

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

DEPARTMENT: Development Services Department - Planning Division

AGENDA DATE: Introduction 06/13/06; Public Hearing 06/27/06

CONTACT PERSON/PHONE: James Fisk, 541-4638

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.

BACKGROUND / DISCUSSION:

See attached report

BOARD / COMMISSION ACTION:

Development Coordinating Committee (DCC) – Approval Recommendation
City Plan Commission (CPC) – Approval Recommendation (7 – 0)

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

LEGAL: (if required) N/A

FINANCE: (if required) N/A

DEPARTMENT HEAD: George Sarmiento, 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 _____, 2006.

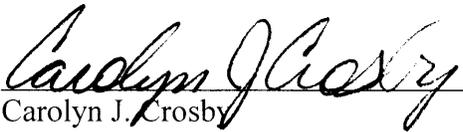
THE CITY OF EL PASO

John F. Cook
Mayor

ATTEST:

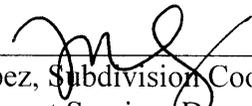
Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:



Carolyn J. Crosby
Assistant City Attorney

APPROVED AS TO CONTENT:



Fred Lopez, Subdivision Coordinator
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,

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 25th 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 14th day of September, 2005, and that the person whose signature appears above is authorized to execute such on behalf of the Board.

Martha G. Lopez
Secretary, Ysleta Independent School District Board of Trustees

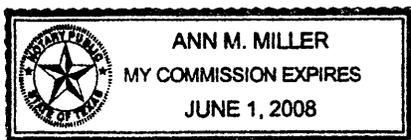
APPROVED AS TO FORM:

John S. Birkebach
JOHN S. BIRKEBACH
Mounce, Green, Myers, Safi & Galatzan,

STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me this 25th 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:

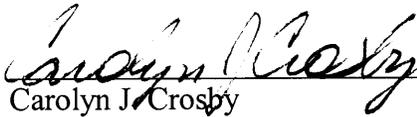
CITY OF EL PASO

By: _____
Joyce Wilson, City Manager

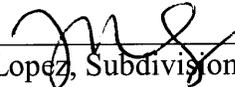
Date: _____

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:



Carolyn J. Crosby
Assistant City Attorney



Fred Lopez, Subdivision Coordinator
Development Services Department

STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me this _____ day of _____ 2006, 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
Two Civic Center Plaza
Ninth Floor
El Paso, Texas 79901

STAFF REPORT

File #: DD05004 Street Dedication by Metes and Bounds
(Deer Avenue)

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

Type Request: Street Dedication Request

Property Owner: Ysleta Independent School District

Applicant: Ysleta Independent School District

Surveyor: Frank X. Spencer & Associates, Inc.

Representative: Frank X. Spencer & Associates, Inc.

Location: North of Transmountain, West of Railroad

Representative District: 4

Planning Area: Northeast

**CITY PLAN COMMISSION HEARING, NOVEMBER 3, 2005
1:30 P.M., COUNCIL CHAMBERS, 2ND FLOOR, CITY HALL**

Public Right-of-Way Dedication:

DD05003 Street Dedication for a portion of Deer Avenue.

GENERAL INFORMATION:

The Ysleta Independent School District is proposing to dedicate a 15-foot wide portion of right-of-way along Deer Avenue in order to provide access to a proposed elementary school. The 15-foot wide portion to be dedicated would increase the total right-of-way of Deer Avenue fronting the school to 75 feet in width. The portion of right-of-way to be dedicated is 0.2034 acres in size.

STAFF RECOMMENDATION:

The Development Coordinating Committee (DCC) recommends **APPROVAL** of this street dedication request subject to the following comments and requirements:

Planning Division – Land Development Comments and Requirements:

We have reviewed proposed street right-of-way dedication and recommend approval subject to the following comments:

1. The survey map shall include a location map drawn to the scale of 1"=600'.
2. Survey map shall include the surveyor's certification.
3. Change "easement" language to "right-of-way" on survey and metes & bounds.
4. Modify field notes description and survey map to reflect a right-of-way dedication and not an "easement"
5. The dedication of the street right-of way shall include the construction of the street and drainage infrastructures and improvements, as applicable.

COMMENTS TO BE COMPLIED WITH PRIOR TO CONSTRUCTION START

1. 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.
2. 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.
3. The drainage improvements shall address developed runoff and all undeveloped runoff impacting street improvements.
4. Applicant shall coordinate the installation of all underground utility systems and stub outs to avoid asphalt pavement cuts in the new street.
5. Coordinate street improvements with adjacent subdivision(s) and proposed improvements.
6. The flood zone and FIRM information shall be indicated on submitted drawings.

Engineering Traffic Division:

1. No traffic concerns with the proposed street dedication.
2. A survey shall be required.

El Paso Water Utilities Comments:

Water

1. Along Deer Avenue between Wolverine Drive and Railroad Drive, there is an existing twenty-four (24) inch diameter raw, un-chlorinated well water transmission main (flow line). No service connections are allowed to this main.
2. Along Deer Avenue there is an existing six (6) inch diameter water main. This main dead-ends at approximately 100 feet east Wolverine Drive. From this point, along Deer Avenue to Railroad Drive, there are no existing water mains.
3. Previous pressure readings conducted on a fire hydrant located at the corner of Wolverine Drive and Otter Court have yielded a static pressure of 96 pounds per square inch (psi), residual pressure of 80 psi, discharge of 1,210 gallons per minute (gpm).

Sanitary Sewer

Along Deer Avenue between Wolverine Drive and Railroad Drive, there is an existing twenty-one (21) inch diameter sanitary sewer main. No service connections are allowed to this main as per the El Paso Water Utilities – Public Service Board Rules and Regulations.

General

1. The above described six (6) inch diameter water main will be extended along the entire frontage of the property at the time of development. The Owner/Developer will be responsible for all main extensions costs.
2. 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.
3. 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.
4. 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.
5. EPWU does not object to this request.

Street Department Comments and Requirements:

No comments received.

Texas Gas Service Comments:

No comments received.

El Paso Electric Company Comments:

No comments received.

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 DEPARTMENT OF PLANNING AT 541-4635.

AERIAL MAP

DD05004



