

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

DEPARTMENT: Development Services Department
AGENDA DATE: CCA 06/26/07 Consent Resolution
CONTACT PERSON/PHONE: Christina Stokes, Planner – 541-4627
DISTRICT(S) AFFECTED: 4

SUBJECT:

A RESOLUTION THAT THE CITY MANAGER BE AUTHORIZED TO SIGN AND ACCEPT ON BEHALF OF THE CITY A DEDICATION DEED FROM THE YSLETA INDEPENDENT SCHOOL DISTRICT DEDICATING TO THE CITY REAL PROPERTY FOR USE AS PUBLIC RIGHT-OF-WAY LOCATED WITHIN A PORTION OF TRACT 1F, SECTION 41, BLOCK 80, TOWNSHIP 1, TEXAS AND PACIFIC RAILROAD COMPANY SURVEYS, CITY OF EL PASO, EL PASO COUNTY, TEXAS, AND BEING MORE FULLY DESCRIBED BY METES AND BOUNDS IN EXHIBIT "A" OF THE DEDICATION DEED. APPLICANT: YSLETA INDEPENDENT SCHOOL DISTRICT.

BACKGROUND / DISCUSSION:

See attached report.

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

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

LEGAL: (if required) N/A

FINANCE: (if required) N/A

DEPARTMENT HEAD: Kelly Carpenter, AICP

APPROVED FOR AGENDA:

RESOLUTION

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

That the City Manager be authorized to sign and accept on behalf of the City a Dedication Deed from the Ysleta Independent School District dedicating to the City real property for use as public right-of-way located within *a portion of Tract 1F, Section 41, Block 80, Township 1, Texas and Pacific Railroad Company Surveys, City of El Paso, El Paso County, Texas*, and being more fully described by metes and bounds in Exhibit "A" of the Dedication Deed.

PASSED AND APPROVED this _____ day of _____, 2007.

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:

Kelly Carpenter

Kelly Carpenter, Deputy Director
Development Services Department

DEDICATION DEED

STATE OF TEXAS)
)
COUNTY OF EL PASO)

KNOW ALL PERSONS BY THESE PRESENTS:

That YSLETA INDEPENDENT SCHOOL DISTRICT (Grantor) for Ten Dollars (\$10.00) cash and other valuable consideration to it in hand paid by the CITY OF EL PASO (Grantee) whose address is Two Civic Center Plaza, El Paso, Texas 79901, the receipt and sufficiency of which are acknowledged, has DEDICATED, GRANTED and CONVEYED and by these presents does hereby DEDICATE, GRANT and CONVEY unto the said Grantee all that certain parcel of land situated in El Paso County, Texas and more particularly described by metes and bounds on Exhibit "A", attached hereto and made a part hereof (the "Property"); said Property to be dedicated for, and its use by the City limited to a public street.

This conveyance is subject to easements, protective covenants, rights-of-way, and prescriptive rights, whether of record or not; all presently recorded instruments, other than liens or conveyances, that affect the property; and rights of parties in possession.

The Property is subject to the further covenant, consideration and condition that the following restrictions shall in all things be observed, followed and complied with:

(i) The Property, or any part thereof, shall not be used in the operation of, or in conjunction with, any school or other institution of learning, study or instruction which discriminates against any person because of his race, color or national origin, regardless of whether such discrimination be effected by design or otherwise;

(ii) The Property, or any part thereof, shall not be used in the operation of, or in connection with, any school or other institution of learning, study or instruction which creates, maintains, reinforces, renews or encourages or which tends to create, maintain, reinforce, renew or encourage a dual school system.

The foregoing restrictions and the other covenants hereafter set out are covenants running with the land, and each and every parcel thereof, and shall be fully binding upon any person, firm, partnership, corporation, trust, church, club, governmental body, or other organization or entity whatever (whether private or governmental in nature), without limitation, hereafter acquiring any estate, title, interest in the Property, whether by descent, devise, purchase or otherwise; and no act or omission upon the part of Grantor herein, its successors and assigns,

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CITY CLERK DEPT.

shall be a waiver of the operation or enforcement of such restrictions; but neither restriction shall be construed to be a condition subsequent or special limitation on the estate thereby conveyed.

