

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

DEPARTMENT: City Development Department, Planning Division

AGENDA DATE: Introduction: April 9, 2013
Public Hearing: April 30, 2013

CONTACT PERSON/PHONE: Arturo Rubio, (915) 541-4633, rubioax@elpasotexas.gov

DISTRICT(S) AFFECTED: District 1

SUBJECT:

An Ordinance changing the zoning of a portion of Section 6, Block 82, Township 1, Texas and Pacific Railway Company Surveys, City of El Paso, El Paso County, Texas from P-MD (Planned Mountain Development) to Q (Quarry) and imposing conditions. The penalty is as provided for in Chapter 20.24 of the El Paso City Code. Subject Property: North of Transmountain Road and East of Desert Boulevard. Property Owner: Jobe Materials, LP. PZRZ13-00005 (District 1) **THIS IS AN APPEAL REQUEST**

BACKGROUND / DISCUSSION:

PRIOR COUNCIL ACTION:

AMOUNT AND SOURCE OF FUNDING:

N/A

BOARD / COMMISSION ACTION:

City Plan Commission (CPC) – Tied Vote 3-3, Motion Fails

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

LEGAL: (if required) N/A

FINANCE: (if required) N/A

DEPARTMENT HEAD: Mathew S. McElroy
For: Director, City Development Department

DAVID A. CORONADO

APPROVED FOR AGENDA:

CITY MANAGER: _____

DATE: _____

ORDINANCE NO. _____

AN ORDINANCE CHANGING THE ZONING OF A PORTION OF SECTION 6, BLOCK 82, TOWNSHIP 1, TEXAS AND PACIFIC RAILWAY COMPANY SURVEYS, CITY OF EL PASO, EL PASO COUNTY, TEXAS FROM P-MD (PLANNED MOUNTAIN DEVELOPMENT) TO Q (QUARRY) AND IMPOSING CONDITIONS. THE PENALTY IS AS PROVIDED FOR IN CHAPTER 20.24 OF THE EL PASO CITY CODE.

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

That the zoning of a portion of Section 6, Block 82, Township 1, Texas and Pacific Railway Company Surveys, *City of El Paso, El Paso County, Texas*, as more particularly described by metes and bounds in the attached Exhibit "A", be changed from P-MD (PLANNED MOUNTAIN DEVELOPMENT) to Q (QUARRY) within the meaning of the zoning Ordinance, and that the zoning map of the City of El Paso be revised accordingly; and

That the property be subject to the following conditions which are necessitated by and attributable to the increased intensity of the use generated by the change of zoning from P-MD (Planned Mountain Development) to Q (Quarry) in order to protect the health, safety and welfare of adjacent property owners and the residents of this city:

1. That a 100' foot setback from the southern boundary of the Avispa Canyon preservation easement be placed to prohibit any quarrying activity within that setback.
2. That an environmental impact study be submitted to City Development Department prior to the issuance of any permits or quarrying is started.

PASSED AND APPROVED this _____ day of _____, 2013.

THE CITY OF EL PASO

John F. Cook
Mayor

ATTEST:

Richarda Duffy Momsen, City Clerk

APPROVED AS TO FORM:

Karla M. Nieman
Assistant City Attorney

APPROVED AS TO CONTENT:

Mathew S. McElroy, Director
City Development Department

ORDINANCE NO. _____

Zoning Case No: PZRZ13-00005

EXHIBIT "A"

Prepared for: Jobe Materials
March 28, 2013

METES AND BOUNDS DESCRIPTION

Description of a parcel of land, being a portion of Section 6, Block 82, Township 1, Texas and Pacific Railway Company Surveys, City of El Paso, El Paso County, Texas and being more particularly described by Metes and Bounds as follows:

Commencing for reference at the northwest corner of Section 6, Block 82, Township 1, Texas and Pacific Railway Company Surveys, Thence along the northerly line of said section 6, North 89°53'12" East a distance of 2638.89 feet to a point; Thence leaving said line South 00°14'02" West a distance of 128.37 feet for the "TRUE POINT OF BEGINNING"

