

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

DEPARTMENT: Development Services Department, Planning Division

AGENDA DATE: Introduction: May 11, 2010
Public Hearing: June 1, 2010

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

DISTRICT(S) AFFECTED: 3

SUBJECT:

An ordinance to release the special contract imposed on property by Ordinance No. 8888 which changed the zoning of Tracts 1R and 1S, Block 5, Ascarate Grant, City of El Paso, El Paso County, Texas. The penalty is as provided for in Chapter 20.24 of the El Paso City Code. Subject Property: 7705 Phoenix Drive. Property Owner: 7705 Phoenix, LLC. ZON10-00013 (**District 3**)

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 (6-0)

*****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 TO RELEASE THE SPECIAL CONTRACT IMPOSED ON PROPERTY BY ORDINANCE NO. 8888 WHICH CHANGED THE ZONING OF TRACTS 1R AND 1S, BLOCK 5, ASCARATE GRANT, CITY OF EL PASO, EL PASO COUNTY, TEXAS. THE PENALTY IS AS PROVIDED FOR IN CHAPTER 20.24 OF THE EL PASO CITY CODE.

WHEREAS, the zoning of the property described as *Tracts 1R and 1S, Block 5, Ascarate Grant, City of El Paso, El Paso County, Texas*, was changed by Ordinance No. 8888, approved by City Council on December 23, 1986; and,

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

The property shall only be used as a credit union or similar financial institution

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 submitted an application requesting to release the special contract imposed on the subject property in order to allow a commercial day care facility; and,

WHEREAS, a public hearing regarding amendment of the condition was held before the City Plan Commission, and the Commission recommended approval of the releasing the special contract imposed on the subject property; and,

WHEREAS, the City Council of the City of El Paso has determined that the removal 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:

That zoning condition imposed by Ordinance No. 8888 dated December 23, 1986 be released on the portion of land identified in Exhibit "A".

PASSED AND APPROVED this _____ day of _____, 2010.

THE CITY OF EL PASO

John F. Cook, Mayor

ATTEST:

Richarda Duffy Momsen, City Clerk

(Signatures continue on following page)

APPROVED AS TO FORM:

Lupe Cuellar
Assistant City Attorney

APPROVED AS TO CONTENT:

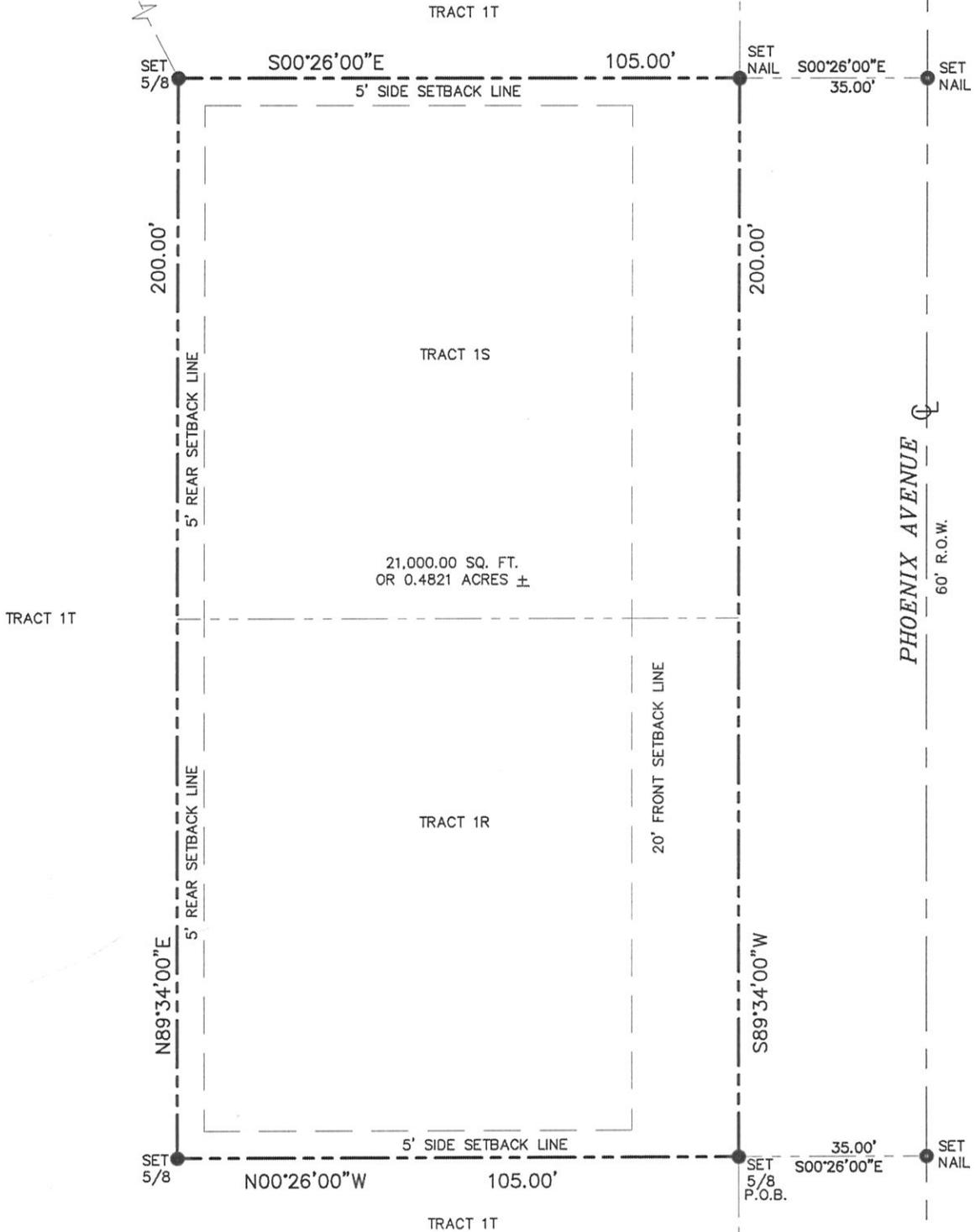
Mathew S. McElroy
Deputy Director – Planning
Development Services Department

