

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

DEPARTMENT: Development Services Department, Planning Division

AGENDA DATE: 03-23-10 Consent Agenda

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

DISTRICT(S) AFFECTED: 1

SUBJECT:

A Resolution approving a Detailed Site Development Plan for all of Tracts 4B and 4D, M.J. McKelligon Survey No. 270, City of El Paso, El Paso County, Texas, pursuant to a condition Imposed by Ordinance No. 011247. The penalty is as provided for in Chapter 20.24 of the El Paso City Code. Subject Property: 3900 Block of Piedmont Drive. Property Owner: Piedmont Group, LLC. ZON09-00089 (**District 1**)

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 (5-0)

*****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: _____

RESOLUTION

A RESOLUTION APPROVING A DETAILED SITE DEVELOPMENT PLAN FOR ALL OF TRACTS 4B AND 4D, M.J. MCKELLIGON SURVEY NO. 270, CITY OF EL PASO, EL PASO COUNTY, TEXAS, PURSUANT TO A CONDITION IMPOSED BY ORDINANCE NO. 011247. THE PENALTY IS AS PROVIDED FOR IN CHAPTER 20.24 OF THE EL PASO CITY CODE.

WHEREAS, Piedmont Group, LLC, (the "Applicant") has applied for approval of a detailed site development plan pursuant to a zoning condition, which requires City Plan Commission and City Council approval, to permit a planned residential development; and,

WHEREAS, a report was made by the staff to the City Plan Commission and a public hearing was held regarding such application;

WHEREAS, the City Plan Commission has approved and herein recommends Council approval of the subject detailed site development plan; and,

WHEREAS, the City Council finds that the detailed site development plan meets all applicable requirements of the El Paso City Code;

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

1. Pursuant to requirements imposed by a zoning condition, the City Council hereby approves the detailed site development plan submitted by the Applicant, to permit a planned residential development on the following described property which is located in a P-RI/c (Planned Residential I/condition) District:

All of Tracts 4B and 4D, M.J. McKelligon Survey No. 270, City of El Paso, El Paso County, Texas, as more particularly described by metes and bounds on the attached Exhibit "A" and incorporated herein by reference.

A copy of the approved detailed site development plan, signed by the Applicant, the City Manager and the Secretary of the City Plan Commission, is attached hereto, as Exhibit "B" and incorporated herein by reference.

2. All construction and development on the property shall be done in accordance with the approved detailed site development plan and the development standards applicable in the P-RI/c (Planned Residential I/condition) District regulations.

3. The Applicant shall sign an agreement to develop the property and to perform all construction thereon in accordance with the approved detailed site development plan and the standards applicable in the P-RI/c (Planned Residential I/condition) District. Such agreement shall be signed and filed with the Zoning Administrator and the Executive Secretary of the City Plan Commission before building permits are issued.

Detailed Site Development Plan No. ZON09-00089

4. This approval shall be void if construction on the property is not started in accordance with the approved detailed site development plan within four (4) years from the date hereof.

ADOPTED 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

Matthew S. McElroy, Deputy Director
Development Services Department –
Planning Section

(Agreement on Page 3)

**DETAILED SITE DEVELOPMENT PLAN, NO. ZON09-00089
DEVELOPMENT AGREEMENT**

WHEREAS, Piedmont Group, LLC., (the "Applicant") has applied for approval of a detailed site development plan pursuant to Section 20.04.140 (Zoning) of the El Paso Municipal Code to permit the development of a planned residential development; and

WHEREAS, a report was made by the staff to the City Plan Commission and a public hearing was held regarding such application;

WHEREAS, pursuant to Section 20.04.150 (Zoning) of the El Paso Municipal Code the City Plan Commission on February 11, 2010 approved the detailed site development plan submitted by the Applicant, to permit the development of a planned residential development on the site, on the following described property, which is located in the P-RI/c (Planned Residential I/condition) District:

All of Tracts 4B and 4D, M.J. McKelligon Survey No. 270, City of El Paso, El Paso County, Texas, as more particularly described by metes and bounds on the attached Exhibit "A" and incorporated herein by reference.

NOW, THEREFORE, in consideration of the approval of the detailed site development plan application, the Applicant agrees as follows:

That approval of the detailed site development plan shall be subject to the following conditions:

1. All construction and development on the property shall be done in accordance with the approved detailed site development plan and the development standards applicable in the P-RI/c (Planned Residential I/condition) District regulations.
2. The Applicant shall agree to develop the property and to perform all construction thereon in accordance with the approved detailed site development plan and the standards applicable in the P-RI/c (Planned Residential I/condition) District.
3. A copy of the approved detailed site development plan, signed by the Applicant and the Secretary of the City Plan Commission, is attached hereto, as Exhibit "B" and incorporated herein by reference, shall be filed with the Zoning Administrator and the Executive Secretary of the City Plan Commission before building permits are issued.
4. This Agreement shall be void if construction on the property is not started in accordance with the approved detailed site development plan within four (4) years from the date hereof.

By execution hereof, Piedmont Group, LLC, the Applicant, hereby covenants and agrees to develop the property legally described as *all of Tracts 4B and 4D, M.J. McKelligon Survey No. 270, City of El Paso, El Paso County, Texas*; in accordance with the provisions listed above and the approved detailed site development plan attached hereto as Exhibit "B" and incorporated herein by reference, and in accordance with the standards applicable to the P-RI/c (Planned Residential I/condition) District located within the

City of El Paso, as well as in accordance with any applicable City of El Paso Municipal Code provisions.

EXECUTED this _____ day of _____, 2010.

Applicant

Piedmont Group, LLC

ACKNOWLEDGMENT

THE STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument is acknowledged before me on this _____ day of _____, 2010, by _____.

