

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

**DEPARTMENT:** Development Services Department, Planning Division

**AGENDA DATE:** Introduction: April 13, 2010  
Public Hearing: May 4, 2010

**CONTACT PERSON/PHONE:** Esther Guerrero, (915) 541-4720

**DISTRICT(S) AFFECTED:** 4

**SUBJECT:**

An Ordinance releasing conditions placed on property by Ordinance No. 6245 which changed the zoning of Lots 13 and 14, Block 2, Sahara Subdivision, City of El Paso, El Paso County, Texas, and which imposed conditions. The penalty is as provided for in Chapter 20.24 of the El Paso City Code. Subject Property: 9435 Dyer Street. Property Owner: Juan Gandara. ZON09-00092 (**District 4**)

**BACKGROUND / DISCUSSION:**

N/A

**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 of (4-0)

\*\*\*\*\*REQUIRED AUTHORIZATION\*\*\*\*\*

**LEGAL:** (if required) N/A

**FINANCE:** (if required) N/A

**DEPARTMENT HEAD:** Mathew S. McElroy  
Deputy Director-Planning, Development Services Department

**APPROVED FOR AGENDA:**

**CITY MANAGER:** \_\_\_\_\_

**DATE:** \_\_\_\_\_

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE RELEASING CONDITIONS PLACED ON PROPERTY BY  
ORDINANCE NO. 6245 WHICH CHANGED THE ZONING OF LOTS 13 AND 14,  
BLOCK 2, SAHARA SUBDIVISION, CITY OF EL PASO, EL PASO COUNTY, TEXAS,  
AND WHICH IMPOSED CONDITIONS. THE PENALTY IS AS PROVIDED FOR IN  
CHAPTER 20.24 OF THE EL PASO CITY CODE.**

**WHEREAS**, the zoning of the property described as *Lots 13 and 14, Block 2, Sahara Subdivision, City of El Paso, El Paso County, Texas*, was changed by Ordinance No. 6245, approved by City Council on July 31, 1978; and,

**WHEREAS**, the rezoning was subject to the certain following conditions that were 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 all the conditions and the City Plan Commission recommended that certain conditions should be released and other conditions should be amended; and,

**WHEREAS**, a public hearing regarding amendment of the conditions was held before the City Plan Commission, and the Commission determined that some conditions are no longer necessary and should be released and other conditions should be amended; and,

**WHEREAS**, the City Council of the City of El Paso has determined that the removal or amendment of certain conditions 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 conditions imposed by Ordinance No. 6245 dated July 31, 1978 be amended as follows:

a. Condition 2(e), requiring coordination of selection of a contractor to install paving, curbs and gutters on Taj Mahal Street: between the southerly boundary of Sahara Lane and the southerly lot line (extended) of Lot 22, Block 2, Sahara Addition and between the southerly lot line (extended) of Lot 30, Block 2, Sahara Addition and the northerly boundary of Souda Avenue and between the southerly boundary of Souda Avenue and the southerly lot line (extended) of Lot 19, Block 3, Sahara Addition is no longer necessary and is released. .

b. Condition 4, requiring the payment of ½ the cost of the paving, curbs and gutters on such parts of Taj Mahal Street be paid by the applicant and the balance of the cost of such street improvements be paid by the other owners of property abutting thereon, either through voluntary payment, mechanics lien contracts, or assessment of paving liens and that all such street improvements shall be made in accordance with plans and specifications to be approved by the City Engineer of the City of El Paso is no longer necessary and is released.

c. Conditions 1(c) and 2(c), requiring a 15-foot wide landscape strip are amended to require a 10-foot wide landscaped strip.

2. Except as herein amended, Ordinance 6245, approved by City Council on July 31, 1978, shall remain in full force and effect.

**PASSED AND APPROVED** this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

**THE CITY OF EL PASO**

\_\_\_\_\_  
John F. Cook  
Mayor

**ATTEST:**

\_\_\_\_\_  
Richarda Duffy Momsen  
City Clerk

**APPROVED AS TO FORM:**

**APPROVED AS TO CONTENT:**

\_\_\_\_\_  
Lupe Cuellar  
Assistant City Attorney

\_\_\_\_\_  
Mathew S. McElroy  
Deputy Director – Planning  
Development Services Department



**MEMORANDUM**

**DATE:** April 5, 2010  
**TO:** Honorable Mayor and City Council  
Joyce Wilson, City Manager  
**FROM:** Esther Guerrero, Planner  
**SUBJECT:** ZON09-00092

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The City Plan Commission (CPC) on February 25, 2010, voted **4-0** to recommend **approval** of the special contract amendment for the subject which is currently zoned C-1/sc (Commercial/special contract), in agreement with the recommendation from the DCC and staff. A related rezoning case (ZON09-00087) to approve C-3/sc will also be considered by the Mayor and City Council.

