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S E R V I C E S O L U T I O N S S U C C E S S



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

DEPARTMENT: Development Services Department, Planning Division

AGENDA DATE: Public Hearing: April 21, 2009

CONTACT PERSON/PHONE: Mirian Spencer, (915)541-4192, spencermd2@elpasotexas.gov

DISTRICT(S) AFFECTED: 8

SUBJECT:

A Resolution releasing restrictions and conditions contained in an agreement between The Medical Center Corporation and the City of El Paso dated July 9, 1953, which imposed conditions on a portion of Lot 1, Block 1, City View Subdivision, City of El Paso, El Paso County, Texas and releasing a Special Contract condition placed on the same property on September 25, 1984 and amended February 19, 1985. Subject Property: 1600 and 1700 East Cliff Drive, Property Owners: City View Investors, LLC., ZON08-00101 and ZON09-00005 (District 8).

BACKGROUND / DISCUSSION:

There is a related rezoning application (ZON08-00102) requesting to change the zoning of the property from C-3/sc (Commercial/special contract), C-1 (Commercial), and A-O (Apartment/Office) to GMU (General Mixed Use).

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 (5-0)

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

LEGAL: (if required) N/A

FINANCE: (if required) N/A

DEPARTMENT HEAD: Victor Q. Torres _____
Director, Development Services

APPROVED FOR AGENDA:

CITY MANAGER: _____ **DATE:** _____

Development Services Department

Victor Q. Torres - Director

2 Civic Center Plaza - 5th Floor · El Paso, Texas 79901 · (915) 541-4622 · Fax
(915) 541-4799

Mayor
John F. Cook

City Council

District 1
Ann Morgan Lilly

District 2
Susannah M. Byrd

District 3
Emma Acosta

District 4
Melina Castro

District 5
Rachel Quintana

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District 7
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City Manager
Joyce A. Wilson

RESOLUTION

A RESOLUTION RELEASING RESTRICTIONS AND CONDITIONS CONTAINED IN AN AGREEMENT BETWEEN THE MEDICAL CENTER CORPORATION AND THE CITY OF EL PASO DATED JULY 9, 1953, WHICH IMPOSED CONDITIONS ON A PORTION OF LOT 1, BLOCK 1, CITY VIEW SUBDIVISION, CITY OF EL PASO, EL PASO COUNTY, TEXAS AND RELEASING A SPECIAL CONTRACT CONDITION PLACED ON THE SAME PROPERTY ON SEPTEMBER 25, 1984 AND AMENDED FEBRUARY 19, 1985.

WHEREAS, the Medical Center Corporation owned property and requested that the City rezone the property to “F” Retail; and,

WHEREAS, the City wishing to protect the adjoining and neighboring properties once the property was rezoned required the Medical Center Corporation to enter into an Agreement restricting the property from certain uses; and,

WHEREAS, the Medical Center Corporation on July 9, 1953, entered into an Agreement and the Agreement is a covenant and condition running with the land and binds the Medical Center Corporation and its successors in title; and,

WHEREAS, on September 25, 1984, El Paso Medical Center Joint Venture, a successor in title requested that the City rezone the property and for the protection of the adjoining and neighboring properties, the City Council required El Paso Medical Center Joint Venture to enter into a Special Contract requiring El Paso Medical Center Joint Venture to submit a detailed site development plan to the City Plan Commission and City Council; and,

WHEREAS, El Paso Medical Center Joint Venture complied with the provisions of the Contract and submitted a detailed site development plan, which was approved by City Council on January 2, 1985; and,

WHEREAS, on February 19, 1985, the Special Contract was amended to require El Paso Medical Center Joint Venture to notify Life Insurance Company of Virginia, the lien holder, that a detailed site plan was required, that a detailed site plan was provided and approved, and that the lien holder would not be required to submit a detailed site plan; and,

WHEREAS, the current property owner, City View Investors, LLC, wishes to be released from the requirements and conditions of the Agreement and the Special Contract and submitted a request to the City; and,

WHEREAS, City View Investors, LLC is requesting a zoning change to GMU (General Mixed Use) Zoning and under such zoning a development plan is required; and,

WHEREAS, the City Plan Commission held a public hearing on whether the requirements and conditions of the Agreement and the Special Contract should be released; and,

WHEREAS, the City Plan Commission, after holding such public hearing recommends that the requirements and conditions of the Agreement should be released because the requirements and conditions are no longer needed; and,