My Commission Expires:

Notary Public, State of Texas
Notary's Printed or Typed Name:

METES AND BOUNDS DESCRIPTION

Being a 11.3017 acre parcel of land out of a portion of M.J. McKelligon Survey No. 270, also known as a portion of Tracts 4B and 4D, of M.J. McKelligon survey No. 270, also known as all of tracts 4B and a portion of tract 4D, of M. J. McKelligon Survey No. 270, now known as all of Tracts 4B and 4D, M.J. McKelligon Survey No. 270, City of El Paso, El Paso County, Texas, being the same as described in Document recorded in Volume 2536, Page 25, of the Deed Records in El Paso, El Paso County, Texas, by Conde Inc. Exhibit "A" (noted "not a survey") dated December 23, 1992, and surveyed in the field by Conde Inc. in July 7, 2006, and being more particularly described by Metes and Bounds as follows.

COMMENCING at a found ½" rebar with cap stamped "TX 5152", marking the northwesterly corner of Tract 4B, M.J. McKelligon Survey No. 270, and the northeasterly corner for Villa Roja Unit One, filed for record in volume 59, page 35, Plat Records of El Paso County, Texas, City of El Paso, El Paso County, Texas, said rebar also being **POINT OF BEGINNING** of this description;

THENCE, North 89°59'24" East, (South 90°00'00" East), along the northerly line of said Survey 270, a distance of 528.10 feet (503.88'), to a found ½" rebar with cap stamped "TX 5152", for the northeasterly corner of said Tract 4D;

THENCE, South 06°34'10" East (South 06°37'57" East), along the common line of the easterly line of said Tract 4D and Sierra Crest "Replat B" filed for record in volume 54, page 12, Plat Records of El Paso, County, Texas, a distance of 215.55 feet (216.44'), to a found ½" rebar with cap stamped "TX 5152";

THENCE, South 37°05'01" East (South 37°08'48" East), along said common line, a distance of 289.80 feet (289.80'), to a found ½" rebar with cap stamped "TX 5152";

THENCE, South 68°08'08" East (South 68°11'55" East), along said common line, a distance of 360.81 feet (360.81'), to a found ½" rebar with cap stamped "TX 5152";

THENCE, South 40°14'02" East (South 40°17'49" East), said common line, a distance of 71.22 feet (49.50'), to a found ½" rebar with cap stamped "TX 5152";

THENCE, South 69°19'09" West (South 69°35'00" West), along the northerly line of Piedmont Reservoir and common line for Tracts 4D and 4D3, of said Survey 270, a distance of 632.91 feet (678.40'), to a found ½" rebar with cap stamped "TX 5152";

THENCE, 78.26 feet (95.45'), along an arc of a curve to the left, with an interior angle of 74°43'45" (27°20'37"), a radius of 60.00 feet (200.00') and a chord which bears North 44°17'07" West (North 48°05'42" West), along the easterly line of Piedmont Drive, a distance of 72.83 feet (94.54'), to a found ½" rebar with cap stamped "TX 5152";

THENCE, North 81°39'00" West, along the easterly line of Piedmont Drive, a distance of 49.13 feet, to a found ½" rebar with cap stamped "TX 5152";

THENCE, 123.09 feet (78.04'), along an arc of a curve to the right, with an interior angle of 48°48'00"

(28°55'00"), a radius of 144.52 feet (154.62') and a chord which bears North 87°15'00" West (North 47°18'30" West), along the easterly line of Piedmont Drive, a distance of 119.40 feet (77.21'), to a found ½" rebar with cap stamped "TX 5152";

THENCE, North 32°51'00" West (North 32°51'00" West), along the easterly line of Piedmont Drive, a distance of 309.41 feet (309.41') to a found ½" rebar with cap stamped "TX 5152";

THENCE, 79.45 feet (82.32'), along an arc of a curve to the right, with an interior angle of 16°29'00" (16°29'00"), a radius of 276.16 feet (286.16') and a chord which bears North 24°36'30" West (North 24°36'30" West), along the easterly line of Piedmont Drive, a distance of 79.17 feet (82.04'), to a found ½" rebar with cap stamped "TX 5152";

THENCE, North 16°22'00" West (North 16°22'00" West), along the easterly line of Piedmont Drive, a distance of 178.23 feet (177.25'), to a found ½" rebar with cap stamped "TX 5152";

THENCE, South 68°38'01" West (South 68°38'00" West), a distance of 60.23 feet (50.19'), to a found ½" rebar with cap stamped "TX 5152" on the easterly line of Villa Roja Unit Two filed for record in volume 59, page 36, Plat Records of El Paso County, Texas;

THENCE, North 16°21'59" West (North 16°22'00" West), along said easterly line of Villa Roja Unit Two, a distance of 64.37 feet (64.37'), to a found railroad spike;

THENCE, 52.55 feet (52.55'), along an arc of a curve to the left, with an interior angle of 57°36'42" (57°36'42"), a radius of 52.26 feet (52.26') and a chord which bears North 45°10'20" West (North 45°10'21" West), along said easterly line of Villa Roja Unit Two, a distance of 50.36 feet (50.36'), to a found railroad spike;

THENCE, North 16°01'21" East (North 16°01'18" East), along the easterly line of said Villa Roja Unit Two, and easterly line of Villa Roja Unit One, filed for record in volume 59, page 35, Plat Records of El Paso County, Texas, a distance of 161.66 feet (161.51') to the **TRUE POINT OF BEGINNING** and containing 11.3017 (10.766) acres of land more or less.

This Metes and Bounds description is accompanied by a parcel plat of even date.

Client and or owner information: This description is not intended to be part of a Subdivision process, a Subdivision may be required as per City of El Paso Subdivision Ordinance and subject to approval by the City of El Paso.

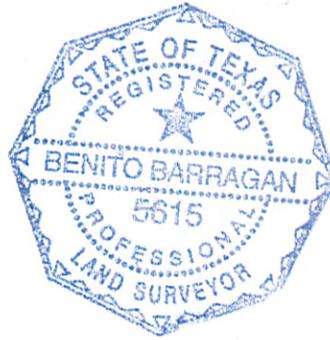
Bearing shown are based on the filed plat for Mission Hills Addition filed for record in volume 14, page 25, Plat Records of El Paso County, Texas.