The CPC found that the amendment to the special contract is in conformance with The Plan for El Paso. The CPC also determined that the contract amendment protects the best interest, health, safety, and welfare of the public in general; and the contract amendment 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 one present in support or opposition to this request.

**Attachment:** Staff Report

Mayor  
John F. Cook

**City Council**

*District 1*  
Ann Morgan Lilly

*District 2*  
Susie 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 of El Paso – City Plan Commission Staff Report*

**Case No:** ZON09-00092  
**Application Type:** Zoning Condition Release  
**CPC Hearing Date:** February 25, 2010  
**Staff Planner:** Esther Guerrero, (915) 541-4720, [guerreroex@elpasotexas.gov](mailto:guerreroex@elpasotexas.gov)

**Location:** 9950 Dyer Street  
**Legal Description:** Lots 13 and 14, Block 2, Sahara Subdivision, City of El Paso, El Paso County, Texas  
**Acreage:** 0.2755 acres  
**Rep District:** 4  
**Present Zoning:** C-1/sc (Commercial/special contract)  
**Request:** Release zoning conditions imposed by Ordinance No. 6245, dated August 8, 1978 and contract dated July 31, 1978  
**Existing Use:** Vacant

**Property Owner:** Juan Gandara  
**Representative:** Andres Lopez

**SURROUNDING ZONING AND LAND USE**

**North:** C-3 (Commercial) / automotive body shop  
**South:** C-1/sc (Commercial/special contract) / vacant  
**East:** C-1/sc (Commercial/special contract) / storage lot  
**West:** C-1/c/sc (Commercial/condition/special contract); C-3 (Commercial) / Dental office / commercial building

**Plan for El Paso Designation:** Commercial (Northeast Planning Area)

**Nearest Park:** Milagro (2,460 Feet)

**Nearest School:** Parkland Elementary (2,215 Feet)

**NEIGHBORHOOD ASSOCIATIONS**

N/A

**NEIGHBORHOOD INPUT**

Notices of the February 11, 2010 City Plan Commission hearing were mailed out to property owners within 300 feet of the subject property on January 27, 2010.

**APPLICATION DESCRIPTION**

The applicant is requesting the release of all the conditions imposed by the special contract attached to Ordinance No. 6245. A related rezoning application is in process and will be considered by the City Plan Commission (ZON09-00087).

**DEVELOPMENT COORDINATING COMMITTEE RECOMMENDATION**

Recommend **denial** of the request to release all conditions and instead recommend **approval** to amend condition 1(c) and 2(c) from the required 15-foot wide landscaped strip to a 10-foot landscaped strip to be installed by First Parties on the property adjacent and parallel to the property line along Dyer Street; and recommend **approval** to release conditions 2(e) and 4 in their entirety as Taj Mahal Street has been paved.

**PLANNING DIVISION RECOMMENDATION**

Recommend **denial** of the request to release all conditions and instead recommend **approval** to amend condition 1(c) and 2(c) from the required 15-foot wide landscaped strip to a 10-foot landscaped strip to be installed by First Parties on the property adjacent and parallel to the property line along Dyer Street; and recommend **approval** to release conditions 2(e) and 4 in its entirety. Conditions 2(e) and 4 are no longer necessary.

**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: 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.
- b. Goal: protect residential areas from incompatible land uses and encroachments which may have a negative impact on the residential living environment.

**Development Services Department - Building Permits and Inspections Division**

Zoning: No objections to release of conditions.

**Engineering Department - Traffic Division**

- Traffic recommends landscape plan remain in place.
- Traffic will verify asphalt conditions in alley.
- Access to Dyer shall be coordinated through TXDOT.

**Street Department**

We have reviewed the request to release conditions and we recommend against the release of the Conditions. All existing / proposed paths of travel, accessible sidewalks, wheel chair access curb ramps and driveways within public right-of-ways shall be in compliance with current ADA /TAS rules and regulations and Current City of El Paso Design Standards for Construction.

