-way, or approved open space in a planned unit development.

5. All lots shall be required to have drainage approved by the City Engineering Department. If on-site ponding is used, it shall comply with each of the following provisions:
 - a. Individual on-site lot ponding shall be permitted on lots over 10,000 square feet.
 - b. If on-site lot ponding is technically infeasible, either surface drainage or ponding in a common retention pond shall be required.
 - c. Hydraulic calculations by an engineer shall be submitted to the City Engineering Department showing that on-site lot ponding is feasible. These calculations shall meet the following minimum criteria:
 - i. Percolation tests, made no more than 6 months previously in accordance with City Engineering Department Subdivision Design Standard D-35 are to be used for drainage calculations.
 - ii. Drainage calculation shall be made in accordance with City Engineering Department Subdivision Design Standards for the critical lots in the subdivision, that is the smaller lots with the greater percentage of immediately adjacent roads.
 - d. Permanent elevation markers which define the elevation at which the ponding area shall be maintained in order to guarantee the effectiveness of on-site ponding shall be installed at points on all ponding areas on the lot.
 - e. The permanent elevation markers shall not be moved, covered or altered without written permission from the City Engineer.
 - f. Filling or changing the lot, or allowing the lot to be filled or changed to an elevation greater than as established by the permanent elevation markers, shall be prohibited.

- g. The inspectors and surveyors of the City of El Paso shall have a permanent right-of-access for the purpose of checking the lot elevation and elevation markers.
- h. No person shall be permitted to impair the functionality of an on-site pond. No more than 50% of the area of land conveyed by deed shall ever be covered by improvements of any kind, either temporary or permanent, which will shed storm waters, including but not limited to buildings, driveways, patios, or landscaping underlaid with plastic sheeting or other impermeable material.
- i. In the event that the functionality of an on-site pond becomes impaired, whether by act of man or of nature, the owner of the lot on which the impaired pond is located shall have the duty to perform whatever corrective actions on that lot are necessary to restore that functionality.
- j. Any owner notified in writing by the City of corrective actions to be taken to restore the functionality of an on-site pond shall comply within fourteen (14) calendar days of receipt of such notice, provided however, that nothing herein shall prevent the City from mandating an earlier time for commencement or completion, during times of emergency where there is imminent danger of loss of life, limb or property.
- k. The developer shall impose deed restrictions running with the land for those lots utilizing on-site ponding. Such restrictions shall be submitted to the City Engineering Department for approval of technical content and to the City Attorney for approval of form and legal content. These restrictions shall, as a minimum make the following provisions:
 - i. Identify which lots are subject to on-site ponding and the maximum depth of water that will cover the lot after the design storm.

- ii. A statement that permanent markers shall be placed prior to occupancy at locations to establish the elevation to which the ponding area shall be maintained.
- iii. A prohibition against elevation markers being moved, covered or altered and against filling or changing the elevation of the lot to raise it above the elevation of the markers.
- iv. A provision giving the inspectors and surveyors of the City of El Paso permanent right of access for the purpose of checking the elevation markers.
- v. A prohibition against the owner doing or permitting any act which impairs the on-site ponding characteristics at the lot.
- vi. A requirement that the owner restore the original on-site ponding capacity of the lot in the event it is actively or passively altered by a person or event.
- vii. A requirement that no more than 50% of the area of land conveyed by the deed may ever be covered by improvements of any kind, either temporary or permanent, (house, driveways, patios, auxiliary buildings, landscaping having impermeable material under it, and so forth) which will shed storm waters onto the lot.

- viii A requirement that the owner of property utilizing on-site ponding waives any claim or cause of action against the City of El Paso, officials or employees, for any death, injury or property damage resulting from alteration of the ponding capacity for that lot.
 - ix. Each owner is obligated to comply with any order of the City regarding the correction of any drainage problem on his lot within (14) calendar days of being given such notice in writing.
 - x. Enforcement of deed restrictions shall be enforced by injunctive relief without the requirement for bond or other security.
 - xi. A requirement that any conveyance of any property permitting on-site ponding declare in conspicuous language in the deed that the property is subject to on-site ponding requirements, maintenance of elevation markers standing water on lot, ingress and egress for inspection and all other restrictions set forth pursuant to the Subdivision Ordinance.
- 6. Residential lots, the rear of which abuts existing commercial or industrial properties, or on railroads or freeways, shall have a minimum depth of 115 feet unless other means of buffering are approved by the City Plan Commission.
 - 7. A lot shall not be divided by the City limits line, State line, or by another lot, street, or alley or any other property.
 - 8. Corner lots
 - a. The subdivider shall provide a document releasing access rights to an arterial street abutting a residential corner lot.

