

Dedicated to Outstanding Customer Service for a Better Community

**SERVICE SOLUTIONS SUCCESS**



**DEPARTMENT:** City Development Department  
**AGENDA DATE:** Introduction 7/30/13; Public Hearing 8/6/13  
**CONTACT PERSON/PHONE:** Nelson Ortiz, 541-4931  
**DISTRICT(S) AFFECTED:** 2

**SUBJECT:**

An ordinance vacating a portion of Elm Street Right-of-Way, adjacent to Block 126, Highland Park Addition, City of El Paso, El Paso County, Texas.

**BACKGROUND / DISCUSSION:**

N/A

**PRIOR COUNCIL ACTION:**

N/A

**AMOUNT AND SOURCE OF FUNDING:**

N/A

**BOARD / COMMISSION ACTION:**

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

\*\*\*\*\*REQUIRED AUTHORIZATION\*\*\*\*\*

**LEGAL:** (if required) N/A

**FINANCE:** (if required) N/A

**DEPARTMENT HEAD:** Mathew McElroy, Director  
City Development Department

APPROVED FOR AGENDA:

CITY MANAGER: \_\_\_\_\_

DATE: \_\_\_\_\_

**Mayor**  
Oscar Leeser

**City Council**

*District 1*  
Ann Morgan Lilly

*District 2*  
Larry Romero

*District 3*  
Emma Acosta

*District 4*  
Carl L. Robinson

*District 5*  
Dr. Michiel R. Noe

*District 6*  
Eddie Holguin Jr.

*District 7*  
Lilia B. Limon

*District 8*  
Cortney C. Niland

**City Manager**  
Joyce A. Wilson

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE VACATING A PORTION OF ELM STREET RIGHT-OF-WAY,  
ADJACENT TO BLOCK 126, HIGHLAND PARK ADDITION, CITY OF EL PASO, EL  
PASO COUNTY, TEXAS**

WHEREAS, the abutting property owner of the southern portion of Lots 15 and 16 has requested vacation of a parcel of land being a portion of Elm Street Right-of-Way, adjacent to Block 126, Highland Park Addition, City of El Paso, El Paso County, Texas; and,

WHEREAS, after public hearing the City Plan Commission recommended that a portion of Elm Street Right-of-Way, adjacent to Block 126, Highland Park Addition, City of El Paso, El Paso County, Texas, should be vacated and the City Council finds that said portion of right-of-way is not needed for public use and should be vacated as recommended;

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

That a determination has been made that it is in the best interest of the public that a portion of Elm Street Right-of-Way, adjacent to Block 126, Highland Park Addition, City of El Paso, El Paso County, Texas, and which is more fully described in the attached metes and bounds description, identified as Exhibit "A" and in the attached survey identified as Exhibit "B" and made a part hereof by reference.

In addition, the City Manager is authorized to sign an instrument quitclaiming all of the City's right, title and interest in and to such vacated property to **Ramon and Aurora Tarin**.

PASSED AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

**THE CITY OF EL PASO**

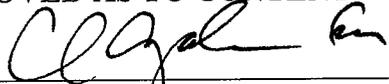
\_\_\_\_\_  
Oscar Leeser  
Mayor

*(Signatures continued on following page)*

**ATTEST:**

\_\_\_\_\_  
Richarda Duffy Momsen  
City Clerk

**APPROVED AS TO CONTENT:**

  
\_\_\_\_\_  
Mathew McElroy, Director  
City Development Department

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Lauren Ferris  
Assistant City Attorney

*(Quitclaim Deed on following page)*

**Notice of Confidentiality Rights: If you are a natural person, you may remove and/or strike any of the following information from this instrument before it is filed for record in the public records:  
Your social security number or your driver's license number.**

**QUITCLAIM DEED**

STATE OF TEXAS            )  
  )  
COUNTY OF EL PASO        )