**Fire Department**

No objections.

**El Paso Water Utilities**

No objections. Coordinate with EPWU for future service.

**CITY PLAN COMMISSION OPTIONS**

The City Plan Commission may consider the following options and additional options that it identifies when reviewing the zoning condition release 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
4. Ordinance No. 6245

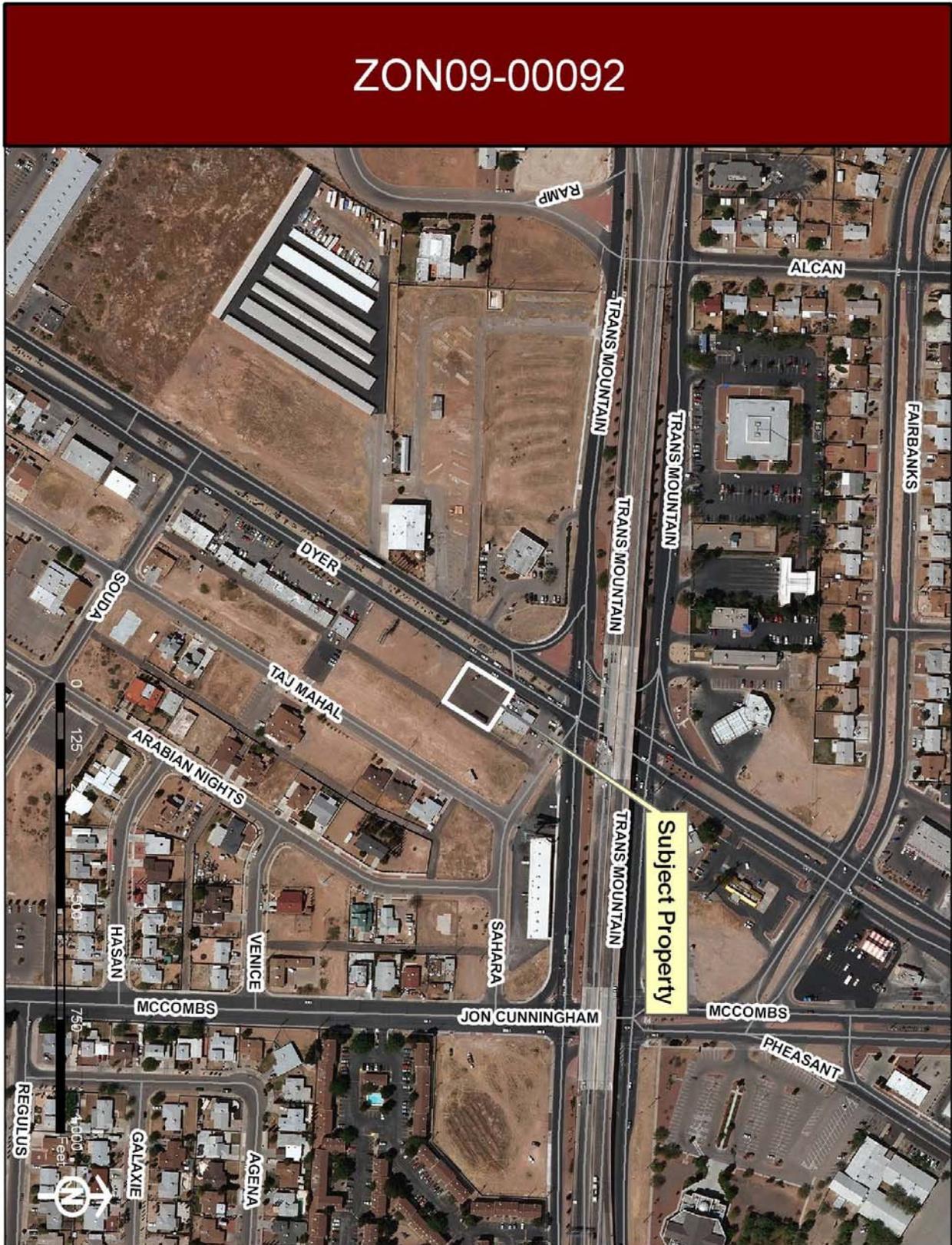