CITY MONUMENT

S61°32'41"W

927.92'

- NOTES:
1. BEARINGS SHOWN ARE BASED ON THE FILED PLAT FOR ASCARATE GRANT
 2. BUILDINGS SETBACKS AS PER ZONE: C-OP/SC/SP
BUILDING SETBACK
 FRONT — 20
 REAR — 5
 SIDES — 5
 3. REQUIRED PARKING FOR PROPOSED DAYCARE.
 REQUIRED: 1 PER 500 SF SFG / PLUS 5 SPACES=9 SPACES
 PROVIDED: 9 SPACES & 1 HANDICAP SPACE AND 3 BIKE RACKS.



CAD CONSULTING CO.

SCALE 1"=30'

COPYRIGHT © 2010 CAD CONSULTING CO. ALL RIGHTS RESERVED

CERTIFICATION

I HEREBY CERTIFY THAT THE FOREGOING BOUNDARY SURVEY WAS MADE ON THE GROUND AND UNDER MY SUPERVISION AND IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF, THAT THERE ARE NO ENCROACHMENTS EXCEPT AS SHOWN HEREON.

CARLOS M. JIMENEZ
 3950
 PROFESSIONAL SURVEYOR
 R.P.L.S. No. 3950

JOB # 00136 DATE: 01-11-10 FIELD: AR OFFICE: SM FILE: NET:\SABINO\2010\00136

LOCATED IN ZONE C PANEL # 480214-0041-B DATED 10-15-82

RECORDED IN VOLUME N/A PAGE N/A, PLAT RECORDS, EL PASO COUNTY, TX

7705 PHOENIX AVENUE (SEE EXHIBIT "A")
 TRACTS 1R AND TRACT 1S, BLOCK 5
 ASCARATE GRANT
 CITY OF EL PASO, EL PASO COUNTY, TEXAS



CONSULTING COMPANY
 1790 LEE TREVINO DRIVE SUITE 503
 EL PASO, TEXAS 79936
 (915) 633-6422

Being all of Tracts 1R and 1S, Block 5,
Ascarate Grant,
City of El Paso, El Paso County, Texas
March 03, 2010

METES AND BOUNDS DESCRIPTION

7705 Phoenix Avenue
Exhibit "A"

FIELD NOTE DESCRIPTION of all of Tracts 1R and 1S, Block 5, Ascarate Grant, City of El Paso, El Paso County, Texas and being more particularly described by metes and bounds as follows:

COMMENCING FOR REFERENCE at a set iron rod located at the common boundary line of Tracts 1R and 1T, same being the northerly right-of-way line of Phoenix Avenue (60' R.O.W.) and being the **POINT OF BEGINNING** of the herein described parcel;

THENCE, leaving said northerly right-of-way line and along said common boundary line, North 00°26'00" West, a distance of 105.00 feet to a set iron rod for corner;

THENCE, leaving said common boundary line, North 89°34'00" East, a distance of 200.00 feet to a set iron rod for corner;

THENCE, South 00°26'00" East, a distance of 105.00 feet to a set nail for corner;

THENCE, South 89°34'00" West, a distance of 200.00 feet to the **POINT OF BEGINNING** of the herein described parcel and containing 21,000.00 square feet or 0.4821 acres of land more or less.