It is further covenanted that third party beneficiaries of the restrictions set forth above shall be as follows:

(1) As to the restrictions set forth in (a) above, any person prejudiced by its violation;

(2) As to the restriction set forth in (b) above, any public school district or any person prejudiced by its violation; and

(3) As to either or both of the restrictions set out in (a) and (b) above, the United States of America, as plaintiff, and the American G.I. Forum, the League of United Latin American Citizens (LULAC), and the National Association for the Advancement of Colored People (NAACP), as intervenors, in *U.S. v. Texas*, Civil Action No. 5281, Tyler Division, U.S. District Court, Eastern District of Texas; reported in *U.S. v. Texas*, 321 F. Supp. 1043 (E.D. Tex. 1970); *U.S. v. Texas*, 330 F. Supp. 235 (E.D. Tex. 1971), *aff'd with modification sub nom, U.S. v. State of Texas and J.W. Edgar, et al.*, 447 F.2d 441 (5th Cir. 1971); *stay den. sub nom., Edgar v. U.S.*, 404 U.S. 1206 (1971, *cert. denied*, 404 U.S. 1016 (1972)).

It is further covenanted that in case of a violation of either or both of the above restrictions, any of the third party beneficiaries above alluded to is authorized and empowered to prosecute proceedings at law or in equity against any person, firm, partnership, corporation, trust, church, club, governmental body or other organization or entity whatever (whether private or governmental in nature), without limitation:

(A) To enforce either or both of such restrictions relating to the use of the Property;

(B) To abate or prevent violations of either or both of such restrictions; and

(C) To recover damages for a breach of either or both of such restrictions.

It is further covenanted, that if any third party beneficiary referred to above shall prosecute proceedings at law or in equity for the aforesaid purposes, such third party beneficiary may recover reasonable attorneys' fees from the violator or violators of either or both of such restrictions, if the Court finds that the proceedings were necessary to bring about compliance therewith.

These restrictions and conditions shall be binding upon Grantee, its successors and

assigns, for a period of fifty (50) years from the date hereof.

TO HAVE AND TO HOLD the Property together with all and singular the rights and appurtenances thereto in anywise belonging unto the said Grantee, its successors and assigns forever, and Grantor does hereby bind itself, its successors and assigns to warrant and forever defend, all and singular, the said premises unto the said Grantee, its successors and assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof, except as to the reservations and exceptions referenced herein.

IN WITNESS WHEREOF this Dedication Deed is executed this the 9th day of May, 2006.

YSLETA INDEPENDENT SCHOOL DISTRICT

By: Milton L. Duntley
Milton Duntley
President, Board of Trustee

CERTIFICATE OF APPROVAL

I hereby certify that the foregoing Dedication Deed was approved by the Board of Trustees of the Ysleta Independent School District on the 9th day of May, 2006, and that the person whose signature appears above is authorized to execute such on behalf of the Board.

Martha G. [Signature]
Secretary, Ysleta Independent School District Board of Trustees

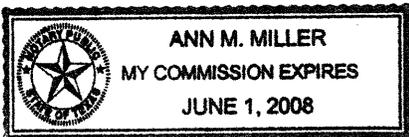
APPROVED AS TO FORM:

[Signature]
JOHN S. BIRKELBACH
Mounce, Green, Myers, Safi & Galatzan,

STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me this 9th day of May, 2006, by Milton Duntley, President of the Board of Trustees of Ysleta Independent School District, on behalf of said school district.

Ann M. Miller
NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS



GRANTEE:

CITY OF EL PASO

By: _____
Joyce Wilson, City Manager

Date: _____

APPROVED AS TO FORM:



Lupe Cuellar
Assistant City Attorney

STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me on this _____ day of _____, 2007, by Joyce Wilson, City Manager of the City of El Paso, a municipality, on behalf of said municipality.

NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS

AFTER RECORDING RETURN TO:

City of El Paso
Attn: City Attorney
2 Civic Center Plaza, 9th floor
El Paso, TX 79901

FRANK X. SPENCER & ASSOCIATES, INC.