ATTACHMENT 1: ZONING MAP

# ZON09-00092

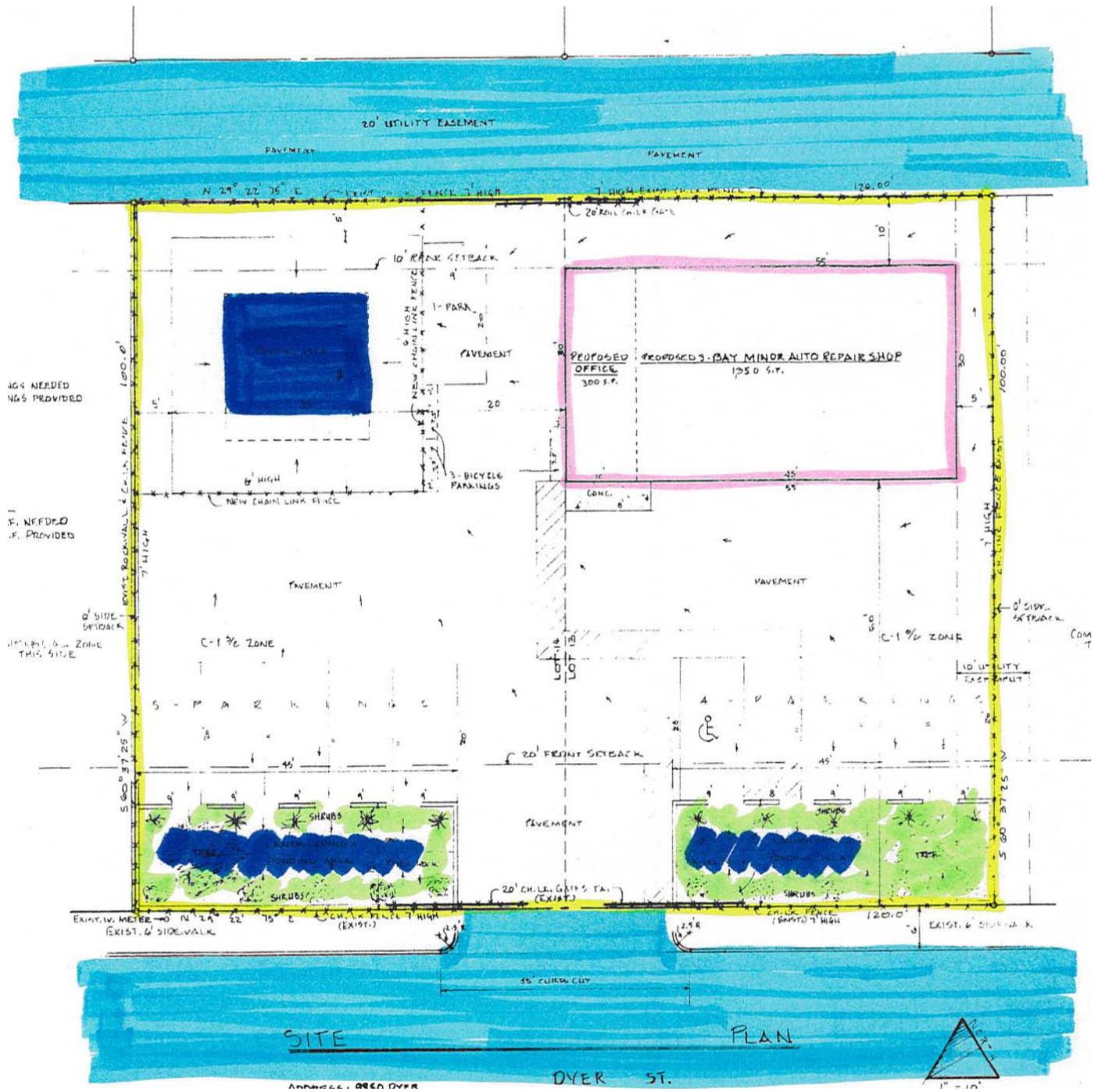


ATTACHMENT 2: AERIAL MAP

ZON09-00092



ATTACHMENT 3: SITE PLAN



ATTACHMENT 4: ORDINANCE NO. 6245

1/23/95  
WR  
8/8/78  
WR

6245

AN ORDINANCE CHANGING THE ZONING OF LOTS 11-14, 17-22, 31 AND 32, BLOCK 2 AND LOTS 16-19, BLOCK 3, SAHARA ADDITION, THE PENALTY BEING AS PROVIDED IN SECTION 25-10 OF THE EL PASO CITY CODE

