



DEPARTMENT: Planning & Economic Development
AGENDA DATE: CCA 03/29/11 Introduction, Public Hearing 04/05/11
CONTACT PERSON/PHONE: Raul Garcia, 541-4935
DISTRICT(S) AFFECTED: 1

SUBJECT:

An ordinance amending ordinance No. 017109 which vacated a portion of Boston Avenue to allow a one year extension to complete improvements on the pedestrian walkway and to revise the quitclaim deed to reflect the extended time for completion.

BACKGROUND / DISCUSSION:

N/A

PRIOR COUNCIL ACTION:

N/A

AMOUNT AND SOURCE OF FUNDING:

N/A

BOARD / COMMISSION ACTION:

Development Coordinating Committee (DCC) -- Pending
City Plan Commission (CPC) -- Pending

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

LEGAL: (if required) N/A

FINANCE: (if required) N/A

DEPARTMENT HEAD: Mathew McElroy, Deputy Director
Planning and Economic Development

Handwritten signature of Mathew McElroy

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
Carl L. Robinson

District 5
Rachel Quintana

District 6
Eddie Holguin Jr.

District 7
Steve Ortega

District 8
Beto O'Rourke

City Manager
Joyce A. Wilson

CITY CLERK DEPT.
2011 MAR 21 PM 2:11



ORDINANCE NO. _____

AN ORDINANCE AMENDING ORDINANCE NO. 017109 WHICH VACATED A PORTION OF BOSTON AVENUE TO ALLOW A ONE YEAR EXTENSION TO COMPLETE IMPROVEMENTS ON THE PEDESTRIAN WALKWAY AND TO REVISE THE QUITCLAIM DEED TO REFLECT THE EXTENDED TIME FOR COMPLETION.

WHEREAS, on April 14, 2009 the City Council of El Paso passed an ordinance vacating a portion of Boston Avenue, Alexander Addition, City of El Paso, El Paso County, Texas, and conveying the vacated portion to **EP Marcus Investments, L.P. and EP Del Mesa Partners, L.P.**; and,

WHEREAS, one of the conditions placed on the vacation of the land was that EP Marcus Investments, L.P. and EP Del Mesa Partners, L.P. would construct a 15-foot wide pedestrian walkway traversing the subject property from Oregon St. to Mesa St, to be landscaped and able to accommodate bicyclists, built to City standards, including ADA requirements, and consist of plants selected from the approved plant list on file and maintained in the development services department; and,

WHEREAS, the above improvements were to be completed within two years from the date the vacation was approved by City Council or the property would revert back to the City of El Paso; and,

WHEREAS, EP Marcus Investments, L.P. and EP Del Mesa Partners, L.P is unable to complete the improvements within the two years and is requesting a one year extension and is providing additional consideration to the City for granting the extension;

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

That in consideration of adding an additional year to complete the required pedestrian walkway improvements, EP Marcus Investments, L.P. and EP Del Mesa Partners, L.P. will provide for an additional pedestrian walkway and additional landscaping for both pedestrian walkway; and,

That the El Paso City Council has determined that the additional consideration provided by EP Marcus Investments, L.P. and EP Del Mesa Partners, L.P is adequate consideration for amending Ordinance No. 017109 and the Quitclaim Deed to grant the one year extension to complete the pedestrian walkway improvements; and,

That the conditions contained in Ordinance No. 017109 and the Quitclaim Deed be amended as follows:

1. The following pedestrian walkways shall be constructed by EP Marcus Investments, L.P. and EP Del Mesa Partners, L.P. All pedestrian walkways shall be built to City standards, including ADA requirements, and be landscaped, and able to accommodate bicyclists. A minimum of 18 canopy trees shall be planted along the interior of each of the pedestrian walkways to include any closure along Oregon. The trees shall be shown in the irrigation plan to be approved by the city prior to installation. Landscaping shall consist of plants selected from the approved plant list on file and maintained in the development services department.

- a. A 15-foot wide pedestrian walkway be provided that traverses the subject property from Oregon St. to Mesa St.
- b. A 5' wide pedestrian walkway be added to the northern side of the subject property from Oregon Street to Mesa Street.

2. The access to the entire vacated portion shall remain unobstructed for access by the City and utilities shall be given full access to the alleys. The access to the pedestrian walkways shall remain unobstructed.