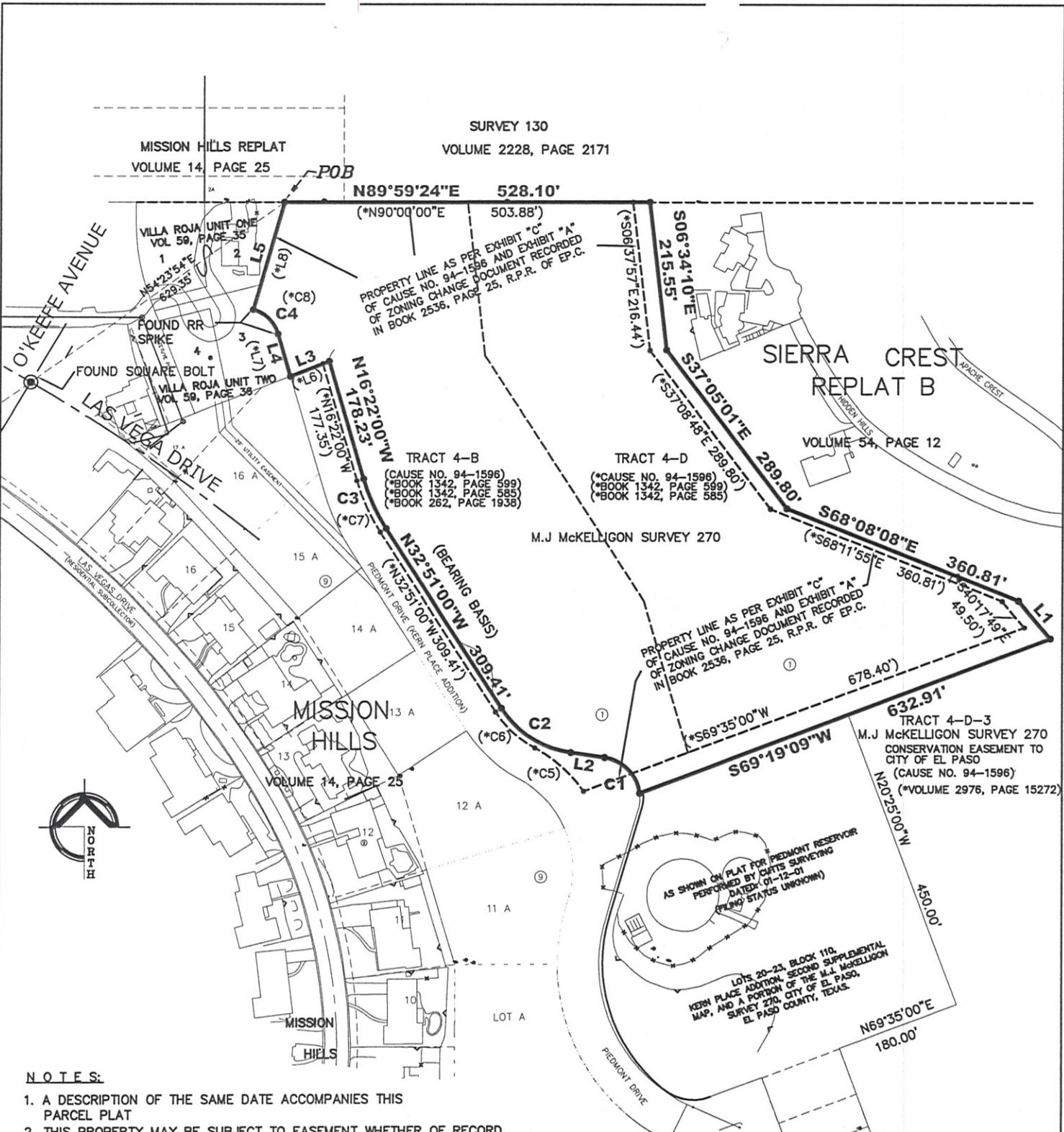
Record information as per adjoining plats or deed and referenced in (parenthesis) to correspond to the record calls.

I, Benito Barragan a Registered Professional Land Surveyor, do hereby certify that to the best of my knowledge and belief, this property description is a true and correct representation of a survey made on the ground, under my direction and supervision.

B. Barragan

Benito Barragan, TX. R.P.L.S. No. 5615
Date: November 09, 2009





NOTES:

1. A DESCRIPTION OF THE SAME DATE ACCOMPANIES THIS PARCEL PLAT
2. THIS PROPERTY MAY BE SUBJECT TO EASEMENT WHETHER OF RECORD (NOT SHOWN)
3. BEARINGS SHOWN ARE BASED ON THE FILED PLAT FOR MISSION HILLS ADDITION FILED IN VOLUME 14, PAGE 25.
4. THIS PLAT DOES NOT INTEND TO BE A SUBDIVISION PROCESS. HILLS ADDITION FILED IN VOLUME 14, PAGE 25.
5. THE PROPERTY OWNERS ARE SOLELY RESPONSIBLE FOR COMPLYING WITH ALL TITLE COMMITMENT PROVISIONS AND CONFIRMING THE SIZE AND USE OF ALL RECORDED EASEMENTS PERTAINING TO THIS PROPERTY, IN SPITE OF THE ACCURACY OR DEFECTS OF THIS PLAT.
6. THIS SURVEY WAS PREPARED FOR CEA GROUP PURPOSES ONLY.
7. THIS SURVEY WAS DONE WITHOUT THE BENEFIT OF A TITLE COMMITMENT.
8. FOUND 1/2" IRON WITH CAP STAMPED "TX 5152", UNLESS OTHER WISE SHOWN.
9. RECORD INFORMATION IS AS PER ADJOINING PLATS OR DEED AND REFERENCED IN (PARENTHESIS) WITH AND "*" SYMBOL TO CORRESPOND TO THE RECORD CALLS.

