

Dedicated to Outstanding Customer Service for a Better Community

S E R V I C E S O L U T I O N S S U C C E S S



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

DEPARTMENT: Development Services Department
AGENDA DATE: Introduction: 3/17/09, Public Hearing: 3/24/09
CONTACT PERSON/PHONE: Arturo Rubio – 541-4633
DISTRICT(S) AFFECTED: 8

SUBJECT:
An Ordinance releasing conditions placed on property by Ordinance No. 15897 which vacated a portion of a 20 foot wide alley abutting Lots 3 & 4, Block 1, Mills Map, City of El Paso, El Paso County, Texas, and which imposed conditions. The penalty is as provided for in Chapter 20.24 of the El Paso City Code. Subject Property: West of Oregon Street and south of Franklin Avenue, Property Owner: Branca, L.P. (District 8)

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) – 5– 0 Vote

*****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

ORDINANCE NO. _____

AN ORDINANCE RELEASING CONDITIONS PLACED ON PROPERTY BY ORDINANCE NO. 15897 WHICH VACATED A PORTION OF A 20 FOOT WIDE ALLEY ABUTTING LOTS 3 & 4, BLOCK 1, MILLS MAP, CITY OF EL PASO, EL PASO COUNTY, TEXAS, AND WHICH IMPOSED CONDITIONS. THE PENALTY IS AS PROVIDED FOR IN CHAPTER 20.24 OF THE EL PASO CITY CODE.

WHEREAS, the vacation of the property described as *a portion of a 20 foot wide alley abutting Lots 3 & 4, Block 1, Mills Map, City of El Paso, El Paso County, Texas*, was vacated by Ordinance No. 15897, approved by City Council on September 21, 2004; and,

WHEREAS, the vacation was subject to the following conditions:

1. That the portion of the Alley to be vacated be designated as a full width Utility Easement, such utility easement to include drainage.
2. That no permanent structures or other improvements other than asphaltic paving (HMAC) be permitted over the utility easement to be retained.

WHEREAS, placement of such conditions were necessitated by and attributable to the increased intensity of use generated by the vacation; and,

WHEREAS, the applicant submitted an application requesting the removal of the above two conditions on the above described property in order to allow the construction of a parking structure over the vacated alley; and,

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

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

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

1. That the following conditions imposed by Ordinance No. 15897 dated September 21, 2004, be released on the land identified in Exhibit "A".
 - (1) That the portion of the Alley to be vacated be designated as a full width Utility Easement, such utility easement to include drainage.
 - (2) That no permanent structures or other improvements other than asphaltic paving (HMAC) be permitted over the utility easement to be retained.

2. Except as herein amended, Ordinance No. 15897 shall remain in full force and effect.

PASSED AND APPROVED this _____ day of _____, 2009.

THE CITY OF EL PASO

John F. Cook
Mayor

ATTEST:

Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:

Lupe Cuellar
Assistant City Attorney

APPROVED AS TO CONTENT:

Mathew S. McElroy
Deputy Director-Planning
Development Services Department

EXHIBIT "A"

PROPERTY DESCRIPTION

1,790 Square Feet

Being a portion of the Alley located in Block 1, Mills Map, City of El Paso, Texas and being more particularly described by metes and bounds as follows:

COMMENCING FOR REFERENCE at a found 5/8 inch rebar at the Northwest corner of Lot 4, said Block 1 at the intersection of the South right-of-way line of Franklin Avenue (70 feet wide) and the East right-of-way line of El Paso Street (70 feet wide);

THENCE, along said South right-of-way line, North 52°23'00" East, a distance of 120.00 feet to a set "x" in sidewalk at the Northeast corner of said Lot 4 at the Northwest corner of a 20 feet wide Alley and POINT OF BEGINNING for the herein described tract;

THENCE, continuing along said South right-of-way line, North 52°23'00" East, a distance of 20.00 feet to a set "x" in sidewalk at the Northwest corner of Lot 3, said Block 1 and the Northeast corner of said Alley;

THENCE, leaving said South right-of-way line and along the East line of said Alley, South 37°37'00" East, a distance of 89.51 feet to a point adjacent a concrete wall near the North right-of-way line of the Southern Pacific Railroad;

THENCE, along the North edge of said concrete wall, South 52°19'30" West, a distance of 20.00 feet to the West line of said Alley;

THENCE, along said West line, North 37°37'00" West, a distance of 89.53 feet to the POINT OF BEGINNING and containing 1,790 square feet of land.