WHEREAS, the City Plan Commission, after holding such public hearing recommends that the conditions of the Special Contract should be released because the conditions have already been complied with; and,

WHEREAS, the City Council also agrees that requirements and conditions of the Agreement are no longer needed and that the Special Contract conditions should be released;

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

1. That the Development Agreement between Medical Center Corporation and the City of El Paso dated July 9, 1953, which imposed the following conditions on the portion of land identified as a portion of Lot 1, Block 1, City View Subdivision, City of El Paso, El Paso County, Texas, be released:
 - a) *No building shall ever be erected on the said premises less than 20 feet from the easterly property line.*
 - b) *Adequate landscaping shall be planted and maintained along the easterly property line of the above described property to conceal from view the service and waste disposal area of the business operations within the described area, said landscaping to be planted before or during the time of any construction upon the said premises.*
 - c) *Retail establishments shall be so constructed as to face in westerly or southerly direction on private streets of interior circulation to be provided by Medical Center Corporation; and it is further agreed that*
 - d) *Along Wright Avenue, the maximum building height shall be limited to five stories from finished floor of the first floor of the building.*
 - e) *No excess cut material shall be allowed to be placed on any part of the western slope.*
2. That the Special Contract, dated September 25, 1984 and amended on February 19, 1985, is hereby released.

PASSED AND APPROVED this _____ day of _____, 2009.

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
Development Services Department

MEMORANDUM



DATE: April 9, 2009
TO: The Honorable Mayor and City Council
Joyce A. Wilson, City Manager
FROM: Mirian Spencer, Planner
SUBJECT: **ZON08-00101 and ZON09-00005**

The City Plan Commission (CPC) on February 26, 2009 voted **5-0** to recommend **APPROVAL** of releasing the Development Agreement dated July 9, 1953 between the City of El Paso and The Medical Center Corporation. The CPC also voted **5-0** to recommend **APPROVAL** of releasing the Special Contract condition imposed on the property by Ordinance No. 8161 dated February 19, 1985 and amended February 19, 1985.

The applicant is requesting to release a Development Agreement between the Medical Center Corporation and the City of El Paso which imposed conditions on a portion of the property located at 1600 Cliff Drive. The Development Agreement permits the City to enforce the Agreement as well as authorizes the City Council to release the conditions if it sees fit to do so. The Development Agreement was signed prior to the April 1955 replacement of the Zoning Code and zoning maps, which rendered the Development Agreement obsolete.

The property owners are requesting to release the Special Contract attached to Ordinance No. 8164 dated February 19, 1985 which imposed the following condition:

- That a detailed site development plan is approved by the City Plan Commission and City Council prior to the issuance of building permits.

The Special Contract was amended by Resolution on February 19, 1985 to allow for the lien holder at the time to sign the approved Special Contract.

The property owners have submitted a rezoning request (ZON08-00102) to change the zoning from C-3/sc (Commercial/special contract), C-1 (Commercial), and A-O (Apartment/Office) to GMU (General Mixed Use).

The CPC found that releasing the Development Agreement and the Special Contract is in conformance with The Plan for El Paso. The CPC also found that the proposed use is compatible with adjacent land uses. The CPC also determined that releasing the Development Agreement and the Special Contract protects the best interest, health, safety, and welfare of the public in general; and releasing the Development Agreement and the Special Contract 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 public response to the Development Agreement and Special Contract releases.

Attachment: Staff Report, Zoning Map, Aerial Map, Development Agreement dated July 9, 1953, Ordinance 8164 dated September 25, 1984, and the Conceptual Site Plan

Mayor
John F. Cook

City Council

District 1
Ann Morgan Lilly

District 2
Susannah M. Byrd

District 3
Emma Acosta

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Melina Castro

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Development Services Department

Victor Q. Torres - Director

2 Civic Center Plaza - 5th Floor • El Paso, Texas 79901 • (915) 541-4622 • Fax
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City of El Paso – City Plan Commission Staff Report

Case No: ZON08-00101 and ZON09-00005
Application Type Special Contract Release and Development Agreement Release
CPC Hearing Date February 26, 2009
Staff Planner Mirian Spencer, (915) 541-4192, spencermd2@elpasotexas.gov