Thence, South 56°15'35" East a distance of 148.52 feet to a point;
Thence, South 36°34'07" East a distance of 171.28 feet to a point;
Thence, South 35°52'29" East a distance of 187.49 feet to a point;
Thence, South 19°20'52" East a distance of 234.05 feet to a point;
Thence, South 80°01'10" East a distance of 153.74 feet to a point;
Thence, North 74°04'11" East a distance of 141.06 feet to a point;
Thence, North 83°08'13" East a distance of 227.62 feet to a point;
Thence, North 84°52'32" East a distance of 307.15 feet to a point;
Thence, North 89°03'41" East a distance of 265.67 feet to a point;
Thence, South 71°14'35" East a distance of 171.96 feet to a point;
Thence, North 77°26'16" East a distance of 178.37 feet to a point;
Thence, South 39°54'17" East a distance of 94.03 feet to a point;
Thence, South 46°47'24" East a distance of 217.21 feet to a point;
Thence, South 48°37'35" East a distance of 220.05 feet to a point;
Thence, South 57°36'30" East a distance of 163.64 feet to a point;

CONDE INC
ENGINEERING / LAND SURVEYING / PLANNING
6080 SURETY DRIVE / SUITE 100 / EL PASO, TEXAS 79905
(915) 592-0283 FAX (915) 592-0286

EXHIBIT "A"

Thence, South 40°10'36" East a distance of 139.77 feet to a point;

Thence, South 47°14'39" East a distance of 185.83 feet to a point;

Thence, South 60°14'51" East a distance of 70.78 feet to a point on the easterly line of section 6, Block 82, Township 1, Texas and Pacific Railway Company Surveys;

Thence along said line, South 00°12'31" East a distance of 1239.19 feet to a found ½" rebar with cap marked TX 2027;

Thence leaving said line, South 89°52'52" West a distance of 2659.23 feet to found ½" rebar with cap marked TX 2027 for the southwesterly corner of herein described parcel of land;

Thence, North 00°14'02' East a distance of 2505.00 feet to the **TRUE POINT OF BEGINNING**" and containing 115.00 acres of land more or less.

Note: A drawing of even date accompanies this description.

Reference survey of Section 6 prepared by Cutts Land Surveying, Dated 6-16-05



job #1011-12

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

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ENGINEERING / LAND SURVEYING / PLANNING
6080 SURETY DRIVE SUITE 100 / EL PASO, TEXAS 79905
(915) 592-0283 FAX (915) 592-0286

MEMORANDUM

DATE: April 2, 2013

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

FROM: Arturo Rubio, Senior Planner

SUBJECT: PZRZ13-00005

On March 21, 2013 the City Plan Commission (CPC), voted 3-3 for a tie, (motion failed) on a request to rezone subject property from P-MD (Planned Mountain Development to Q (Quarry). The applicant submitted an appeal request on March 25, 2013.

Planning Division received one phone call and one e-mail letter in opposition to the rezoning request.

Attachment:

Staff Report
Opposition e-mail
Phone Call Opposition Summary
Appeal Request



City of El Paso – City Plan Commission Staff Report
Revised

Case No: PZRZ13-00005
Application Type: Rezoning
CPC Hearing Date: March 21, 2013
Staff Planner: Arturo Rubio, 915-541-4633, rubioax@elpasotexas.gov

Location: North of Transmountain and East of Desert Boulevard
Legal Description: A portion of Section 6, Block 82, Township 1, Texas and Pacific Railway Company Surveys, City of El Paso, El Paso County, Texas
Acreage: 160.14 acres
Rep District: 1
Existing Zoning: P-MD (Planned Mountain Development)
Existing Use: Vacant
Request: From P-MD (Planned Mountain Development) to Q (Quarry)
Proposed Use: Quarry

Property Owner: Jobe Materials, LP
Representative: Conde, Inc.