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

That the zoning of the following Lots in Block 2 and Block 3, Sahara Addition be changed as indicated, within the meaning of the Zoning Ordinance, and the zoning map of the City be revised accordingly:

PARCEL 1 - Changed to C-1 (Commercial)

Lots 11 through 14 and Lots 17 through 22, Block 2, Sahara Addition

PARCEL 2 - Changed to A-0 (Apartment-Professional-Office)

Lots 31 and 32, Block 2, and Lots 18 and 19, Block 3, Sahara Addition

PARCEL 3 - Changed to C-1 (Commercial)

Lots 16 and 17, Block 3, Sahara Addition

PASSED AND APPROVED this 8<sup>th</sup> day of August, 1978.

*[Signature]*  
Mayor  
*Pro-tem*

ATTEST:

*[Signature]*  
City Clerk

I CERTIFY THAT THE FOLLOWING ZONING MAPS HAVE BEEN REVISED: C.T.  
8-23-78 COUNTER  
8-23-78 ORIGINAL  
8-23-78 *Public Inspection*  
8-23-78 CONTROL *[Signature]*

APPROVED AS TO FORM:

*[Signature]*  
Assistant City Attorney

certify that the zoning map has been printed to reflect the amendment of ordinance #6245  
By: *[Signature]* Date: 8-23-78

6245

78-4182

CONTRACT

This contract, made this 21 day of July, 1978,  
by and between MORTON L. BLAUGRUND and wife, VIVIAN M BLAUGRUND,  
First Parties, and the CITY OF EL PASO, Second Party, witnesseth:

Application has been made to the City of El Paso for rezoning  
of Lots 11-14, 17-27, 31 and 32, Block 2 and Lots 16-19, Block 3,  
all in the Sahara Addition to the City of El Paso, El Paso County,  
Texas. In order to remove certain objections to such rezoning, First  
Parties covenant that if the property is rezoned as indicated in  
Ordinance No. 6245 a copy of which is attached hereto, marked Exhibit "A"  
and made a part hereof by reference, it shall be subject to the following  
restrictions, conditions and covenants:

1. No building permits shall be issued for construction on the  
property until the following conditions have been met by First Parties:

(a) Complete and detailed site development and architectural  
plans of the proposed development on the property must be submitted  
by First Parties and approved by the City Plan Commission of the  
City of El Paso.

(b) Drainage and grading plans for the proposed development  
on the property must be submitted by First Parties and approved by  
the City Engineer of the City of El Paso and the Texas Department  
of Highways and Public Transportation. Such plans shall include  
plans and specifications for a facility to be constructed by First  
Parties on the property for the on-site ponding of storm waters.  
Such facilities shall be designed so that no storm waters will be  
permitted to flow from the property into Dyer Street or Taj Mahal  
Street.

(c) A complete and detailed landscaping plan must be submitted  
by First Parties and approved by the Director of Planning and the  
Director of Traffic and Transportation of the City of El Paso. Such  
plan shall show details of a 15-foot wide landscaped strip to be  
installed by First Parties on the property adjacent and parallel to  
the property line along Dyer Street. This landscaping may be  
accomplished by the use of greenery, grass, and shrubs, or by

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the use of such materials as crushed stone, cactus, lava rock, or similar materials. The entire width of the strip shall be landscaped with the exception of approved driveways. The landscaping shall not have a height greater than three feet above the level of the center line of Dyer Street and shall be so designed as to not interfere with visibility for safe ingress and egress.

2. No certificates of occupancy and compliance shall be issued by the City for any buildings constructed on the property until First Parties have, at no cost to the City, done the following:

(a) Constructed all improvements on the property in accordance with the approved site development and architectural plans.

(b) Done all grading and made all drainage improvements required by the approved grading and drainage plans, including installation of the facility for the on-site ponding of storm waters.

(c) Installed the 15-foot wide landscaped strip in accordance with the approved landscaping plan.

(d) Installed asphalt paving on the part of the alley in Block 2, Sahara Addition, which lies between the southerly boundary of Sahara Lane and the southerly lot lines (extended) of Lots 11 and 22, Block 2, Sahara Addition, and installed asphalt paving on the part of the alley in Block 3, Sahara Addition, which lies between the southerly boundary of Souda Avenue and the southerly lot lines (extended) of Lots 16 and 19, Block 3, Sahara Addition. Such paving shall be done in accordance with specifications to be approved by the City Engineer of the City of El Paso.

