

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

DEPARTMENT: City Development Department, Planning Division

AGENDA DATE: Introduction: May 28, 2013
Public Hearing: June 18, 2013

CONTACT PERSON/PHONE: Alex Hoffman, (915) 541-4638, hoffmanap@elpasotexas.gov

DISTRICT(S) AFFECTED: 2

SUBJECT:

An Ordinance releasing a condition placed on property by Ordinance No. 16788 which changed the zoning of Lots 1-2, Block 1, V.A.L. Tract, 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: 1039 Chelsea Street. Property Owner: Omega Paving Contractors, Inc. PZCR13-00004 (District 2). **THIS IS AN APPEAL CASE.**

BACKGROUND / DISCUSSION:

See attached.

PRIOR COUNCIL ACTION:

N/A

AMOUNT AND SOURCE OF FUNDING:

N/A

BOARD / COMMISSION ACTION:

City Plan Commission (CPC) – Denial Recommendation (6-3).

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

LEGAL: (if required) N/A

FINANCE: (if required) N/A

DEPARTMENT HEAD:

Mathew S. McElroy
Director, City Development Department

APPROVED FOR AGENDA:

CITY MANAGER: _____

DATE: _____

ORDINANCE NO. _____

AN ORDINANCE RELEASING A CONDITION PLACED ON PROPERTY BY ORDINANCE NO. 016788 WHICH CHANGED THE ZONING OF LOTS 1 AND 2, BLOCK 1, V.A.L. TRACT, 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 *Lots 1 and 2, Block 1, V.A.L. Tract, City of El Paso, El Paso County, Texas*, was changed by Ordinance No. 016788 approved by City Council on December 11, 2007; and,

WHEREAS, the rezoning was subject to certain zoning conditions, and

WHEREAS, placement of such conditions 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 one of the conditions; and,

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

WHEREAS, the City Council of the City of El Paso has determined that the release of certain condition will protect the best interest, health, safety, and welfare of the public in general.

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

That the first condition imposed by Ordinance No. 016788 approved by City Council on December 11, 2007, on the portion of land identified in Exhibit "A" be released.

Condition as follows:

1. That a fifteen foot (15') landscape buffer including trees native to the area at fifteen foot (15') offsets be placed along the property line adjacent to Cardon Street

PASSED AND APPROVED this _____ day of _____, 2013.

THE CITY OF EL PASO

John F. Cook
Mayor

ATTEST:

Richarda Duffy Momsen
City Clerk

SIGNATURES CONTINUE ON THE FOLLOWING PAGE

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

Karla M. Nieman
Assistant City Attorney

Mathew S. McElroy, Director
City Development Department

ORDINANCE NO. 016788

AN ORDINANCE CHANGING THE ZONING OF TRACT 4C, MOREHEAD BLOCK, CITY OF EL PASO, EL PASO COUNTY, TEXAS FROM R-4/SP (RESIDENTIAL/SPECIAL PERMIT) TO C-1/SP/C (COMMERCIAL/SPECIAL PERMIT/CONDITION), AND IMPOSING CONDITIONS. THE PENALTY IS AS PROVIDED FOR IN CHAPTER 20.24 OF THE EL PASO CITY CODE.

WHEREAS, the property owner has requested that the property be rezoned to from a residential zone to C-1 (commercial) uses; and,

WHEREAS, the property is abutting residential property and as such conditions are needed to transition the area from a residential zone to a commercial use, such as restricting access to and from the property which will mitigate the traffic impact on the abutting residential property and also address the traffic safety concerns related to Trowbridge Street; and,

WHEREAS, due to the restricted access, the property owner has agreed to orient the front of the buildings toward Chelsea Street and to locate parking, air conditioning units, trash container, utility boxes and services areas to the rear of buildings;

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

That the zoning of *Tract 4C, Morehead Block, City of El Paso, El Paso County, Texas*, and as more particularly described by metes and bounds on the attached Exhibit "A", incorporated by reference, be changed from R-4/sp (Residential/special permit) to C-1/sp/c (Commercial/special permit/condition), within the meaning of the zoning ordinance, and that the zoning map of the City of El Paso be revised accordingly.

Further, that the property described above be subject to the following conditions which are necessitated by and attributable to the increased density of use generated by the change of zoning in order to protect the health, safety, and welfare of the adjacent property owners and the residents of this City:

1. That a fifteen foot (15') landscape buffer including trees native to the area at fifteen foot (15') offsets be placed along the property line adjacent to Cardon Street; and
2. That access to the property is only permitted from Chelsea Street; and
3. That a detailed site development plan be reviewed and approved per the El Paso City Code prior to building permits being issued; and,
4. That automotive tune up service and automobile and light truck lubrication services be prohibited.