SURROUNDING ZONING AND LAND USE

North: P-MD (Planned Mountain Development)/Vacant; R-3 (Residential)/Vacant
South: P-MD (Planned Mountain Development)/Vacant; R-3 (Residential)/Vacant
East: P-MD (Planned Mountain Development)/Franklin Mountain State Park
West: P-MD (Planned Mountain Development)/Vacant; R-3 (Residential)/Vacant

PLAN EL PASO DESIGNATION: O-2 – Natural (Northwest Planning Area)
NEAREST PARK: Franklin Mountains State Park (Adjacent to property)
NEAREST SCHOOL: Deanna Davenport Elementary (25,521 feet)

NEIGHBORHOOD ASSOCIATIONS

Upper Valley Improvement Association
Upper Mesa Hills Neighborhood Association
Coronado Neighborhood Association
Save the Valley Neighborhood Association

NEIGHBORHOOD INPUT

Notice of a Public Hearing was mailed to all property owners within 300 feet of the subject property on March 05, 2013. The Planning Division has not received any letters or phone calls in support or opposition of the rezoning request.

APPLICATION DESCRIPTION

The applicant is requesting to rezone the subject property from P-MD (Planned Mountain Development) to Q (Quarry) to allow for a Quarry facility. Access to the subject property is proposed from Desert Boulevard.

PLANNING DIVISION RECOMMENDATION

The Planning Division recommends **denial** of rezoning the subject property from P-MD (Planned Mountain Development) to Q (Quarry) for a quarry facility. Access is proposed through an existing recorded access easement off Desert Boulevard. The denial recommendation is based on the incompatibility with the surrounding land uses and zones and Plan El Paso land use designations. The predominant land use in the area is open space. The surrounding land uses and zoning districts which include R-3 residential and PMD

Planned Mountain Development are currently in a natural state. The Franklin Mountains State Park is directly adjacent to the East of the subject property. The Avispa Canyon runs down to the property from the North. Also access is proposed through residential zoned district a property which is not permitted per 20.14.040 **Access to lots:**

*Access to lots. Access to off-street parking spaces shall be provided by aisles or driveways complying with Title 19 (Subdivisions), Title 13 (Streets, Sidewalks and Public Places), and this chapter. An aisle is the traveled path providing vehicular access to two or more parking spaces. Access shall be subject to approval by the traffic engineer and shall be arranged to minimize turning movements onto and from the public right-of-way. Aisles and driveways providing access to off-street parking spaces shall connect to a dedicated public or private street or easement. **Property zoned R, A, or RMU may not be used for access to a parking area on a separate site for a use that is not permitted in the R, A or RMU zone.***

Plan El Paso- Future Land Use Map Designation

All applications for rezoning submitted on or after adoption of Plan El Paso shall demonstrate compliance with the following criteria:

O-2 Natural: "Foothills, bosques, wetlands, critical arroyos, and other natural features owned by private or public entities but currently without protected status. Examples include the Castner Range and private tracts in and around the Franklin Mountains and Hueco Tanks State Parks. City regulations and policy decisions should help keep these lands in their natural state for drainage, natural habitat, and scenic protection. Public acquisition should be considered especially when key drainage features can be protected."

The purpose of the Q (Quarry-Heavy Industrial) districts is to provide for the most intensive of industrial uses which may be characteristic of nuisance or hazardous conditions. It is intended that the districts will serve the entire city. The regulations of the districts will require reasonable standards for the protection and preservation of the compatibility of such uses and adjacent areas.

COMMENTS:

Planning Division Transportation

1. As presented, the property is landlocked. There are no roadways to the site.
2. As presented, the property will not comply with Section 20.14.040 (Access to lots) as the quarry use is not permitted within the Urban Reserve District (URD), the R-MU (Residential Mixed Use), R-3 (Residential) nor the PMD (Planned Mountain Development).

City Development Building Permits and Inspections – Plan Review

Recommend approval

City Development - Land Development

No Objection.

Grading plan and permit shall be required.*

Storm Water Pollution Prevention Plan and/or permit required.*

Drainage plans must be approved by the City Development Dept. Land Development Section.*

* This requirement will be applied at the time of development.

