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

DEPARTMENT: **Development Services Department**

AGENDA DATE: **Introduction: February 26, 2008**
Public Hearing: March 18, 2008

CONTACT PERSON/PHONE: **Ismael B. Segovia, 541-4027**

DISTRICT(S) AFFECTED: **District 8**

SUBJECT:
An Ordinance changing the zoning of all of Lot 6, the North 20 Feet of Lot 5 and the South 4 Feet of Lot 7, Block 56, Alexander Addition, City of El Paso, El Paso County, Texas from A-3 (Apartment) to A-O (Apartment/Office). The penalty is as provided for in Chapter 20.24 of the El Paso City Code. Subject Property: 1611 N. Mesa. Applicants: Rahman Properties, LLC., ZON07-00160 (District 8)

BACKGROUND / DISCUSSION:
See attached report.

PRIOR COUNCIL ACTION:
The case was postponed at the March 18, 2008 City Council meeting by Rep. O'Rourke for a week. Case will be reheard on March 25, 2008.

AMOUNT AND SOURCE OF FUNDING:
N/A

BOARD / COMMISSION ACTION:
Development Coordinating Committee (DCC) – Approval Recommendation
City Plan Commission (CPC) – Tied Vote (3-3)

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

LEGAL: (if required) _____ **FINANCE:** (if required) _____

DEPARTMENT HEAD: _____
for
Patricia D. Adauto, Deputy City Manager

APPROVED FOR AGENDA:

CITY MANAGER: _____ **DATE:** _____

08 MAR 19 PM 3:50
CITY CLERK DEPT.

ORDINANCE NO. _____

AN ORDINANCE CHANGING THE ZONING OF ALL OF LOT 6, THE NORTH 20 FEET OF LOT 5 AND THE SOUTH 4 FEET OF LOT 7, BLOCK 56, ALEXANDER ADDITION, CITY OF EL PASO, EL PASO COUNTY, TEXAS FROM A-3 (APARTMENT) TO A-O (APARTMENT/OFFICE). 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 *all of Lot 6, the North 20 Feet of Lot 5 and the South 4 Feet of Lot 7, Block 56, Alexander Addition, City of El Paso, El Paso County, Texas,* be changed from **A-3 (Apartment) to A-O (Apartment/Office)**, 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:

_____
Lupe Cuellar
Assistant City Attorney

APPROVED AS TO CONTENT:

_____
for Kelly Carpenter, AICP, Deputy Director
Development Services Department

CITY CLERK DEPT.
08 FEB 18 AM 9:17

JOHN COOK
MAYOR

JOYCE WILSON
CITY MANAGER

PATRICIA D. ADAUTO
DEPUTY CITY MANAGER
DEVELOPMENT & INFRASTRUCTURE SERVICES

PATRICIA D. ADAUTO
DIRECTOR, DEVELOPMENT SERVICES

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

M E M O R A N D U M

March 25, 2008

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

FROM: Ismael B. Segovia, Senior Planner

SUBJECT: ZON07-00160

The City Plan Commission (CPC), on January 31, 2008, voted in a **TIE** of rezoning the subject property from A-3 (Apartment) to A-O (Apartment/Office).

The CPC could not determine if 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 could not determine if this rezoning protects the best interest, health, safety and welfare of the public in general; and if the proposed use is compatible with adjacent land uses.

Though the proposed zone is in conformity with the 2025 Projected General Land Use Map, the CPC discussion centered on changing conditions along N. Mesa and concerns regarding possible parking issues if the subject property fully became an office building instead of remaining as a home-office. This led to three CPC Commissioners to vote against the rezoning request.