Location 1600 and 1700 East Cliff Drive
Legal Description Lot 1, Block 1, City View Subdivision, City of El Paso, El Paso County, Texas
Acreage 16.40 acres
Rep District 8
Existing Use Medical Offices, Hotel, and Personal Wireless Service Facilities
Zoning C-3/sc (Commercial/special contract) and C-1 (Commercial)
Request Release the Special Contract attached to Ordinance No. 8161, dated September 25, 1984 and amended February 19, 1985 and Release the Development Agreement between Medical Center Corporation and the City of El Paso dated July 9, 1953
Proposed Use Mixed-use Medical Development

Property Owners City View Investors, LLC
Representative TVO Development Services, LLC

SURROUNDING ZONING AND LAND USE

North: C-1/sc/sp (Commercial/special contract/special permit), C-1/sc (Commercial/special contract), C-1 (Commercial)/Medical Offices
South: A-4/sc (Apartment/special contract)/ Single-family residential
East: R-5 (Residential)/ Single-family residential
West: A-2 (Apartment)/ Single-family residential

THE PLAN FOR EL PASO DESIGNATION: Residential and Commercial (Central Planning Area)
NEAREST PARK: Tom Lea Park (2,250 Feet)
NEAREST SCHOOL: Lamar Elementary School (578 Feet)

NEIGHBORHOOD ASSOCIATIONS:

Central El Paso Community Organization; Golden Hills Neighborhood Association

NEIGHBORHOOD INPUT

Notice of the public meeting was mailed out to all property owners within 300 feet of the subject property on January 14, 2009. The Planning Division has received no public response to the requests to release the Special Contract and Development Agreement.

APPLICATION DESCRIPTION

The applicant is requesting to release a Development Agreement between the Medical Center Corporation and the City of El Paso which imposed conditions on a portion of the property located at 1600 Cliff Drive. The Development Agreement permits the City to enforce the Agreement as well as authorizes the City Council to release the conditions if it sees fit to do so. The Development Agreement was signed prior to the April 1955 replacement of the Zoning Code and zoning maps, which rendered the Development Agreement obsolete. The Development Agreement imposed the following conditions on the property:

- No building shall ever be erected on the said premises less than 20 feet from the easterly property line.

- Adequate landscaping shall be planted and maintained along the easterly property line of the above described property to conceal from view the service and waste disposal area of the business operations within the described area, said landscaping to be planted before or during the time of any construction upon the said premises.
- Retail establishments shall be so constructed as to face in a westerly or southerly direction on private streets of interior circulation to be provided by Medical Center Corporation; and it is further agreed that a through service road through the above described premises shall be provided at the rear of all buildings within said area.
- All buildings shall be occupied by only the following occupancies: pharmacies, x-ray laboratories and supply shops, surgical, dental, and optical shop and laboratories, restaurants, barbershops, beauty shops, dry cleaning shops, laundry pickup stations, residential hotel, and offices of Medical Center Corporation.

The property owners are requesting to release the Special Contract attached to Ordinance No. 8164 dated February 19, 1985 which imposed the following condition:

- That a detailed site development plan be approved by the City Plan Commission and City Council prior to the issuance of building permits.

The Special Contract was amended by Resolution on February 19, 1985 to allow for the lien holder at the time to sign the approved Special Contract.

The property owners have submitted a rezoning request (ZON08-00102) to change the zoning from C-3/sc (Commercial/special contract), C-1 (Commercial), and A-O (Apartment/Office) to GMU (General Mixed Use) zoning district.

DEVELOPMENT COORDINATING COMMITTEE RECOMMENDATION

The Development Coordinating Committee recommends **APPROVAL** of releasing the Development Agreement between the City of El Paso and Medical Center Corporation dated July 9, 1953. The Development Coordinating Committee recommends **APPROVAL** of releasing the Special Contract attached to Ordinance No. 8164, dated February 19, 1985.

The Development Coordinating Committee provides the following comments:

PLANNING DIVISION RECOMMENDATION

Planning recommends **APPROVAL** of releasing the Special Contract attached to Ordinance No. 8164, dated February 19, 1985.

The Plan for El Paso –City-wide Land Use Goals:

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

- 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.
- Goal: provide a pattern of commercial and office development which best serves community needs and which complements and serves all other land uses
- Goal: protect residential areas from incompatible land uses and encroachment which may have a negative impact on the residential living environment.
- Goal: preserve, protect, and enhance the integrity, economic vitality, and livability of the city's neighborhoods.

- e. Goal: encourage the provision of neighborhood commercial services which are compatible with a neighborhood's residential character

The Development Agreement is no longer necessary as the applicants have submitted a Master Zoning Plan for the property which designates land uses and development restrictions. The developer will have to submit a mixed-use development plan for the property prior to construction, which will ensure the development of the site complies with the restrictions and land uses detailed in the Master Zoning Plan.