Fire Department

Recommend "APPROVAL" of "Site Plan" as presented. *****NOTE ***** In accordance with the requirements of the Zoning Code Section 20.04.160 Content of application the Fire Planning Division has reviewed the submitted "Detailed Site Plan for the following: Elevations, Perspective of the building, Dimensions, square footage and height of all structures, Number of dwelling units in Multi-family

structures, and Driveways as applicable to following sections of the fire code; Sections 503 and Appendix D Fire Apparatus Access Roads, Section 903 Automatic Sprinkler Systems, Section 905 Standpipe Systems. "When required as per section 905.3.1, 905.4 and 905.5 all fire protections system plans shall be submitted separately to Fire Plan Review for further requirements and comments". The Fire Planning Division has reviewed the submitted "Site Plan" as per requirements of the Zoning Code Section 20.04.160 Content of application and has determined that the submission DOES Comply within the zoning regulations.

Sun Metro

Sun Metro does not oppose this request.

Open Space Advisory Board

On March 13, 2013 the OSAB recommended approval of the rezoning request on a 3-2 vote.

The OSAB "recommend that the rezoning from PMD to Quarry be approved contingent on the establishment of the proposed conservation easement and a 100 foot no quarrying setback from the boundary of that easement."

El Paso Water Utilities

1. EPWU does not object to this request.
2. The El Paso Water Utilities – Public Service Board (EPWU-PSB) cannot provide water or sanitary sewer service to the subject property at this time. There is no public water or sanitary sewer mains in the vicinity of the subject property.

CITY PLAN COMMISSION OPTIONS

The City Plan Commission may consider the following options and additional options that it identifies when reviewing the rezoning application.

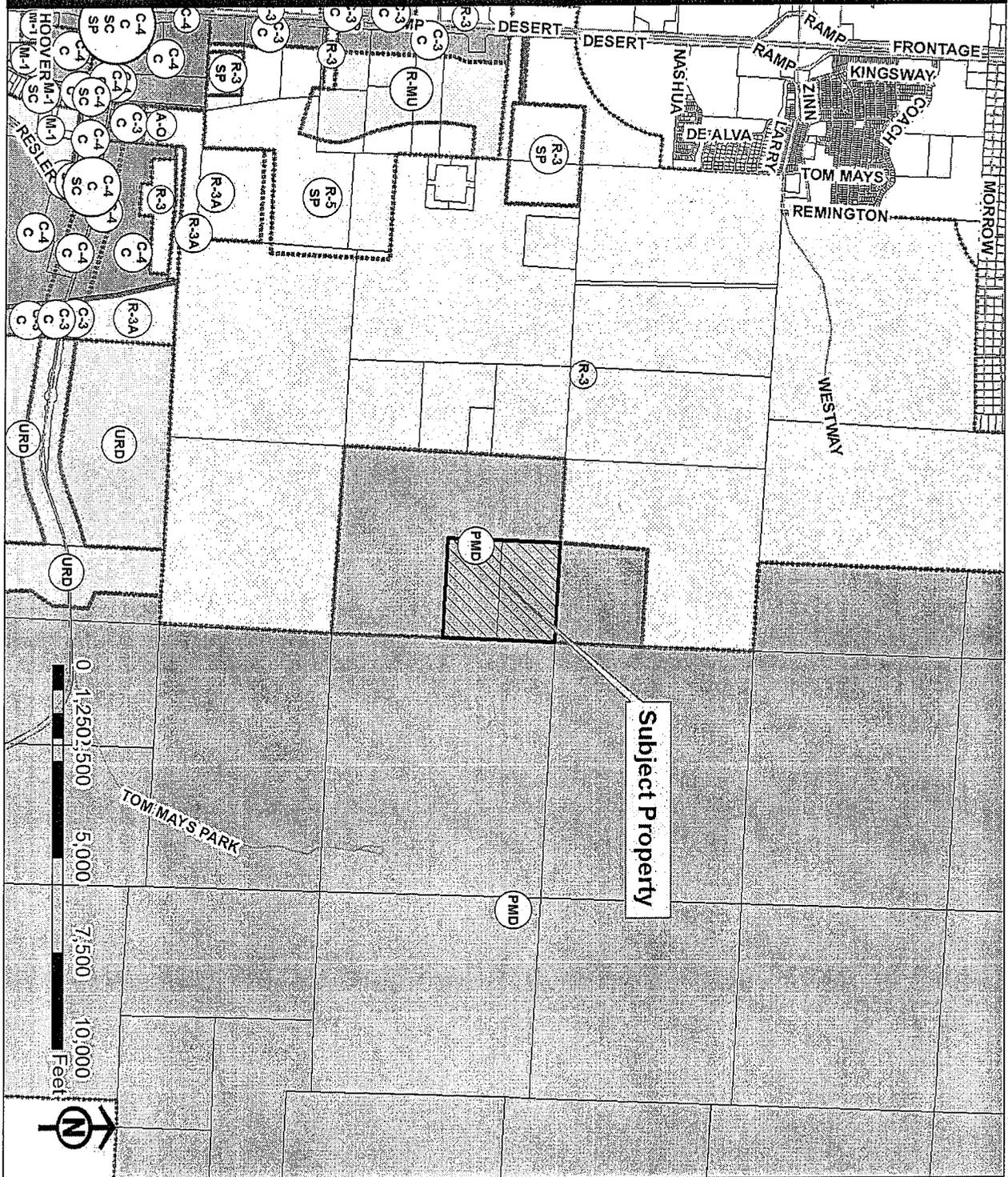
1. Recommend approval of the application finding that the rezoning is in conformance with the review criteria of Plan El Paso as reflected in CPC report or other criteria that the CPC identifies from the Plan.
2. Recommend approval of the application with modifications to bring the rezoning into conformance with the review criteria in Plan 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 rezoning does not conform to the review criteria in Plan El Paso as reflected in CPC report or other criteria identified in the Plan by the CPC.