**KNOW ALL MEN BY THESE PRESENTS:**

The City of El Paso ("Grantor"), for adequate consideration to Grantor in hand paid and agreed to be performed by Ramon and Aurora Tarin ("Grantee"), has GRANTED, SOLD and CONVEYED and by these presents does hereby GRANT, SELL AND CONVEY unto Ramon and Aurora Tarin certain "Property" which was vacated, closed, and abandoned by Ordinance No. \_\_\_\_\_, passed and approved by the City Council of the City of El Paso and described as a portion of Elm Street Right-of-Way, adjacent to Block 126, Highland Park Addition, City of El Paso situated in the County of El Paso, State of Texas, more fully described in the attached metes and bounds description, identified as Exhibit "A," and in the attached survey identified as Exhibit "B" and incorporated herein for any and all purposes.

This conveyance is subject to the following (all references to recorded instruments pertain to the Real Property Records of El Paso County, Texas):

1. Restrictive covenants of Public Record.
2. Any discrepancies, conflicts, or shortages in area or boundary lines, or any encroachments or protrusions, or any overlapping of improvements.
3. Any existing utility easements including easements for the overhang of service wires, conduits and pipes for underground utilities.
4. Mineral reservations and/or mineral interests as set out in the Public Records.
5. Any and all unrecorded agreements, contracts and leases, and rights of parties therein.
6. All leases, grants, exceptions or reservations of coal, lignite, oil, gas and other minerals, together with all rights, privileges, and immunities relating thereto, appearing in the Public Records whether listed or not.
7. Rights of parties in possession.

TO HAVE AND TO HOLD the Property together with all and singular the rights and appurtenances thereto in any way belonging unto Grantee, Grantee's successors and assigns forever. This conveyance is made without any warranties, express or implied, and the Property is conveyed to Grantee in an "AS IS" condition, with all faults.

AS A MATERIAL PART OF THE CONSIDERATION FOR THIS DEED, GRANTEE AGREES THAT GRANTEE IS TAKING THE PROPERTY AS IS, WITH ALL FAULTS, AND AS PART OF GRANTEE'S ACCEPTANCE OF TITLE WITH ANY AND ALL LATENT AND PATENT DEFECTS, AND THAT THERE ARE NO WARRANTIES BY GRANTOR THAT THE PROPERTY HAS A PARTICULAR FINANCIAL VALUE OR IS FIT FOR ANY PARTICULAR PURPOSE. GRANTEE ACKNOWLEDGES AND STIPULATES THAT GRANTEE IS NOT RELYING ON ANY REPRESENTATION, STATEMENT, OR OTHER ASSERTION WITH RESPECT TO THE PROPERTY CONDITION BUT IS RELYING ON GRANTEE'S EXAMINATION OF THE PROPERTY. GRANTEE TAKES THE PROPERTY WITH THE EXPRESS UNDERSTANDING AND STIPULATION THAT THERE ARE NO EXPRESS OR IMPLIED WARRANTIES OF ANY KIND.

IN WITNESS WHEREOF, this instrument is executed on this the \_\_\_\_\_ day of \_\_\_\_\_, 2013.

ATTEST:

CITY OF EL PASO

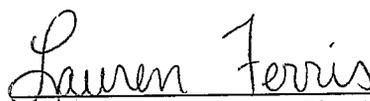
\_\_\_\_\_  
Richarda Duffy Momsen  
City Clerk

\_\_\_\_\_  
Joyce Wilson, City Manager

APPROVED AS TO CONTENT:

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Mathew McElroy, Director  
City Development Department

  
\_\_\_\_\_  
Lauren Ferris, Assistant City Attorney

*(Acknowledgement on following page)*

ACKNOWLEDGEMENT

STATE OF TEXAS

COUNTY OF EL PASO

Before me on this day personally appeared Joyce Wilson, as City Manager of the City of El Paso, a municipal corporation, subscribed to the foregoing instrument and acknowledged to me that she executed the instrument by proper authority, for the purposes and consideration expressed therein and in the capacity stated in the instrument.