3. A one year extension is granted for the completion of the improvements to the pedestrian walkways so that the improvements shall be completed within three years of April 14, 2009 or the City, at its discretion, if and only if the improvements are not completed by April 14, 2012, may require the property owner to dedicate back to the City of El Paso, the interest conveyed by this deed and, if requested by the City of El Paso upon the dedication back to the City, remove any improvements. Should the property revert back to the City, the City shall not be required to compensate EP Marcus Investments, L.P. and EP Del Mesa Partners, L.P for the costs of any improvements completed.

4. EP Marcus Investments, L.P. and EP Del Mesa Partners, L.P or their successor in interest, shall maintain the improvements on the pedestrian walkway, or the property reverts back to the City of El Paso.

5. That the full length and width of the existing street shall be retained as an easement for utilities and no structures shall be constructed that interfere with existing utility infrastructure and access.

In addition, the City Manager is authorized to sign an instrument amending the quitclaim deed to include the amended conditions.

Except as hereby expressly amended, Ordinance No. 017109 shall remain in full force and effect.

PASSED AND APPROVED this _____ day of _____, 2011.

THE CITY OF EL PASO

John F. Cook, Mayor

ATTEST:

Richarda Duffy Momsen
City Clerk

SIGNATURES CONTINUE OF FOLLOWING PAGE

APPROVED AS TO CONTENT:

Mathew McElroy,
Deputy Director
Planning & Economic Development

APPROVED AS TO FORM:

Lupe Cuellar
Assistant City Attorney

improvements. Should the property revert back to the City, the City shall not be required to compensate EP Marcus Investments, L.P. and EP Del Mesa Partners, L.P for the costs of any improvements completed.

4. EP Marcus Investments, L.P. and EP Del Mesa Partners, L.P or their successor in interest, shall maintain the improvements on the pedestrian walkway, or the property reverts back to the City of El Paso.

5. That the full length and width of the existing street shall be retained as an easement for utilities and no structures shall be constructed that interfere with existing utility infrastructure and access.

Except as hereby expressly amended, the quitclaim deed filed on _____ shall remain in full force and effect.

WITNESS the following signatures and seal this ____ day of _____, 2011.

CITY OF EL PASO

Joyce Wilson, City Manager

APPROVED AS TO CONTENT:

APPROVED AS TO FORM:

Mathew McElroy, Deputy Director
Development Services Department
Planning Division

Lupe Cuellar
Assistant City Attorney

ACKNOWLEDGMENT

THE STATE OF TEXAS)
COUNTY OF EL PASO)

This instrument is acknowledged before me on this ____ day of _____, 2011, by Joyce Wilson, as City Manager for the CITY OF EL PASO.

Notary Public, State of Texas
Notary's Printed or Typed Name:

My Commission Expires: _____

AFTER FILING RETURN TO:

EP Marcus Investments, L.P. and EP Del Mesa Partners, L.P.
6500 Montana
El Paso, Texas 79925

Being a portion of Boston Avenue
Out of Alexander Addition
City of El Paso, El Paso County, Texas
January 17, 2006

EXHIBIT A

METES AND BOUNDS DESCRIPTION

Description of a parcel of land being a portion of Boston Avenue out of Alexander Addition City of El Paso, El Paso County, Texas and being more particularly described by metes and bounds as follows:

Commencing for reference at an existing city monument lying 10 feet northerly and 10 feet easterly of the centerline intersection of Oregon Street and University Street Thence North $36^{\circ}58'48''$ West a distance 1015.00 feet to a point from which another existing city monument lying 10 feet northerly and 10 feet easterly of the centerline intersection of Cincinnati Street and Oregon Street bears North $36^{\circ}58'48''$ West a distance of 635.00 feet, Thence leaving said line North $53^{\circ}01'12''$ East a distance of 25.00 feet to a set $\frac{1}{2}$ " rebar with cap marked TX 5152 on the intersection of the northwesterly right of way line of Boston Avenue with the northeasterly right of way line of Oregon Street for THE "TRUE POINT OF BEGINNING"

Thence along the northwesterly right of way line of Boston Avenue North $53^{\circ}01'12''$ East a distance of 260.00 feet to a set chiseled X on concrete on the southwesterly right of way line of Mesa Street;

Thence along said right of way line South $36^{\circ}58'48''$ East a distance of 70.00 feet to a found chiseled X on concrete on the southeasterly right of way line of Boston Avenue;

Thence along said right of way line South $53^{\circ}01'12''$ West a distance of 260.00 feet to a found chiseled X on concrete on the northeasterly right of way line of Oregon Street;

Thence along said right of way line North $36^{\circ}58'48''$ West a distance of 70.00 feet to the "TRUE POINT OF BEGINNING" and containing 18,200 Square Feet or 0.4178 acres of land more or less.

