

ORDINANCE NO. _____

AN ORDINANCE RELEASING A CONDITION PLACED ON PROPERTY BY ORDINANCE NO. 016732 WHICH CHANGED THE ZONING OF A PORTION OF SECTION 21, BLOCK 80, TOWNSHIP 1, TEXAS AND PACIFIC RAILROAD SURVEYS, 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 *a portion of Section 21, Block 80, Township 1, Texas and Pacific Railroad Surveys, City of El Paso, El Paso County, Texas*, was changed by Ordinance No. 016732, approved by City Council on September 4, 2007; and,

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

“No residential lots shall be developed within 150’ (one hundred fifty feet) of Dyer Street”

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 (applicant) submitted an application requesting the removal of the above condition on the above described property; and,

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

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

1. That zoning condition imposed by Ordinance No. 016732 dated September 4, 2007 requiring that *“No residential lots shall be developed within 150’ (one hundred fifty feet) of Dyer Street”* be released on the portion of land identified in Exhibit “A” because the condition is no longer necessary.

2. Except as herein amended, Ordinance 016732 shall remain in full force and effect.

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

LAND DESCRIPTION

BEING A 18.987 ACRE TRACT OF LAND IN SECTION 21, BLOCK 80, TOWNSHIP 1, TEXAS AND PACIFIC RAILROAD SURVEYS, EL PASO COUNTY, TEXAS AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT A 1/2-INCH REBAR FOUND WITH CAP STAMPED "TX 5152" ON THE NORTHWESTERLY RIGHT-OF-WAY LINE OF DYER STREET (A 100 FOOT RIGHT-OF-WAY) FROM WHICH THE INTERSECTION OF SAID NORTHWESTERLY RIGHT-OF-WAY LINE OF DYER STREET AND THE CENTERLINE OF SANTA FE RAILWAY BEARS NORTH 43°16'32" EAST FOR A DISTANCE OF 4,961 FEET;

THENCE SOUTH 43°15'57" WEST ALONG SAID NORTHWESTERLY RIGHT-OF-WAY LINE OF DYER STREET FOR A DISTANCE OF 983.32 FEET TO A 5/8-INCH REBAR FOUND WITH CAP STAMPED "KECO" ON SAID NORTHWESTERLY RIGHT-OF-WAY LINE OF DYER STREET;

THENCE NORTH 46°44'03" WEST DEPARTING SAID NORTHWESTERLY RIGHT-OF-WAY LINE OF DYER STREET FOR A DISTANCE OF 150.00 FEET TO A 5/8-INCH REBAR FOUND WITH CAP STAMPED "KECO";

THENCE SOUTH 43°15'57" WEST PARALLEL TO SAID NORTHWESTERLY RIGHT-OF-WAY LINE OF DYER STREET FOR A DISTANCE OF 110.00 FEET TO A 5/8-INCH REBAR FOUND WITH CAP STAMPED "KECO";

THENCE NORTH 46°44'03" WEST FOR A DISTANCE OF 200.00 FEET TO A 5/8-INCH REBAR FOUND WITH CAP STAMPED "KECO";

THENCE SOUTH 43°15'57" WEST PARALLEL TO SAID NORTHWESTERLY RIGHT-OF-WAY LINE OF DYER STREET FOR A DISTANCE OF 506.09 FEET TO A 5/8-INCH REBAR FOUND WITH CAP STAMPED "KECO";

THENCE NORTH 12°07'00" WEST FOR A DISTANCE OF 376.69 FEET TO A 5/8-INCH REBAR FOUND WITH CAP STAMPED "KECO";

THENCE NORTH 43°15'57" EAST PARALLEL TO SAID NORTHWESTERLY RIGHT-OF-WAY LINE OF DYER STREET FOR A DISTANCE OF 1380.10 FEET TO A 1/2-INCH REBAR FOUND WITH CAP STAMPED "TX 5152";

THENCE SOUTH 47°11'46" EAST FOR A DISTANCE OF 660.00 FEET TO THE POINT OF BEGINNING;

SAID PROPERTY CONTAINS 827,055 SQUARE FEET OR 18.987 ACRES.

KISTENMACHER ENGINEERING CO., INC.
1420 GERONIMO DRIVE, STE A-2

EXHIBIT A

PG. 1 of 2

EL PASO, TX 79925
(915)778-4476





STEVE DONALDSON
RPLS 4004



MEMORANDUM



DATE: May 14, 2009
TO: The Honorable Mayor and City Council
Joyce A. Wilson, City Manager
FROM: Mirian Spencer, Planner
SUBJECT: **ZON09-00017**

The City Plan Commission (CPC) on April 23, 2009 voted **8-0** to recommend **APPROVAL** of the zoning condition release request to release the condition prohibiting residential lots within 150 feet of Dyer Street in agreement with the recommendation from the DCC and staff.