Given under my hand and seal of office this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
NOTARY PUBLIC, STATE OF TEXAS

\_\_\_\_\_  
(Print or Stamp Name of Notary)

My commission expires: \_\_\_\_\_

**AFTER FILING RETURN TO:**

**Ramon and Aurora Tarin  
2801 Memphis Ave.  
El Paso, TX 79930**

**With copy to:**

**City Development Department  
Planning Division  
PO Box 1890  
El Paso, TX 79950-1890**



**EXHIBIT A**

**METES AND BOUNDS DESCRIPTION**  
***"Encroachment Area at 2801 Memphis Avenue"***

*A 0.0171 acre parcel situate within the corporate limits of the City of El Paso, El Paso County, Texas as a portion of the Elm Street right-of-way adjacent to Block 126, Highland Park Addition, as recorded in Book 1, Page 54 of the Plat Records of El Paso County, Texas, and being more particularly described by metes and bounds as follows.*

**COMMENCING** for reference at a railroad spike found at the intersection of the monument line of Memphis Avenue (70.00 feet wide) and the monument line of Elm Street (70.00 feet wide), said monument line intersection located 10.00 feet (9.32 feet ~ measured) north and 10.00 feet east of the centerline intersection of Memphis Avenue and Elm Street; **WHENCE**, a city monument found at the intersection of the monument line of Sacramento Avenue (70.00 feet wide) and the monument line of Elm Street, said monument line intersection located 10.00 feet (9.41 feet ~ measured) north and 10.00 feet east of the centerline intersection of Sacramento Avenue and Elm Street, bears North 00°00'00" East, a distance of 990.00 feet (990.09 feet ~ measured); **THENCE**, leaving the monument line of Memphis Avenue and following the monument line of Elm Street, North 00°00'00" East, a distance of 25.00 feet (25.68 feet ~ measured); **THENCE**, leaving the monument line of Elm Street, North 90°00'00" East, a distance of 13.00 feet to a chiseled "X" set in concrete for the **POINT OF BEGINNING** of the parcel herein described;

**THENCE**, North 00°00'00" East, a distance of 62.00 feet to a chiseled "X" in concrete set for the northwest corner of the parcel herein described;

**THENCE**, North 90°00'00" East, a distance of 12.00 feet to a 1/2 inch rebar with survey cap No. "TX 5337" set on the west boundary of Lot 16, Block 126, Highland Park Addition for the northeast corner of the parcel herein described;

**THENCE**, following the west boundary line of said Lot 16, South 00°00'00" West, a distance of 62.00 feet to a chiseled "X" on a concrete wall found for the southeast corner of the parcel herein described, identical to the southwest corner of said Lot 16;

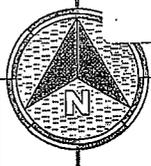
**THENCE**, leaving the southwest corner of said Lot 16, South 90°00'00" West, a distance of 12.00 feet to the **POINT OF BEGINNING**;

Said parcel containing 0.0171 acres (744.0 square feet), more or less, and being subject to all easements of record.

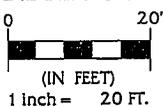
*Isaac Camacho*  
Isaac Camacho, TX R.P.L.S. No. 5337  
Date: February 11, 2013  
05100-047 2801 Memphis Desc



EXHIBIT B



GRAPHIC SCALE



LEGEND

- PROJECT BOUNDARY
- LOT LINE
- RIGHT-OF-WAY LINE
- CENTERLINE OF RIGHT-OF-WAY
- MONUMENT LINE
- WROUGHT-IRON FENCE ON CONCRETE WALL
- WATER METER
- WATER VALVE
- GAS METER
- STOP SIGN
- TREE
- SHRUBS (VARIOUS)
- CONCRETE AREA
- EXISTING BUILDING
- MEASURED BEARING & DISTANCE (M)
- RECORD BEARING & DISTANCE (R)
- EL PASO COUNTY DEED RECORDS E.P.C.D.R.
- LOT NUMBER 16
- BLOCK NUMBER 126
- FOUND CITY MONUMENT
- SET 1/2" REBAR WITH SURVEY CAP NO. TX 5337
- SET CHISELED 'X' ON CONCRETE

