

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

DEPARTMENT: Development Services Department

AGENDA DATE: Introduction: July 11, 2006
Public Hearing: August 1, 2006

CONTACT PERSON/PHONE: Christina Valles, 541-4930

DISTRICT(S) AFFECTED: 4

SUBJECT:

An Ordinance changing the zoning of a portion of Tract 5, Block 80, Township 1, Texas and Pacific Railroad Company Surveys, El Paso, El Paso County Texas from C-4 (Commercial) to R-5 (Residential). The penalty is as provided for in Chapter 20.68 of the El Paso City Code. Applicant: Borsberry Family LTD Partnership. ZON06-00041 (District 4)

BACKGROUND / DISCUSSION:

See attached report.

PRIOR COUNCIL ACTION:

N/A

AMOUNT AND SOURCE OF FUNDING:

N/A

BOARD / COMMISSION ACTION:

Development Coordinating Committee (DCC) – Denial Recommendation
City Plan Commission (CPC) – Approval Recommendation (4-0)

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

LEGAL: (if required) N/A

FINANCE: (if required) N/A

DEPARTMENT HEAD: George Sarmiento, AICP

APPROVED FOR AGENDA:

CITY MANAGER: _____ **DATE:** _____

ORDINANCE NO. _____

AN ORDINANCE CHANGING THE ZONING OF A PORTION OF TRACT 5, BLOCK 80, TOWNSHIP 1, TEXAS AND PACIFIC RAILROAD COMPANY SURVEYS, EL PASO, EL PASO COUNTY TEXAS FROM C-4 (COMMERCIAL) TO R-5 (RESIDENTIAL). 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 *a portion of Tract 5, Block 80, Township 1, Texas and Pacific Railroad Company Surveys, El Paso, El Paso County Texas*, and as more particularly described by metes and bounds on Exhibit "A", attached and incorporated by reference, be changed **from C-4 (Commercial) to R-5 (Residential)** within the meaning of the zoning ordinance, and that the zoning map of the City of El Paso be revised accordingly.

PASSED AND APPROVED this _____ day of _____, 2006.

THE CITY OF EL PASO

John F. Cook
Mayor

ATTEST:

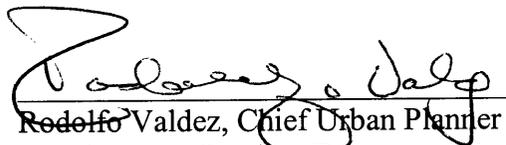
Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:



Carolyn J. Crosby
Assistant City Attorney

APPROVED AS TO CONTENT:



Redolfo Valdez, Chief Urban Planner
Development Services Department

PROPERTY DESCRIPTION

BEING the description of a portion of Tract 5, Block 80, Township 1, Texas & Pacific Railway Company Surveys, City of El Paso, El Paso County, Texas and being more particularly described by metes and bounds as follows:

COMMENCING at a found 1/2" rebar with cap stamped "RPLS 2564" for the east corner of said Tract 5 in the northwesterly right of way line of Dyer Street, thence N 46° 42' 55" W, 165.84 feet (N 46° 44' 00" W record) leaving the northwesterly right of way line of Dyer Street to a point, said point being the east corner and the True Point of Beginning of the property being described;

THENCE S 43° 17' 08" W, 799.77 feet to a point for the south corner from whence a found 5/8" rebar for the south corner of said Tract 5 bears S 46° 42' 51" E, 166.10 feet (S 46° 44' 00" E record);

THENCE N 46° 43' 51" W, 494.00 feet (N 46° 44' 00" W record) to a found 5/8" rebar for the west corner;

THENCE N 43° 17' 08" E, 799.91 feet (N 43° 16' 00" E, 800.00 feet record) to a found 5/8" rebar for the north corner;

THENCE S 46° 42' 55" E, 494.00 feet (S 46° 44' 00" E record) to the True Point of Beginning and containing 395,122 square feet or 9.0708 acres of land more or less.