G. Alleys

When alleys are provided, said alleys shall be 20 feet in width, unless a lesser or greater width is approved by City Plan Commission.

H. Street Names

1. Street names shall not conflict with or duplicate any existing street name within the City or County.
2. New streets which are extensions of, or obviously in alignment with, existing streets shall bear the name of the existing street.
3. Street names shall be assigned to culs-de-sac that have six or more lots fronting on it or that are 150 feet or more in length measured from the centerline of the intersecting street to the center of the turn-around; all other culs-de-sac or inlets shall carry the street name and housing numbering sequence of the main street.

I. Drainage and Storm Water

1. All subdivisions shall conform to the Flood Damage Prevention Ordinance of the City.
2. Surface of drainage easements of less than 15 feet wide shall be maintained by the property owner.

J. Utility Easements

1. Easements shall be provided along lot lines where necessary to assure utility service.
2. Easements shall be 10 feet in width, unless a lesser or greater width is approved by the City Plan Commission.

3. Maintenance of the surface of the utility easement shall be the responsibility of the owner. No person shall build or construct a permanent structure over or across or otherwise block a utility easement except for fences.

K. Irrigation Facilities

Whenever the land of a proposed subdivision plat includes or affects irrigation facilities:

1. The subdivider shall submit to the Subdivision Coordinator written proof as to the actual existence of irrigation facilities.
2. If the subdivider proposes the abandonment of any irrigation facility, he shall submit a written statement of authorization from appropriate authorities and water right holders to the Subdivision Coordinator.
3. Irrigation facilities shall not generally be permitted to be located parallel to and within street right-of-way; however, irrigation facilities located within or crossing street rights-of-way shall be designed to comply with the Subdivision Improvement Design Standards. When such facilities are located parallel or adjacent to public rights-of-way it does not mean that the City will assume the maintenance of those facilities.

L. Community Facilities Sites

Where the Community Facility plans of the Long Range Comprehensive Plan indicate the location of a public facility within the property being subdivided, the subdivider shall work with the agency involved to make provision for location and acquisition of the facility.

October 26, 2008

Re: Case No. ZON08-00074

Dear Mr. Arturo Rubio

Currently, my family and I reside at 5842 Oleaster Drive and I am extremely concerned about the proposed house to be built across the street at 5851 Oleaster. My primary concern is regarding the flooding that occurs often during the rainy season. The streets, driveways, and yards of our homes flood significantly when moderate to severe rain falls. Over the past few years living on Oleaster Drive, my family and I have personally witnessed 10 to 12 inches of rain surrounding our home and in the street. Our house has not actually flooded inside but the threat of flooding in our home occurs every time there is significant rainfall. Our front and back yards are designed to protect our house from flooding but any structure improperly designed on a lot that is not adequately designed to contain storm water from leaving their property would pose a threat of potential flooding and run off not only to my home but the surrounding neighbors homes as well as the prospective buyers home.

I am shocked and in complete disbelief that the city of El Paso would allow for such a negligent construction to occur with nonconforming and inappropriate dimensions and inadequate on site ponding. The prospective house construction does not meet the standards set forth by either the Old Farm covenant or the city codes of El Paso. How could such a "mistake" be overlooked?

I fear not only for the safety and well being of my family but my neighborhood's safety during rainfall. I implore the city of El Paso and the Development Services Department to require that all houses in Old Farm Subdivision abide by covenant and city regulations regarding onsite ponding, the capacity to accommodate storm water, and dimensional regulations. I feel my concerns are well founded, legitimate, and would have legal standing. Your support in this matter would be appreciated.