LINE TABLE		
LINE	BEARING	LENGTH
L1	N90°00'00"E	13.00'
L2	N90°00'00"E	12.00'
L3	S90°00'00"W	12.00'

REFERENCE NOTES

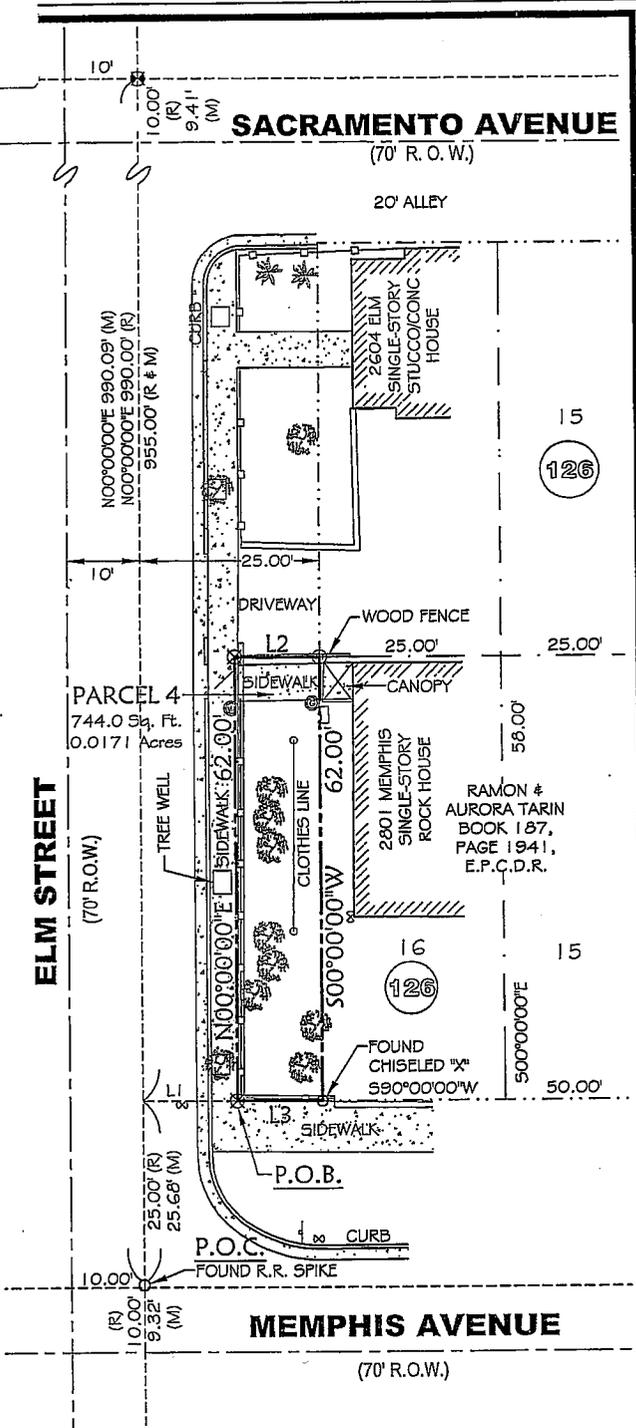
1. BASIS OF BEARING IS THE MONUMENT LINE OF ELM STREET (70.00' R.O.W.) IN HIGHLAND PARK ADDITION, FILED IN BOOK 1, PAGE 54 OF THE PLAT RECORDS OF EL PASO COUNTY, TEXAS.
2. LEGAL DESCRIPTION OF 2801 MEMPHIS AVENUE IS THE SOUTH 62 FEET OF LOTS 15 & 16, BLOCK 126, HIGHLAND PARK ADDITION.