Basil R. Smith, Jr.
Texas R.P.L.S. No. 4707
SECO
P.O. Box 220025
El Paso, Tx 79932

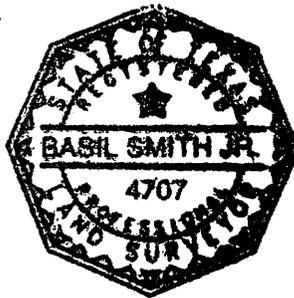
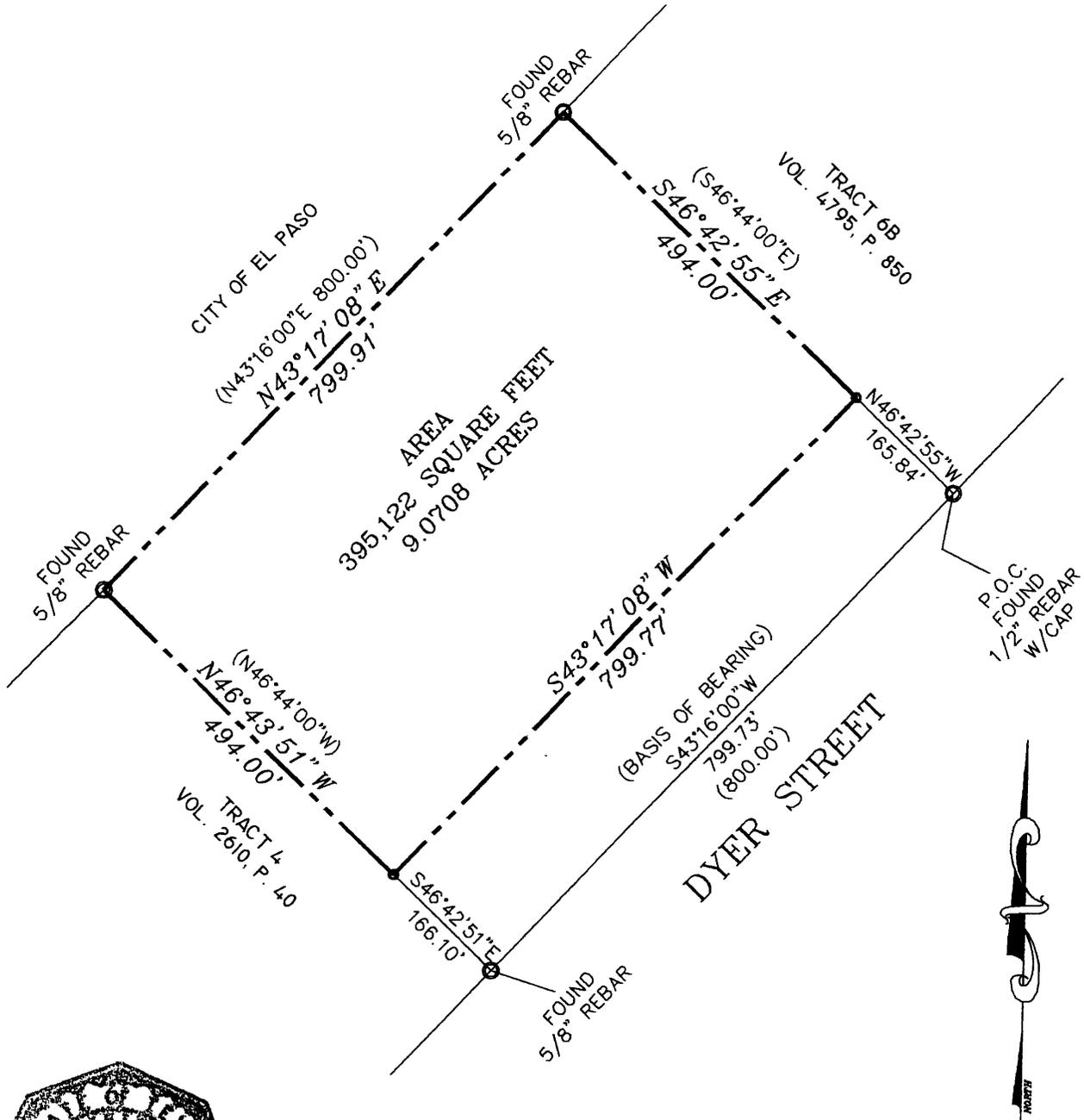


EXHIBIT "A"



This survey substantially complies with the current Texas Society of Professional Surveyors Standards and Specifications for a Category 1B, Condition II Survey.