(e) Contacted a paving contractor and requested that he initiate a proposal to the City to install paving, curbs and gutters on the following parts of Taj Mahal Street: between the southerly boundary of Sahara Lane and the southerly lot line (extended) of Lot 22, Block 2, Sahara Addition; between the southerly lot line (extended) of Lot 30, Block 2, Sahara Addition and the northerly boundary of Souda Avenue and between the southerly boundary of Souda Avenue and the southerly lot line (extended) of Lot 19, Block 3, Sahara Addition.

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No certificates of occupancy and compliance shall be issued until the City Engineer, Director of Planning, Director of Traffic and Transportation, and the Texas Department of Highways and Public Transportation have certified that First Parties have complied with the above provisions.

3. The landscaped strip required to be constructed under Paragraphs 1(c) and 2(c) shall be properly maintained and kept in good condition by First Parties at all times. The parking of vehicles on such strip is prohibited.

4. If and when the paving, curbs and gutters are installed on Taj Mahal Street in accordance with the provisions of Paragraph 2(e) hereof, First Parties agree, upon demand by the City, to pay 1/2 the cost of the paving, curbs and gutters on such parts of Taj Mahal Street, provided however, that the balance of the cost of such street improvements is to be paid by the other owners of property abutting thereon, either through voluntary payment, mechanics lien contracts, or assessment of paving liens as provided in Art. 1105b, Tex. Rev. Civ. Stat. Ann. All such street improvements shall be made in accordance with plans and specifications to be approved by the City Engineer of the City of El Paso.

This agreement is a restriction, condition and covenant running with the land and a charge and servitude thereon, and shall bind First Parties and their 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 release the above restrictions, conditions and covenants in its discretion without the consent of any third person who may be benefited thereby.

WITNESS the following signatures and seals:

  
Morton L. Blaugrund

  
Vivian M. Blaugrund

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THE CITY OF EL PASO

By

*[Signature]*  
Mayor  
*[Signature]*  
Pro-Tem

ATTEST:

*[Signature]*  
City Clerk

APPROVED AS TO FORM:

*[Signature]*  
Assistant City Attorney

THE STATE OF TEXAS)

COUNTY OF EL PASO )

Before me, the undersigned authority, on this day personally appeared MORTON L. BLAUGRUND, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

GIVEN under my hand and official seal this 31 day of July, 1978.

*[Signature]*  
Notary Public in and for El Paso County, Texas

My Commission Expires:

4/30/79

THE STATE OF TEXAS)

COUNTY OF EL PASO )

Before me, the undersigned authority, on this day personally appeared VIVIAN M. BLAUGRUND, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same for the purposes and consideration therein expressed.

GIVEN under my hand and official seal this 31 day of July, 1978.

*[Signature]*  
Notary Public in and for El Paso County, Texas

My Commission Expires:

4/30/79

78-4182

THE STATE OF TEXAS)

COUNTY OF EL PASO )

Before me, the undersigned authority, on this day personally appeared Don M. Ponder, Mayor Pro-Tem, of the City of El Paso, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged before me in my county aforesaid that he had executed the same for the purposes and consideration and in the capacity therein expressed, and as the act and deed of the City of El Paso.

GIVEN under my hand and official seal this 8th day of August, 1978.

Angela C. Guillen  
Notary Public in and for El Paso County,  
Texas

My Commission Expires:  
ANGELA C. GUILLEN, Notary Public  
In and for the County of El Paso, Texas  
My Commission Expires 9/30/78

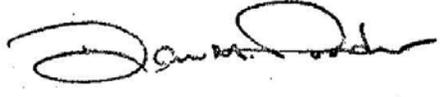
78-4182

R E S O L U T I O N

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

That the Mayor be authorized to sign a contract with MORTON  
L. BLAUGRUND and wife, VIVIAN M. BLAUGRUND placing certain restrictions,  
conditions and covenants on the property rezoned by Ordinance  
No. 6245

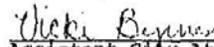
ADOPTED this 8<sup>th</sup> day of August, 1978.

  
\_\_\_\_\_  
Mayor Pro Tem

ATTEST:

  
\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Assistant City Attorney

78-4182