

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

DEPARTMENT: Planning and Economic Development Department, Planning Division

AGENDA DATE: Introduction: April 12, 2011
Public Hearing: May 3, 2011

CONTACT PERSON/PHONE: Andrew Salloum, (915) 541-4633, salloumam@elpasotexas.gov

DISTRICT(S) AFFECTED: 6

SUBJECT:

An ordinance releasing a condition placed on property by Ordinance No. 009147 which changed the zoning of a portion of Lot 1, Block 174A, Vista Del Sol Unit 52, City of El Paso, El Paso County, Texas, and which imposed a condition. The penalty is as provided for in Chapter 20.24 of the El Paso City Code. Subject Property: 11200 Montwood Dirve. Applicant: William L. Bauer Trust c/o Benchmark Realty. ZON11-00002 (District 6)

BACKGROUND / DISCUSSION:

N/A

PRIOR COUNCIL ACTION:

N/A

AMOUNT AND SOURCE OF FUNDING:

N/A

BOARD / COMMISSION ACTION:

Development Coordinating Committee (DCC) – Reviewed
City Plan Commission (CPC) – Approval Recommendation (5-0)

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

LEGAL: (if required) N/A

FINANCE: (if required) N/A

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

APPROVED FOR AGENDA: _____

CITY MANAGER: _____ **DATE:** _____

ORDINANCE NO. _____

AN ORDINANCE RELEASING A CONDITION PLACED ON PROPERTY BY ORDINANCE NO. 009147 WHICH CHANGED THE ZONING OF A PORTION OF LOT 1, BLOCK 174A, VISTA DEL SOL UNIT 52, CITY OF EL PASO, EL PASO COUNTY, TEXAS, AND WHICH IMPOSED A CONDITION. THE PENALTY IS AS PROVIDED FOR IN CHAPTER 20.24 OF THE EL PASO CITY CODE.

WHEREAS, the zoning of the property described as *a portion of Lot 1, Block 174A, Vista Del Sol Unit 52, City of El Paso, El Paso County, Texas*, was changed by Ordinance No.009147, approved by City Council on September 1, 1987; and,

WHEREAS, the rezoning was subject to the following zoning condition:

"The property shall be used only for offices or a child care facility"; and,

WHEREAS, placement of such condition was necessitated by and attributable to the increased intensity of use generated by the change of zoning; and,

WHEREAS, the owner (applicant) submitted an application requesting the removal of the above condition on the above described property; and,

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

WHEREAS, the City Council of the City of El Paso has determined that the release of the above condition 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 zoning condition imposed by Ordinance No. 009147 dated September 1, 1987 be released on the portion of land identified in Exhibit "A".
2. That Ordinance 009147 shall be released in its entirety.

PASSED AND APPROVED this _____ day of _____, 2011.

(signatures on following page)

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 and Economic Development
Department

009147

AN ORDINANCE CHANGING THE ZONING OF
A PORTION OF LOT 1, BLOCK 174-A,
VISTA DEL SOL UNIT 52,
THE PENALTY BEING AS PROVIDED IN
SECTION 20.68.010 OF THE EL PASO CITY CODE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the zoning of a portion of Lot 1, Block 174-A, Vista Del Sol Unit 52, as more particularly described by metes and bounds in the attached Exhibit "A", be changed from A-0 (Apartment/Office) to C-1 (Commercial) within the meaning of the zoning ordinance, subject to a special contract placing certain restrictions, conditions and covenants on the property, and that the zoning map of the City of El Paso be revised accordingly.

PASSED AND APPROVED this 1st day of September, 1987.

Jonathan W. Rogers

Mayor

ATTEST:

Carole Hunter
City Clerk

APPROVED AS TO FORM:

C. Antonis
Assistant City Attorney

APPROVED AS TO CONTENT:

Ray Salyard
Department of Planning,
Research and Development

ZNG2:5297.87

I HEREBY CERTIFY THAT THE FOLLOWING ZONING MAPS

~~9-30-87~~ L.D.
~~9-30-87~~ C.D.
~~9-30-87~~ Bldg. Inspection
~~9-30-87~~ CONTROLLER
R. Gonzalez

I certify that the zoning map has been revised to reflect the amendment of ordinance # 9147 Date 9-30-87

R. Gonzalez

87-5297
RECEIVED
SEP 24 1987
PLANNING DEPARTMENT

009147

Contract (9-1-87)

THE STATE OF TEXAS)
)
COUNTY OF EL PASO)