NOTE: Bearings basis is True North for a Transverse Mercator Surface Projection as determine by RTK GPS methods

A Plat of even date accompanies this description


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



LGL-05/1105-01

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

EXHIBIT B

208

192

SCALE: 1"=50'

11 12 13 14 15 16 17

15 16 17 18 19 20

(70' R.O.W.)

MESA STREET
(TX. D.O.T.)

(TYPICAL)
CONCRETE CURB
FND. CHISELED X
ON CONCRETE

SET CHISELED X
ON CONCRETE
EP DEL MESA PARTNERS L.P.
VOLUME 3640, PAGE 461

6 5 4 3 2 1

10 9 8 7 6 5 4

EXISTING BUILDING

EP MARCUS INVESTMENTS L.P.
VOLUME 3916, PAGE 1523

209 16' ALLEY
CITY OF EL PASO

191 16' ALLEY
(CITY OF EL PASO)

EP DEL MESA PARTNERS L.P.
VOLUME 3640, PAGE 461

EP MARCUS INVESTMENTS L.P.
VOLUME 3916, PAGE 1523

17 18 19 20

11 12 13 14 15

SET 1/2" REBAR WITH
CAP MARKED TX 5152

SET CHISELED X
ON CONCRETE

CINCINNATI AVE.

UNIVERSITY AVE.

N 36°58'48" W
635.00'

N 36°58'48" W
1015.00'

EXISTING CITY MONUMENT

EXISTING CITY MONUMENT

(70' R.O.W.)
OREGON STREET

(70' R.O.W.)
BOSTON AVENUE

- NOTES:
1. A METES & BOUNDS DESCRIPTION OF EVEN DATE ACCOMPANIES THIS PLAT.
 2. ACCORDING TO THE FEDERAL EMERGENCY MANAGEMENT AGENCY FLOOD INSURANCE RATE MAP COMMUNITY PANEL NO. 480214-00399 THIS PROPERTY IS IN FLOOD HAZARD ZONE C.
 3. RIGHT OF WAY OF BOSTON STREET TO REMAIN A DRAINAGE AND UTILITY EASEMENT.

LINE TABLE		
LINE	LENGTH	BEARING
L1	25.00	N53°01'12"E
L2	260.00	N53°01'12"E
L3	70.00	S36°58'48"E
L4	260.00	S53°01'12"W
L5	70.00	N36°58'48"W

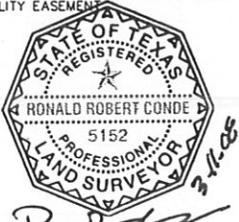
SKETCH OF SURVEY

JOB # 1105-01 DATE: JANUARY 17, 2006 FIELD: A.V. OFFICE: M.M.

A PORTION OF BOSTON AVENUE
ALEXANDER ADDITION
CITY OF EL PASO, EL PASO COUNTY, TEXAS

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

CADD FILE: F:\RON\BOSTON



- LEGEND
- = ELECTRIC BOX
 - ⊕ = FIRE HYDRANT
 - ⊙ = POWER POLE
 - ⊗ = WATER VALVE
 - ⊙ = MANHOLE

REVISED 3-11-08 (ADDED ROW NOTE.)
© COPYRIGHT 2006/CONDE INC.
ALL RIGHTS RESERVED



MEMORANDUM

DATE: March 21, 2011

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

FROM: Raul Garcia, Planner

SUBJECT: **Ordinance amending ordinance No. 017109**

The City Plan Commission (CPC) recommendation is pending. The amendment is scheduled to be presented to the CPC on March 24, 2011.

Mayor
John F. Cook

City Council

District 1
Ann Morgan Lilly

District 2
Susannah M. Byrd

District 3
Emma Acosta

District 4
Carl L. Robinson

District 5
Rachel Quintana

District 6
Eddie Holguin Jr.