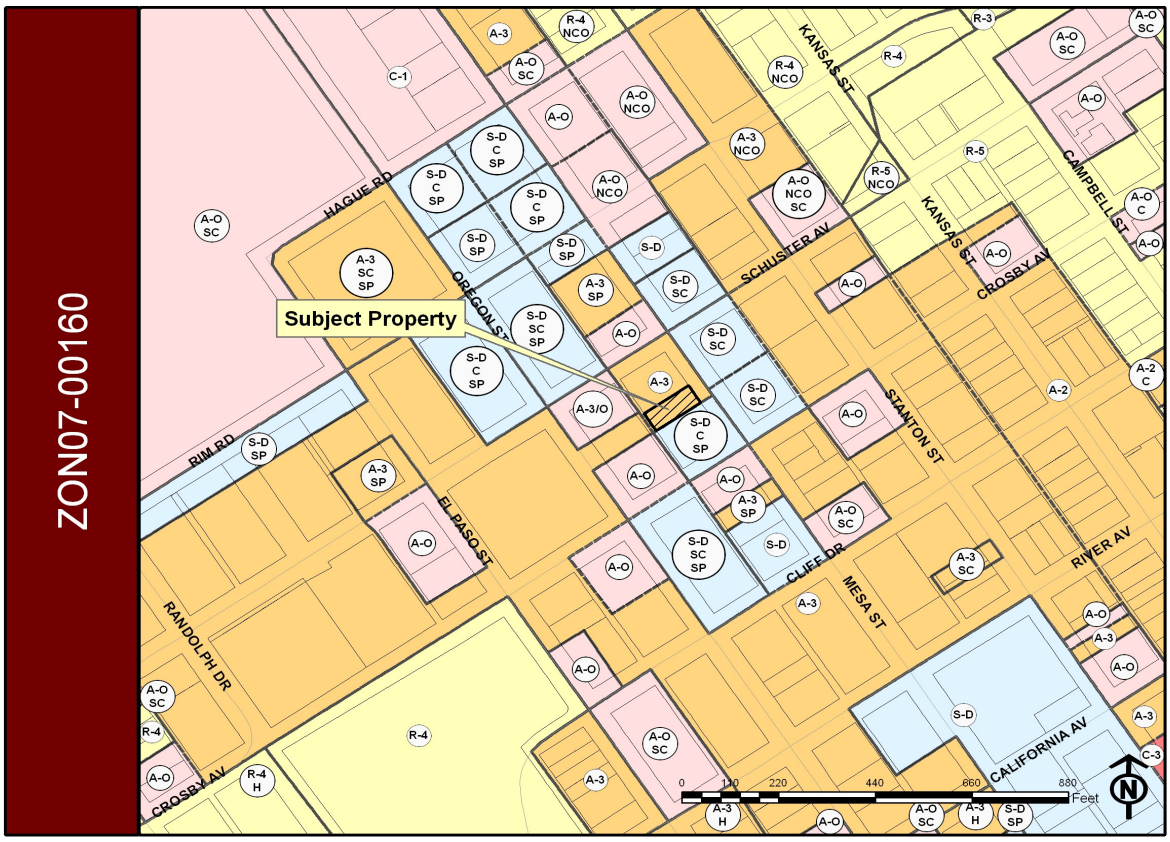
There was **OPPOSITION** to this request. Two petitions, one letter and two emails in opposition were received by the Planning Division prior to the rezoning going to CPC.

The property owners of 30% of the area within 200 ft. of the subject property are opposed to the rezoning. By statute 211 of the Texas Local Government Code, a supermajority council vote will be required to approve the rezoning.

Attachment: Staff Report, 211 Map

ZON07-00160

Application Type:	Rezoning
Property Owner(s):	Rahman Properties, LLC.
Representative(s):	David Adams
Legal Description:	All of Lot 6, the North 20 feet of Lot 5 and the South 4 feet of Lot 7, Block 56, Alexander Addition, City of El Paso, El Paso County, Texas.
Location:	1611 N. Mesa
Representative District:	8
Present Zoning:	A-3 (Apartment) ***Proposed Zoning:*** A-O (Apartment/Office)
Present Use:	residential ***Proposed Use:*** Office/Residential
Recognized Neighborhood Associations Contacted:	A Presidential Neighborhood Association
Public Response:	Received one letter, two petitions, and two emails in opposition
Surrounding Land Uses:	**North –** A-3 / Single Family Residential**; South –** S-D/c/sp / Medical Office**; East –** S-D/sc / Medical Offices**; West –** A-3 / Medical Offices
Year 2025 Designation:	**Mixed Use** (Northwest)



General Information:
The applicant is requesting a rezoning from A-3 (Apartment) to A-O (Apartment/Office). The conceptual site plan shows an existing house located on the site. Access is proposed via Mesa and from the alley adjacent to the rear of the property. The conceptual site plan shows 5 parking spaces to be provided. There are no zoning conditions on this property.

