

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

DEPARTMENT: Development Services Department
AGENDA DATE: Introduction 04-10-07; Public Hearing 04-24-07
CONTACT PERSON/PHONE: Fred Lopez, AICP, Lead Planner – 541-4056
DISTRICT(S) AFFECTED: 3

SUBJECT:

An Ordinance vacating a portion of an alley located between Pera Street and Washington Park, City of El Paso, El Paso County, Texas. Applicant: Chico's Tacos Inc. AV06002 (**District 3**)

BACKGROUND / DISCUSSION:

See attached report.

PRIOR COUNCIL ACTION:

N/A

AMOUNT AND SOURCE OF FUNDING:

N/A

BOARD / COMMISSION ACTION:

Development Coordinating Committee (DCC) – Approval Recommendation
City Plan Commission (CPC) – Approval Recommendation

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

LEGAL: (if required) N/A

FINANCE: (if required) N/A

DEPARTMENT HEAD: Kelly Carpenter, AICP

APPROVED FOR AGENDA:

ORDINANCE NO. _____

AN ORDINANCE VACATING A PORTION OF AN ALLEY LOCATED BETWEEN PERA STREET AND WASHINGTON PARK, CITY OF EL PASO, EL PASO COUNTY, TEXAS.

WHEREAS, the abutting property owner, Chico’s Tacos, Inc., has requested that a portion of the alley located between Pera Street and Washington Park, City of El Paso, El Paso County, Texas, be vacated; and,

WHEREAS, City Plan Commission has recommended the vacation, and the El Paso City Council finds that said right-of-way is not needed for public use and should be vacated as recommended with certain conditions.

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

Section 1. That a determination has been made that it is in the best interest of the public that a portion of the alley located between Pera Street and Washington Park, City of El Paso, El Paso County, Texas, and which is more fully described in the attached metes and bounds description and survey, identified on Exhibit A and Exhibit A-1 respectively, made a part hereof by reference, be and is hereby vacated, subject to the following conditions:

1. The southerly half of the above described alley shall be retained as an utility easement by the El Paso Water Utilities – Public Service Board (“EPWU-PSB”) for the entire width; and,
2. EPWU-PSB requires access to the existing facilities, appurtenances, and meters twenty-four (24) hours a day, seven (7) days a week; and,
3. No building, reservoir, structure or other improvement, other than asphaltic paving (HMAC), and signage for the Chico’s Tacos restaurant, shall be constructed or maintained on the easement without the written consent of EPWU-PSB, which consent shall not be unreasonably withheld; and,
4. Chico’s Tacos, Inc., its successors and assigns shall indemnify, defend, and hold harmless the EPWU-PSB, its successors and assigns from and against any and all claims, liability, actions, and damages for bodily injury and property damage to third parties which is solely caused by or arises out of the use of the easement area by Chico’s Tacos, Inc., its successors and assigns.

Section 2. That the City Manager is authorized to sign an instrument quitclaiming all of the City’s right, title and interest in and to such vacated property, incorporating the above conditions, to Chico’s Tacos Inc.

PASSED AND APPROVED this _____ day of _____, 2007.

(Signatures appear on the following page.)

07 APR - 2 PM 1:04

CITY CLERK DEPT.
Alley Vacation AV06002

THE CITY OF EL PASO

John F. Cook
Mayor

ATTEST:

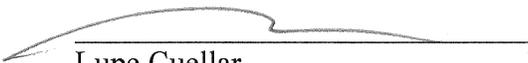
Richarda Duffy Momsen
City Clerk

APPROVED AS TO CONTENT:



Fred Lopez, Lead Planner
Development Services Department

APPROVED AS TO FORM:



Lupe Cuellar
Assistant City Attorney

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT BEFORE IT IS FILED OF RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