Carlos M. Jiménez
Registered Professional Land Surveyor
Texas No. 3950

CAD Consulting Co.
1790 Lee Trevino Drive. Suite 503
El Paso, Texas 79936
(915) 633-6422
I:\M&B\2010\00136.wpd





MEMORANDUM

DATE: May 4, 2010
TO: Honorable Mayor and City Council
Joyce Wilson, City Manager
FROM: Esther Guerrero, Planner
SUBJECT: ZON10-00013

The City Plan Commission (CPC) on April 8, 2010, voted **6-0** to recommend **APPROVAL** of the special contract release which restricted the use of the subject property to a credit union or similar financial institution only, in the C-OP (Commercial Office Park) district, in agreement with the recommendation from the Development Coordinating Committee (DCC) and staff.

The CPC found that the release of the special contract is in conformance with The Plan for El Paso. The CPC found that the proposed use is in conformance with the 2025 Projected General Land Use Map for the Mission Valley Planning Area. The CPC also determined that the special contract release protects the best interest, health, safety, and welfare of the public in general; and the special contract 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 one present to speak in favor or in 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: ZON10-00013
Application Type Zoning Condition Release
CPC Hearing Date April 8, 2010
Staff Planner Esther Guerrero, (915) 541-4720, guerreroex@elpasotexas.gov

Location 7705 Phoenix Drive
Legal Description Tracts 1R and 1S, Block 5, Ascarate Grant, City of El Paso, El Paso County, Texas
Acreage 0.4821 acres
Rep District 3
Present Zoning C-OP/sc/sp (Commercial Office Park/special contract/special permit)

Request Release zoning condition imposed by Ordinance No. 8888, dated December 23, 1986
Existing Use Vacant Building
Property Owner 7705 Phoenix, LLC
Representative CAD Consulting Company

SURROUNDING ZONING AND LAND USE

North: R-3 (Residential) / Park
South: R-3 (Residential) / Residential
East: R-3 (Residential) / Park
West: R-3 (Residential) / Park, Residential

THE PLAN FOR EL PASO DESIGNATION: Parks and Open Space (Mission Valley Planning Area)

NEAREST PARK: Lionel Forti (Abutting to the North, East and West)

NEAREST SCHOOL: Ranchland Middle (1,920 feet)

NEIGHBORHOOD ASSOCIATIONS

N/A

NEIGHBORHOOD INPUT

Notices of the April 8, 2010 City Plan Commission hearing were mailed out to property owners within 300 feet of the subject property on March 24, 2010. The Planning Division has received no calls or letters in support or opposition to this request.

APPLICATION DESCRIPTION

The applicant is requesting to release the special contract imposed on the subject property in order to allow a commercial day care facility. The special contract imposed on the property restricts the use of the property to a credit union or similar financial institution only (see Attachment 5). The site plan shows an existing 1,926 sq. ft. building, 10 parking spaces, including three bike racks, and access via two driveways from Phoenix Drive.

DEVELOPMENT COORDINATING COMMITTEE RECOMMENDATION

Recommend **approval** of the releasing the special contract imposed on the subject property.

PLANNING DIVISION RECOMMENDATION

Recommend **approval** of the releasing the special contract imposed on the subject property.

The C-OP (Commercial Office Park) district requires the front yard to be landscaped except for necessary sidewalks and driveways; this area may be included in meeting the landscape requirements of Title 18.

If the final survey depicts the encroachment of the rock wall abutting Phoenix Drive, a special privilege license or vacation of public right-of-way will be required.

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 encroachments which may have a negative impact on the residential living environment.

Development Services Department - Building Permits and Inspections Division

Plan Review has no objections to this release of zoning conditions.

Engineering Department - Traffic Division

No objection to release of zoning condition. Rock wall along Phoenix may be encroaching on parkway.

Street Department

We offer no objections to the release of the zoning condition with the following conditions:

Rockwall encroachment shall be addressed by Special Privilege License or vacation of public right-of-way or re-location of wall.