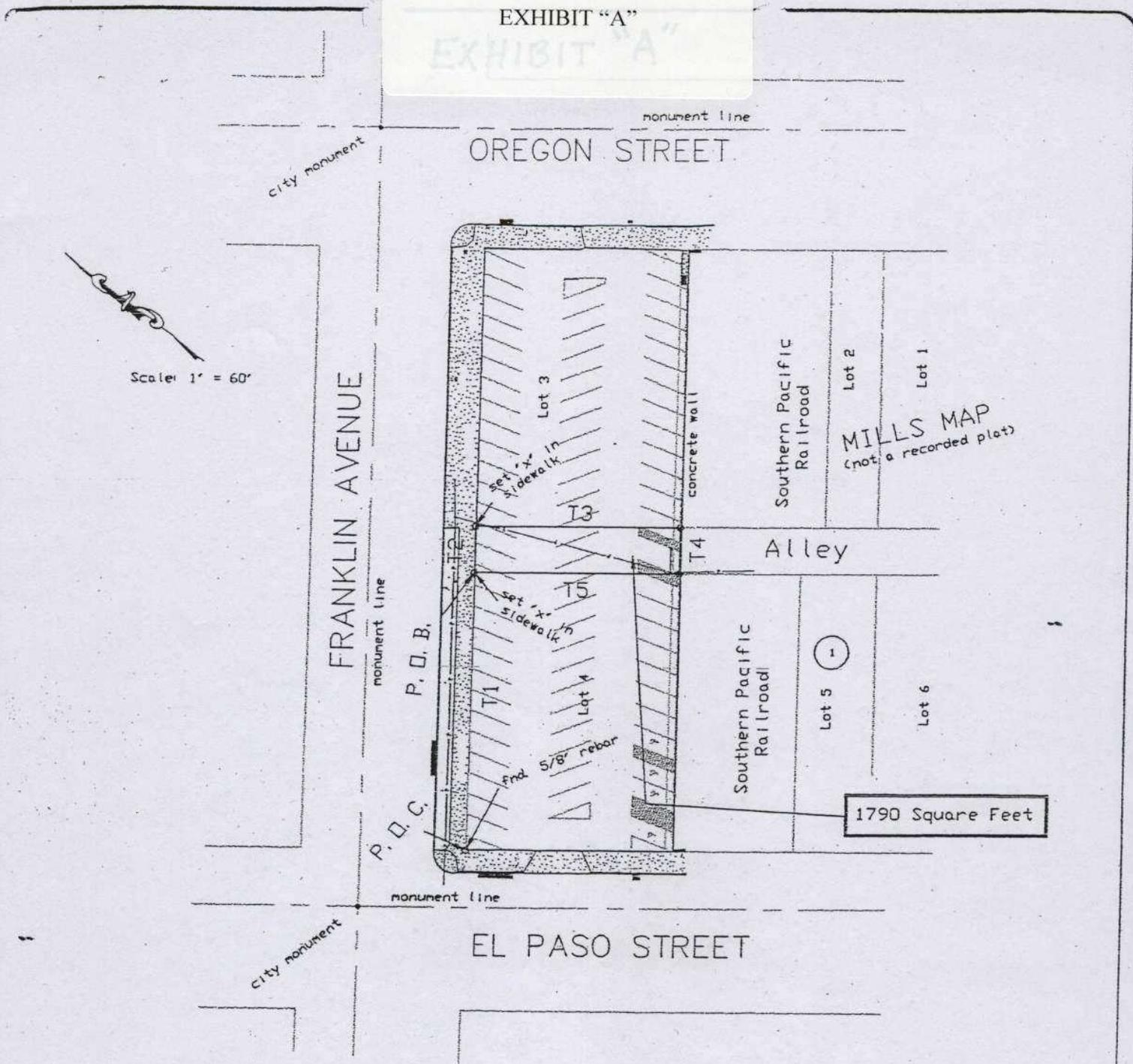
This description was prepared from a survey made on the ground on November 24, 1998.