REFERENCES:

1. PLAT FOR MISSION HILLS ADDITION.
2. PLAT FOR KERN PLACE, 1ST AND 2ND REPLAT.
3. EL PASO COUNTY PLAT FOR MCKELLIGON SURVEY NO 270, DATED 7-13-82.
4. PLAT OF SURVEY BY CONDE INC. DATED 7-10-06.
6. EL PASO PUBLIC SERVICE BOARD. EL PASO COUNTY DEED RECORDS.

LINE TABLE		
LINE	BEARING	LINE
(*L6)	S68°38'00"W	50.19
(*L7)	N16°22'00"W	64.37
(*L8)	N16°01'18"E	161.51
L1	S40°14'02"E	71.22
L2	N81°39'00"W	49.13
L3	S68°38'01"W	60.23
L4	N16°21'59"W	64.37
L5	N16°01'21"E	161.66

CURVE TABLE						
CURVE	LENGTH	RADIUS	DELTA	BEARING	CHORD	TANGENT
(*C5)	95.45	200.00	27°20'37"	N48°05'42"W	94.54	48.65
(*C6)	78.04	154.62	28°55'00"	N47°18'30"W	77.21	39.87
(*C7)	82.32	286.16	16°29'00"	N24°36'30"W	82.04	41.45
(*C8)	52.55	52.26	57°36'42"	N45°10'21"W	50.36	28.74
C1	78.26	60.00	74°43'45"	N44°17'07"W	72.83	45.81
C2	123.09	144.52	48°48'00"	N57°15'00"W	119.40	65.56
C3	79.45	276.16	16°29'00"	N24°36'30"W	79.17	40.00
C4	52.55	52.26	57°36'42"	N45°10'20"W	50.36	28.74

Barragan & Associates Inc.

LAND PLANNING & SURVEYING

10950 Pellicano Dr. Bldg. F - El Paso Tx 79935
Phone (915) 591-5709 Fax (915) 591-5706
E-mail barragan@bcglobal.net

Parcel Plan

BEING A PORTION OF M.J. McKELLIGON SURVEY NO. 270, AKA A PORTION OF TRACTS 4B AND 4D OF M.J. McKELLIGON SURVEY NO. 270, AKA ALL OF TRACT 4B AND A PORTION OF TRACT 4D OF M.J. McKELLIGON SURVEY NO. 270, NKA ALL OF TRACTS 4B AND 4D, OF MCKELLIGON SURVEY NO. 270, CITY OF EL PASO EL PASO COUNTY TEXAS.

11.3017 ACRES±

Plat reference vol/bk pages
Scale 1"=200' Date 11/09/09- REV 11/19/09 Drawn by BB

STATE OF TEXAS
REGISTERED
BENITO BARRAGAN
5615
PROFESSIONAL
LAND SURVEYOR

Benito Barragan

Benito Barragan, R.P.L.S. Tex., No. 5615

Job No. Copy Rights ©

MEMORANDUM

DATE: March 8, 2010

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

SUBJECT: **ZON09-00089**

The City Plan Commission (CPC) on February 11, 2010 voted **5-0** to recommend **APPROVAL** of the detailed site development plan for the subject property, in agreement with the recommendation from the DCC and staff.

When the subject property was rezoned from PMD (Planned Mountain Development) to P-RI (Planned Residential I) on December 8, 1992, a zoning condition was imposed by Ordinance No. 011247 requiring a detailed site development plan be approved by City Council prior to building permits being issued.

The CPC found that the detailed site development plan 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 Northwest Planning Area. The CPC also determined that the detailed site development plan protects residential areas from incompatible land uses and encroachments which may have a negative impact on the residential living environment; and the detailed site development plan will preserve, protect and enhance the integrity, economic vitality, and livability of the city's neighborhoods.

Attachment: Staff Report



City of El Paso – City Plan Commission Staff Report

Case No: ZON09-00089
Application Type: Detailed Site Development Plan
CPC Hearing Date: February 11, 2010
Staff Planner: Esther Guerrero, 915-541-4720, guerreroex@elpasotexas.gov

Location: 3900 Block of Piedmont Drive
Legal Description: All of Tracts 4B and 4D, M.J. McKelligon Survey No. 270, City of El Paso, El Paso County, Texas

Acreage: 11.30 acres
Rep District: 1
Zoning: P-RI/c (Planned Residential I/condition)
Existing Use: Vacant
Request: Detailed Site Development Plan Review per Ordinance No. 011247, dated December 8, 1992

Property Owner: Piedmont Group, LLC
Representative: CEA Group

SURROUNDING ZONING AND LAND USE

North: PMD (Planned Mountain Development) / Franklin Mountains
South: R-3 (Residential) / Single-family Residential; and PMD (Planned Mountain Development) / Franklin Mountains
East: P-RI/sc (Planned Residential I/special contract)/ Single-family Residential
West: R-3 (Residential) / Single-family Residential

Plan for El Paso Designation: Residential (Northwest Planning Area)

Nearest Park: Mission Hills (1,105 Feet)

Nearest School: Mesita Elementary (3,835 Feet)

NEIGHBORHOOD ASSOCIATIONS

Mission Hills Association

NEIGHBORHOOD INPUT

Detailed Site Development Plans do not require public notification.

APPLICATION DESCRIPTION

The request is for detailed site development plan review required by Ordinance No. 011247. The site plan proposes 17 single-family residential lots. The smallest lot is approximately 16,357 sq. ft., with the largest lot being approximately 50,800 sq. ft. All lots except two will contain private open space in the rear. The private open space will remain undisturbed and in its natural state. The detailed site development plan also shows six parking spaces located within the bulb-out to the north and eight parking spaces located within the bulb-out to the south.