BRS

BASIL R. SMITH, JR. TEXAS R.P.L.S. NO. 4707
MARCH 30, 2006

SECO	
1071 Country Club Rd., Suite M El Paso, Tx 79932 P.O. Box 220025 79913 (915) 532-4762 Fax (915) 585-0825 (915) 585-1227	
PLAT OF SURVEY A PORTION OF TRACT 5, BLOCK 80, TOWNSHIP 1 TEXAS & PACIFIC RAILWAY COMPANY SURVEYS CITY OF EL PASO EL PASO COUNTY, TEXAS	
SCALE 1" = 200'	DWN. BY BRS
DATE 7-5-05	CHKD. BY BW

EXHIBIT "A" J.N. 7-05-538

JOHN COOK
MAYOR

JOYCE WILSON
CITY MANAGER

R. ALAN SHUBERT
DIRECTOR, DEVELOPMENT SERVICES



CITY COUNCIL
ANN MORGAN LILLY, DISTRICT 1
SUSANNAH M. BYRD, DISTRICT 2
J. ALEXANDRO LOZANO, DISTRICT 3
MELINA CASTRO, DISTRICT 4
PRESI ORTEGA, JR., DISTRICT 5
EDDIE HOLGUIN JR., DISTRICT 6
STEVE ORTEGA, DISTRICT 7
BETO O'ROURKE, DISTRICT 8

**DEVELOPMENT SERVICES DEPARTMENT
PLANNING DIVISION**

June 30, 2006

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

FROM: Christina Valles, Senior Planner

SUBJECT: ZON06-00041:
Portion of Tract 5, Block 80, Township 1, Texas & Pacific Railway Company Surveys

LOCATION: Dyer Street near Mohair

REQUEST: From: C-4 (Commercial); To: R-5 (Residential)

The City Plan Commission (CPC), on June 15, 2006, voted (4-0) to recommend **APPROVAL** of rezoning the subject property to R-5 (Residential), *contrary* to Staff's recommendation.

The CPC found that this rezoning is in conformance with The Plan for El Paso; and the proposed use is in conformance with the Year 2025 Projected General Land Use Map. The CPC also determined that this rezoning protects the best interest, health, safety and welfare of the public in general; and that the proposed use is compatible with adjacent land uses.

There was one letter in opposition and three letters in support of this request.

Attachment: Location Map, Site Plan, Letters.

STAFF REPORT

Rezoning Case: ZON06-00041

Property Owner(s): Borsberry Family LTD Partnership

Applicant(s): Bert Borsberry

Representative(s): Jorge Garcia

Legal Description: Portion of Tract 5, Block 80, Township 1, Texas & Pacific Railway Company Surveys

Location: Dyer Street near Mohair

Representative District: 4

Area: 8.86 Acres

Present Zoning: C-4 (Commercial)

Present Use: Vacant

Proposed Zoning: R-5 (Residential)

Proposed Use: Single-family Residential

Recognized Neighborhood Associations Contacted: Northeast Healthy Communities, Northeast Civic Association, North Hills Neighborhood Pride Association

Surrounding Land Uses:

North -	R-F (Ranch and Farm) / Vacant
South -	C-4 (Commercial) / Automotive Repair, Retail, Office
East -	M-1 (Light Manufacturing), C-3/sc (Commercial/special contract) / Automotive Repair, Commercial
West-	M-1/sp (Light Manufacturing/special contract), C-4 (Commercial) / Self-storage Facility

Year 2025 Designation: **Parks and Open Space** (Northeast Planning Area)

**CITY PLAN COMMISSION HEARING, June 15, 2006,
1:30 P.M., CITY COUNCIL CHAMBERS, 2ND FLOOR, CITY HALL**

REZONING APPLICATION: ZON06-00041

GENERAL INFORMATION:

The applicant is requesting a rezoning from C-4 (Commercial) to R-5 (Residential) in order to permit a single-family residential subdivision. The property is 8.86 acres in size and is currently vacant. The proposed site plan shows fifty five (55) residential lots to be located on the site. Access is proposed via Dyer Street. There are no zoning conditions currently imposed on this property.

INFORMATION TO THE COMMISSION:

The Development Services Department – Planning Division has received one letter in opposition and three letter in support of this application.