Sincerely,

Jason and Andrea Sykes

Rubio, Arturo

From: Alma Ramsey [aramsey@elp.rr.com]
Sent: Thursday, November 06, 2008 9:48 AM
To: Rubio, Arturo
Subject: ZON08-00074

I am writing to oppose the request to reduce the lot size, lot width and set-backs by the property owner at 5851 Oleaster. Maintaining proper lot sizes and proper set-backs is key to the maintenance of the value of surrounding properties. On behalf of the Love Road Neighborhood Association I am asking you to deny the request in case number ZON08-00074.

Alma Ramsey
Love Road Neighborhood Association

Rubio, Arturo

From: sgalan2697@aol.com
Sent: Thursday, November 06, 2008 8:24 AM
To: Rubio, Arturo
Subject: zoning change

This e-mail is to express opposition to the zoning change request for item 11. The address is 5851 Oleaster.
Sandi Galanter

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Rubio, Arturo

From: Save The Valley.whc [savethevalley@whc.net]
Sent: Wednesday, November 05, 2008 11:00 PM
To: Rubio, Arturo
Subject: letter of Opposition re ZON08-00074 November 6 2008 CPC

Dear Mr. Rubio and City Planning Commission,

Save the Valley Neighborhood/Civic Association is opposed to ZON08-00074 "detailed site development plan".

We support the comments/conclusions of the Old Farm Subdivision Neighborhood and respectfully ask you to deny this request.

Thank you.

Mary Frances Keisling, President
Save the Valley Neighborhood/Civic Association
5701 Vista Linda
El Paso, Texas 79932

915-440-0679 915-584-3040

Rubio, Arturo

From: pmgelp7 [pmgelp7@aol.com]
Sent: Wednesday, November 05, 2008 5:33 PM
To: Rubio, Arturo
Subject: rezoning the Old Farm

I live in the Upper Valley, and I am very opposed to the neighbors losing their park. It smacks of insider dealings too. Was there a notice in the paper that the property was going to be sold for taxes? Were the neighbors notified? If the person who purchased the property was not a City employee, would the same difference be shown when there are several serious zoning changes to make to cram a house on to that lot. Clarence Sperbeck, 5790 Box Elder rd., ERT 79932

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Rubio, Arturo

From: pweiss@brianloncar.com
Sent: Wednesday, November 05, 2008 4:22 PM
To: Rubio, Arturo
Subject: Proposed Development of 5851 Oleaster Drive

To Whom It May Concern:

My name is Paul Weiss and my residence is located at 5921 Oleaster Drive. I am writing to voice my family's opposition to the proposed Plan to build a house on our neighborhood Park located at the above-referenced address.

My daughter and her friends played for years at this park. Furthermore, a house on this tiny lot would devalue the worth of all nearby residences.

Please feel free to contact me directly.

Sincerely yours,

Paul R. Weiss, III
(915) 241-2410

Rubio, Arturo

From: Miller, Carol [cmiller@utep.edu]
Sent: Thursday, November 06, 2008 1:33 PM
To: Rubio, Arturo
Subject: FW: ZON08-00074 copy of Love Rd support

The Upper Valley Neighborhood Association was formed to resist irresponsible development in the Upper Valley and to protect natural habitat in the valley, and therefore we oppose this request as well.

Carol Miller, President

From: Save The Valley.whc [mailto:savethevalley@WHC.NET]
Sent: Thu 11/6/2008 11:12 AM
To: Miller, Carol
Subject: Fw: ZON08-00074 copy of Love Rd support

----- Original Message -----

From: Alma Ramsey
To: rubioax@elpasotexas.gov
Sent: Thursday, November 06, 2008 9:48 AM
Subject: ZON08-00074

I am writing to oppose the request to reduce the lot size, lot width and set-backs by the property owner at 5851 Oleaster. Maintaining proper lot sizes and proper set-backs is key to the maintenance of the value of surrounding properties. On behalf of the Love Road Neighborhood Association I am asking you to deny the request in case number ZON08-00074.

Alma Ramsey
Love Road Neighborhood Association