CASE HISTORY

The property was rezoned on December 8, 1992 from Mountain Development Area (MDA) to P-RI/c (Planned Residential I/condition). As part of the rezoning, conditions were imposed requiring detailed site

development plan review, open space, platting, density restrictions, and additional conditions as per the attached copy of Ordinance No. 011247.

A preliminary plat for this property (Kern View Estates Unit Two) was approved in July of 2009 by the Commission. At that time the Commission suggested to the applicant that since parking would not be allowed along Piedmont Drive, that perhaps they might want to add on-street parking to be located within the bulb-outs.

Additionally, one of the conditions imposed requires City Council approval prior to any building permits issued.

DEVELOPMENT COORDINATING COMMITTEE RECOMMENDATION

The Development Coordinating Committee recommends **approval** of the detailed site development plan pending **approval** of the modification for the parking areas by the CPC at the time the final subdivision plat is approved.

DEVELOPMENT SERVICES DEPARTMENT-PLANNING DIVISION RECOMMENDATION

The Planning Division recommends **approval** of the detailed site development plan pending **approval** of the modification for the parking areas by the CPC at the time the final subdivision plat is approved.

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

All applications for detailed site development plans shall demonstrate compliance with the following criteria:

- a. Goal: protect residential areas from incompatible land uses and encroachment which may have a negative impact on the residential living environment.
- b. Goal: preserve, protect, and enhance the integrity, economic vitality, and livability of the city's neighborhoods.

The purpose of the P-R I (Planned Residential District I) is to encourage planned developments as a means of creating a superior living environment through unified planning and building operations at lower residential densities. The regulations of the district are designed to encourage variety in housing needed to meet changing housing demands and to provide adequate community facilities well-located with respect to needs; to protect the natural beauty of the landscape; to encourage preservation and more efficient use of open space; and to offer an opportunity for design flexibility and encourage innovations which may result in improved relationships between uses of different types and between land uses and transportation facilities.

Engineering Department - Traffic Division

-No objection to revised site plan, subject to CPC approval of a modification to the subdivision design standards for the proposed parking areas.

-Recommend that developer or resident association be responsible for maintenance (striping, etc.) of the proposed parking areas.

Fire Department

-Per comments submitted on May 11, 2009 by this office, a note shall be placed on the plat stating that fire sprinklers shall protect any residential dwellings exceeding 1000' from the intersection of Piedmont Dr and San Mateo Ln.

-The applicant shall identify specifically the lots to be fire sprinkled on the final plat. If any street grade exceeds eleven percent (11%), any dwellings on lots fronting and accessed by said street shall also be required to be fire sprinkled.

Development Services Department – BP&I

No objections.

Street Department

-No Objection to proposed site plan.

-Recommend that the maintenance of the striping for the proposed cluster parking areas be the responsibility of the developer or home owners association.

-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.

EPWU-PSB Comments

No comments received.

NE Regional Command Center

No objections.

CITY PLAN COMMISSION OPTIONS

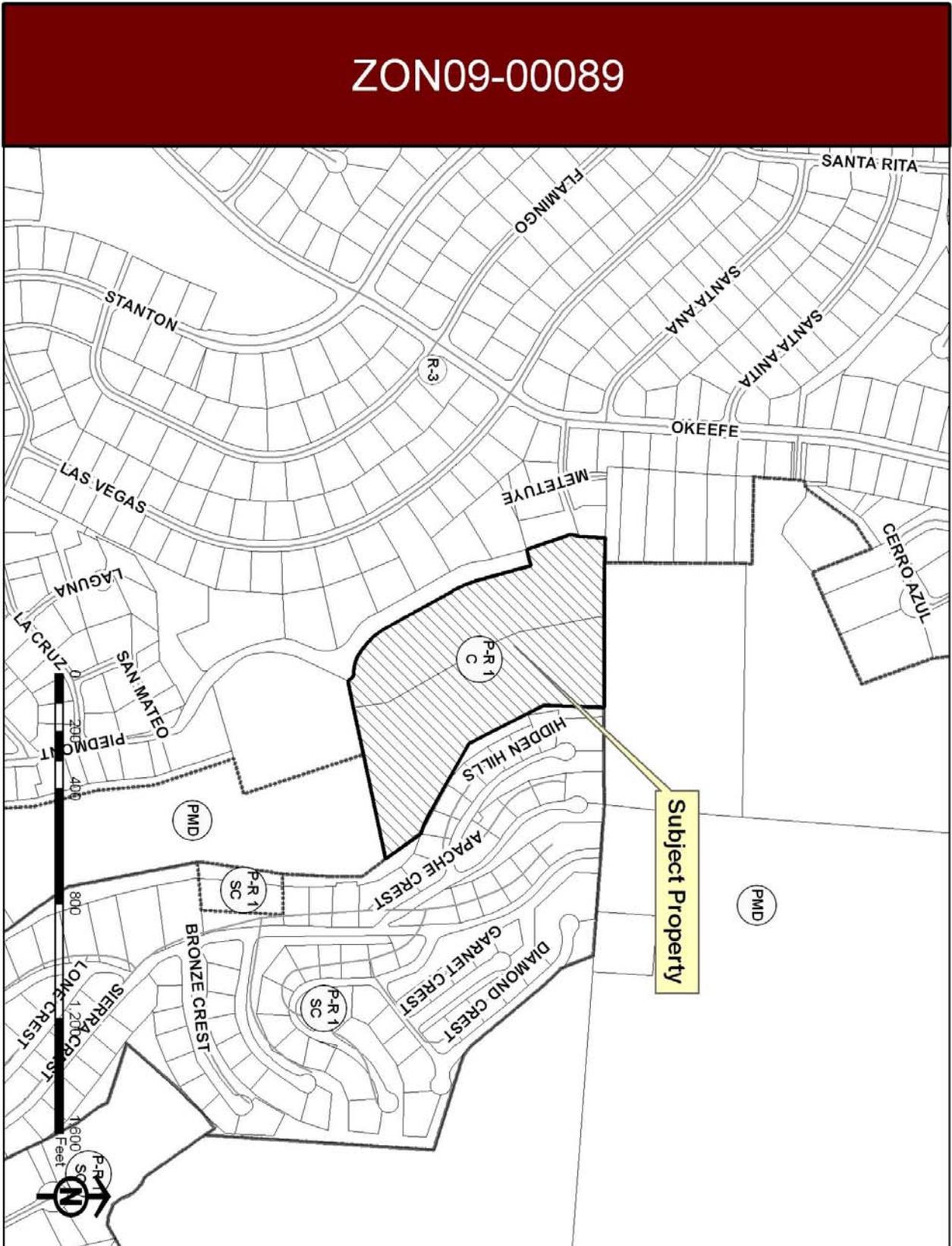
The City Plan Commission may consider the following options and additional options that it identifies when reviewing the detailed site plan application:

1. Recommend approval of the application finding that the detailed site development plan 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 detailed site development plan 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 detailed site development plan 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. 011247

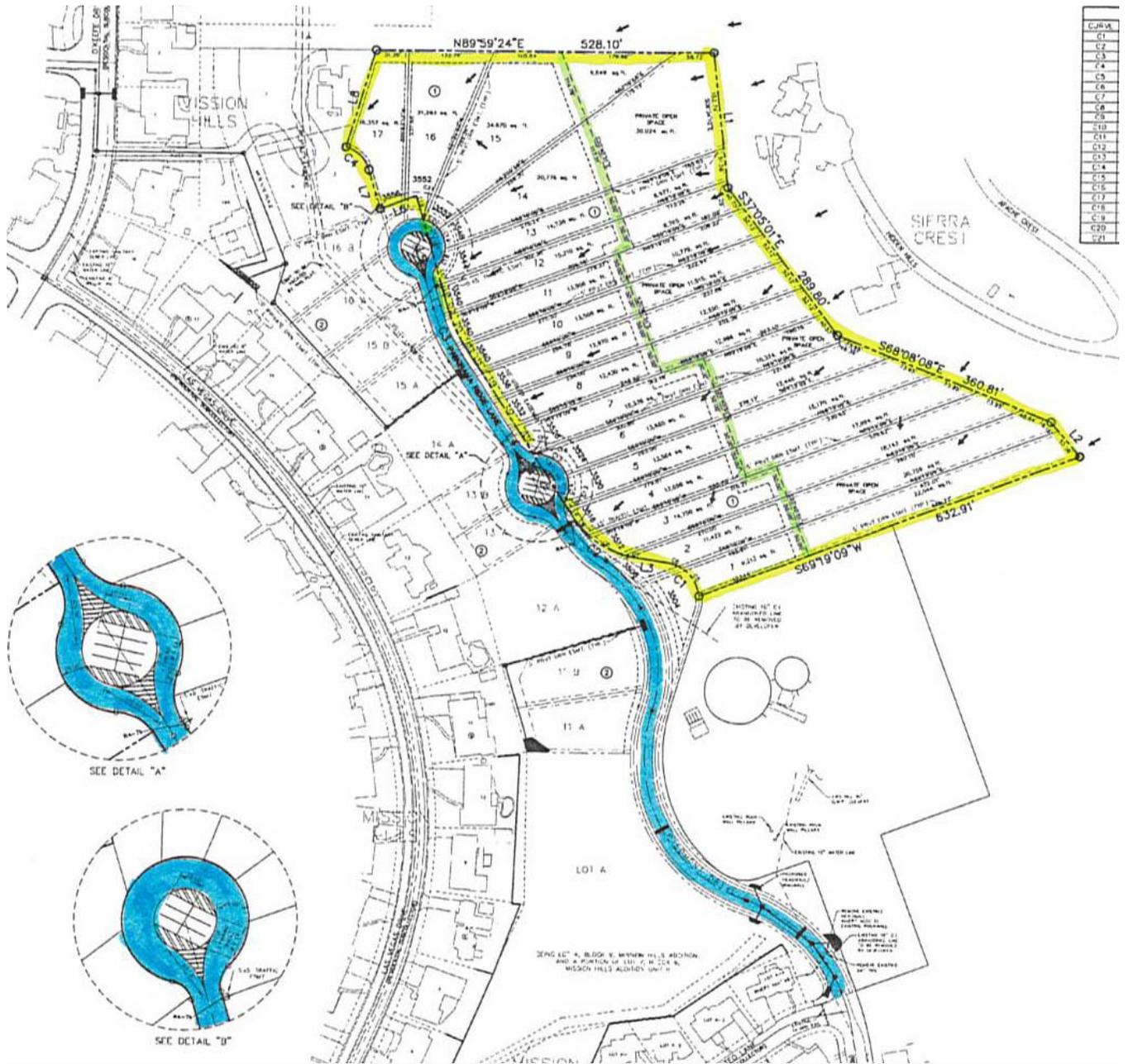
ZON09-00089



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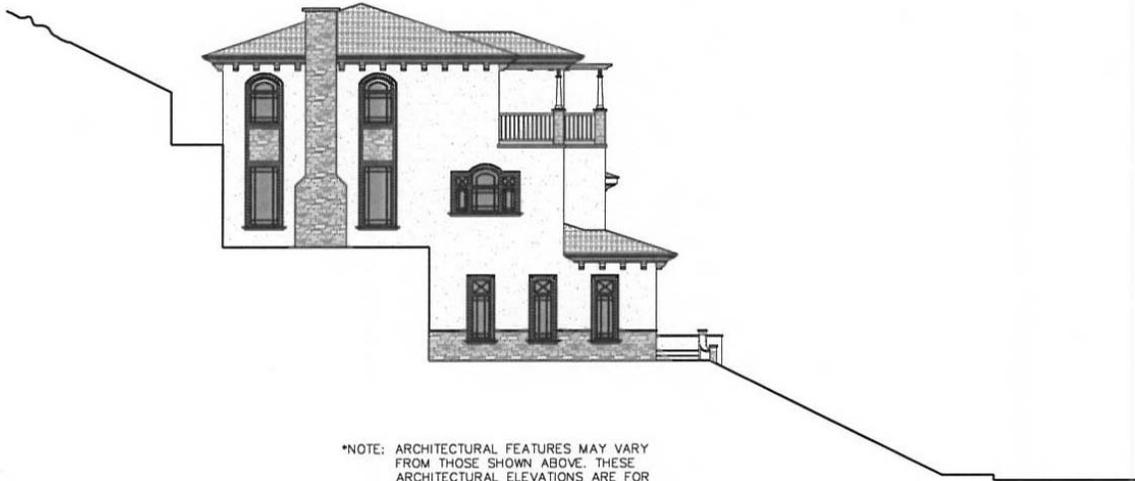
ATTACHMENT 3: SITE PLAN



ATTACHMENT 4: ELEVATIONS



TYPICAL ARCHITECTURAL ELEVATIONS (RESIDENTIAL)
SCALE: 1/4"=1'



*NOTE: ARCHITECTURAL FEATURES MAY VARY FROM THOSE SHOWN ABOVE. THESE ARCHITECTURAL ELEVATIONS ARE FOR DEMONSTRATION ONLY.

TYPICAL ARCHITECTURAL ELEVATIONS (RESIDENTIAL)
SCALE: 1/4"=1'

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ORDINANCE NO. 011247

AN ORDINANCE CHANGING THE ZONING OF A PORTION OF M.J. MCKELLIGON SURVEY NO. 270 AND IMPOSING CERTAIN CONDITIONS, THE PENALTY BEING AS PROVIDED IN SECTION 20.6B.010 OF THE EL PASO CITY CODE

WHEREAS, the Mountain Development Area (MDA) boundary was redefined by the City Council of El Paso in 1984 for the purpose of establishing control of grading and cut and fill operations in the Franklin mountain area of El Paso; and

WHEREAS, these controls were created for several purposes, including minimization of scarring of the natural character of the Franklin mountains; and

WHEREAS, the City Council on December 4, 1984 adopted the City's first mountain zoning classification, the Planned Mountain Development District (PMD); and

WHEREAS, this PMD district was created to provide an alternative approach to conventional flatland development by restricting density based on the slope of the terrain on the mountain; and

WHEREAS, much of the land within the MDA was rezoned to PMD district on January 6, 1986 to promote the City's objectives adopted for the MDA; and

WHEREAS, the City has received a request from Madero Development and Construction Company, Inc., and Chaparral Equity Corporation (hereinafter referred to as Applicants) to rezone a parcel of approximately 33.9 acres within the City's MDA from PMD district to Planned Residential I (PRI) district in order to achieve a greater allowable density, and

WHEREAS, Applicants have explicitly recognized, on the record of the public hearing, the City's valid interests and purposes in enacting both the MDA and the PMD classifications and have offered to restrict development of the property as the PMD ordinance would restrict them, with the exception of density; and

WHEREAS, Applicants have offered to achieve these results by placing several conditions on the property, which conditions are enumerated herein; and

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WHEREAS, Applicants have specifically stated their desire to deed certain property to the City, and have it taken off the tax rolls, so as to relieve them from the burdens of taxes, maintenance, and liability; and