CONTRACT

THIS CONTRACT made this 1st day of Sept,
1987, by and between DONALD LEE WARD, First Party, HOME MORTGAGE
COMPANY, Second Party, and the CITY OF EL PASO, Third Party,
witnesseth:

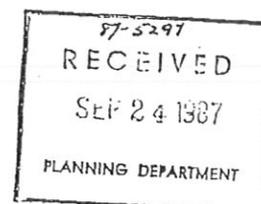
Application has been made to the City of El Paso for the
rezoning of a portion of Lot 1, Block 174-A, Vista Del Sol Unit
52, City and County of El Paso, Texas, which is more particularly
described by metes and bounds in the attached Exhibit "A" which
is made a part hereof by reference. To remove certain objections
to such rezoning, First Party covenants that if the property is
rezoned from A-O (Apartment/Office) to C-1 (Commercial) within
the meaning of the zoning ordinance of the City of El Paso, it
shall be subject to the following restrictions, conditions and
covenants:

The property shall be used only for offices
or a child care facility.

This agreement is a restriction, condition and covenant
running with the land and a charge and servitude thereon, and
shall bind First Party and its successors in title. Any future
conveyance of the land shall contain this restriction, condition
and covenant and shall embody this agreement by express
reference.

The City may enforce this agreement by injunction or any
other legal or equitable remedy. The City Council of the City of
El Paso may amend or release the above restrictions, conditions
and covenants in its discretion without the consent of any third
person who may be benefited thereby, and without affecting the
validity or necessitating the amendment of the ordinance passed
by the City Council embodying this change of zoning and subject
to this contract.

Ord # 9147 (9-1-87)



Second party is the owner and holder of a recorded lien on the property and consents to this contract.

WITNESS THE FOLLOWING SIGNATURES AND SEALS:

FIRST PARTY:
DONALD LEE WARD

Donald Lee Ward

SECOND PARTY:
HOME MORTGAGE COMPANY

By [Signature]
Title Pres.

ATTEST:

NOT RECD
Secretary

THIRD PARTY:
THE CITY OF EL PASO

By [Signature] Mayor [Signature] PRO-TEM

ATTEST:

[Signature]
City Clerk

APPROVED AS TO FORM:

[Signature]
Assistant City Attorney

APPROVED AS TO CONTENT:

[Signature]
Department of Planning,
Research and Development

THE STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me on this 15 day of September, 1987, by DONALD LEE WARD.

My Commission Expires:

12/22/88

[Signature]
Notary Public, State of Texas
JOANNE F. Kuehne

SIGNATURES CONTINUED ON NEXT PAGE

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MEMORANDUM

DATE: April 4, 2011

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

FROM: Andrew Salloum, Planner

SUBJECT: ZON11-00002

The City Plan Commission (CPC), on March 10, 2011, voted 5-0 to recommend **APPROVAL** of the zoning condition release request.

The CPC found that the zoning condition release is in conformance with the Plan for El Paso. The CPC also determined that the zoning condition release protects the best interest, health, safety and welfare of the public in general; that the proposed use is compatible with adjacent land uses; and the zoning condition release will have no effect on the natural environment, social economic conditions, and property values in the vicinity and the city as a whole.

There was no **OPPOSITION** to this request.

Attachment: Staff Report



City of El Paso – City Plan Commission Staff Report

Case No: ZON11-00002
Application Type: Zoning Condition Release
CPC Meeting Date: March 10, 2011
Staff Planner: Andrew Salloum, 915-541-4633, salloumam@elpasotexas.gov

Location: 11200 Montwood Drive
Legal Description: A portion of Lot 1, Block 174A, Vista Del Sol Unit 52, City of El Paso, El Paso County, Texas
Acreage: 0.798 acres
Rep District: 6
Zoning: C-1/sc (Commercial/special contract)
Existing Use: Church and Office
Request: Release zoning condition imposed by Special Contract per Ordinance No. 9147

Property Owner: William L. Bauer Trust c/o Benchmark Realty
Applicant: Beverly B. Rodriguez
Representative: Beverly B. Rodriguez

SURROUNDING ZONING AND LAND USE

North: R-3a (Residential) / Single-family dwellings
South: A-O/sc (Apartment-Office/special contract) / Office
East: A-O/sc (Apartment-Office/special contract) / Office
West: R-3 (Residential) / Church

THE PLAN FOR EL PASO DESIGNATION: Residential (East Planning Area)