The subject property has been registered as legal non-conforming due to the easterly side yard setback of the main building being 4 feet 6 inches. The legal non-conforming also applies to the accessory structure having a easterly side yard setback of 2 feet 4 inches and a rear yard setback of 3 feet 9 inches. It was determined that the building was build in 1916, thus prior to the 1955 Zoning Code.

The applicant's primary reason for the rezoning request is to place a business sign (approx. 4 ft. by 8 ft.) on the subject property. The business sign is to be used for a consulting business located within the existing house. The applicant currently has a home occupation consulting business that permits a 1' by 1' sign. A change of occupancy to a commercial use will be required prior to the issuance of a larger sign as permitted in A-O.

Applicant was informed at DCC that a Change of Occupancy and Sign application will be required upon approval of rezoning. The applicant is aware that he will be required to comply with IBC and ADA codes.

Case was postponed at the March 18, 2008 City Council meeting by Rep. O'Rourke for a week. Case will be reheard on March 25, 2008.

Staff Recommendation:
The Development Coordinating Committee (DCC) recommends **APPROVAL** of this request for rezoning from A-3 (Apartment) to A-O (Apartment/Office).

The recommendation is based on the following:

> **The Plan for El Paso** City-Wide Land Use Goals recommends that El Paso "provide designated locations for commercial development that do not adversely affect the health, safety and welfare of the community and where essential infrastructure is available to serve the development" and "provide a wide range of housing types that respond to the needs of all economic segments of the community."
>
> **The Year 2025 Projected General Land Use Map** for the Northwest Planning Area designates this property for **Mixed Use** land uses.
>
> **A-O zoning** permits Office/Residential and **is compatible** with adjacent development.

Findings:
The Commission must determine the following:

1. Will A-O zoning protect the best interest, health, safety and welfare of the public in general?
2. Will Office/Residential be compatible with adjacent land uses?
3. What is the relation of the proposed change to the city's Comprehensive Plan?
4. What effect will the rezoning have upon the natural environment social and economic conditions and property values in the vicinity and in the City as a whole?

Development Services Department - Building Permits and Inspections Division:
Minimum parking requirements met but, the minimum depth for parking stall need to be 19' and 13' wide. Also of the proposed parking shown one stall needs to be designated for handicap with a loading and off-loading zone.
Shall comply with IBC change of occupancy and ADA requirements.

Development Services Department - Planning Division:
Current Planning:
1. The Year 2025 Projected General Land Use Map for the Planning Area designates this property for Mixed Use land uses.
2. A-O zoning permits Office/Residential and is compatible with adjacent development.
3. Recommend Approval