Attachments:

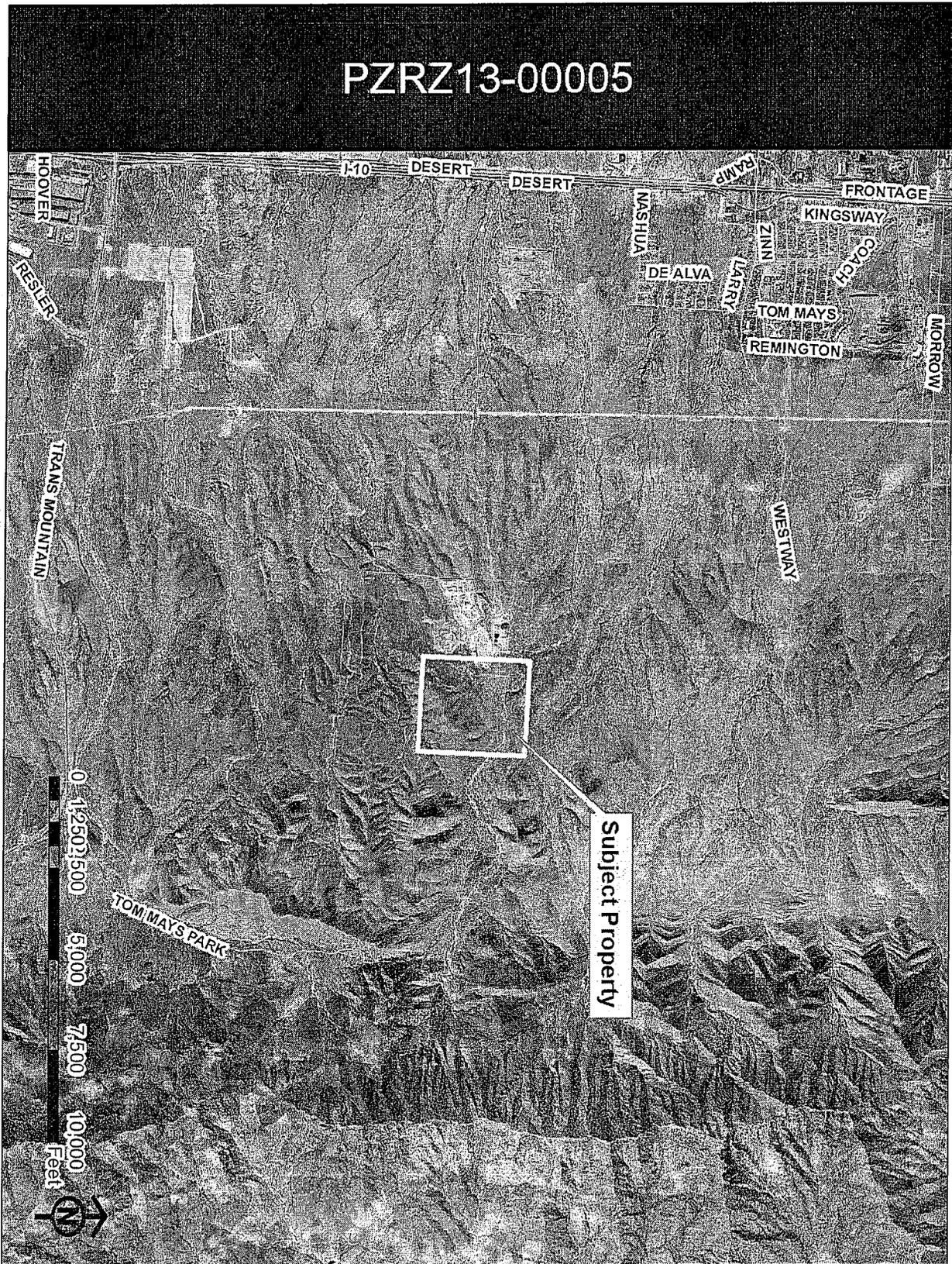
- Attachment 1: Zoning Map
- Attachment 2: Aerial Map
- Attachment 3: Conceptual Plan