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

The El Paso Fire Department Strategic Planning Division has reviewed ZON10-00013, a Zoning Condition Release application and has no objections or adverse comments specific to the release of zoning conditions.

El Paso Water Utilities

1. EPWU does not object to this request.

Water:

2. There is an existing 8-inch diameter water main that extends along Phoenix Avenue that is available for service. The water main is located approximately 13.5 ft south from the northern right of way line.
3. There is an existing 2-inch diameter water main that extends along Phoenix Avenue that is located approximately 17 ft north from the southern right of way line. Said main ends at the intersection of Ranchland Drive and Phoenix Avenue at approximately 17 ft west of the eastern right of way line of Ranchland Drive.
4. EPWU records indicate a 3/4-inch water meter serving the subject property. The service address for this meter is 7705 Phoenix Avenue.

Sewer:

5. There is an existing 8-inch diameter sewer main that extends along Phoenix Avenue that is available for service. Said main is located approximately 26 ft south from the northern right of way line.
6. There is an existing 6-inch diameter sewer main that extends along Phoenix Avenue and change to a 8 inch diameter main from the west side of a manhole located at the intersection of Ranchland Drive and Phoenix Avenue. The sewer main is located approximately 23 ft north from the southern right of way line.

General:

7. EPWU requires a new service application to provide service to the property. New service applications are available at 1154 Hawkins, 3rd floor and should be made 6 to 8 weeks in advance of construction to ensure water for construction work. A site plan, utility plan, grading and drainage plans, landscaping plan, the legal description of the property and a certificate-of-compliance are required at the time of application. Service will be provided in accordance with the current EPWU – PSB Rules and Regulations. The applicant is responsible for the costs of any necessary on-site and off-site extensions, relocations or adjustments of water and sanitary sewer lines and appurtenances.

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. Site Plan
4. Elevations
5. Ordinance No. 8888