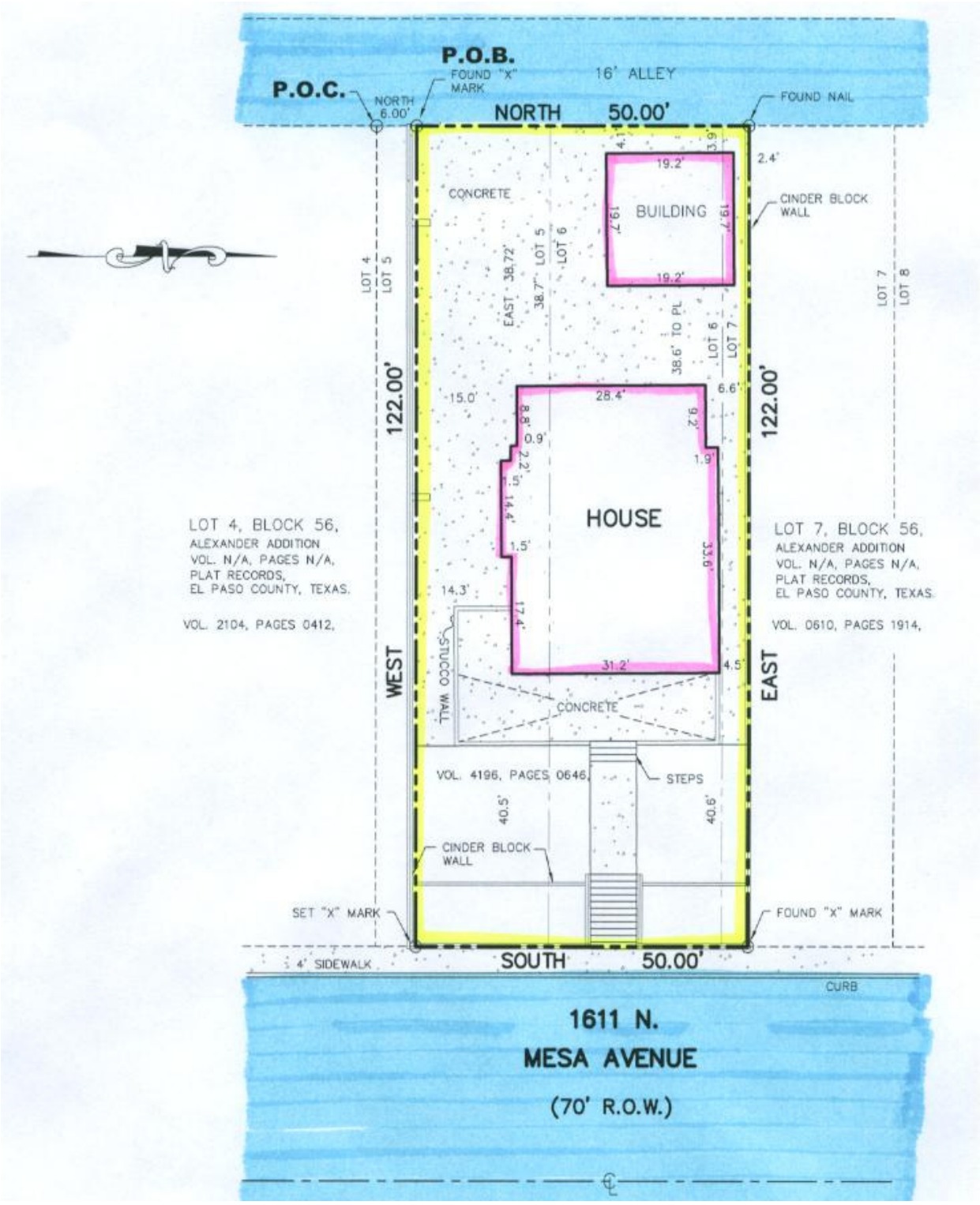
Engineering Department - Traffic Division:
Alley needs to be paved to City standards

Fire Department:
No comments received.

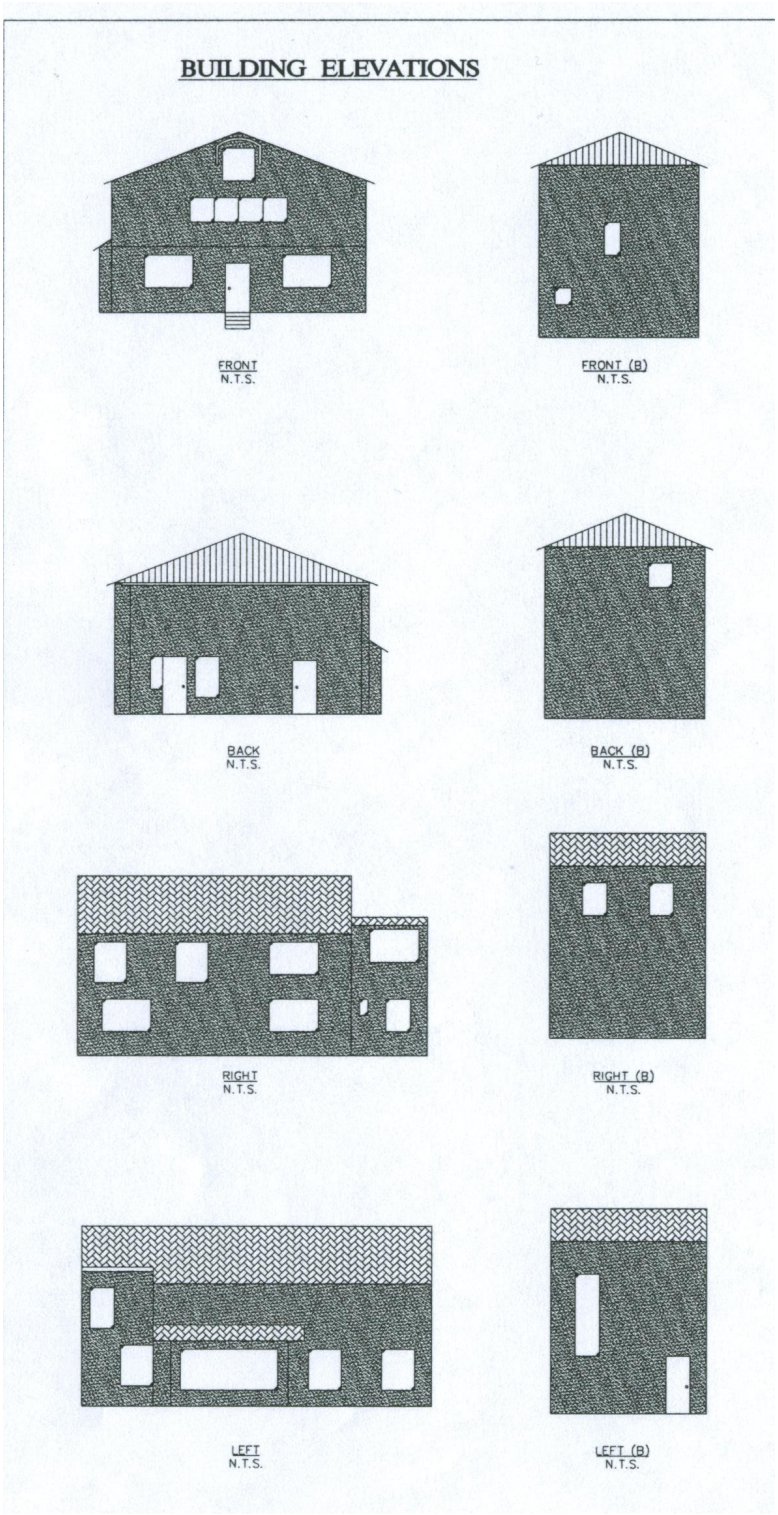
El Paso Water Utilities:
EPWU does not object to this request.