STAFF RECOMMENDATION:

The Development Coordinating Committee (DCC) unanimously recommends **DENIAL** of this request for rezoning from C-4 (Commercial) to R-5 (Residential).

The recommendation is based on the following:

The Plan for El Paso City-Wide Land Use Goals recommend that El Paso “maintain development standards that protect residential neighborhoods from uses that increase traffic and noise, reduce privacy, and adversely affect the health, safety and welfare of the residents.”

The Year 2025 Projected General Land Use Map for the **Northeast** Planning Area designates this property for **Parks and Open Space** land uses.

R-5 (Residential) zoning permits single-family residential and **is not compatible** with adjacent development.

The Commission must determine the following:

1. Will the R-5 (Residential) zoning protect the best interest, health, safety and welfare of the public in general?
2. Will single-family residential be compatible with adjacent land uses?
3. What is the relation of the proposed rezoning to the City’s Comprehensive Plan?
4. What effects will the rezoning have on the natural environment, social and economic conditions, and property values in the vicinity and the city as a whole?

Information To The Applicant:

Development Services Department - Building Permits and Inspections Division Comments:

Zoning Review: Proposed R-5 (Residential) zoning meets minimum general lot size standards for single-family residential units only.

Landscape Review: Landscaping not required for residential development.

Development Services Department - Planning Division Comments:

Current Planning: Recommend denial of the proposed rezoning based on incompatibility of existing adjacent zoning and development.

Subdivision Review: No comments received.

Engineering Department - Traffic Division Comments:

No apparent traffic concerns.

Fire Department Comments:

No comments received.

El Paso Water Utilities Comments:

Water: There is an existing 12-inch diameter water main along Dyer Street fronting the subject property. This main is dedicated to serve only McGregor Range; therefore, this water main is not available to serve the subject property.

Water service is available from an existing 16-inch diameter water main along Dyer Street fronting the subject property. The Owner is responsible for all water main extension costs.

Previous water pressure readings from a fire hydrant located at the north intersection of Dyer Street and Angora Loop have yielded a static pressure of 90 pounds per square inch (psi), a residual pressure of 78 psi, a pitot pressure of 52 psi, at a discharge of 1210 gallons per minute.

Private water pressure regulating devices may be required at the discharge side of every water meter within the subdivision. The Developer shall include in the sale of contract documents that the lot buyer shall acquire ownership of the above-described water pressure regulating device.

Additionally, in the event that the City of El Paso Fire Department requires additional fire hydrants 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.

Sanitary Sewer: There are no sanitary sewer mains along Dyer Street fronting the subject property. Sanitary sewer service to the property requires off-site extension along Dyer Street from the subject property south to the existing sanitary sewer system just west of the Dyer Street and Sean Haggerty intersection. A Twenty-five foot wide EPWU-PSB easement will be required to accommodate the proposed sanitary sewer main extension. The EPWU-PSB easement needs to be dedicated within the portions of Tracts 2A, 2-B, 2-B-1, 2-C, 2-C-1, 2-C-3, 3, 4 and 5 that front Dyer Street. EPWU-PSB requires access to the proposed sanitary sewer facilities and appurtenances 24 hours a day, seven (7) days a week. The Owner/Developer is responsible for all sanitary sewer main extension costs and for obtaining all necessary off-site easements. Sewer mains that are constructed outside of the limits of the area to be served (off-site), but necessary for service, shall be eligible for a refund based on the estimated costs of the facilities and according to the El Paso Water Utilities – Public Service Board

Rules and Regulations.

General: Dyer Street is a Texas Department of Transportation (TxDOT) right-of-way. All proposed utility work to be performed within Dyer Street right-of-way requires a utility installation permit from TxDOT.

Easement grantor shall indemnify, defend, and hold harmless the El Paso Water Utilities–Public Service Board from and against any and all claims, liability, actions, and damages for bodily injury and property damage to third parties or to the El Paso Water Utilities–Public Service Board which may be caused by or arise out of the maintenance and existence of said sanitary sewer mains in the easement area.

No building, reservoir, structure or other improvement, other than asphaltic paving (HMAC), shall be constructed or maintained on the above referenced El Paso Water Utilities - Public Service Board Easement (EPWU-PSB) without the written consent of EPWU-PSB.