**THE STATE OF TEXAS }
 }
COUNTY OF EL PASO }**

QUITCLAIM DEED

That the **CITY OF EL PASO** has released and quitclaimed and by these presents does release and quitclaim unto **CHICO'S TACOS, INC.**, all its rights, title interest, claim and demand in and to the property which was vacated, closed and abandoned by Ordinance No. _____, passed and approved by the City Council of the City of El Paso and described as a **portion of an alley located between Pera Street and Washington Park, City of El Paso, El Paso County, Texas**, which is more fully described and shown in the attached metes and bounds description and survey, identified as Exhibit A and Exhibit A-1 respectively, and made a part hereof by reference, subject to the following conditions:

1. The southerly half of the above described alley and as shown on Exhibit "A" shall be retained as a full-width El Paso Water Utilities – Public Service Board ("EPWU-PSB") easement; and,
2. EPWU-PSB requires access to the existing facilities, appurtenances, and meters twenty-four (24) hours a day, seven (7) days a week; and,
3. No building, reservoir, structure or other improvement, other than asphaltic paving (HMAC), and signage for the Chico's Tacos restaurant, shall be constructed or maintained on the easement without the written consent of EPWU-PSB, which consent shall not be unreasonably withheld; and,
4. Chico's Tacos, Inc., its successors and assigns shall indemnify, defend, and hold harmless the EPWU-PSB, its successors and assigns from and against any and all claims, liability, actions, and damages for bodily injury and property damage to third parties which is solely caused by or arises out of the use of the easement area by Chico's Tacos, Inc., its successors and assigns.

WITNESS the following signatures and seal this _____ day of _____, 2007.

THE CITY OF EL PASO

Joyce Wilson
City Manager

(Signatures and acknowledgement continue on the following page.)

Doc #23476/Planning/Ord/Alley Vacation AV06002-Chico's Tacos/LCUE

Ordinance No. _____

07 APR -2 PM 1:05
CITY CLERK DEPT.
Alley Vacation AV06002

APPROVED AS TO CONTENT:

APPROVED AS TO FORM:



Fred Lopez, Senior Planner
Development Services Department



Lupe Cuellar
Assistant City Attorney

ACKNOWLEDGMENT

THE STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument is acknowledged before me on this _____ day of _____, 2007, 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:

Chico's Tacos, Inc.
10530 Montwood Drive
El Paso, Texas 79936

Ordinance No. _____

07 APR - 2 PM 1:05
CITY CLERK DEPT.
Alley Vacation AV06002

STAFF REPORT

Application Number: AV06002

Legal Description: A portion of an alley located between Pera Street and Washington Park, City of El Paso, El Paso County, Texas.

Type Request: Alley Vacation

Abutting Property Owner: Chico's Tacos, Inc.

Representative: The Gilbert Law Firm

Location: South of Alameda Ave., West of Washington St., North and East of Evergreen St.

Representative District: 3

Planning Area: Central

**CITY PLAN COMMISSION HEARING, APRIL 6, 2006
1:30 P.M., COUNCIL CHAMBERS, 2ND LOOR, CITY HALL**

AV06002 – Vacation of Alley located South of Alameda Ave., West of Washington St., North and East of Evergreen St.

GENERAL INFORMATION:

On February 23, 2006 Joe Mora, owner of Chico's Tacos, Inc., applied to vacate two abutting alleys. A file was created for each. A (5) five year license agreement to use these two alleys was first signed into ordinance on October 16, 1989 that allowed for (2) two additional (5) five year options to renew at the City's option. The owner used these two additional renewals, the last of which expired on October 16, 2004.

The license agreement states that a monthly hold over rental rate of \$350 goes into effect if the Licensee does not renew or extend the terms of the agreement. The License, Joe Mora, had been paying \$200 of the \$350 per month since the agreement expired but paid the remaining difference in full when the Purchasing Department brought it to his attention on February 16, 2006. Joe Mora was informed of the option to vacate these two alleys instead, which he decided to do.