The property was designated for residential and commercial uses in the 2025 Projected General Land Use Map. The proposed multi-story medical office complex is compatible with adjacent development and land uses. A mixed-use development plan is required for development within a General Mixed Use zoning district as per Section 20.04 Article IV of the El Paso City Code, so the Special Contract condition is not necessary.

Development Services Department - Building Permits and Inspections Division:

No objection to the Development Agreement release and Special Contract release. A mixed-use development plan will be required for future development in the proposed GMU (General Mixed Use) zoning district.

Landscaping: If approved this project will require landscaping under 18.46 of the building code for the new development as well as a detailed site plan. No landscape calculations provided for this project.

Development Services Department - Planning Division:

Current Planning: recommends **APPROVAL** of releasing the Development Agreement dated July 9, 1953 and the Special Contract attached to Ordinance 8164.

Engineering: Site is not located within a Special Flood Hazard Area, Flood Zone **X**, Panel **480214 0048 C**, Effective Date: February 16, 2006. The following will be required at the time of development:

1. ADA accessible sidewalks, wheel-chair ramp(s), and driveway(s).
2. Grading plan and permit will be required at the time of development.
3. Storm water pollution prevention plan and/or permit required at the time of development.
4. Drainage plans must be approved by the Development Services Department, Engineering section at the time of development.

Engineering Department - Traffic Division:

Traffic has no objections to the release of the Development Agreement dated July 9, 1953 and the release of the Special Contract attached to Ordinance 8164. GMU (General Mixed Use) zoning district requires a mixed-use development plan approval. The applicant shall include K values and all proposed access to Arizona Street is to comply with the required visibility on the detailed site plan.

Fire Department:

No opposition to the request at this time.

El Paso Water Utilities:

EPWU does not object to this request.

CITY PLAN COMMISSION OPTIONS

The City Plan Commission may consider the following options and additional options that it identifies when reviewing the Special Contract release and Development Agreement release applications:

1. Recommend approval of the application finding that the Special Contract and Development Agreement releases are 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

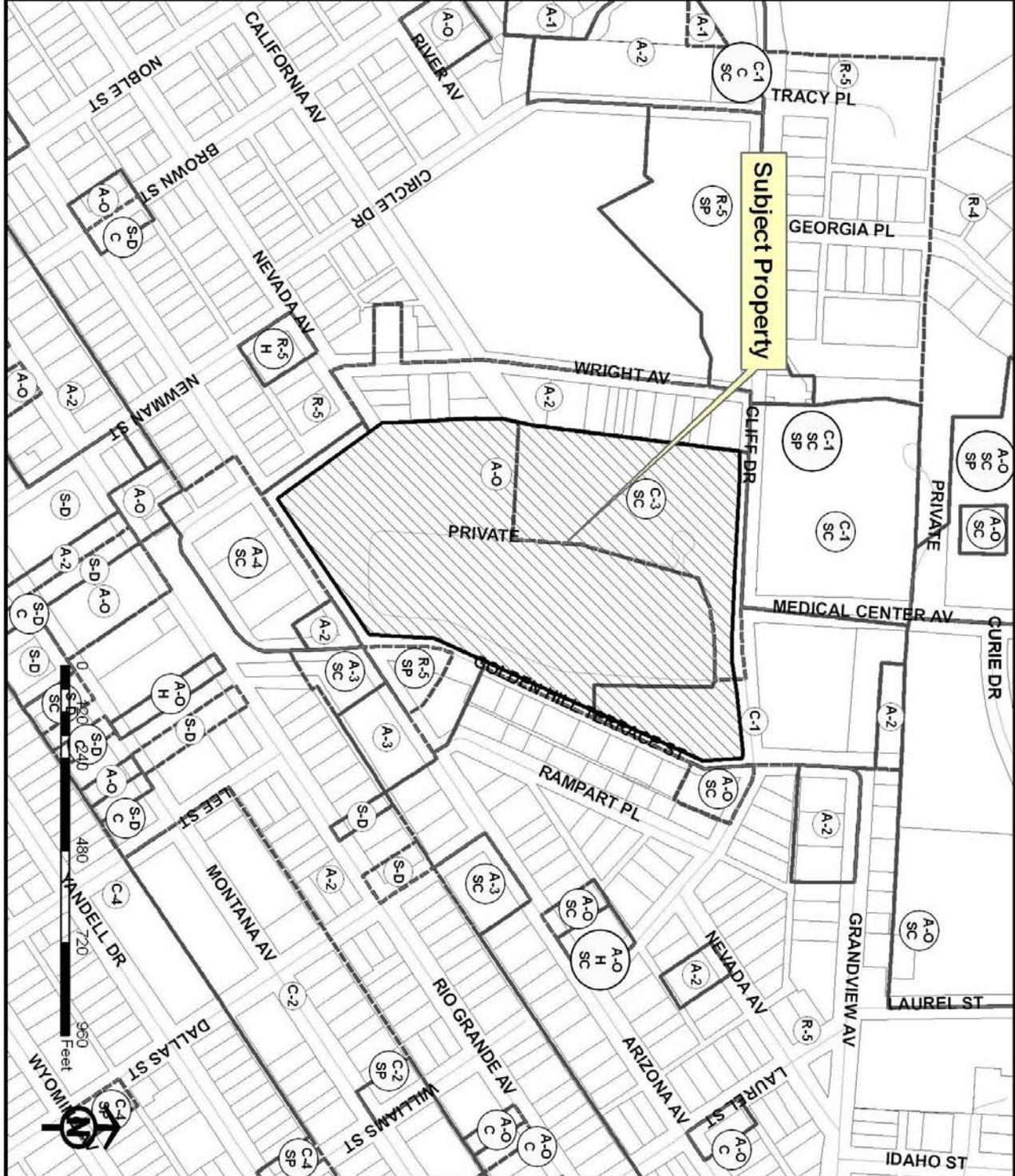
2. Recommend approval of the applications with modifications to bring the Special Contract and Development Agreement releases into conformance with the review criteria in The Plan for El Paso as reflected in CPC report or other criteria from the Plan as identified by the CPC.
3. Deny the application finding that the Special Contract and Development Agreement releases do 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. Development Agreement
4. Ordinance 8164
5. Conceptual Site Plan