CITY CLERK DEPT.
MAY 31 11 31 AM '15

SIGNATURES ON FOLLOWING PAGE

ORDINANCE NO. 016788

Zoning Case No: ZON07-00094

PASSED AND APPROVED this 11th day of December, 2007.

THE CITY OF EL PASO

John F. Cook
John F. Cook
Mayor

ATTEST:

Richarda Duffy Momsen
Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:

Lupe Cuellar
Lupe Cuellar
Assistant City Attorney

APPROVED AS TO CONTENT:

Kelly Carpenter, AICP, Deputy Director
Kelly Carpenter, AICP, Deputy Director
Development Services Department -
Planning Division

CITY CLERK DEPT.
670511 11 30 06

ORDINANCE NO. 016788

Zoning Case No: ZON07-00094

MEMORANDUM

DATE: May 20, 2013

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

FROM: Alex Hoffman, Zoning Administrator

SUBJECT: PZCR12-00004

The City Plan Commission (CPC), on May 16, 2013, voted 6-3 to recommend **denial** of the condition release request.

The Planning Division recommends **approval** of the condition release request as the condition follows:

- 1. That a fifteen foot (15') landscape buffer including trees native to the area at fifteen foot (15') offsets be placed along the property line adjacent to Cardon Street.*

The CPC determined that the release of the zoning condition on the subject property do not protect the best interest, health, safety and welfare of the public in general; and the release of the zoning condition will have a negative effects on the natural environment, social economic conditions, and property values in the vicinity and the city as a whole.

There were 11 phone calls in opposition to the condition release request.

Attachment:
Appeal Letter
Staff Report



May 17, 2013

City Hall
City Clerk Department, 1st Floor
300 N. Campbell
El Paso, Texas 79903

RE: Rezoning Case No. PZRZ12-00044 and Rezoning Condition Release Case No.
PZCR13-00004

Dear Sir or Madam:

The Planning Commission recently denied our request to rezone the subject properties to a zoning of GMU (General Mixed Use) and release the existing zoning restriction for the above referenced zoning cases. This proposed rezoning and release of condition is being requested to allow for construction of a proposed Walmart Neighborhood Market grocery store. On behalf the property owners, Chicos Tacos, Inc., Mora Holdings, LLC and Omega Paving Contractors, Inc., Dunaway Associates L.P. submits this letter as a request for appeal to allow the referenced cases to proceed to forward to City Council for review and consideration.

Please do not hesitate to contact us with any questions or concerns. I can be reached by phone at 817-335-1121, or by email at cbiggers@dunaway-assoc.com.

Sincerely,

DUNAWAY ASSOCIATES, L.P.
a Texas limited partnership

A handwritten signature in black ink, appearing to read 'C. Biggers'.

Chris Biggers, P.E.
Principal / Program Manager

APPEAL TO THE CITY COUNCIL

DATE: May 17, 2013

HONORABLE MAYOR AND CITY COUNCIL
CITY OF EL PASO, TEXAS

DEAR MAYOR AND COUNCIL:

After a public hearing held on May 16, 2013, the

City Plan Commission denied my request for rezoning from Parcel 1: C-2 (Commercial), Parcel 2: C-2/sp (Commercial/special permit), Parcel 3: R-4/sp (Residential/special permit) and Parcel 4: C-1/c/sp (Commercial/conditions/special permit) to GMU (General Mixed Use) to allow for commercial development and release of existing condition. (Case No. PZRZ12-00044 (Rezoning) and PZCR13-00004 (Condition Release))

legally described as:

- Parcel 1: Lots 1-2 and 4-5, Block 1, DEL MESA ADDITION
- Parcel 2: A portion of Tract 4-C-1, MOREHEAD SURVEY
- Parcel 3: A portion of Tract 4-C-1, MOREHEAD SURVEY
- Parcel 4: Lots 1-2, Block 1, V.A.L. TRACT

I hereby request the City Council to review the decision of the Rezoning Case No. PZCR13-00004 and Condition Release Case No. PZCR13-00004 AND CONSIDER MY REQUEST

SET OUT ABOVE. I AM ATTACHING A LETTER SETTING FORTH MY

REASONS FOR BELIEVING THEIR DECISION TO BE IN ERROR.