List of Attachments
Attachment 1: Site Plan
Attachment 2: Elevations
Attachment 3: Legal Non-Conforming Registration
Attachment 4: Opposition Letter
Attachment 5: Opposition Petitions
Attachment 6: Opposition Emails
Attachment 7: Application

Attachment 1: Site Plan



Attachment 2: Elevations



Attachment 3: Legal Non-Conforming Registration

NON CONFORMING
BUILT PRIOR TO 1955
ZONING SECTION
M Spencer 12/14/07

DEVELOPMENT SERVICES DEPARTMENT – PLANNING DIVISION

FORM TO BE FILLED OUT WHEN REGISTERING A NON-CONFORMING STRUCTURE OR USE

Name and telephone number of person registering non-conformity.

DAVID ADAMS 915-637-2580

Address of non-conforming structure or use.

1611 N. MESA

Legal description of non-conforming structure or use. ALEXANDER ADDITION

LOT 6 AND THE N. 20 FT. OF LOT 5 AND THE S. 4 FT OF LOT 7 BLOCK 56

What is it that is being declared as being non-conforming? (A use or a structure, provide details.)

Easterly side setback of 4.5' on main structure, 2 story accessory structure located 2.4' from Easterly side yard setback & 3.9' from rear yard setback.

Since when has the structure or use existed (code change or annexation)?

BUILT 1916 prior to zoning code (1955)

Is a scaled plot plan attached?

YES

Are there affidavits attached?*

NO

If not, what is replaced, one for one, for the affidavit?

1955 Polk Directory Page, 1956 Aerial Photo, CAD ACCOUNT HISTORY

***NOTE:** Affidavits become a permanent part of our records; therefore, we require they be typed on letter size paper (8½ x 11). Affidavits must state exactly what is being declared, for example:

- Non-conforming height (state height)
- Setbacks (example: 2' from front property line)
- Use (example: auto shop in C-2 zone).

Two Civic Center Plaza, 5th Floor, El Paso, Texas 79901 Phone 915-541-4027

January 25, 2008

City Plan Commission
c/o Planning Division, 5th Floor City Hall
2 Civic Center Plaza,
El Paso, TX 79901-1196

Re: Opposition to application for zoning change, Case No. ZON07-00160

To whom it may concern:

My wife and I live at 1617 North Mesa Street, directly adjacent to the property for which rezoning in requested. We are writing to express our opposition to the requested rezoning because it would be detrimental to the neighborhood.