ATTACHMENT 1: LOCATION MAP

ZON08-00101 & ZON08-00102



ATTACHMENT 2: AERIAL MAP

ZON08-00101 & ZON08-00102



ATTACHMENT 3: DEVELOPMENT AGREEMENT

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THE STATE OF TEXAS }
COUNTY OF EL PASO }

WHEREAS, Medical Center Corporation, chartered under the laws of Texas, is the owner of the following described property in El Paso County, Texas, to wit:

Beginning at a point which is the intersection of the westerly right of way line of Golden Hill Terrace and the southerly right of way line of Grandview Avenue west of Golden Hill Terrace, for northeast corner;

Thence south 81° 53' 36" west one hundred forty feet (140') to a point for a corner;

Thence south three hundred fifty feet (350') to a point for a corner;

Thence east twenty-eight and twenty-four hundredths feet (28.24') to a point which is on the westerly right of way line of Golden Hill Terrace, for a corner;

Thence north 21° 12' east three hundred feet (300') more or less, along said westerly right of way line to a point for a corner;

Thence north 4° 52' west ninety feet (90') more or less, along said westerly right of way line to the point of beginning.

Being about .772 acres in area.

And whereas said owner desires to erect various retail establishments on said premises, and whereas said owner has requested the City Council to rezone said property as "F" Retail, and whereas the City of El Paso is interested in the protection of the adjoining and neighboring properties, and also in the traffic problems in said area, and whereas the City Plan Commission has held a public hearing thereon and has recommended to the City Council that the property be rezoned as requested, provided that the owner executes an agreement running with the land, restricting the property to certain uses as hereinafter set forth and the owner agreed thereto:

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NOW THEREFORE, in consideration of the premises, the Medical Center Corporation agrees with the City of El Paso that no building shall ever be erected on the said premises less than 20 feet from the easterly property line of the above described premises.

It is further agreed that an adequate landscape screen shall be planted and maintained along the easterly property line of the above described property to conceal from view the service and waste disposal area of business operations within the described area, said landscaping to be planted before or during the time of any construction upon the said premises.

It is also further agreed that all retail establishments shall be so constructed as to face in a westerly or southerly direction on private streets of interior circulation to be provided by Medical Center Corporation; and it is further agreed that a through service road through the above described premises shall be provided at the rear of all buildings within said area.

It is further agreed that said buildings shall be occupied by only the following occupancies: pharmacies, X-ray laboratories and supply shops, surgical, dental and optical shops and laboratories, restaurants, barber-shops, beauty shops, dry cleaning shops, laundry pickup stations, residential hotel, and offices of Medical Center Corporation.