PREPARED BY:
Cutts Land Surveying, Inc.
El Paso, Texas
January 6, 1999
Job No. 981217



POOR QUALITY ORIGINAL
BEST AVAILABLE FILM

EXHIBIT "A"

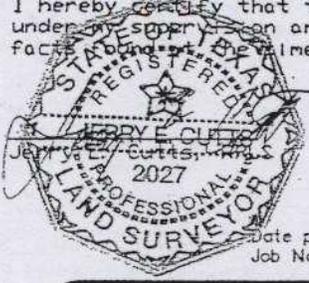


Scale: 1" = 60'

NOTE: A metes and bounds description for this parcel was prepared on this date and is a part of this plat.

No.	Bearing	Distance
T1	N52° 23' 00" E	120.00'
T2	N52° 23' 00" E	20.00'
T3	S37° 37' 00" E	89.51'
T4	S52° 19' 30" W	20.00'
T5	N37° 37' 00" W	89.53'

I hereby certify that this survey was made on the ground under my supervision and that this plat represents the facts and conditions of the line of this survey.



Date prepared: 1-06-98
Job No.: 981217

PLAT OF SURVEY
PORTION OF ALLEY,
BLOCK 1, MILLS MAP,
CITY OF EL PASO, EL PASO COUNTY, TEXAS

Cutts Land Surveying, Inc.
Professional Land Surveyors
1100 Montana Avenue, Suite 206 Ph (915) 534-9391



**DEVELOPMENT SERVICES
PLANNING DIVISION**

MEMORANDUM

DATE: March 6, 2009

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

FROM: Arturo Rubio, Planner

SUBJECT: **Condition Release**

The City Plan Commission (CPC) on December 18, 2009 **recommended approval of the Release of Conditions on property by Ordinance 15897.**

The CPC determined that the release of conditions was in the best interest, health, safety and welfare of the public in general; and that the release of conditions will have no effect on the natural environment, social economic conditions, and property values in the vicinity and the city as a whole.

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: AV03002 Alley Vacation
Application Type: Condition Release
CPC Hearing Date: December 18, 2008

Staff Planner: Arturo Rubio, (915) 541-4633, rubioax@elpasotexas.gov
Location: West of Oregon Street and South of Franklin Avenue
Acreage: 0.041 acres
Rep District: 8
Existing Use: Parking Lot
Existing Zoning: C-5 (Commercial)
Proposed Zoning: C-5 (Commercial)

Nearest Park: Cleveland Square (0.02 mile)
Nearest School: Roosevelt Elementary (0.91 mile)

Property Owner: Branca, L.P.
Applicant: Branca, L.P.
Representative: Brent D. Harris

SURROUNDING ZONING AND LAND USE

North: C-5 (Commercial); Main Library
South: C-5 (Commercial); Railroad
East: C-5 (Commercial); Commercial Parking Lot
West: C-5 (Commercial); Commercial Parking Lot

THE PLAN FOR EL PASO DESIGNATION: Manufacturing

APPLICATION DESCRIPTION

The ordinance and quitclaim deed vacating this alley was recorded at the County on October 11, 2004. The conditions imposed by that ordinance are as follows:

1. That the portion of the Alley to be vacated be designated as a full width Utility Easement, such utility easement to include drainage.
2. That no permanent structures or other improvements other than asphaltic paving (HMAC) be permitted over the utility easement to be retained.

The applicant is requesting that these conditions be released in order to allow the construction of a parking structure over the vacated alley.

CASE HISTORY

The vacation request was approved by the City Plan Commission on October 16, 2003 and approved by City Council on September 21, 2004.

DEVELOPMENT COORDINATING COMMITTEE RECOMMENDATION:

Approval.

DEVELOPMENT COORDINATING COMMITTEE COMMENTS:

The Development Coordinating Committee recommends *approval* of the condition release. Subject to the following conditions and requirements:

Planning Division Recommendation

Approval.

Land Development:

We have reviewed subject information and offer no objections.