The property owners are requesting to release the zoning condition prohibiting residential lots within 150 feet of Dyer Street imposed by Ordinance No. 16732. The condition was imposed to create a buffer between the R-3A (Residential) lots and the adjacent heavy commercial zoning districts and potential uses to the north of the property. The property owners are proposing C-2 (Commercial) zoning for the subject property. The property is 18.987 acres in size and is vacant. The property owners are including the subject property as a part of a 42.385 acre multi-family apartment development. The remaining portions of the development do not have conditions imposed. The condition release was requested for consistency in zoning across the entire development. The property owners are proposing 961 multi-family apartment units on the site. Access is proposed via Dyer Street and the proposed Northeast Parkway. The following condition was imposed on Parcel 2 by Ordinance No. 16732:

- No residential lots shall be developed within 150 feet of Dyer Street.

The applicants have also requested to rezone the property from R-3A/c (Residential/conditions) to C-2 (Commercial) with case ZON09-00013.

The CPC found that the zoning condition release 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 the zoning condition release protects the best interest, health, safety, and welfare of the public in general; and the rezoning 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 rezoning request.

Attachment: Staff Report, Zoning Map, Aerial Map, Conceptual Site Plan

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

District 6
Eddie Holguin Jr.

District 7
Steve Ortega

District 8
Beto O'Rourke

City Manager
Joyce A. Wilson

Development Services Department

Victor Q. Torres - Director



City of El Paso – City Plan Commission Staff Report

Case No: ZON09-00017
Application Type: Zoning Condition Release
CPC Hearing Date: April 23, 2009
Staff Planner: Mirian Spencer, (915) 541-4192, spencermd2@elpasotexas.gov

Location: Dyer Street North of Ashley Drive and East of the Patriot Freeway
Legal Description: A portion of Section 21, Block 80, Township 1, Texas and Pacific Railroad Surveys, City of El Paso, El Paso County, Texas

Acreage: 18.987 acres
Rep District: 4
Existing Use: Vacant
Request: Release the condition imposed by Ordinance No. 16732 dated September 4, 2007 prohibiting residential lots within 150 feet of Dyer Street
Proposed Use: Multi-family residential apartments

Property Owners: Karma-JKS Properties, Inc.
Representative: Kistenmacher Engineering Company, Inc.

SURROUNDING ZONING AND LAND USE

North: R-5/c (Residential/conditions) and R-F (Ranch and Farm) / Vacant
South: M-1/c (Light Manufacturing/conditions) / Vacant
East: M-1/c (Light Manufacturing/conditions) and C-4/c (Commercial/conditions) / Vacant
West: R-F (Ranch and Farm) / Vacant

THE PLAN FOR EL PASO DESIGNATION:

Parcel 1: Parks and Open Space and Mixed-Use (Northeast Planning Area)
Parcel 2: Industrial (Northeast Planning Area)

NEAREST PARK: Mesquite Trails Subdivision Proposed Park (1,460 Feet)

NEAREST SCHOOL: Desertaire Elementary (7,220 Feet)

NEIGHBORHOOD ASSOCIATIONS

Northeast El Paso Civic Association

NEIGHBORHOOD INPUT

Notices of the April 23, 2009 public meeting were mailed out to property owners within 300 feet of the subject property on April 8, 2009. The Planning Division has received no public input regarding the zoning condition release application.

CASE HISTORY

The properties were rezoned from R-F (Ranch and Farm) to R-3A/c (Residential/conditions) by Ordinance No. 16732 dated September 4, 2007.

APPLICATION DESCRIPTION

The property owners are requesting to release the zoning condition prohibiting residential lots within 150 feet of Dyer Street imposed by Ordinance No. 16732. The condition was imposed to create a buffer between the R-3A (Residential) lots and the adjacent heavy commercial zoning districts and potential uses to the north of the property. The property owners are proposing C-2 (Commercial) zoning for the subject property. The property is 18.987 acres in size and is vacant. The property owners are including the subject property as a part of a 42.385 acre multi-family apartment development. The remaining portions of the development do not have conditions imposed. The condition release was requested for consistency in zoning across the entire development. The

property owners are proposing 961 multi-family apartment units on the site. Access is proposed via Dyer Street and the proposed Northeast Parkway. The following condition was imposed on Parcel 2 by Ordinance No. 16732:

- No residential lots shall be developed within 150 feet of Dyer Street.

The applicants have also requested to rezone the property from R-3A/c (Residential/conditions) to C-2 (Commercial) with case ZON09-00013.

DEVELOPMENT COORDINATING COMMITTEE RECOMMENDATION

The Development Coordinating Committee provides the following comments:

The DCC recommends **APPROVAL** of the zoning condition release request.