Nearest Park: Dick Shinaut Park (9,102 feet)

Nearest School: Tierra Del Sol Elementary School (immediately to the south of subject property)

NEIGHBORHOOD ASSOCIATIONS

East Side Civic Association

NEIGHBORHOOD INPUT

Notice of a Public Hearing was mailed to all property owners within 300 feet of the subject property on February 28, 2011. 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 release the zoning special contract condition imposed by Ordinance No. 9147, dated September 1, 1987 (See attachment 4). The condition imposed on the property is as follows: “the property shall be used only for offices or a child care facility.” The zoning condition release is for the subject property to allow office and church use. Access to the property is proposed from Montwood Drive.

PLANNING AND ECONOMIC DEVELOPMENT-PLANNING DIVISION RECOMMENDATION

The Planning Division recommends **approval** of the zoning condition release request.

The Plan for El Paso-City-Wide Land Use Goals

All applications for zoning condition release shall demonstrate compliance with the following criteria:

- a. Goal: provide a pattern of commercial and office development which best serves community needs and which complements and serves all other land uses

- b. Goal: develop a balanced and complete community which contains a mix of land uses and densities, housing types and styles, economic development, job opportunities, educational opportunities, and outlets for social and cultural expression.
- c. Goal: protect residential areas from incompatible land uses and encroachment which may have a negative impact on the residential living environment.
- d. Goal: preserve, protect, and enhance the integrity, economic vitality and livability of the city's neighborhoods.

The purpose of C-1 (Commercial) district is to serve the needs of surrounding residential neighborhoods by providing compatible neighborhood convenience goods and services that serve day-to-day needs. The regulations of the districts will permit location of business and professional offices and retail category uses within adjacent residential areas of medium and high densities.

Development Coordinating Committee Review

The DCC reviewed and discussed the application for rezoning and offered no objections to Planning Staff's recommendation for **APPROVAL**.

Engineering & Construction Management Services Department – Plan Review

Plan Review has no objections.

Engineering & Construction Management Service Department - Land Development

General Comments:

- 1. Label drainage run-off direction.
- 2. The Subdivision is within Flood Zone X, "Areas of minimal flooding"- Panel # 480214 0042C, date February 16, 2006.

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

Department of Transportation

No objection to zoning condition release.

El Paso Water Utilities

No comments received.

Fire Department

El Paso Fire Department has no objections to the release of zoning conditions.

Sun Metro

Sun Metro does not oppose the request to release the condition.

CITY PLAN COMMISSION OPTIONS

The City Plan Commission may consider the following options and additional options that it identifies when reviewing the change of zoning application:

- 1. Recommend approval of the application finding that the zoning condition release is in conformance with the review criteria of The Plan for 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 zoning condition release into conformance with the review criteria in The Plan for 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 zoning condition release does not conform to the review criteria in The Plan for El Paso as reflected in CPC report or other criteria identified from the Plan by the CPC.