Exhibit "A"

Consulting Civil Engineers & Surveyors

~~XXXXXX~~ Montana • El Paso, Texas 79902
1130

(915) 533-4600
FAX (915) 533-4673
e-mail: elpaso@fxsa.com

Frank X. Spencer, P.E., R.P.L.S.

FIELD NOTES DESCRIPTION

FIELD NOTES DESCRIBING A 15.00 FEET WIDE RIGHT-OF-WAY CONTAINING 8,861.78 SQUARE FEET OF LAND OR 0.2034 ACRE OUT OF THE NORTH PART OF THE WEST 17.498 ACRES OF LAND OUT OF TRACT 1F, SECTION 41, BLOCK 80, TOWNSHIP 1, TEXAS AND PACIFIC RAILROAD SURVEYS, CITY OF EL PASO, EL PASO COUNTY, TEXAS, AS SHOWN ON MAP OF SECTION 41, BLOCK 80, TSP 1, T & P R.R. CO. SURVEYS, USED FOR TAX PURPOSES, FILED IN THE OFFICE OF THE CENTRAL APPRAISAL DISTRICT OF EL PASO COUNTY, TEXAS BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

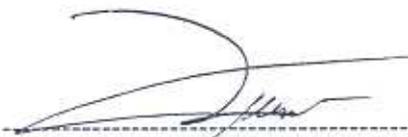
COMMENCING from a City Monument with star and punch found at the intersection of Deer Avenue and Wolverine Drive, WHENCE another City Monument with star and punch found at the intersection of Deer Avenue and Racoon Drive, bears S 90°00'00" W, 321.95 feet, THENCE N 90°00'00" E, 128.08 feet, along the centerline of Deer Avenue with a 60.00 feet Right-of-Way, to a point on the centerline of said street, THENCE S 01°07'44" E, 30.01 feet, along the common line of Section 41 and Section 42, Block 80, Township 1, Texas and Pacific Railroad Surveys, City of El Paso, El Paso County, Texas, to a 1/2 inch iron rebar found with a yellow cap marked "CONDE INC. RPLS TX 5152", bears N 09°58'58" W, 0.08 feet, for the POINT OF BEGINNING;

THENCE N 90°00'00" E, 590.90 feet, along the Southerly Right-of-Way Line of said Deer Avenue, and the Northerly line of the said West 17.498 Acres of Land out of Tract 1F, to a 5/8 inch iron rebar found with an aluminum cap marked "FXS RPLS 2198", for the northeast corner of this Easement;

THENCE S 01°07'44" E, 15.00 feet, along the Easterly line of said West 17.498 Acres of Land, to a 5/8 inch iron rebar with an aluminum cap marked "FXS RPLS 2198", set for the Southeast corner of this Easement;

THENCE S 90°00'00" W, 590.90 feet, to a concrete nail with flagging on top of rock wall, set at the common line of said Section 41 and Section 42, and the Easterly Line of Bellewood Replat, recorded in Book 38, Page 14, El Paso County Records, for the Southwest corner of this Easement;

THENCE N 01°07'44" W, 15.00 feet, along the said common line of Section 41 and Section 42, and the Easterly Line of said Bellewood Replat, to the POINT OF BEGINNING, containing 8,861.78 square feet of land or 0.2034 acre, more or less;


02/23/06

Frank X. Spencer, RPLS, State of Texas No. 2198



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STAFF REPORT

Application No: DD06001

Legal Description: A portion of Tract 1F, Section 41, Block 80, Township 1, Texas & Pacific Railroad Company Surveys

Type Request: Street Dedication

Property Owner: Ysleta Independent School District

Surveyor: Frank X. Spencer

Location: North of Transmountain, West of Railroad

Representative District: 4

Planning Area: Northeast

**CITY PLAN COMMISSION HEARING, MARCH 2, 2006,
1:30 P.M., COUNCIL CHAMBERS, 2ND FLOOR, CITY HALL**

DD06001



DD06001: Street Dedication - A portion of Tract 1F, Section 41, Block 80, Township 1, Texas & Pacific Railroad Company Surveys

GENERAL INFORMATION:

The applicant is requesting to dedicate a 30-foot wide strip of right of way to complete the connection of Quail Ave from the end of existing improvements to Railroad Dr. This application proposes the northern portion of Quail Ave.