And this agreement shall be a covenant and condition running with the land and a servitude and charge thereon, binding upon Medical Center Corporation and its successors in title, and the City of El Paso may enforce this agreement by injunction or any other legal or equitable remedy and the City of El Paso by proper resolution of the City Council may release said covenants and conditions if it sees fit to do so, and such release shall be binding on said Medical Center Corporation, its successors and assigns, and such release

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shall terminate said covenants and conditions.

EXECUTED this 9th day of July, 1953.

MEDICAL CENTER CORPORATION

by Louis E. Wilcox
President



Johnston Green
Secretary

THE STATE OF TEXAS |
COUNTY OF EL PASO |

BEFORE ME, the undersigned authority, on this day personally appeared Louis E. Wilcox, President of Medical Center Corporation, known to me to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged before me in my County aforesaid that the same was the act of said corporation, and that he executed the same as the act of such corporation for the purposes and consideration therein expressed, and in the capacity therein stated.

Given under my hand and official seal this 9th day of July, 1953.



Louis A. Axt
Notary Public in and for
El Paso County, Texas

FILED
JUL 22 1953
E. THOMAS L. TELLS, JR.
County Clerk, El Paso Co., Texas
P.O. Box 170
El Paso, Texas
7/24
City

797A
agent
Medical Center Corp.
City of El Paso

ATTACHMENT 4: ORDINANCE 8164 AMENDED CONTRACT

STATE OF TEXAS §
COUNTY OF EL PASO § CONTRACT AMENDMENT §

This contract amendment is made this 19th day of FEBRUARY, 1985, by and between El Paso Medical Center Joint Venture, First Party, and the City of El Paso, Second Party, witness:

WHEREAS, by Resolution dated September 25, 1984, a copy of which is attached hereto marked Exhibit "A", and made a part hereof by reference, the Mayor is authorized to sign a contract with El Paso Medical Center Joint Venture and the Life Insurance Company of Virginia whereby certain restrictions, conditions and covenants were placed on a portion of Manning Survey No. 3 and 4, which is the 200 feet east of the intersection of Cliff Drive and Wright Avenue, more particularly known as 1600 Cliff Avenue, City and County of El Paso, Texas, and the restriction, condition and covenant placed on the property was that a detailed site development plan be reviewed by the City Plan Commission and approved by the City Council, and;

WHEREAS, by Resolution dated January 2, 1985, a copy of which is attached hereto marked Exhibit "B", and made a part hereof by reference, the El Paso City Council approved the detailed site development plan #84-39, submitted by El Paso Medical Joint Venture in accordance with the September 25, 1984, Resolution, and;

WHEREAS, the City Council approved the required detailed site development plan #84-39 before the lien holder, the Life Insurance Company of Virginia had signed the original contract referred to herein as Exhibit "A",

NOW THEREFORE, the parties do mutually agree as follows:

I.

That since El Paso Medical Joint Venture has complied with the intent of the September 25, 1984 El Paso City Council action, the First and Second Parties agree that the Life Insurance Company of Virginia, will not be a required party to the

ST-4980
PLANNING

Ord. 8164
(9/25/84)

contract referenced by the Resolution referred to herein as Exhibit "A". However, First Party will give written notice, to the Life Insurance Company of Virginia that the First Party was required to submit a site development plan for review by the City Plan Commission and approval by the El Paso City Council in order to remove certain objections to the rezoning which had been proposed by First Party. In addition, First Party will give written notice to the lien holder that First Party has complied with this requirement. First Party shall give the City Clerk proof that such notices were sent to the lienholder.

WITNESS the following signatures and seals:

EL PASO MEDICAL CENTER JOINT VENTURE
FIRST PARTY

By: [Signature]
Title: ATTORNEY IN FACT

THE CITY OF EL PASO
SECOND PARTY

By: [Signature]
MAYOR

ATTEST:

[Signature]
City Clerk

APPROVED AS TO FORM:

[Signature]
Assistant City Attorney

APPROVED AS TO CONTENT:

[Signature]
Planning, Research and Development

I CERTIFY THAT THE FOLLOWING ZONING MAPS
HAVE BEEN REVISED: L.D.
COUNTER
ORIGINAL

4-16-85 CONTROL [Signature]

Ord. 8164
(9/25/84)

87-4980
L. D. CONTROL
C. ZONING