CERTIFICATION

I HEREBY CERTIFY THAT THIS BOUNDARY SURVEY IS BASED ON AN ACTUAL SURVEY PERFORMED ON THE GROUND BY ME OR UNDER MY SUPERVISION AND THAT THE INFORMATION CONTAINED HEREON IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

*Isaac Camacho* 02/11/2013  
ISAAC CAMACHO, TX. R.P.L.S. NO. 5337

CAUDS  
 Feb 11, 2013 - 9:54am  
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 MEMPHIS VACATE.dwg



FILE NO: 05100-047

BOUNDARY & IMPROVEMENT SURVEY

DRAWN BY: J.M. CHECKED BY: I.C. DATE: 02-08-2013 SCALE: 1" = 20'  
 A PORTION OF ELM STREET RIGHT-OF-WAY, ADJACENT TO  
 BLOCK 126, HIGHLAND PARK ADDITION,  
 CITY OF EL PASO, EL PASO COUNTY, TEXAS.



417 EXECUTIVE CENTER—EL PASO, TX 79902—PH (915) 542-4800  
 FAX (915) 542-2867—WWW.BROCKBUSTILLOS.COM

*Dedicated to Outstanding Customer Service for a Better Community*

**SERVICE SOLUTIONS SUCCESS**

**MEMORANDUM**



**DATE:** July 22, 2013  
**TO:** The Honorable Mayor and City Council  
Joyce A. Wilson, City Manager  
**FROM:** Nelson Ortiz, Planner  
**SUBJECT:** SURW13-00001

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The City Plan Commission (CPC), on March 21, 2013, voted to approve the Elm Street Vacation.

The CPC determined the vacation protects the best interest, health, safety and welfare of the public in general; and the proposed use is compatible with adjacent land uses; and the vacation will have no negative effect on the natural environment, social economic conditions, and property values in the vicinity and the city as a whole.

**Mayor**  
Oscar Leeser

**City Council**

*District 1*  
Ann Morgan Lilly

*District 2*  
Larry Romero

*District 3*  
Emma Acosta

*District 4*  
Carl L. Robinson

*District 5*  
Dr. Michiel R. Noe

*District 6*  
Eddie Holguin Jr.

*District 7*  
Lilia B. Limon

*District 8*  
Cortney C. Niland

**City Manager**  
Joyce A. Wilson



## *City of El Paso – City Plan Commission Staff Report*

**Case No:** SURW13-00001 Elm Street Vacation  
**Application Type:** Right-of-Way Vacation  
**CPC Hearing Date:** March 21, 2013

**Staff Planner:** Nelson Ortiz, 915-541-4931, [OrtizNX@elpasotexas.gov](mailto:OrtizNX@elpasotexas.gov)  
**Location:** 2801 Memphis Avenue  
**Acreage:** 0.0171 Acre  
**Rep District:** 2

**Existing Use:** Unimproved right-of-way  
**Existing Zoning:** R-5 (Residential)

**Property Owner:** City of El Paso  
**Applicant:** Aurora H. Tarin  
**Representative:** City of El Paso

### **SURROUNDING ZONING AND LAND USE**

**North:** R-5 (Residential)/ Single-family Development  
**South:** R-4 (Residential)/ Single-family Development  
**East:** R-5 (Apartment)/ Single-family Development  
**West:** R-5 (Residential)/ Single-family Development

**THE PLAN FOR EL PASO DESIGNATION:** G-2 Traditional Neighborhood (Walkable)

### **APPLICATION DESCRIPTION**

This is a city-initiated application to vacate a 12' wide portion of an unimproved portion of Elm Street right-of-way. All properties (4) abutting the unimproved right-of-way have improvements that encroach into the right-of-way. The properties are between Nashville and Memphis and abut the easterly Elm Street right-of-way line. Staff will be applying the Resolution adopted by City Council which allows the City to convey property for 10% of the appraised market value as this request meets the criteria.

### **NEIGHBORHOOD INPUT**

Notice of a Public Hearing was mailed to all property owners within 300 feet of the subject property on March 5, 2013. The Planning Division has not received any letters or phone calls in support or opposition of the vacation. Staff has received three phone calls inquiring about the details of the project.

### **DEVELOPMENT COORDINATING COMMITTEE**

The Development Coordinating Committee recommends **approval** of Elm Street Vacations subject to the following conditions and requirements:

#### **Planning Division Recommendation:**

Approval.

**City Development-Land Development:**

We have reviewed subject plan recommend Approval; No objections.