The applicant is requesting rezoning so that his tenants, David Adams and Laura Marks Adams (the Adamses), may re-place fortune-telling signs on the property (photo #1 attached) which were ordered removed by the Municipal Court. Although they were warned by the staff that the rezoning would not automatically allow them to place the signs, they nevertheless are going ahead with the request. The record shows that the Adamses do not care about code requirements, because they left the signs in place even after requested to remove them by the code enforcement division, and only removed them on pain of arrest by the Municipal Court. They also left the sign frame in place, in anticipation of replacing the signs.

The signs in question tend to degrade the neighborhood, which consists of a mix of residential and medical office property. Signs advertising fortune telling and card reading are known to have negative effects on property values, and they are suitable only in heavy commercially zoned areas, such as where these same Adamses have other business locations, at 3913 Montana Avenue (photo #2 attached) and 4141 North Mesa Street (photo #3 attached).

Moreover, it is not possible for the 1611 North Mesa property to comply with the code requirements for parking spaces in the A-O District. Because of the physical layout of the improvements, only three separately accessible parking spaces are possible from the alley. Since the number of such parking spaces required is one for every 400 square feet of gross floor area and the total living

area is 2894 square feet, at least seven (7) parking spaces are required for an A-0 District at this location. The Adamses' allegation that they intend to use only a portion of the floor area for their office does not suffice since the rezoning applies to the entire property, and moreover, since the Adamses are only renters, they have no control over future use of the property.

In addition, David Adams, the owner of A-1 Construction, is using the property in his construction business. He parks several vehicles marked A-1 Construction on the property and stores construction materials in the back yard of the property (photo # 4 attached), thereby further reducing the number of parking spaces available for customers of the fortune telling business, and causing a hazard to the neighborhood. His employees have also been seen milling around the alley.

Finally, the applicant has made no provision for bringing the property into ADA compliance, as required by a change from residential to office use.

For the above reasons, we request that the Commission recommend denial by the City Council of the above-referenced request for a change of zoning.

Sincerely yours,

Robert A. Levy Phyllis B. Levy

1617-D North Mesa Street
El Paso, TX 79902
(915) 533-6413

January 25, 2008

City Plan Commission
c/o Planning Division, 5th Floor City Hall
2 Civic Center Plaza,
El Paso, TX 79901-1196

Re: Opposition to application for zoning change, Case No. ZON07-00160

To whom it may concern:

We the undersigned wish to express our opposition to the requested zoning change set forth in the above-referenced case:

Name	Address/Identity
Robert A. Levy	Owner, 1617 North Mesa property
Tim Fennell TIM FENNELL	1507 N. KANSAS EL PASO High Neighborhood Assoc

Attachment 5: Opposition Petition

January 30, 2008

City Plan Commission
c/o Planning Division, 5th Floor City Hall
2 Civic Center Plaza,
El Paso, TX 79901-1196

Re: Opposition to application for zoning change, Case No. ZON07-00160

Attention: Mr. Ismael Segovia

Attached is a letter containing a list of additional signatures expressing opposition to the above-referenced zoning change application. The list contains the following entries:

1. P. Chavez, MD	1517 North Mesa
2. M. Rios, MD	1714 North Mesa
3. P. Dandade, MD	1600 North Mesa
4. Hair Odyssey	1712 North Mesa
5. Edward Goldman, MD	100 East Schuster
6. Angie Song, MD	1700 North Mesa

Thank you.

Sincerely yours,

Robert Levy

Robert Levy

1617-D North Mesa St.
El Paso, TX 79902

Attachment 5: Opposition Petition

January 28, 2008

City Plan Commission
c/o Planning Division, 5th Floor City Hall
2 Civic Center Plaza,
El Paso, TX 79901-1196

Re: Opposition to application for zoning change, Case No. ZON07-00160

To whom it may concern:

We the undersigned wish to express our opposition to the requested zoning change at 1611 North Mesa Street, as set forth in the above-referenced case:

Name	Address/Identity
P. Chavez.	1517 N. MESA
M. Rios.	1714 N. Mesa
[illegible]	1600 N. Mesa
[illegible]	1712 N. Mesa
Edward Eckman MD	100 E. SCHUSTER
[illegible]	1700 N. Mesa.