WHEREAS, following discussion, Applicants have agreed to amend their request for rezoning to rezone only the approximately 10 northerly acres, as further described in Exhibit A, attached hereto, required for development of a density which the Applicants have represented will allow a reasonable economic use, and upon receipt of all necessary development permits Applicants have agreed to deed no less than twenty (20) acres of the original 33.9 acres, which acreage is further described in Exhibit B, attached hereto, to the City, as City Council at such a time might accept;

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

That the zoning of 10 acres of M.J. McKelligon Survey No. 270, as further described by a metes and bounds description attached hereto as Exhibit "A" and incorporated herein, and hereinafter known as "Property", be changed from Planned Mountain Development District (PMD) to Planned Residential District I (PRI), within the meaning of the zoning ordinance, and that the zoning map of the City of El Paso be revised accordingly; and

That the Property be subject to the following conditions which are necessitated by and attributable to the increased intensity of use generated by the change of zoning from PMD, in order to protect the health, safety and welfare of adjacent property owners and the residents of this city, and to protect the significant natural features of the mountain:

1. Any area not actually developed within the Property shall be dedicated as common, private, or public open space, as defined in the City of El Paso Zoning Code, on the subdivision plat, to remain in its natural state. These areas are also subject to paragraph 3 (c), below. The common open space may be developed with hiking trails or other recreational improvements, as shown on the detailed site development plan approved by City Council, but shall not be the location of any parking area or structure.

2. Density on the Property shall be limited to no more than 60 single-family attached dwellings or a 60 unit multi-family structure subject to a height restriction of thirty-five (35) feet, provided, however, that a multi-family structure may exceed the thirty-five (35) foot height restriction if the structure is developed in a stair-stepped design up the slope of the mountain, and where each floor level (or step) is no greater than thirty-five feet. In no case shall a free-standing, multi-level high-rise building be allowed on the Property.

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areas, steep slopes, and other natural features of the Property shall be considered in the planning, design and layout of buildings, service areas and location of streets in the allocation of open spaces to preserve the natural environment. This section shall not be construed or applied to limit or restrict the number of dwelling units.