The agreement also states that any improvements, other than paving, striping and cement stops require the City's approval and shall be removed by the license without cost to the City. The site has entrances and exists to the North along Pera Ave. and to the East along Washington Ave. and Alameda Ave. One area resident visited the department to speak in favor of both alley vacations.

STAFF RECOMMENDATION:

The Development Coordinating Committee recommends **APPROVAL** of this alley vacation request.

Planning – Land Development Comments and Requirements:

We have reviewed the proposed Alley Vacation requests and recommend that the applicant address the following comments:

1. Provide the legal descriptions and metes and bound descriptions stating the approximate acreage.
2. The surveyor shall provide signed certifications on the submitted drawing.
3. One copy of the subdivision plat or instrument by which the alley rights-of-way were dedicated, showing the recording information.
4. The proposed alleys to be vacated shall be clearly identified on the submitted drawing.
5. All tracts and street right-of-ways abutting alleys shall be clearly identified
6. Clarify the ownership of all abutting properties, TXDOT, the City of El Paso ROW Streets, City of El Paso Parks, as applicable.
7. Provide a print-out of the mathematical closure of the exterior boundary of the properties, which indicates the error of closure of the respective parcels.
8. Identify and / or illustrate existing improvements on the alleys.
9. Show flood zone designation and FIRM Map information.

Engineering Traffic Division:

1. Traffic Division, at this moment, recommends denial of the proposed alley vacation until the Texas Department of Transportation completes the design for the Alameda Avenue Improvement Project.
2. A realignment to vertically straighten out Washington St. should also be taken into account.
3. Both alleys should not be vacated where perpendicular but rather reduce their lengths to avoid creating a dead end into each other.

Texas Department of Transportation:

1. Priority is being given to improve Alameda Ave. between Boone St. and Paisano Dr. Improvements include reducing sharp curve by Chico's Tacos, widening certain sections and overall access.
2. A portion of R.O.W. for right turn into the park will be needed.
3. Please contact Godwin Unbany (APD) at 790-4359 in regards to this before approving this vacation of easement.

El Paso Water Utilities Comments:

We have reviewed the above described alley vacation requests and provide the following comments:

Water:

There is an existing 6-inch diameter water main along the alley south of and parallel to Pera Avenue. There is an existing water meter connection for Chicos Tacos located on the portion of the alley to be vacated.

Previous pressure readings conducted on a fire hydrant located at 4141 Pera Avenue have yielded a static pressure of 88 pounds per square inch (psi), residual pressure of 82 psi, a pitot pressure 20 pound per square inch, at a discharge of 750 gallons per minute (gpm).

A backflow preventor and a pressure-regulating device are required at the discharge side of the water meter.

Sanitary Sewer:

There are no sanitary sewer mains along the alley south of and parallel to Pera Avenue. There is an existing 6-inch diameter sewer main that traverses the south portion of the alley east of and parallel to Evergreen.

General:

If the proposed project would require the relocation of the existing water main, sewer main and services, all costs associated with the relocations will be the responsibility of the applicant. If the proposed relocations require new easements, the applicant will be responsible to acquire and furnish the new easements to El Paso Water Utilities – Public Service Board (EPWU-PSB).

If the proposed project allows for the existing water main and sewer main to remain in place, then the existing alleys to be vacated are required to be designated as full-width EPWU-PSB easements.

Easement grantor shall indemnify, defend, and hold harmless the– 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 water and sanitary sewer mains in the easement area.

EPWU-PSB requires access to the water 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.

The El Paso Water Utilities requires a finalized set of improvement plans including drainage and grading plans to initialize the relocation designs (if required). The applicant is responsible for the costs of any necessary on-site & off-site extensions, relocations or adjustments of water and sanitary sewer lines and appurtenances. Furthermore, application for additional services for subject property must be made in conjunction with the request for water and sanitary sewer main relocations (if required). The improvement plans should include a site plan, a utility plan, grading & drainage plans, landscaping plan (if applicable), the legal description of the property, and a certificate-of-compliance which are required at the time of application. The certificate-of-compliance can be obtained from the Planning Department at City Hall.