Attachment 6: Opposition Email

Segovia, Ismael B

From: pblev@att.net
Sent: Friday, January 25, 2008 2:33 PM
To: Segovia, Ismael B
Cc: pblev@att.net
Subject: FW: ZON07-00160

---------- Forwarded Message: ----------
From: Sunset Heights Neighborhood Improvement Assoc <sunset_heights_assoc@yahoo.com>
To: segoviaib@elpaso.tx.gov
Cc: pblev@att.net
Subject: ZON07-00160
Date: Fri, 25 Jan 2008 19:07:03 +0000

Mr. Segovia,
It has been brought to my attention that there has been a zoning change request to allow 1611 N. Mesa St. to display a sign for their business in front of this property. As a neighboring area to N. Mesa, we in the Sunset Heights Historical District feel that this sign is very inappropriate to an historical area. Although the N. Mesa was never designated an historical district, what is left of it, should be considered a contributing factor to our area and therefore should be preserved. The sign advertising Psychic Solutions is an eye sore to the street and neighborhood as well as just plain offensive. I would like to suggest that the business owner be made to follow the codes that are already in place for residential/commerical property and keep their sign within the designated size allowed. Many other home business do just fine without having to have a large sign in the front of their bulding. Please feel free to contact me if you have any questions.

Thank you,
Leah Osborne
President
Sunset Heights Neighborhood IMPROVEMENT Assoc.

Be a better friend, newshound, and know-it-all with Yahoo! Mobile. Try it now.

Attachment 6: Opposition Email

Segovia, Ismael B

From: John Moye [jmoye@tvores.com]
Sent: Wednesday, January 30, 2008 6:54 PM
To: Segovia, Ismael B
Cc: pblev@att.net
Subject: case number ZON07-00160

Dear Mr. Segovia:

I am writing to you on behalf of the Rim Area Neighborhood Association regarding case number ZON07-00160. The Rim Area Neighborhood Association opposes any zoning changes to the property at 1611 North Mesa and asks that the City enforce the zoning requirements currently in place. We believe the changes would detract from the aesthetics of the neighborhood and would set president for future zoning changes.

Please call me if you have any questions or require additional information.

Sincerely,

JOHN E. MOYE
PRESIDENT
RIM AREA NEIGHBORHOOD ASSOCIATION
800 BLANCHARD AVE.
EL PASO, TEXAS 79902
PHONE: 915.203.6693
FAX: 915.778.4583
EMAIL: JMOYE@TVONA.COM

Attachment 7: 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): RAHMAN PROP. LLC.
ADDRESS: 1611 N. MESA. ZIP CODE: 79902 PHONE:
E-MAIL ADDRESS: 915-549-7149 or 449-4313 FAX:

REPRESENTATIVE(S): DAVID ADAMS
ADDRESS: 1611 N. MESA. ZIP CODE: 79902 PHONE: 637-2580
E-MAIL ADDRESS: GOLFERGUY6900@YAHOO.COM FAX: 351-6164

DEC 05 2007

2. PARCEL ONE INFORMATION

PROPERTY IDENTIFICATION NUMBER: A462999056011 00
LEGAL DESCRIPTION: 56 Alexander 6 N. NORTH 20 FT.
STREET ADDRESS OR LOCATION: 1611 N. MESA REP DISTRICT: 8
ACREAGE: .1377 PRESENT ZONING: A-3 PRESENT LAND USE: Residence
PROPOSED ZONING: AO PROPOSED LAND USE: OFFICE / RES.

3. PARCEL TWO INFORMATION

PROPERTY IDENTIFICATION NUMBER:
LEGAL DESCRIPTION:
STREET ADDRESS OR LOCATION: REP DISTRICT:
ACREAGE: .1377 PRESENT ZONING: R PRESENT LAND USE: R
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