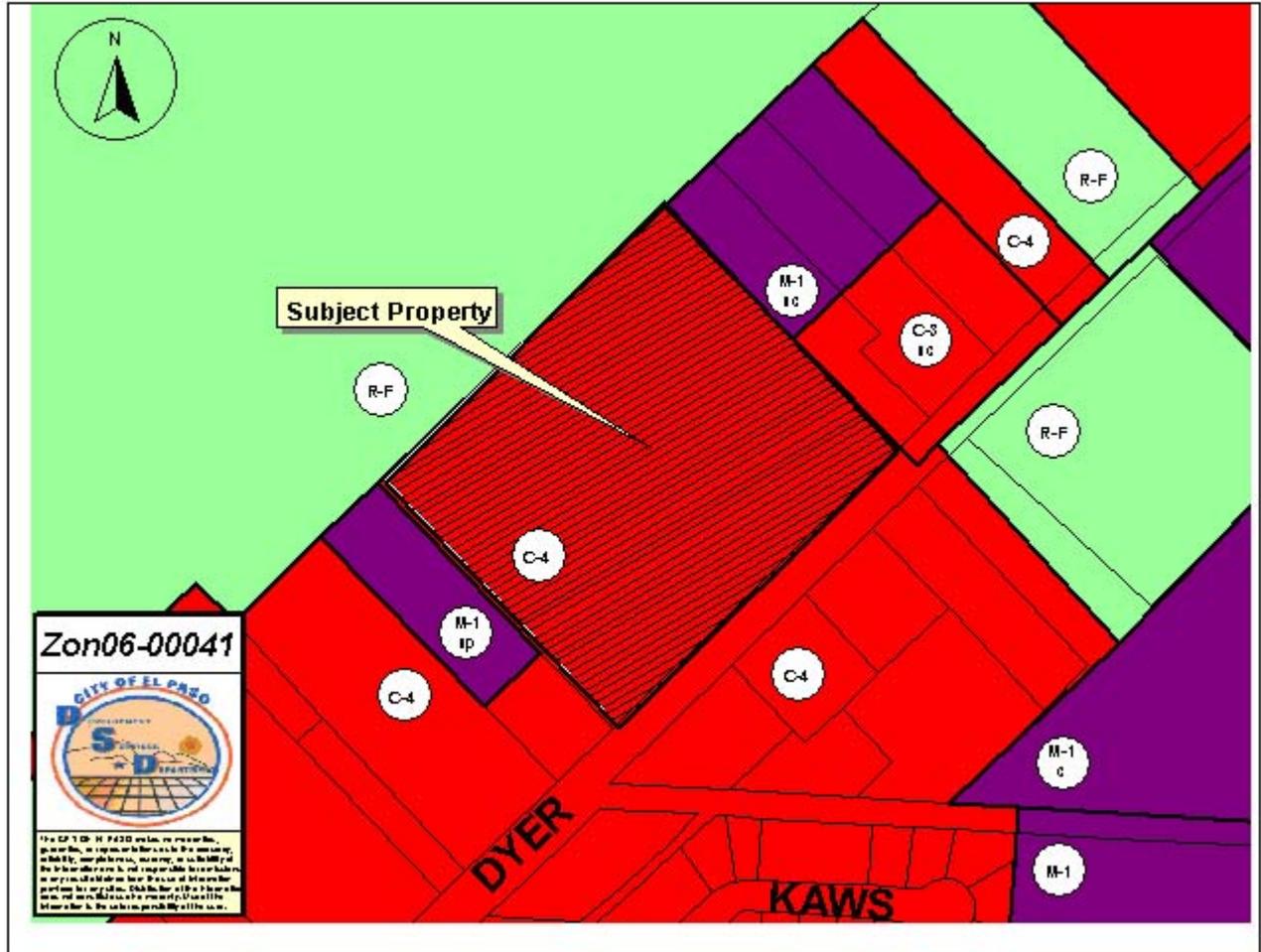
Application for water and sanitary sewer services should be made 6 to 8 weeks prior to any construction to ensure water for construction work. A site plan, a utility plan, grading and drainage plans, landscaping plan, the legal description of the property, and a certificate-of-compliance are required at the time of application. The property 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.