Chicos Tacos, Inc., Mora Holdings, LLC and Omega Paving Contractors, Inc. c/o Chris Biggers (Dunaway Associates LP)

APPLICANT

550 Bailey Avenue, Suite 400, Fort Worth Tx 76107
ADDRESS

(817) 335-1121
TELEPHONE NUMBER

Two (2) copies filed in City Clerk's Office on:



City of El Paso – City Plan Commission Staff Report

Case No: PZCR13-00004
Application Type: Zoning Condition Release
CPC Hearing Date: May 16, 2013
Staff Planner: Alex Hoffman, 915-541-4638, hoffmanap@elpasotexas.gov

Location: 1039 Chelsea Street
Legal Description: Lots 1 and 2, Block 1, V.A.L. Tract, City of El Paso, El Paso County, Texas
Acreage: 1.7135 acres
Rep District: 2
Zoning: C-1/c/sp (Commercial/condition/special permit)
Existing Use: Vacant
Request: Release condition No. 1 in Zoning Condition Ordinance No. 016788, dated December 11, 2007
Proposed Use: Wal-Mart Neighborhood Market

Property Owner: Omega Paving Contractors, Inc.
Representative: Dunaway Associates, L.P.

SURROUNDING ZONING AND LAND USE

North: R-4 (Residential) / Single-family dwellings and Fire Station
South: C-1 (Commercial) / Shopping Center
East: C-1 (Commercial) / Shopping Center
West: R-4 (Residential) / Single-family dwellings

PLAN EL PASO DESIGNATION: G-4 Suburban (Walkable) (Central Plan)
NEAREST PARK: Mesa Terrace Park (2,409 feet)
NEAREST SCHOOL: Hillside Elementary (3,159 feet)

NEIGHBORHOOD INPUT

Notice of a Public Hearing was mailed to all property owners within 300 feet of the subject property on April 2, 2013. The Planning Division received 4 phone calls in opposition to the zoning condition release request.

APPLICATION DESCRIPTION

The request is for a release of condition No. 1 in Zoning Condition Ordinance No. 016788 dated December 11, 2007 (see attachment 4) as described below:

1. That a fifteen foot (15') landscape buffer including trees native to the area at fifteen foot (15') offsets be placed along the property line adjacent to Cardon Street

This case is related to rezoning case (PZRZ12-00044).

CITY DEVELOPMENT DEPARTMENT-PLANNING DIVISION RECOMMENDATION

The Planning Division recommends **approval** of the condition release request as the application is related to PZRZ12-00044, which staff has also recommended for approval.

Plan El Paso- Future Land Use Map Designation

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

G-4 – Suburban (Walkable): This sector applies to modern single use residential subdivisions and office parks, large schools and parks, and suburban shopping centers. This sector is generally stable but would

benefit from strategic suburban retrofits to supplement the limited housing stock and add missing civic and commercial uses.

The purpose of the C-1 (Neighborhood Commercial) district is to provide compatible neighborhood convenience goods and services that serve day-to-day needs. Permit locations for business and professional offices and retail category uses within adjacent residential areas of medium and high densities.

The purpose of the GMU (General Mixed Use) district is to accommodate, encourage and promote innovatively designed developments involving the combining and mixing of uses allowed in various zoning districts with appropriate regulations, which together form an attractive and harmonious unit of the city. The regulations of this district are intended to allow for large-scale developments that are able to function as individual neighborhoods or an integrated collection (two or more) of individual neighborhoods supported by civic, commercial and recreational uses; as small-scale developments requiring flexibility because of unique design characteristics; or as transitional areas between dissimilar land uses. It is intended that the district regulations permit flexibility and encourage more creative, efficient and aesthetically desirable design and placement of land uses.

City Development Department – Planning Division – Building Permits & Inspections

Applicant shall meet the landscape code at the time of permit.

City Development Department – Planning Division - Transportation

Condition Release Comments:

It is not recommended to release the restricted access to this site as the proposed driveway location will impede traffic safety.

City Development Department – Land Development

We have no objection to the condition release request.

Developer/Engineer needs to address the following comments:

1. Commercial driveway abutting Chelsea shall be 35' max.
2. Provide Flood Zone Designation.
3. Grading plan and permit shall be required.*
4. Storm Water Pollution Prevention Plan and/or permit required.*
5. Drainage plans must be approved by the City Development Dept. Land Development Section.*

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

Fire Department

If this is just regarding a 15 ft. Buffer for landscaping and this does not affect F.D. access then we do not object for the release of condition #1 landscape.