**Planning - Transportation:**

No objections.

**El Paso Water Utilities - PSB:**

We have reviewed the above referenced and provide the following comments:

**EPWU-PSB Comments**

**Water**

Along Elm Street between Nashville Avenue and Memphis Avenue there is an existing six (6) inch diameter water main located at approximately 20 feet west of the easternmost right-of-way line of Elm Street.

**Sanitary Sewer**

Along Elm Street between the Alley located between Nashville Avenue and Memphis Avenue and Memphis Avenue there is an existing eight (8) inch diameter sanitary sewer main located at approximately 17 feet east of the westernmost right-of-way line of Elm Street.

**General**

EPWU-PSB does not object to this request

**Parks and Recreation:**

We have reviewed 2801 Memphis Avenue, a Street vacation survey map and offer "No" objections to this proposed street vacation request.

**El Paso Fire Department:**

No comments received.

**El Paso Electric Company:**

El Paso Electric has no objection to the vacation of the street r-o-w of Elm Street as described on the 4 surveys by Brock & Bustillos, Inc. EPE has no facilities in the area to be vacated. Our facilities are in the alley.

**Sun Metro:**

No comments received.

**911:**

No comments received.

**Texas Gas Company:**

No comments received.

**El Paso Independent School District:**

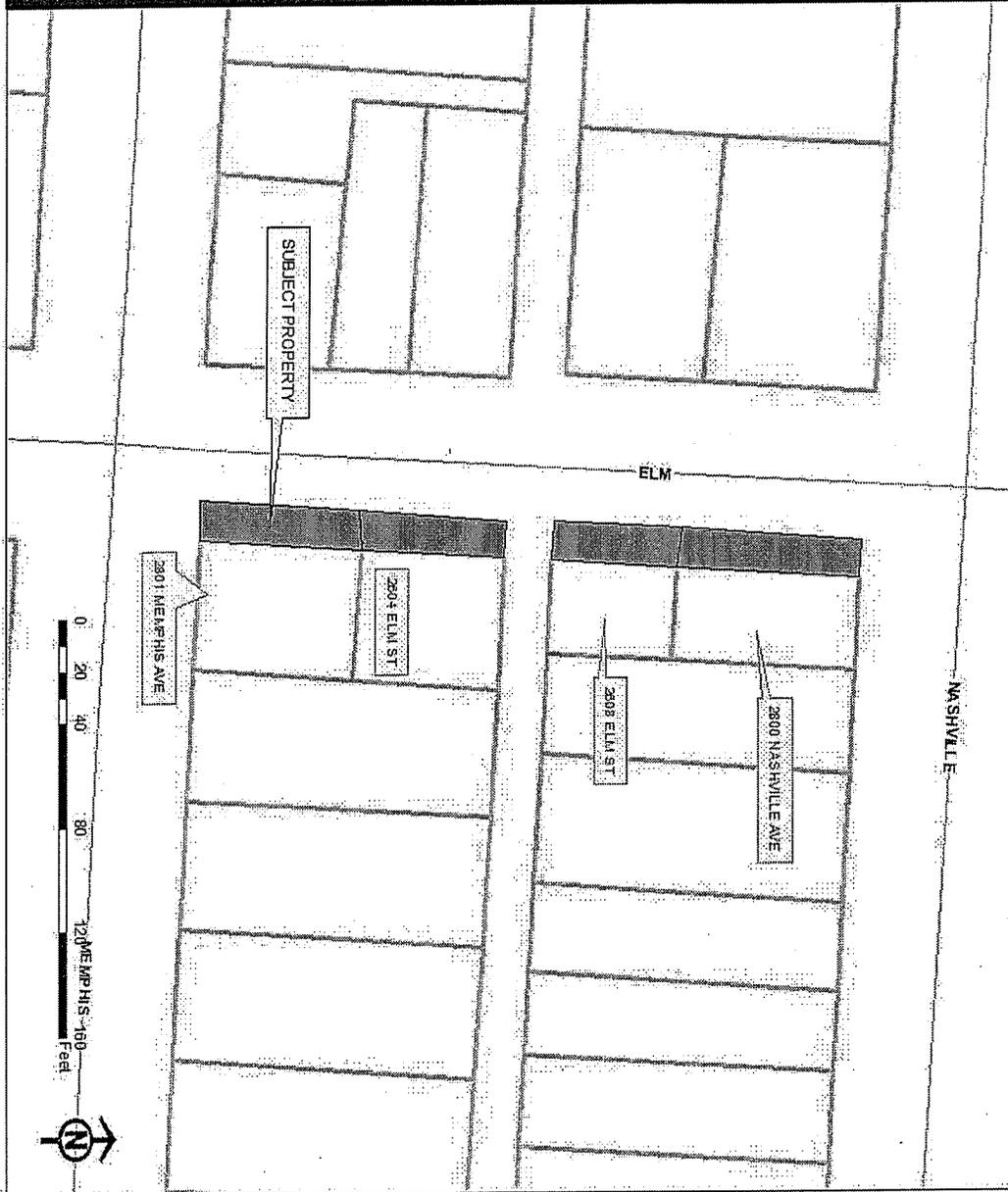
No comments received.