The El Paso Water Utilities does not object to the proposed alley vacations.

Fire Department Comments and Requirements:

No comments received.

Sun Metro Mass Transit Department:

Sun Metro has no objections to this request.

El Paso Electric Company:

No comments received.

Texas Gas Service:

No comments received.

Time Warner Cable:

No comments received.

Geographic Information Systems:

No comments received.

911:

No comments received.

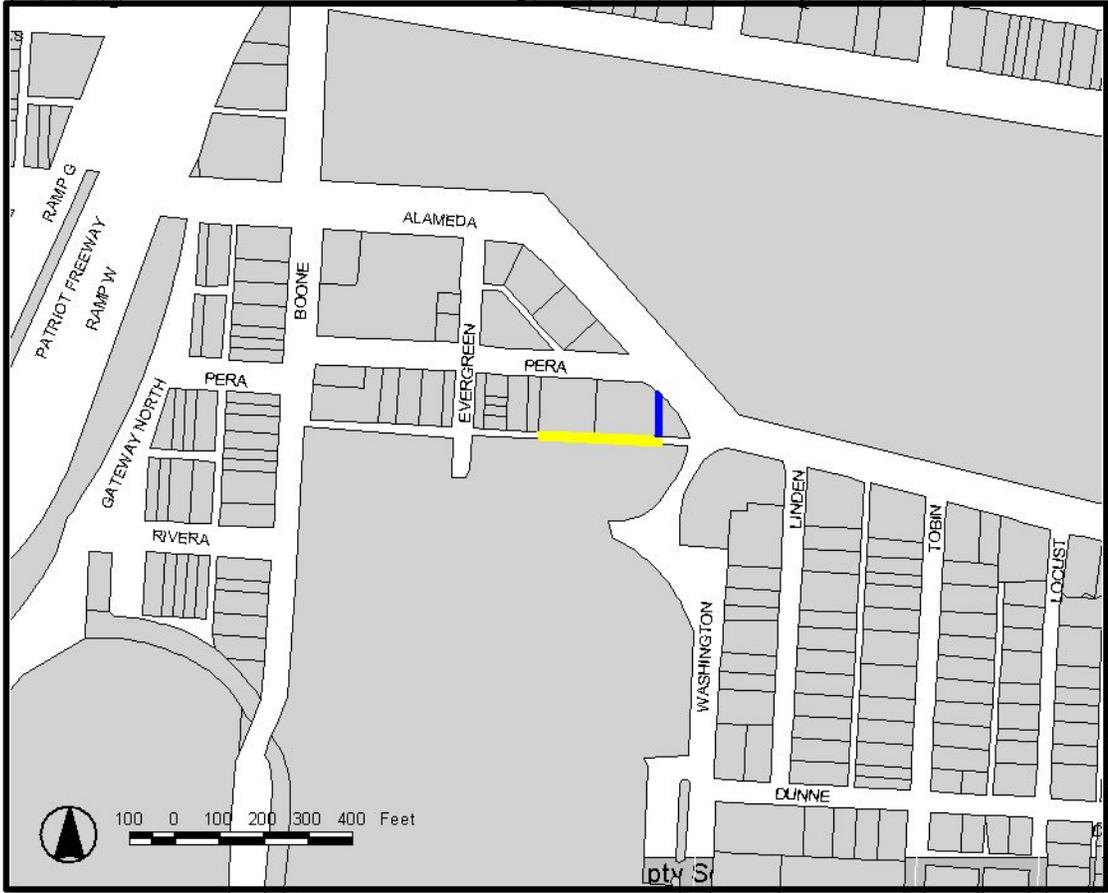
Additional Requirements and General Comments:

1. Vacation Fee for Public Right-of-Way. In addition to the application fee, the applicant shall pay the following:
 - a. The cost of the appraisal; and
 - b. The appraised market value of the city's interest in the public right-of-way.