El Paso Water Utilities:

1. The El Paso Water Utilities does not object to the proposed release of conditions as long as the applicant requests in writing to abandon in place the existing water and sewer mains along the alley as well as the removal of the existing water meter services.
2. The Applicant is responsible for the costs of abandonment of mains (depreciation), cutting and plugging of the mains, and removal of water meter services.

Water

3. There is an existing 2-inch diameter water main along the vacated alley. This main dead-ends approximately 65-feet south of Franklin Street.

Sanitary Sewer

4. There is an existing 6-inch sanitary sewer main along the alley. This main dead-ends approximately 80-feet south of Franklin Street.

General

5. The applicant is responsible for the costs of any necessary extensions, relocations or adjustments of water and sanitary sewer lines, appurtenances, fire hydrants, and meters related to the proposed release of the conditions and improvement work.

El Paso Electric Company:

El Paso Electric Company has overhead and underground facilities within this alley. This facilities can removed or relocated. Please have the applicant contact our Planner for this area, David Gomez, at 543-4141 to coordinate the removal or relocation.

Texas Gas Service:

Texas Gas Service Company does not have existing facilities within the above mentioned alley right-of-way proposed to be vacated, and therefore, does not object to the proposed project.

Should you have any questions or require further information, please do not hesitate to contact the undersigned at your earliest convenience via telephone at (915) 680-7260 or email ateroman@txgas.com.

Time Warner Cable:

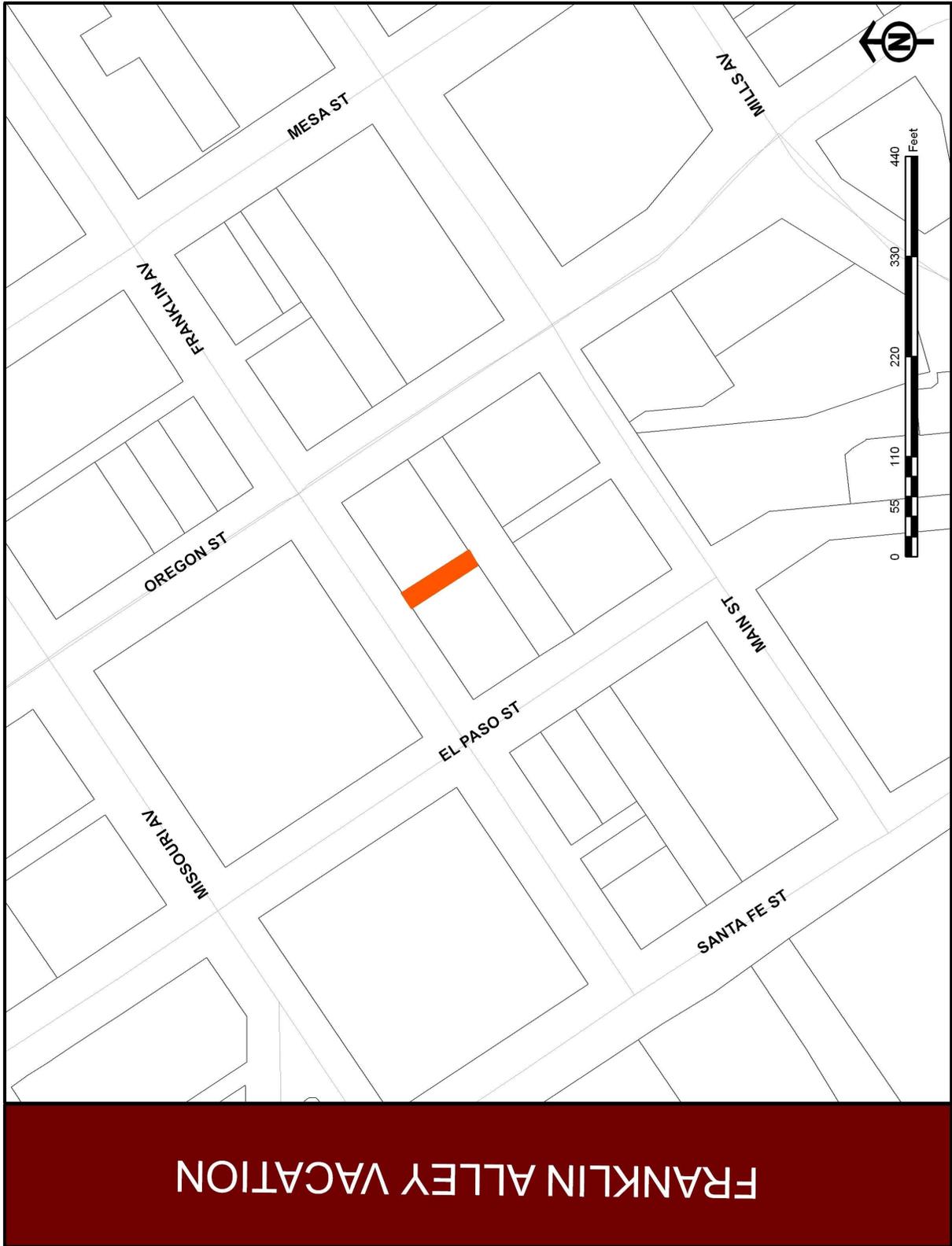
No comments received.