ATTACHMENT 1: ZONING MAP

PZRZ13-00005



ATTACHMENT 2: AERIAL MAP



Judy Ackerman
755-7371
702-622-0661

Ms. Ackerman called on Wednesday March 20, 2013 and expressed her opposition to item 2 rezoning request case number PZRZ13-00005. Ms. Ackerman believes that the rezoning from PMD to Quarry is not appropriate as the proposed quarry is along the hills especially next to the Franklin State Park. The property should be left in a natural state and she believes the PMD zone is more appropriate as it is less intrusive and should be left that way.

Rubio, Arturo

From: Teschner, Richard <teschner@utep.edu>
Sent: Wednesday, March 20, 2013 4:49 PM
To: Rubio, Arturo
Cc: Judy Ackerman (jpackerman53@gmail.com)
Subject: RE: March 21, 2013 CPC Item 2

Mr. Rubio—

Here are the reasons why I oppose the rezoning of a portion of Section 6, Block 82, Township 1, Texas and Pacific Railway Surveys, City of El Paso (etc.):

The GLO land consists of three parcels which viewed as a whole/taken together look like the borders of the state of Utah. All three of those parcels are now under a long-term quarrying lease, with quarrying having begun on the NW parcel. The SE parcel lies directly to the west of the western boundary of the Franklin Mountains State Park. The SE parcel (with the exception of Arroyo 41-A) is scheduled for quarrying. Just to the north of that parcel lies what I will call the NE parcel, which the company that holds the long-term quarrying lease recently purchased (in December 2012 and for ca. \$800,000 if memory serves). The company intends to quarry or use as storage land 115 acres = 71.87% of the 160-acre NE parcel, provided that the Frontera Land Alliance or some other land trust agrees to accept, as land for it to hold in perpetuity with a conservation easement, the remaining 45 acres = 28.13% of the NE parcel. If a land trust agrees to accept the 45 acres as its conservation-easement land, those 45 acres would not be quarried or used as storage space. That however would still leave, as available for quarrying, the remaining half of the NE parcel's land which abuts the western boundary of the State park (together, of course, with the land that lies to the west and the WNW of it, i.e., the remaining 115 acres). And if a land trust does NOT agree to accept the 45 acres as conservation-easement land, then all 160 acres of the NE parcel would be available for quarrying. So most of the SE parcel's park-abutting land and either half or all of the NE parcel's park-abutting land would be available for quarrying. In my opinion, that's an excessive amount lot of park-adjacent land to turn over to a quarry.

Another reason I oppose the rezoning is the effect that quarrying in all or most of the four Section 6, Block 82, Township 1 etc. parcels would have on the value of the City-owned/PSB-managed Planned Mountain Development land that lies to the north of Section 6, Block 82, Township 1. If all four parcels were quarried, the sale value of the City-owned/PSB-managed land would decrease accordingly.