District 7
Steve Ortega

District 8
Beto O'Rourke

City Manager
Joyce A. Wilson





SUB08-00034

Subdivision Name:	Boston Avenue Vacation		
Type Request:	Right of Way Vacation		
Property Owner:	City of El Paso		
Representative:	EP Marcus and EP Del Mesa Partners, L.P.		
Surveyor:	Conde, Inc.		
Location:	East of Oregon Street and West of Mesa Street		
Acres:	0.418	Representative District:	1
Planning Area:	Central	Present Zone:	C-1, A-O/sp, C-1/c



GENERAL INFORMATION:

The applicants are proposing to vacate a portion of Boston Avenue located between Mesa Street and Oregon Street. The applicants own the abutting properties to the north and south of the portion being vacated and the request is being made in order to create a parking lot and expand the building area.

The property is currently zoned C-1, A-O/sp, and C-1/c. The special permit on the A-O zoned portion (approved April 27, 1993) allows for off-site, off-street parking for a restaurant/bar on Lots 11-20, Block 208, Alexander Addition. The condition on the C-1 zoned portion (approved May 16, 1995) requires the owner to coordinate and obtain approval from Traffic Engineering and TXDOT on the driveway design and location onto Mesa Street prior to issuance of any building permits.

CASE HISTORY:

This request was presented to the City Plan Commission on March 16, 2006 with the following conditions:

1. That driveway access be provided via Oregon St. and Mesa St as per code requirements.
2. That the alleys in Block 191 and Block 209 be unobstructed; and that the City and utilities be given full access to the alleys.
3. That a 15-foot pedestrian mall be provided that traverses the subject property from Oregon St. to Mesa St. and shall be landscaped and accommodate bicyclists, and;
4. That the improvements to the pedestrian mall be completed within three years of the date of approval by the El Paso City Council to vacate the portion of Boston Ave, or the property reverts back to the City of El Paso.
5. The full length and width retained as an easement for utilities and no structures shall be constructed that interfere with existing utility infrastructure and access.

The City Plan Commission denied this request (5-0) based on the following:

1. The applicant did not agree to provide the 15-foot pedestrian mall.
2. The applicant did not agree with three-year time limit to complete the improvements to the pedestrian mall (condition #4). The applicant did not want to be tied down to any time limit.
3. Potential access issues and future congestion.
4. Not in the best interest of the public.

The applicant then appealed to the City Council where it was denied on May 2, 2006 (6-1).

CURRENT REQUEST:

The applicant has re-submitted this right-of-way vacation request as it has been more than 12 months since it was denied by the City Council.

STAFF RECOMMENDATION:

The Development Coordinating Committee recommends **denial** of the proposed vacation of the portion of Boston Avenue because the applicant does not agree to the proposed conditions. The proposed conditions and requirements are:

1. That driveway access be provided via Oregon St. only and vehicular access to the existing commercial driveways and to the alley from Boston Avenue shall be preserved.
2. That the alley be unobstructed and the City and utilities be given full access to the alleys.
3. That a 15-foot wide pedestrian walkway be provided that traverses the subject property from Oregon St. to Mesa St. and shall be landscaped and accommodate bicyclists. The walkway shall be built to City standards, including ADA compliant, and landscaping shall consist of plants selected from the approved plant list on file and maintained in the development services department.
4. That the improvements to the pedestrian walkway be completed within two years of the date of approval by the El Paso City Council to vacate the portion of Boston Avenue, or the property reverts back to the City of El Paso.

5. The full length and width shall be retained as an easement for utilities and no structures shall be constructed that interfere with existing utility infrastructure and access.

The following comments were received:

Planning Division – Land Development

No objections.

Engineering Department – Traffic Division

Traffic does not object to this vacation if the following conditions are met:

1. Pedestrian access/sidewalks from Mesa to Oregon shall be maintained.
2. Vehicular access to the existing commercial driveways and to the alley from Boston Ave. shall be preserved.

Sun Metro

1. All vehicular traffic shall ingress and egress from the Oregon St. Side.
2. All deliveries shall be from the Oregon St. side.
3. No parking shall be allowed on Mesa St. adjacent to the building.
4. A 15' pedestrian access shall be maintained for thru access and connectivity from Mesa and Oregon streets.