Sun Metro

Sun Metro does not oppose this request. Recommends coordination with Sun Metro on the locations of existing bus stops adjacent to properties. It is also recommended that sidewalks be constructed to permit pedestrian access to mass transit opportunities.

EPWU

We have reviewed the zoning change request described above and provide the following comments:

EPWU does not object to this request.

EPWU-PSB Comments

Water:

Along Montana Avenue between Cardon Street and Chelsea Street there is an existing twenty (20) inch diameter water transmission main. No direct service connections are allowed to this main as per the El Paso Water Utilities – Public Service Board (EPWU-PSB) Rules and Regulations.

Along Montana Avenue between Cardon Street and Chelsea Street there is an existing six (6) inch diameter water main.

Along Montana Avenue between Cardon Street and Chelsea Street there is an existing twelve (12) inch diameter raw, un-chlorinated water transmission main (flow line). This main is not active.

Along Cardon Street between Montana Avenue and Trowbridge Drive there is an existing six (6) inch diameter water main.

Along Trowbridge Drive between Cardon Street and Chelsea Street there is an existing twelve (12) inch diameter water main.

Along Chelsea Street between Trowbridge Drive and Montana Avenue there are no existing water mains.

Previous water pressure readings conducted on fire hydrant number 1634 located at the corner of Montana Avenue and Cardon Street have yielded a static pressure of 130 pounds per square inch (psi), residual pressure of 120 psi, discharge of 1,547 gallons per minute (gpm).

Sanitary Sewer:

Along Montana Avenue between Cardon Street and Chelsea Street there is an existing eighteen (18) inch diameter sanitary sewer main. No direct service connections are allowed to this main as per the El Paso Water Utilities – Public Service Board (EPWU-PSB) Rules and Regulations.

Along Cardon Street between Montana Avenue and Trowbridge Drive there is an existing eight (8) inch diameter sanitary sewer main.

Along Trowbridge Drive between Cardon Street and Chelsea Street there is an existing eight (8) inch diameter sanitary sewer main.

Along Chelsea Street between Trowbridge Drive and Montana Avenue there is an existing eight (8) inch diameter sanitary sewer main.

General

Montana Avenue is a Texas Department of Transportation (TxDOT) right-of-way. All proposed water and sanitary sewer work to be performed within Montana Avenue right-of-way requires written permission from TxDOT.

EPWU requires a new service application to initialize design of the water and sanitary sewer main extensions to serve the subject property. New service applications are available at 1154 Hawkins, 3rd Floor. The following items are required at the time of application: (1) hard copy of subdivision plat; (2) finalized set of street improvement plans, including storm sewer; (3) digital copy of subdivision plat; (4) benchmark check; and (5) construction schedule. Service will be provided in accordance with the current EPWU – PSB Rules and Regulations. The owner 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 a condition release request application:

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

Attachments

1. Location Map
2. Aerial Map
3. Zoning Condition Dated December 11, 2007

ATTACHMENT 1: LOCATION MAP

PZCR13-00004



ATTACHMENT 2: AERIAL MAP

PZCR13-00004



Doc# 20070115859

10A
15/14

ORDINANCE NO. 016788

AN ORDINANCE CHANGING THE ZONING OF TRACT 4C, MOREHEAD BLOCK, CITY OF EL PASO, EL PASO COUNTY, TEXAS FROM R-4/SP (RESIDENTIAL/SPECIAL PERMIT) TO C-1/SP/C (COMMERCIAL/SPECIAL PERMIT/CONDITION), AND IMPOSING CONDITIONS. THE PENALTY IS AS PROVIDED FOR IN CHAPTER 20.24 OF THE EL PASO CITY CODE.

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CITY CLERK
MAY 15 2013

SIGNATURES ON FOLLOWING PAGE

ORDINANCE NO. 016788

Zoning Case No: ZON07-00094



PASSED AND APPROVED this 11th day of December, 2007.

THE CITY OF EL PASO

John F. Cook
John F. Cook
Mayor

ATTEST:

Richarda Duffy Momsen
Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:

Lupe Cuellar
Lupe Cuellar
Assistant City Attorney

APPROVED AS TO CONTENT:

Kelly Carpenter
Kelly Carpenter, AICP, Deputy Director
Development Services Department -
Planning Division

CITY CLERK DEPT.
07 DEC 11 AM 3:46

ORDINANCE NO. 016788

Zoning Case No: ZON07-00094

#34459 v2 - Planning/ORD/ZON07-00094/Rezoning Application/Conditions