EPWU does not object to this request.

ATTACHMENT: Site Plan; Location Map; Letters.

NOTE TO THE PROPERTY OWNER: CITY PLAN COMMISSION POLICY REQUIRES THAT THE APPLICANT OR REPRESENTATIVE BE PRESENT AT THE PUBLIC HEARING FOR THIS ITEM. PLEASE DIRECT ANY QUESTIONS CONCERNING THIS REPORT TO THE PLANNING DEPARTMENT AT (915) 541-4056.

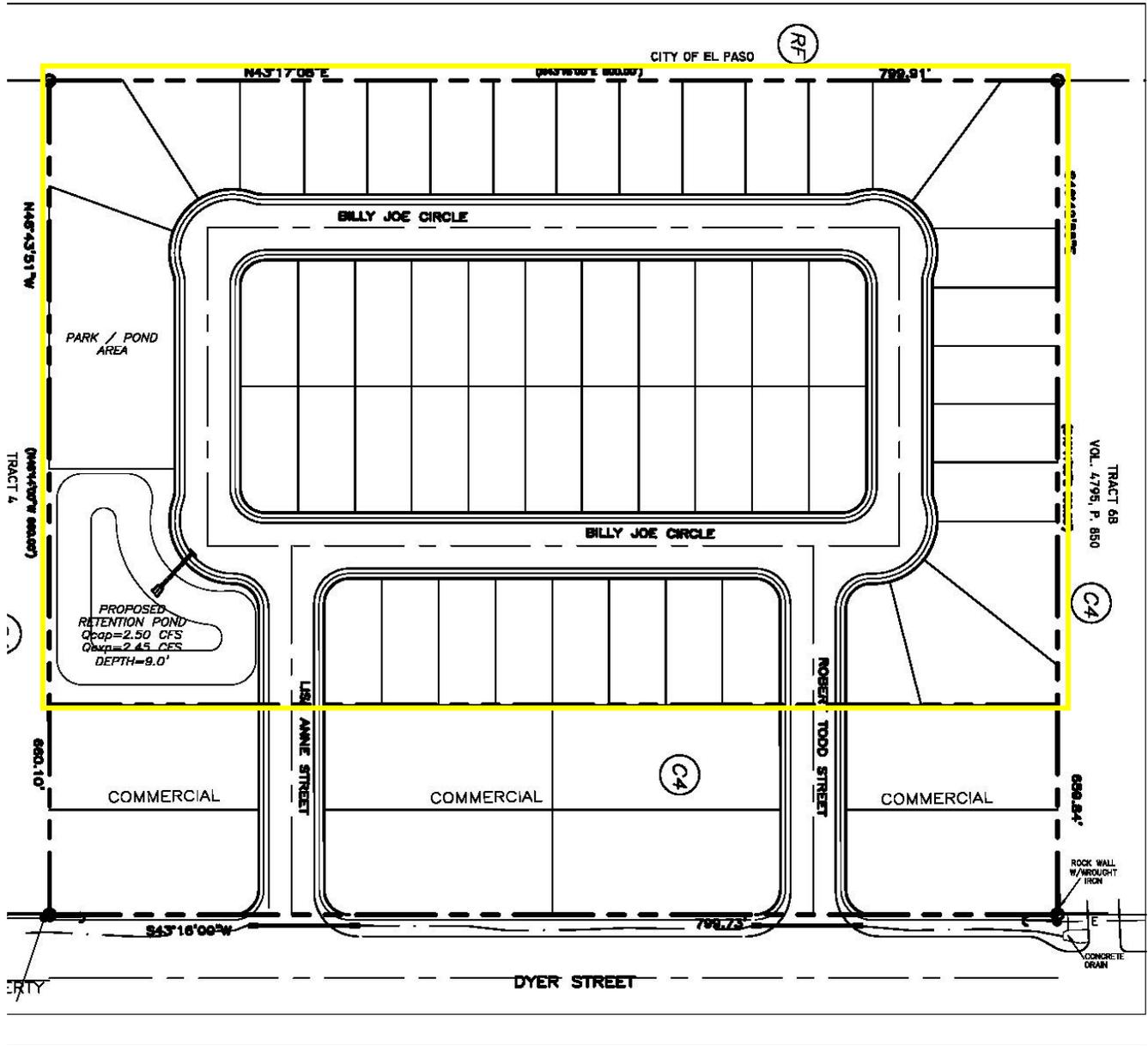
LOCATION MAP



AERIAL MAP



SITE PLAN



Planning Dept - Not a good idea among C-4 &
MI ZONE - if it is to be passed - R-5A

PARA ASISTENCIA EN ESPAÑOL, POR FAVOR LLAME AL (915) 541-4936, Y SE LE
EXPLICARÁ EL CONTENIDO DE ESTE AVISO.