- g. Right-of-Way and Pavement Widths. The right-of-way and pavement widths for internal ways, streets and alleys within and adjacent to any development shall be:
 - (i) Determined from the standards contained in City of El Paso Subdivision Ordinance No. 7714 and any applicable ordinance governing private streets;
 - (ii) In conformity with the estimated needs of the entire development and the traffic to be generated thereby;
 - (iii) Adequate and sufficient in size, location and design to accommodate the maximum traffic, parking, loading needs and the access for firefighting equipment vehicles while preventing undue scarring and grading.
- h. Off-street Parking and Loading. The minimum requirements for off-street parking and loading in City of El Paso Code Chapter 20.64. shall be complied with.
- i. Utilities and Public Services. Any development on the Property shall be adequately served by essential utilities and public services such as water, sanitary sewer, storm drainage, police, fire and other similar services.
- j. Property Grading Standards. Grading must be in accordance with Chapter 18.44 of the El Paso City Code (grading ordinance).
- k. Work Standards for Construction.
 - (i) All utility service facilities, except for transmission or feeder lines, shall be placed underground and wherever practical shall lie within the street right-of-way. For purposes of this standard, a transmission line shall mean an overhead electric pole line capable of carrying two thousand four hundred volts or

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more but less than sixty-nine thousand volts used to serve underground distribution.

- (ii) Disturbed soil surfaces shall be stabilized by compaction and revegetation where practical to minimize blowing dust, landslides, falling rocks, debris and excessive water runoff.
- (iii) Any person performing grading or excavation operations shall take precautions to minimize erosion, protect any waterways or arroyos and other natural features and to protect the health, safety and welfare of persons and public and private property from damage.
- (iv) All developers or property owners shall be responsible for storage and hauling of loose dirt, debris, etc., resulting from any development to an approved location for disposal.
- (v) The drainage plan, prepared by a professional engineer registered in the state, which takes into consideration the health, safety and general welfare of all persons and property within and adjacent to the development, adjacent arroyos, channels and any other collections systems which lie between the proposed development and approved drainage collection basins, shall be carried out as required by the subdivision ordinance.
- (vi) Sand and gravel extraction, borrow pits, quarrying, rock crushing and any other processing of earthen material is expressly prohibited, except that a borrow pit may be permitted when used to develop and improve the property in accordance with an approved site plan. After development is complete, any borrow pit shall be made to appear as natural terrain to the extent reasonably practicable through the use of landscaping and other means.

1. Environmental Assessment.

a. To ascertain how a proposed development will affect the site and adjacent areas, an environmental assessment may be required by the city plan commission and approved by city council in conjunction with the subdivision plat required by paragraph 3(a), above. The assessment shall be prepared in accordance with the environmental guide published by the department of planning,

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research and development of the city on March 24, 1983, and as may subsequently be revised.

b. If the city council finds, after a recommendation of the city plan commission and the El Paso mountain committee, that there is evidence of an adverse effect upon the environment as expressed in the environmental assessment or as determined at the public hearing, the city council may approve specific modifications to the site plan which lessen or eliminate the adverse effects.

m. Completion of Public Improvements. All public improvements required by these regulations shall be completely installed and constructed by the owner, or his successors in title, within the area covered by the plat within a maximum time period of three years from the recording of the approved plat. All public improvements shall conform with the current subdivision improvement design standards. At the request of the owner, the city plan commission may grant time extensions for completion of public improvements in accordance with the City of El Paso Subdivision Code.

4. No blasting shall occur on the Property. Further, no rock-fracturing techniques which cause shock waves substantially the same as are caused by explosive blasting shall be used on the Property. Conventional heavy earth-moving equipment and conventional rock-fracturing equipment, such as jackhammers, shall be permitted in accordance with paragraph 6, below.

5. A subdivision plat for the Property shall be filed prior to the issuance of any building permit.

6. Owner shall not use any construction equipment on the Property, including, but not limited to, jackhammers and earth-moving equipment, between the hours of 6:00 p.m. and 6:00 a.m. Monday through Friday and between the hours of 6:00 p.m. and 8:00 a.m. on Saturday and Sunday.

7. Prior to the issuance of any grading permit authorizing any grading or development work on the Property, Owner shall execute a dedication deed, by which Owner dedicates as a City park and transfers to the City of El Paso, in fee simple, all of Owner's right, title and interest in the remaining land of not less than 20 acres, a metes and bounds description of which is attached hereto as Exhibit "B" and made a part hereof, in a natural and undisturbed condition, such as that land appears on the date of the passage and approval of this Ordinance. This dedication deed shall be delivered to the City Council, at a public, open meeting of City Council, and simultaneously with the acceptance of such deed, the City Engineer shall deliver to Owner the grading permit which has been approved by the City Council and issued by the City Engineer.

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8. a. Owner shall encumber the Property with restrictive covenants, recorded in the Real Property Records of El Paso, El Paso County, Texas, which shall contain, among any other provisions, the conditions in paragraphs 1 through 7, above, and a provision for ownership of the common, private or public open space as specified in El Paso City Code Section 20.18.030. The City of El Paso shall be a party to those covenants, and shall have the power to take legal and equitable actions to enforce those covenants.

b. Any amendments or changes to the conditions in this ordinance, whether by ordinance or amendment to the restrictive covenants, shall require the consent of a majority of the City Council, with the exception that, where 20 percent or more of owners of land or lots within 200 feet of the Property protest any change in writing, a three-quarters vote of City Council shall be required.

All of the conditions stated in paragraphs 1 through 8 above, compliance with which are necessary to make the zoning appropriate, shall run with the land, are a charge and servitude thereon, and shall bind the current property owner and any successors in title. The City may enforce these conditions by injunction, by rescission of the zoning change granted herein, or by any other legal or equitable remedy.



PASSED AND APPROVED this 8th day of DECEMBER, 1992

ATTEST:

Carole Hunter
City Clerk

THE CITY OF EL PASO:

[Signature]
MAYOR

APPROVED AS TO FORM:

[Signature]
Assistant City Attorney

APPROVED AS TO CONTENT:

[Signature]
Department of Planning

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