TXDOT

TxDOT supports the City of El Paso in regards to closing the Boston Avenue connection onto SH 20 (Mesa).

El Paso Water Utilities

EPWU- PSB does not object to this request.

The El Paso Water Utilities does not object to the proposed vacation contingent on the public right-of-way being assigned as an easement and the existing water and sanitary sewer mains as described below remain in place to continue providing service to the public.

Water

Along Boston Avenue between Oregon Street and Mesa Street there is an existing six (6) inch diameter water main.

Along the alley located between Oregon Street and Mesa Street, north of Boston Avenue there is an existing one (1) inch diameter water line. This water line dead-ends at approximately 120 feet north of Boston Avenue. This main is fed by the above-described main located along Boston Street.

Along the alley located between Oregon Street and Mesa Street, south of Boston Avenue there is an existing four (4) inch diameter water main. This main dead-ends at approximately 250 feet south of Boston Avenue. This main is fed by the above described main located along Boston Street. The above described existing 6-inch diameter water main is required to remain active to provide service to several water meters located along the alleys north and south of Boston Avenue.

Sanitary Sewer

Along the alley located between Oregon Street and Mesa Street, north of Boston Avenue there is an existing eighteen (18) inch diameter sanitary sewer main. The alignment of this main continues along Boston Avenue towards the west (towards Oregon Street). At Oregon Street, the alignment of this main continues towards the south along Oregon Street.

Along Boston Avenue, between Mesa Street and the alley located west of Mesa Street, there are no existing sanitary sewer mains.

The described existing eighteen (18) inch diameter sanitary sewer main is required to remain active.

General:

The existing Boston Avenue public right-of-way to be vacated is required to be designated as a full-width utility easement in order to enable for the described existing water and sanitary sewer mains to remain in place and in operation.

Mesa Street is a Texas Department of Transportation (TxDOT) right-of-way. All proposed water and sanitary sewer work to be performed within Mesa Street right-of-way requires written permission from TxDOT.

Easement grantor shall indemnify, defend, and hold harmless the El Paso Water Utilities – Public Service Board from and against any and all claims, liability, actions, and damages for bodily injury and property damage to third parties or to the El Paso Water Utilities – Public Service Board which may be caused by or arise out of the maintenance and existence of said sanitary sewer main in the easement area.

EPWU-PSB requires access to the proposed water, sanitary sewer facilities, appurtenances, and meters 24 hours a day, seven (7) days a week.

No building, reservoir, structure or other improvement, other than asphaltic paving (HMAC), shall be constructed or maintained on the above referenced El Paso Water Utilities - Public Service Board Easements (EPWU-PSB easements) without the written consent of EPWU-PSB.

The EPWU-PSB easement shall be improved to allow the operation of EPWU maintenance vehicles.

In the event that the City of El Paso Fire Department requires additional fire hydrants on Public right-of-way and/or an on-site fire protection system within the private property, the property owner is responsible for all costs incurred to extend, relocate and construct water mains and appurtenances to provide this service. The owner is responsible for the costs of any necessary on-site & off-site extensions, relocations or adjustments of water and sanitary sewer lines and appurtenances.

If street improvements are required in conjunction to the right-of-way vacation process, the El Paso Water Utilities requires a finalized set of improvement plans including drainage and grading plans for review and approval prior to any work to ascertain that the proposed improvements do not impact the described existing water and sanitary sewer mains.

EPWU requires a new service application to initialize design of the water and sanitary sewer main extensions to serve the subject property. New service applications are available at 1154 Hawkins, 3rd Floor. The following items are required at the time of application: (1) hard copy of subdivision plat; (2) finalized set of street improvement plans, including storm sewer; (3) digital copy of subdivision plat; (4) benchmark check; and (5) construction schedule. Service will be provided in accordance with the current EPWU – PSB Rules and Regulations. The owner is responsible for the costs of any necessary on-site and off-site extensions, relocations or adjustments of water and sanitary sewer lines and appurtenances.

Central Appraisal District

No comments received.

Texas Gas Service

No comments received.

Fire Department

No comments received.

Parks and Recreation Department

No comments received.

List of Attachments

Attachment 1: Aerial

Attachment 2: Survey

Attachment 3: Application

ATTACHMENT 1



ATTACHMENT 2