**Attachments**

1. Location map
2. Aerial map
3. Survey
4. Application

ATTACHMENT 1

2801 MEMPHIS AVENUE VACATION



ATTACHMENT 2

2801 MEMPHIS AVENUE VACATION





**ATTACHMENT 4**



CITY OF EL PASO, TEXAS  
APPLICATION FOR VACATION PUBLIC EASEMENTS AND RIGHTS-OF-WAY

Date: 1/3/12 File No. SURW13-00001

1. APPLICANTS NAME AURORA H. TARIN  
ADDRESS 2801 Memphis Ave ZIP CODE 79930 TELEPHONE 915-566-8878

2. Request is hereby made to vacate the following: (check one) ~  
Street  Alley  Easement  Other

Street Name(s) ELM STREET Subdivision Name HIGHLAND PARK ADDITION  
Abutting Blocks 126 Abutting Lots 15/16 (BLOCK 126)

3. Reason for vacation request: FIX PROPERTY LINE ISSUE.

4. Surface Improvements located in subject property to be vacated:  
None  Paving  Curb & Gutter  Power Lines/Poles  Fences/Walls  Structures  Other

5. Underground Improvements located in the existing rights-of-way:  
None  Telephone  Electric  Gas  Water  Sewer  Storm Drain  Other

6. Future use of the vacated right-of-way:  
Yards  Parking  Expand Building Area  Replat with abutting Land  Other

7. Related Applications which are pending (give name or file number):  
Zoning  Board of Adjustment  Subdivision  Building Permits  Other

8. Signatures: All owners of properties which abut the property to be vacated must appear below with an adequate legal description of the properties they own (use additional paper if necessary).

Signature	Legal Description	Telephone
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

The undersigned Owner/Applicant/Agent understands that the processing of this Application will be handled in accordance with the procedure for Requesting Vacations and that no action on processing will be taken without payment of the non-refundable processing fee. It is further understood that acceptance of this application and fee in no way obligates the City to grant the Vacation. I/We further understand that the fee, if the Vacation is granted will be determined by the City of El Paso and a Certified or Cashier's Check must be presented before the request will be recommended for Council action.

The undersigned acknowledges that he or she is authorized to do so, and upon the City's request will provide evidence satisfactory to the City confirming these representations.

The granting of a vacation request shall not be construed to be a waiver of or an approval of any violation of any of the provisions of any applicable City ordinances.

CASHIER'S VALIDATION  
FEE: \$966.00

OWNER SIGNATURE: Aurora H. Tarin 566-8878  
REPRESENTATIVE: JESUS TARIN 755-3707

NOTE: SUBMITTAL OF AN APPLICATION DOES NOT CONSTITUTE ACCEPTANCE FOR PROCESSING UNTIL THE PLANNING DEPARTMENT REVIEWS THE APPLICATION FOR ACCURACY AND COMPLETENESS.