The City Plan Commission approved Falcon Heights Subdivision, as a Resubdivision Combination at the November 3, 2005 CPC meeting, which dedicated the southern portion of Quail Ave.

STAFF RECOMMENDATION:

The Development Coordinating Committee unanimously recommends **APPROVAL** of the street dedication, subject to the following requirements and conditions:

Planning – Land Development Comments and Requirements:

We have reviewed subject and recommend approval **subject to** the following comments.

1. Show location, type, material and size of existing culverts, drain pipes, watercourses, natural drainage channels, and site of their relocation, type, material and size of any proposed storm water drainage facilities.
2. Applicant shall be required to improve ½ of the right-of-way for Quail Avenue.
3. Applicant shall provide the proposed street cross section and limits of the proposed improvements.
4. Street, grading, drainage and monument location shall be approved prior to mayor and council approval. Applicant shall provide engineered drawings for review and approval of the proposed street cross section, design to meet or exceed all applicable City of El Paso standards.

Other Comments

1. Applicant shall coordinate street improvements with Future Falcon Heights Subdivision.
2. Street improvements shall comply with code requirements.

Engineering Department - Traffic Division

Street shall be improved according to City's standards.

El Paso Water Utilities Comments:

Water

Along Quail Avenue between Raccoon Drive and Wolverine Drive there is an existing six (6) inch diameter water main. This main dead-ends at approximately 184 feet east of Wolverine Drive.

Previous pressure readings conducted on a fire hydrant located at the corner of Quail Avenue and Wolverine Drive have yielded a static pressure of 96 pounds per square inch (psi), residual pressure of 82 psi, discharge of 1,256 gallons per minute (gpm).

Sanitary Sewer

Along Quail Avenue between Wolverine Drive and Railroad Drive there is an existing twelve (12) inch diameter sanitary sewer main.

General

The El Paso Water Utilities – Public Service Board (EPWU-PSB) favors public right-of-way instead of easements. Due to the proposed development located south of Quail Avenue and West of Railroad Drive the water main will be required to be extended along Quail Drive along the entire frontage of the property at the time of development. The Owner/Developer will be responsible for all water and sanitary sewer main extensions costs.

In the event that the City of El Paso Fire Department requires additional fire hydrants on Public right-of-way and/or an on-site fire protection system within the private property, the property owner is responsible for all costs incurred to extend, relocate and construct water mains and appurtenances to provide this service. The owner is responsible for the costs of any necessary on-site & off-site extensions, relocations or adjustments of water and sanitary sewer lines and appurtenances.

The El Paso Water Utilities requires a finalized set of improvement plans including drainage and grading plans to initialize the design of the water and sanitary sewer main extensions to serve subject subdivision. The owner is responsible for the costs of any necessary on-site & off-site extensions, relocations or adjustments of water and sanitary sewer lines and appurtenances. Furthermore, application for services for subject subdivision must be made in conjunction with the request for water and sanitary sewer main extensions. The improvement plans should include a site plan, a utility plan, grading & drainage plans, landscaping plan (if applicable), the legal description of the property, and a certificate-of-compliance which are required at the time of application. The certificate-of-compliance can be obtained on the 2nd floor at City Hall.

EPWU does not object to this proposed dedication of this portion of public right-of-way.

Fire Department Comments:

No comments received.

Additional Requirements and General Comments:

1. As part of approval of this dedication the applicant will need to provide a deed conveying ownership to the City of El Paso.
2. Improvements to the right of way shall be to City standard.
3. Improvements must be completed within two years.

NOTE TO PROPERTY OWNER: CITY PLAN COMMISSION POLICY REQUIRES THAT THE APPLICANT OR HIS REPRESENTATIVE BE PRESENT AT THE PUBLIC HEARING FOR THIS ITEM. IF YOU HAVE ANY QUESTIONS CONCERNING THIS REPORT, PLEASE CONTACT THE DEVELOPMENT SERVICES DEPARTMENT AT 541-4635.

LOCATION

DD06001



AERIAL

DD06001



Planning Research and Design

SURVEY