ATTACHMENT 1: ZONING MAP

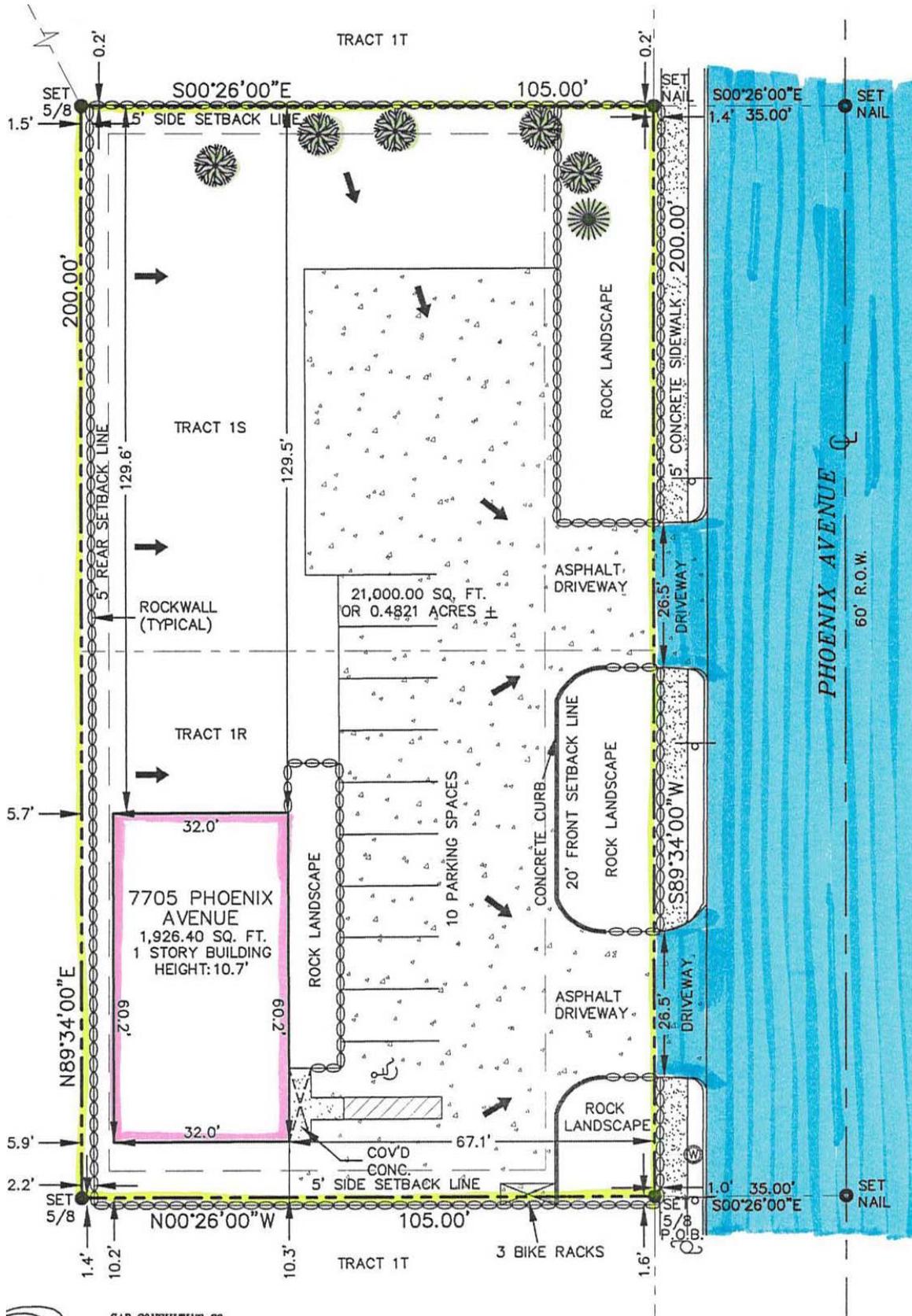
ZON10-00013



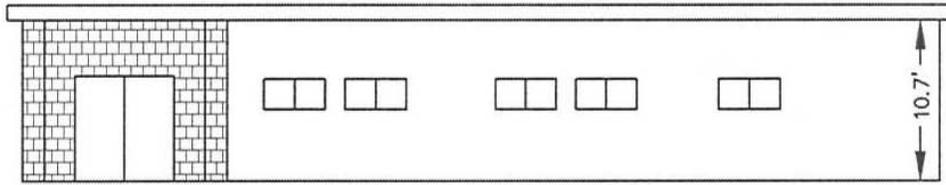
ZON10-00013



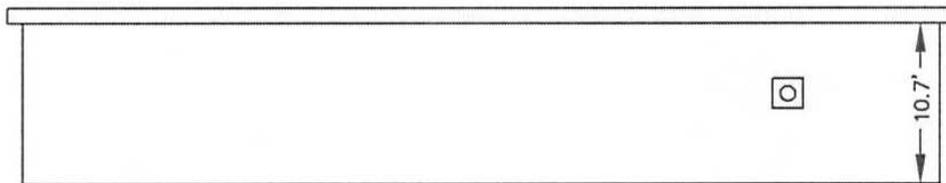
ATTACHMENT 3: SITE PLAN



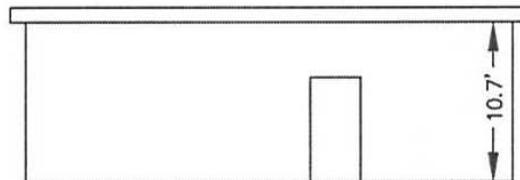
ATTACHMENT 4: ELEVATIONS



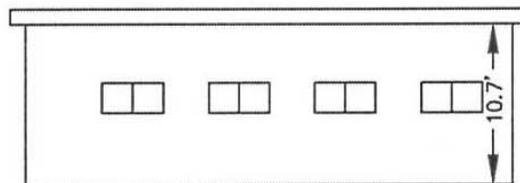
FRONT SIDE VIEW (SOUTH)



BACK SIDE VIEW (NORTH)



RIGHT SIDE VIEW (WEST)



LEFT SIDE VIEW (EAST)

ATTACHMENT 5: ORDINANCE NO. 8888

~~008888~~
AN ORDINANCE CHANGING THE ZONING
OF BLOCK 5, TRACTS 1-R AND 1-S, ASCARATE GRANT,
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 Block 5, Tracts 1-R and 1-S, Ascarate Grant, as more particularly described by metes and bounds in the attached Exhibit "A," be changed from R-3 (Residential) to C-OP (Commercial/Office-Park) 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 23rd day of December 1986.