A third reason is Avispa Arroyo. If a land trust agrees to accept the arroyo—effectively the 45 acres referred to above—as conservation-easemented property, the arroyo would be preserved. If no land trust agreed to do so, the arroyo would not be preserved.

Sincerely,

Richard Teschner

From: Teschner, Richard
Sent: Wednesday, March 20, 2013 11:33 AM
To: 'RubioAX@elpasotexas.gov'
Cc: Judy Ackerman (jpackerman53@gmail.com)
Subject: RE: March 21, 2013 CPC Item 2

Good morning, Mr. Rubio.

I too will be signing up (in the five minutes before the start of the CRC) to speak on Item #2, the requested rezoning from Planned Mountain Development to Quarry. And I too will e-mail you—later on today—the reasons behind my opposition to the rezoning.

Richard Teschner

From: judy Ackerman [<mailto:jpackerman53@gmail.com>]
Sent: Wednesday, March 20, 2013 11:10 AM
To: Charlie Wakeem; Teschner, Richard
Subject: FW: March 21, 2013 CPC Item 2

FYI, I will not be able to respond till much later. Perhaps, you have comments....

judy

From: Rubio, Arturo [<mailto:RubioAX@elpasotexas.gov>]
Sent: Wednesday, March 20, 2013 10:31 AM
To: judy Ackerman
Subject: RE: March 21, 2013 CPC Item 2

Ms. Ackerman,

Can you please provide comments as to the basis on the opposition, so I may include in the case file and summarize for the commission.

Cordially,

Art Rubio, CNU-A
Senior Planner
City Development Department
City of El Paso
915-541-4633 Office
915-541-4725 Fax
rubioax@elpasotexas.gov

From: judy Ackerman [<mailto:jpackerman53@gmail.com>]
Sent: Monday, March 18, 2013 7:18 AM
To: Rubio, Arturo
Subject: RE: March 21, 2013 CPC Item 2

Art Rubio,

Thank you for the information.

I oppose the change in zoning from Planed Mountain Development to Quarry. Does your staff report track such public comments you receive? Do you want more comments?

judy

From: Rubio, Arturo [<mailto:RubioAX@elpasotexas.gov>]
Sent: Monday, March 18, 2013 7:10 AM

To: judy Ackerman
Subject: RE: March 21, 2013 CPC Item 2

Ms. Ackerman,

On the day of the hearing there will be a sign in sheet for anyone in the public that wishes to speak on any of the City Plan Commission items. Please sign in at the front desk with Lucy Acosta. If the sign in sheet is not available please let anyone in staff know and we can provide you with the sign in sheet. The CPC will make a call for the public on the item, however if you are signed up they will go off the sign in sheet. Are you in support or opposition of the request, so I may update my staff report.

Cordially,

Art Rubio, CNU-A
Senior Planner
City Development Department
City of El Paso
915-541-4633 Office
915-541-4725 Fax
rubioax@elpasotexas.gov

From: judy Ackerman [<mailto:jpackerman53@gmail.com>]
Sent: Sunday, March 17, 2013 7:55 PM
To: Rubio, Arturo
Subject: March 21, 2013 CPC Item 2

Dear Art Rubio,

I would like to sign up to speak about item #2 (below) on the CPC agenda for 21 Mar. Is it possible to sign up to speak with this e-mail instead of waiting until the day of the CPC meeting?

I look forward to hearing from you.

Judy Ackerman
915-755-7371
Cell: 703-622-0661

PUBLIC HEARING Rezoning Application:

2. PZRZ13-00005: A portion of Section 6, Block 82, Township 1, Texas and Pacific Railway Company Surveys, City of El Paso, El Paso County, Texas

Location:	North of Transmountain Road and East of Desert Boulevard
Zoning:	P-MD (Planned Mountain Development)
Request:	From P-MD (Planned Mountain Development) to Q (Quarry)
Existing Use:	Vacant
Proposed Use:	Quarry
Property Owner:	Jobe Materials, LP
Representative:	Conde, Inc.
District:	1
Staff Contact:	Arturo Rubio, (915) 541-4633, rubioax@elpasotexas.gov