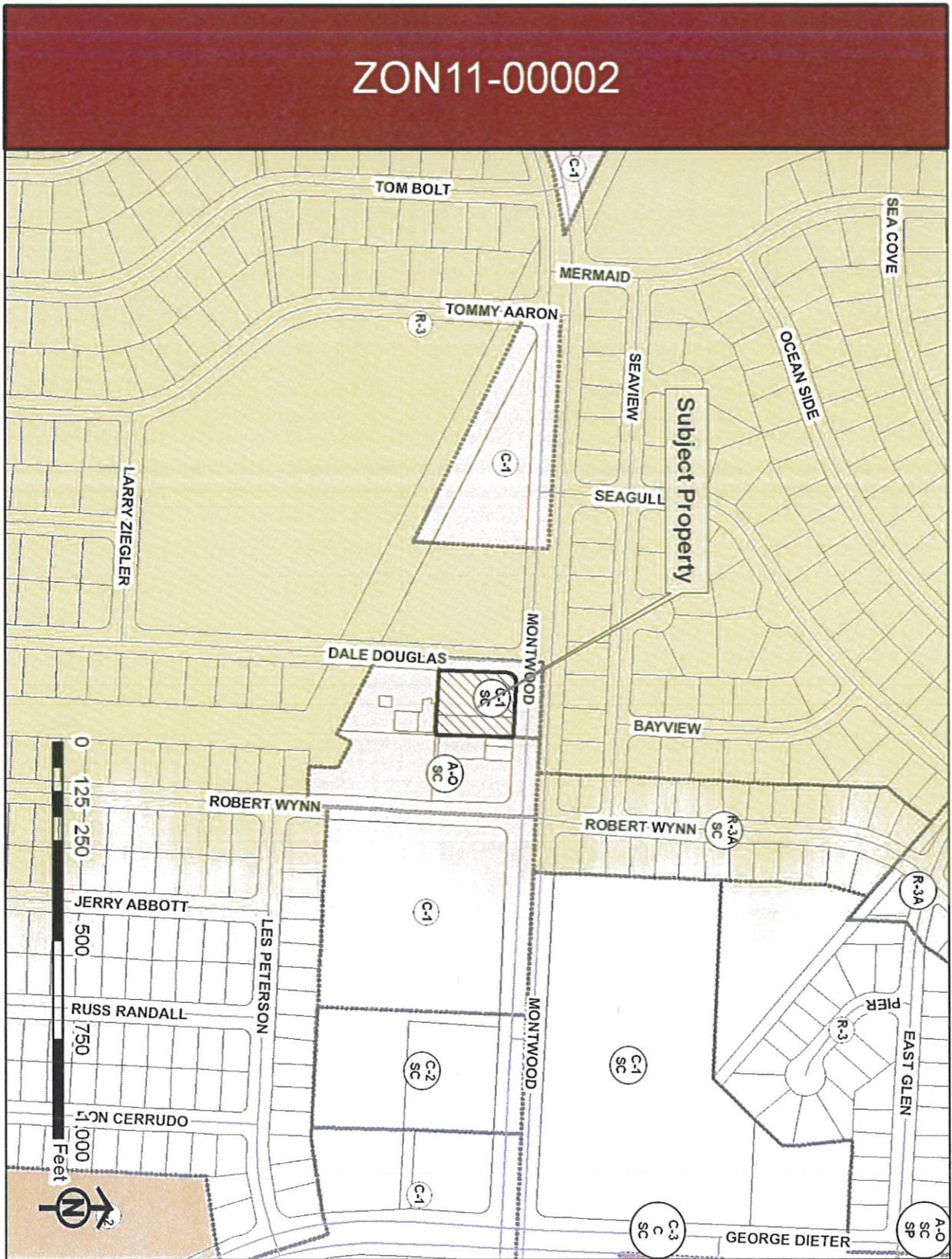
Attachments

- 1. Zoning Map

2. Aerial Map
3. Conceptual Site Plan
4. Ordinance No. 9147

ATTACHMENT 1: ZONING MAP

ZON11-00002

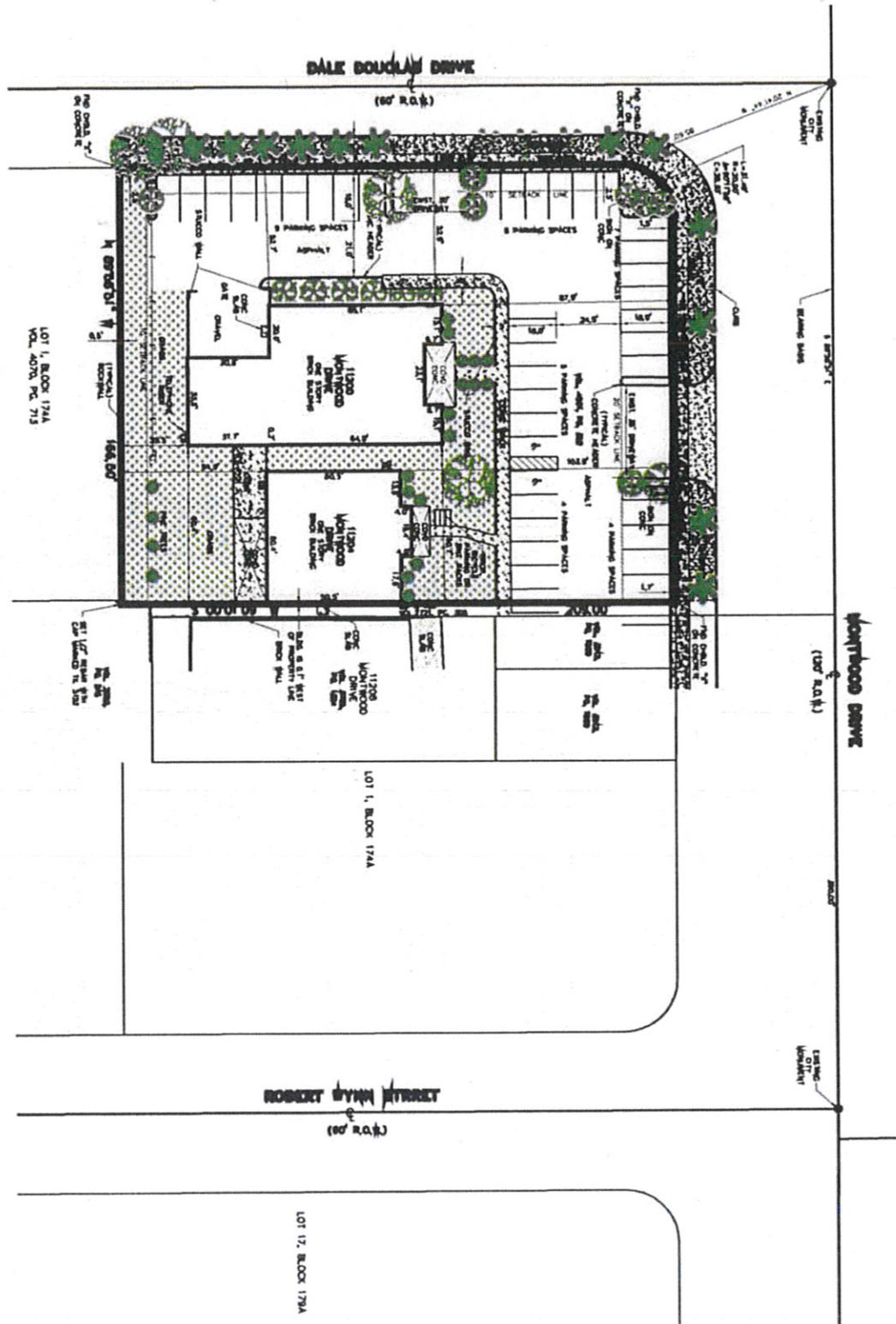


ATTACHMENT 2: AERIAL MAP

ZON11-00002



ATTACHMENT 3: CONCEPTUAL SITE PLAN



ATTACHMENT 4: ORDINANCE NO. 9147

009147

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PASSED AND APPROVED this 1st day of September, 1987.

Jonathan W. Rojas
Mayor

ATTEST:
Carole Hunter
City Clerk

APPROVED AS TO FORM:
C. Antonio
Assistant City Attorney

APPROVED AS TO CONTENT:
Ray Williams
Department of Planning,
Research and Development

ZNG2:5297.87

9-30-87 L.D.
9-30-87
9-30-87 Bldg. Inspection
9-30-87 COMM. Rojas

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Rojas

009147
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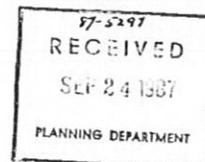
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Ord # 9147 (9-1-87)



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WITNESS THE FOLLOWING SIGNATURES AND SEALS:

FIRST PARTY:
DONALD LEE WARD

Donald Lee Ward

SECOND PARTY:
HOME MORTGAGE COMPANY

By [Signature]
Title Pres.

ATTEST:

NOT RECD