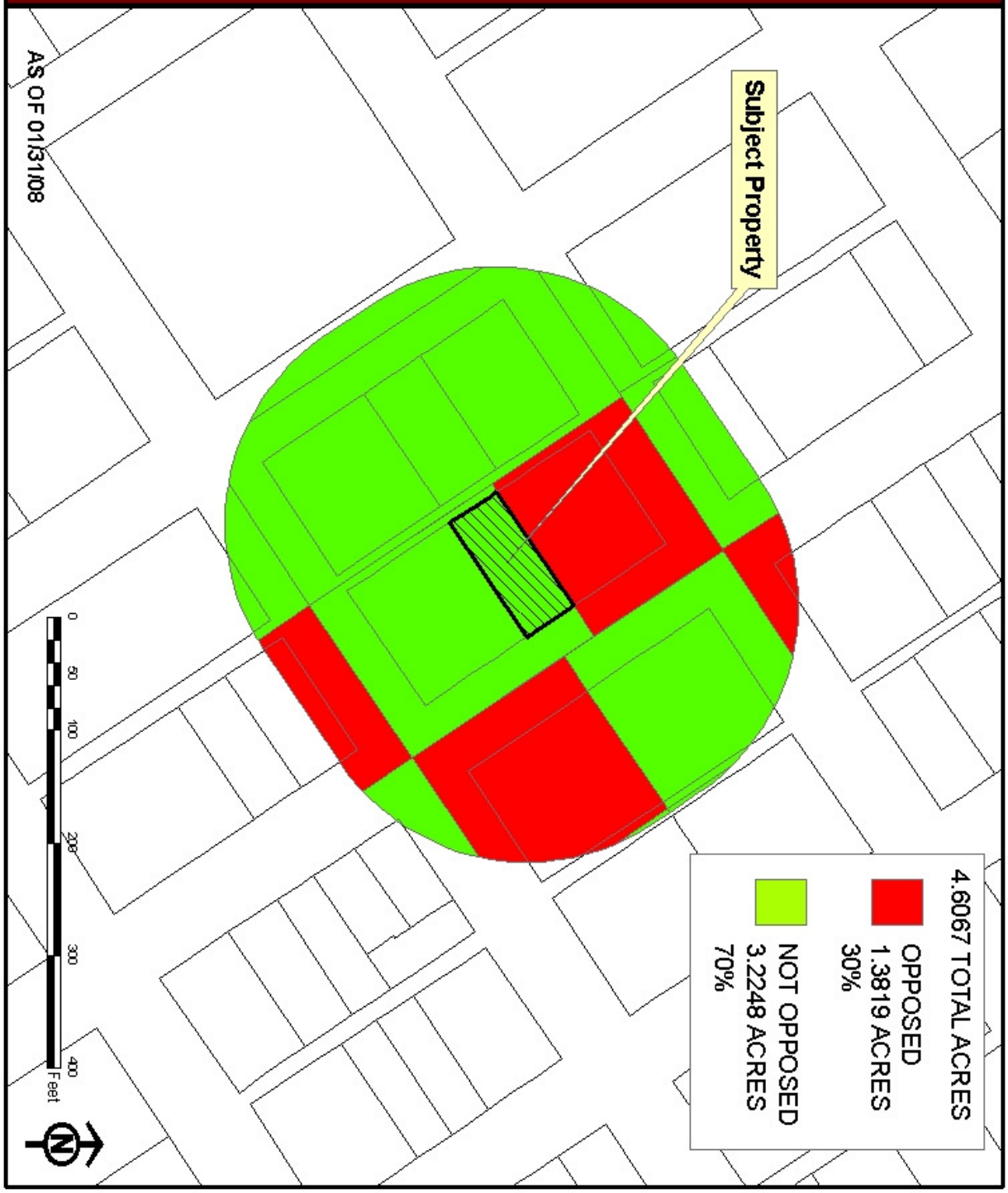
OWNER(S) OF RECORD FOR THE ABOVE DESCRIBED PARCEL(S):
Printed Name: SYED AYUBOOF Signature:
Printed Name: Signature:
Printed Name: Signature:

Note: Signatures are required for all owners of record for the property proposed for rezoning. Attach additional signatures on a separate sheet of paper.

****OFFICE USE ONLY****

ZON 07-00160 RECEIVED DATE: 12/5/07 APPLICATION FEE: $ 750.00
DCC REVIEW DATE: 1/2/08 (8:30 am, Conference Room, 2nd Floor, City Hall Building)
CPC REVIEW DATE: 1/31/08 (1:30 pm, City Council Chambers, 2nd Floor, City Hall Building)
ACCEPTED BY: Esther Rivera

Revised 9/2006

1

ZON07-00160
211 MAP