Attachments

1. Location map
2. Aerial map
3. Survey
4. Ordinance

5. Letter from Applicant

ATTACHMENT 1



ATTACHMENT 2



FRANKLIN ALLEY VACATION

ATTACHMENT 4

351

ORDINANCE NO. 15897

AN ORDINANCE VACATING A PORTION OF A 20 FOOT WIDE ALLEY ABUTTING LOTS 3 & 4, BLOCK 1, MILLS MAP, CITY OF EL PASO, EL PASO COUNTY, TEXAS.

WHEREAS, the City Plan Commission has recommended vacation of the *portion of a 20 foot wide alley abutting Lots 3 and 4, Block 1, Mills Map in the City of El Paso, El Paso County, Texas*, and the City Council finds that said right-of-way is not needed for public use and should be vacated as recommended;

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

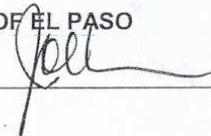
That a determination has been made that it is in the best interest of the public that the *portion of a 20 foot wide alley abutting Lots 3 and 4, Block 1, Mills Map in the City of El Paso, El Paso County, Texas*, and which is more fully described in the attached metes and bounds description, identified as Exhibit "A" made a part hereof by reference, be and is hereby vacated subject to the following conditions:

1. *That the portion of the Alley to be vacated be designated as a full width Utility Easement, such utility easement to include drainage.*
2. *That no permanent structures or other improvements other than asphaltic paving (HMAC) be permitted over the utility easement to be retained.*

In addition, the mayor is authorized to sign an instrument quitclaiming all of the City's right, title and interest in and to such vacated property to **Branca, L.P. a Texas Limited Partnership.**

PASSED AND APPROVED this 21st day of Sept., 2004.

THE CITY OF EL PASO



Joe Wardy
Mayor

ATTEST:

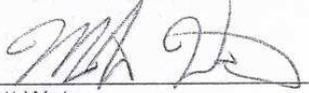


Richarda Momsen,
City Clerk

15897

Document #: 3904
Document Name: PLANNING/1/ORD/AV03002
MWAT

APPROVED AS TO FORM:



Matt Watson
Assistant City Attorney

APPROVED AS TO CONTENT:



Rudy Valdez, Chief Urban Planner
Planning, Research and Development
Department

15897

Document #: 3904
Document Name: PLANNING/1/ORD/AV03002
MWAT

ATTACHMENT 5

Branca, L.P.

VIA EMAIL: padillamx@elpasotexas.gov

October 22, 2008

Ms. Michelle Padilla
Planner – Development Services Department
City of El Paso
2 Civic Center Plaza
El Paso, TX 79999

Re: Request to Remove Conditions to Property

Dear Ms. Padilla:

Branca L.P. is hereby requesting that the conditions made a part of Ordinance No. 15897 attached hereto be removed as they are no longer applicable to the property.

Please feel free to contact me if you have any questions or comments.

Sincerely,

BRANCA, L.P.,

By: Branca I, Inc.,
Its: General Partner

By:



Its: President

Cc: Mr. Brent D. Harris, Mills Plaza Parking, LP (bdharris@plexar.com)

300 East Main • Suite 1208 • El Paso, TX 79901 • (915) 533-4955 • Fax (915) 533-4908