Jonathan W. Rye
Mayor

ATTEST:
Carole Hunter
City Clerk

APPROVED AS TO FORM:
[Signature]
Assistant City Attorney

APPROVED AS TO CONTENT:
[Signature]
Planning Department

ZNG3:006

I CERTIFY THAT THE FOLLOWING ZONING MAPS I certify that the zoning map has been revised to reflect the amendment of ordinance #8888
HAVE BEEN REVISED: L.D. by [Signature] Date 1-22-87
1-22-87 COUNTER
1-22-87 ORIGINAL
1-22-87 CONTROL [Signature]

Contract,
12/23/86

86-5221
RECEIVED
JAN 22 1987
PLANNING DEPARTMENT

~~008888~~

ATTEST:

Jerome W. Fank
Secretary

THE CITY OF EL PASO

By [Signature]
Mayor

ATTEST:

Carol Hunter
City Clerk

APPROVED AS TO CONTENT:

[Signature]
Planning Department

APPROVED AS TO FORM:

[Signature]
Assistant City Attorney

THE STATE OF TEXAS)
COUNTY OF EL PASO)

This instrument was acknowledged before me on this 30th day of December, 1986, by Charles E. Terrell on behalf of SUNSET LODGE NO. 76.

[Signature]
Notary Public, State of Texas

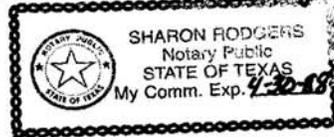
My Commission Expires:
1-6-88

THE STATE OF TEXAS)
COUNTY OF EL PASO)

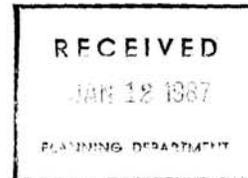
This instrument was acknowledged before me on this 23rd day of December, 1986, by JONATHAN W. ROGERS, as Mayor of the City of El Paso.

Sharon Rodgers
Notary Public, State of Texas

My Commission Expires:



ZNG3:006



THE STATE OF TEXAS)
)
COUNTY OF EL PASO)

CONTRACT

THIS CONTRACT, made this 23rd day of December,
1986, by and between SUNSET LODGE NO. 76, First Party, and the CITY OF
EL PASO, Second Party, witnesseth:

Application has been made to the City of El Paso for rezoning of Block 5, Tracts 1-R and 1-S, Ascarate Grant, 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 R-3 (Residential) to C-OP (Commercial/Office-Park) 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 only be used as a credit union or similar financial institution.

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.

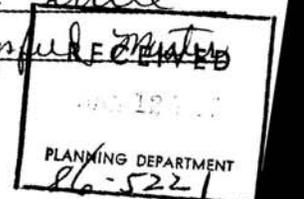
The City may enforce this agreement by injunction or any other legal or equitable remedy. The City Council of the City of El Paso may amend or release the above restrictions, conditions and covenants in its discretion without the consent of any third person who may be benefited thereby, and without affecting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

WITNESS THE FOLLOWING SIGNATURES AND SEALS.

SUNSET LODGE NO. 76

Ord # 8888
12-23-86

By Charles E. Terrell
Title Worshipful Master



Ascarate Grant
Block No. 5
Tracts I-R and I-S

Metes and Bounds Description:

Legal description of a parcel of land being a portion of tract I-R and I-S, Block 5, Ascarate Grant, El Paso, Texas, and being more particularly described by metes and bounds as follow.

From a iron pin located at the Southeast corner of Giles Road and Phoenix Drive Right-Of-Way line. Thence, South 89° 34' West, a distance of 723.99' feet along the Right-Of-Way of Phoenix Drive to a point, said point being the point of beginning of this description;

Thence, South 89° 34' West, a distance of 200' feet along the Right-Of-Way line of Phoenix Drive;

Thence, North 0° 26' West, a distance of 105' along the common lot line of tract I T and I R, Block 5, Ascarate Grant;

Thence, North 89° 34' East, a distance of 200' feet, along the common lot line of tract I-T, I-R and I-S, block 5, Ascarate Grant;

Thence, South 0° 26' East a distance of 105' feet along the common lot line of tract I T and I S, block 5, Ascarate Grant to a point, said point being the point of beginning of this parcel.

Said parcel contains 21,000 square feet or 0.48 acres of land more or less.



008888

86-5221

RESOLUTION

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

That the Mayor be authorized to sign a contract with SUNSET LODGE NO. 76 , placing certain restrictions, conditions and covenants on the property being rezoned by Ordinance No. 008888, more particularly described as Block 5, Tracts 1-R and 1-S, Ascarate Grant (7705 Phoenix).

ADOPTED this 23rd day of December, 1986.

Jonathan W. Rogers
Mayor

ATTEST:

Carole Hunter
City Clerk

APPROVED AS TO FORM:

John R. [Signature]
Assistant City Attorney