PLANNING DIVISION RECOMMENDATION

Planning recommends **APPROVAL** of the zoning condition release request.

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

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

- a. Goal: develop a balanced and complete community which contains a mix of land uses and densities, housing types and styles, economic development, job opportunities, educational opportunities, and outlets for social and cultural expression.
- b. Goal: provide a pattern of commercial and office development which best serves community needs and which complements and serves all other land uses.
- c. Goal: encourage the provision of neighborhood commercial services which are compatible with a neighborhood's residential character.

The application is compatible with adjacent development. There have been multiple zoning cases in the area that have been approved by City Council to permit commercial development along Dyer Street contrary to the 2025 Projected General Land Use Map which designates the property for industrial, mixed-use, and parks and open space. The previous approval recommendations were based on the proposed relocation of the Northeast Parkway and the relocation of the industrial development in the area. The recent development in the area has incorporated single-family residential, commercial, and industrial land uses, creating a mixture of land uses and zoning.

Development Services Department - Building Permits and Inspections Division

Zoning: No objection to the proposed zoning condition release. Apartments permitted in C-2 (Commercial) district.

Landscaping: No comments received

Development Services Department - Planning Division

Current Planning: recommends **APPROVAL** of the zoning condition release request.

Engineering: Additional Comments: 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.
5. No water runoff allowed outside the development boundaries (on-site ponding required).
6. Coordination with TxDOT.

Engineering Department - Traffic Division

The Engineering Department – Traffic Division no objection to the proposed zoning condition release.

Fire Department

No opposition to the request at this time.

Parks

No opposition to the request at this time.

El Paso Water Utilities

EPWU does not object to this request.

TXDOT

No comments received.

CITY PLAN COMMISSION OPTIONS

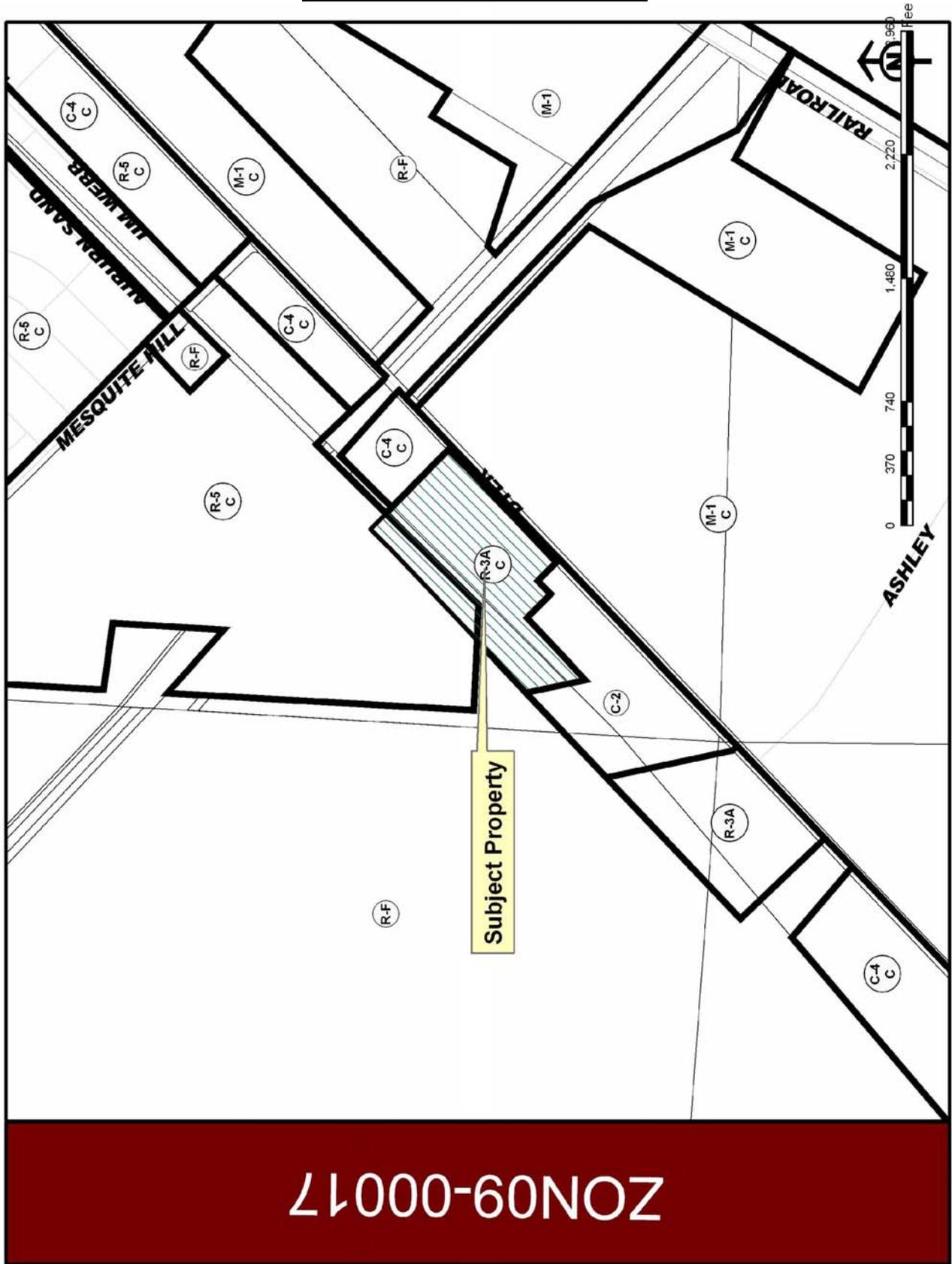
The City Plan Commission may consider the following options and additional options that it identifies when reviewing the zoning condition release:

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. Ordinance No. 16732
4. Conceptual Site Plan

ATTACHMENT 1: ZONING MAP



ZON09-00017

ATTACHMENT 2: AERIAL MAP



ATTACHMENT 3: ORDINANCE NO. 16732

ORDINANCE NO. 016732

AN ORDINANCE CHANGING THE ZONING OF THE FOLLOWING REAL PROPERTY DESCRIBED AS:

PARCEL 1: A PORTION OF TRACT 2, SECTION 20; AND TRACT 7B, SECTION 29, BLOCK 80, TOWNSHIP 1, TEXAS AND PACIFIC RAILWAY COMPANY SURVEYS, CITY OF EL PASO, EL PASO COUNTY, TEXAS, FROM R-F (RANCH AND FARM) TO R-3A (RESIDENTIAL);

PARCEL 2: A PORTION OF TRACT 2, SECTION 20, TRACT 3G, SECTION 21, AND TRACT 7B, SECTION 29, BLOCK 80, TOWNSHIP 1, TEXAS AND PACIFIC RAILWAY COMPANY SURVEYS, CITY OF EL PASO, EL PASO COUNTY, TEXAS, FROM R-F (RANCH AND FARM) TO C-2 (COMMERCIAL); AND,

PARCEL 3: A PORTION OF TRACT 3G, SECTION 21, BLOCK 80, TOWNSHIP 1, TEXAS AND PACIFIC RAILWAY COMPANY SURVEYS, CITY OF EL PASO, EL PASO COUNTY, TEXAS, FROM R-F (RANCH AND FARM) TO R-3A (RESIDENTIAL), AND IMPOSING A CONDITION. THE PENALTY IS AS PROVIDED FOR IN CHAPTER 20.68 OF THE EL PASO CITY CODE.

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

That the zoning of the following property be changed as described below within the meaning of the zoning ordinance and that the zoning map of the City of El Paso be revised accordingly:

Parcel 1: A portion of Tract 2, Section 20; and Tract 7B, Section 29, Block 80, Township 1, Texas and Pacific Railway Company Surveys, 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-F (Ranch and Farm) to R-3A (Residential);

Parcel 2: A portion of Tract 2, Section 20, Tract 3G, Section 21, and Tract 7B, Section 29, Block 80, Township 1, Texas and Pacific Railway Surveys, City of El Paso, El Paso County Texas, and as more particularly described by metes and bounds on the attached Exhibit "B", incorporated by reference, be changed from R-F (Ranch and Farm) to C-2 (Commercial); and,

Parcel 3: A portion of Tract 3G, Section 21, Block 80, Township 1, Texas and Pacific Railway Company Surveys, City of El Paso, El Paso County Texas, and as more particularly described by metes and bounds on the attached Exhibit "C", incorporated by reference, be changed from R-F (Ranch and Farm) to R-3A (Residential).

Further, that the property described as Parcel 3, be subject to the following condition which is necessitated by and attributable to the increased intensity of use generated by the

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ORDINANCE NO. 016732

Zoning Case No. ZON07-00063

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CITY CLERK
DEPT 1

change of zoning in order to protect the health, safety and welfare of the adjacent property owners and the residents of this City: No residential lots shall be developed within 150' (one hundred fifty feet) of Dyer Street.

PASSED AND APPROVED this 4th day of September, 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:

Kimberly Forsyth
Kimberly Forsyth, Senior Planner
Development Services Department

CITY CLERK DEPT.
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ORDINANCE NO. 016732

Zoning Case No. ZON07-00063

ATTACHMENT 4: CONCEPTUAL SITE PLAN