GENERAL LOCATION MAP INCLUDED

single family unit only - with 6,000 sq
foot lots - Thanks Anthony Brown

Hispanic Builder's Alliance

May 15, 2006

City of El Paso
Planning Department
2 Civic Center Plaza, 4th Floor
El Paso Texas 79901

Fax 541-4028

Reference: Zoning Cases: Zon06-00041
Desert Aire Subdivision

Our trade association represents 18 minority-owned home builders in El Paso. We have visited the site of the subject rezoning and reviewed the proposal from Borsberry Family Limited Partnership to rezone part of their parcel to R-5 permitting about 50 entry level residential lots.

This is precisely what our builders need at the present time. There is a shortage of these small lots and rezoning of the parcel to R-5 will afford our builders the opportunity to compete better in the market place and provide affordable housing to a growing number of first time buyers. And we have not been able to obtain enough lots from other developers.

We believe that this location even though bordered on two sides by commercial will support affordable housing. There is a nice school (Desert-Aire Elementary) within walking distance to the south. Furthermore, the businesses in the area are neither high traffic nor heavy industrial and do not pose a problem with our building houses near them. To the west of this subject property about 1000' is another R-5 zoned subdivision that is already built out. A large R-F zoned parcel next to the subject property owned by the City of El Paso is destined for residential use and will border these same businesses someday anyway.

The developer of these lots has committed to give our minority-owned home builders first choice to purchase and build on these lots and we request that the City of El Paso cooperate with us to create needed entry-level housing in this area.

Sincerely

Hispanic Builder's Alliance



Rigoberto Mendez,
President

cc: Monica Chavez, Alderwoman
John Cook, Mayor

1155 Westmoreland Ste 114 - El Paso, Texas 79915

(915) 779-9200

S & J Moreno, Inc.
2600 Idalia Street
El Paso, Tx 79930

June 7, 2006
City of El Paso Planning Department
#2 Civic Center Plaza
El Paso, Tx 79901 fax 541-4028

Re: zoning case ZON06-00041

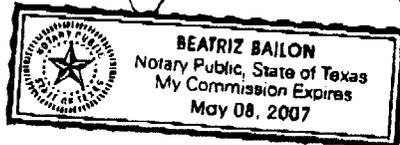
I am the co/owner of the Star Wars Commercial center that is adjacent to the subject rezoning property on Dyer Street to the south. Our property is described as Tract 4, Section 26, Block 80, Township 1, Texas & Pacific Railway Company, City of El Paso and the address is 10885 and 10893 Dyer Street. We have no objection to the proposed rezoning to R-5 for small homes. In fact we support this change of zoning. As well as being an improvement to the area, our commercial businesses will benefit. Additionally, our business uses are light and we see no conflict with an R-5 residential neighborhood next door.

Yours truly,


(type name)

notary







Desertaire Elementary School
6301 Tiger Eye Drive
El Paso, Texas 79924
Off: (915) 434-6400
Fax: (915) 821-0634

Administration
& Cultural Arts Center

9600 Sims Drive
El Paso, Texas 79925-7225
915/434-0000

June 6, 2006

Fax 541-4028

City of El Paso Planning Department
#2 Civic Center Plaza
El Paso, TX 79901
fax (541-4028)

RE: Zoning Case ZON06-00041

I am the principal of Desertaire Elementary School approximately 2000' south of the subject land requesting rezoning to R-5. We have no objection to the proposed rezoning to R-5 residential lots. We favor this change.

Respectfully,

A handwritten signature in black ink, appearing to read "D.A. DeRouen", written over a horizontal line.

D.A. DeRouen
Principal