NOTE TO PROPERTY OWNER: CITY PLAN COMMISSION POLICY REQUIRES THAT THE APPLICANT OR HIS REPRESENTATIVE BE PRESENT AT THE PUBLIC HEARING FOR THIS ITEM. IF YOU HAVE ANY QUESTIONS CONCERNING THIS REPORT, PLEASE CONTACT THE DEVELOPMENT SERVICES DEPARTMENT AT 541-4024.

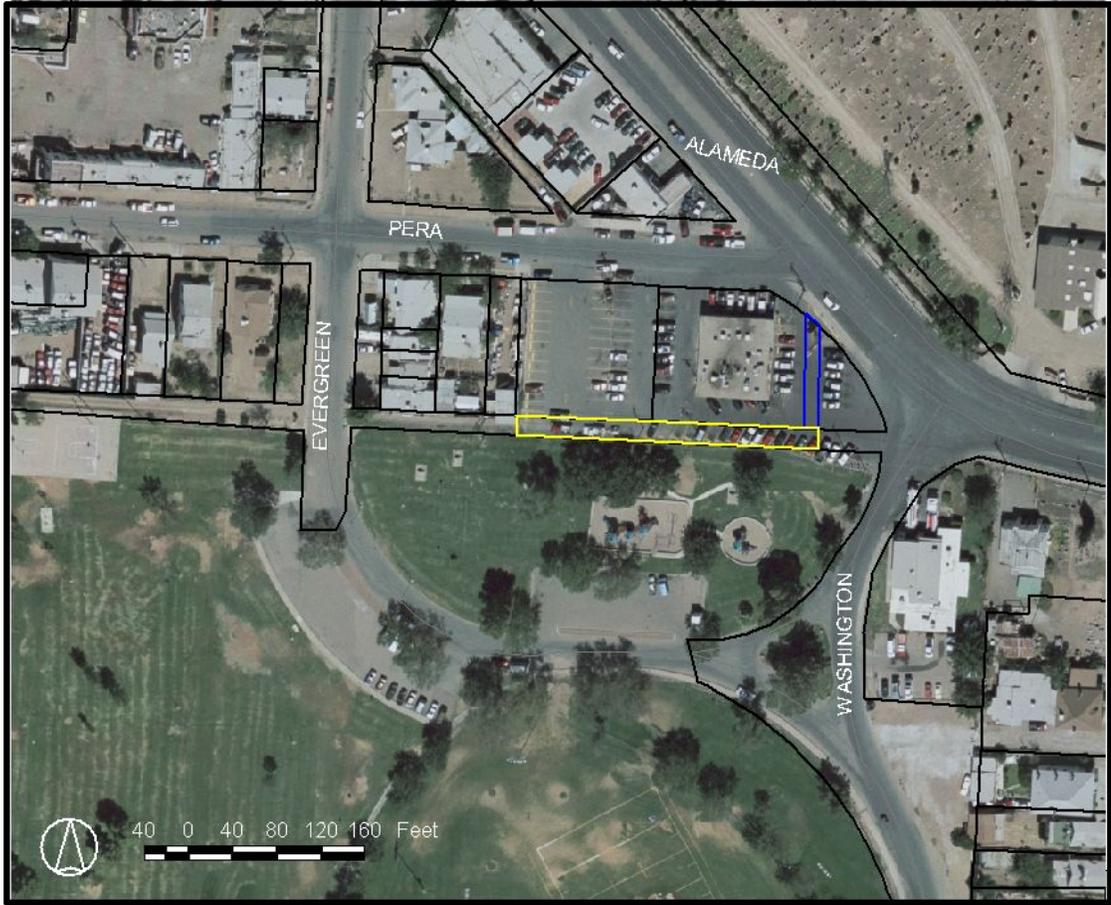
LOCATION MAP

AV06-001



AERIAL MAP

AV06-001



SURVEY MAP