APPEAL TO THE CITY COUNCIL

DATE: March 25, 2013

HONORABLE MAYOR AND CITY COUNCIL
CITY OF EL PASO, TEXAS

DEAR MAYOR AND COUNCIL:

After a public hearing held on March 21, _____, 2013, the
City Planning Commission _____ denied my request for

Rezoning from P-MD to Q (Quarry)

legally described as:

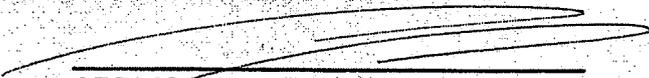
A Portion of Section 6, Block 82, Township 1, Texas and Pacific Railway
Company Surveys, City of El Paso, El Paso County, Texas

I hereby request the City Council to review the decision of the _____

Rezoning application _____ AND CONSIDER MY REQUEST

SET OUT ABOVE. I AM ATTACHING A LETTER SETTING FORTH MY

REASONS FOR BELIEVING THEIR DECISION TO BE IN ERROR.



APPLICANT

6080 Surety Drive, Ste. 100

ADDRESS

(915) 592-0283

TELEPHONE NUMBER

Two (2) copies filed in City Clerk's Office on: _____

3/25/2013
Page 2 of 2

City Representative Steve Ortega
District 7
#2 Civic Center Plaza
10th Floor, City Hall
El Paso, Texas 79901

City Representative Cortney Niland
District 8
#2 Civic Center Plaza
10th Floor, City Hall
El Paso, Texas 79901

Re: Rezoning Application
PZRZ13-00005 / Jobe Materials, L.P., Applicant

Dear Mayor Cook & City Representatives:

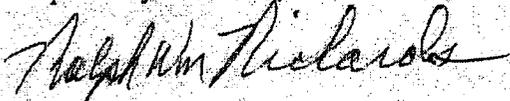
Please consider this as an appeal by Jobe Materials, L.P. from the denial by the City Plan Commission on March 21, 2013, on the above-referenced matter whereby Jobe Materials, L.P. was denied a request for change of zoning to a "Q" zone for 115 acres of property, more or less, located in the Northeast ¼ of Section 6, Block 82, Township 1, Texas and Pacific Railway Company Surveys, City of El Paso, El Paso County, Texas.

The vote on the item by the City Plan Commission was a "tie" vote (3 for and 3 against), which resulted in the denial of Jobe Materials, L.P.'s application for a zone change.

Jobe Materials, L.P. believes that the Q zone that it is requesting is consistent with the use of the adjoining property west of and south of the subject tract since that property is presently an operating quarry on Texas General Land Office land. Denial of the zoning request would leave the owner without any productive use for the property. Please consider that this is not creating a new quarry, but instead allowing for the continuation of the existing use from the adjoining property.

Jobe Materials, L.P. therefore appeals from the decision of the City Plan Commission and requests that City Council overturn such decision and grant the application and request for a Q Zone on this property.

Respectfully submitted,



Ralph Wm. Richards
Vice President and General Counsel

RWR/vr



March 25, 2013

VIA HAND DELIVERY

The Honorable Mayor John Cook
City of El Paso
#2 Civic Center Plaza
10th Floor, City Hall
El Paso, Texas 79901

City Representative Ann Morgan Lilly
District 1
#2 Civic Center Plaza
10th Floor, City Hall
El Paso, Texas 79901

City Representative Susie Byrd
District 2
#2 Civic Center Plaza
10th Floor, City Hall
El Paso, Texas 79901

City Representative Emma Acosta
District 3
#2 Civic Center Plaza
10th Floor, City Hall
El Paso, Texas 79901

City Representative Carl L. Robinson
District 4
#2 Civic Center Plaza
10th Floor, City Hall
El Paso, Texas 79901

City Representative Dr. Michiel Noe
District 5
#2 Civic Center Plaza
10th Floor, City Hall
El Paso, Texas 79901

City Representative Eddie Holguin Jr.
District 6
#2 Civic Center Plaza
10th Floor, City Hall
El Paso, Texas 79901

JOBE MATERIALS, L.P.

1150 SOUTHVIEW DR. • EL PASO, TX 79928
PHONE (915) 298-9900 • FAX (915) 298-9990