Secretary

THIRD PARTY:
THE CITY OF EL PASO

By [Signature]
Mayor PRO-TEM

ATTEST:

[Signature]
City Clerk

APPROVED AS TO FORM:

[Signature]
Assistant City Attorney

APPROVED AS TO CONTENT:

[Signature]
Department of Planning,
Research and Development

THE STATE OF TEXAS)
COUNTY OF EL PASO)

This instrument was acknowledged before me on this 15 day of September, 1987, by DONALD LEE WARD.

My Commission Expires:

12/22/88

[Signature]
Notary Public, State of Texas
JOANNE F. KUEHNE

SIGNATURES CONTINUED ON NEXT PAGE

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PLANNING DEPARTMENT

THE STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me on this 18 day
of September, 1987, by Paul D. Odgers as
President on behalf of HOME MORTGAGE COMPANY.

C Cheryl Wheeler
Notary Public, State of Texas

My Commission Expires:
CHERYL WHEELER, Notary Public
In and for the State of Texas
My commission expires 08-27-90

THE STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me on this 21st day
of September, 1987, by W. ED. ELSEY, as
Mayor of THE CITY OF EL PASO.
Pro-Tem

Gloria T. Alvarado
Notary Public, State of Texas

My Commission Expires:

April 6, 1991

ZNG2:5297.87

