

CITY CLERK DEPT.

08 AUG -1 AM 10: 57

CITY OF EL PASO, TEXAS

AGENDA ITEM DEPARTMENT HEAD'S SUMMARY FORM

DEPARTMENT: Development Services Department, Planning Division

AGENDA DATE: Introduction: August 12, 2008
Public Hearing: September 2, 2008

CONTACT PERSON PHONE: Ismael B. Segovia, 541-4027

DISTRICT(S) AFFECTED: 4

SUBJECT:

An Ordinance releasing a condition placed on property by Ordinance No. 8527 which changed the zoning of a portion of Lots 20 and 23, Block B, Pioneer Subdivision, City of El Paso, El Paso County, Texas, and which imposed certain conditions. The penalty is as provided for in Chapter 20.24 of the El Paso City Code. Subject Property: 6540 Mohair. Applicant: Eduardo Guzman, ZON07-00154 (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) – Approval Recommendation
City Plan Commission (CPC) – Unanimous Denial Recommendation

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

DEPARTMENT HEAD: Victor Q. Torres
Victor Q. Torres
Director, Development Services

APPROVED FOR AGENDA:

CITY MANAGER: _____ **DATE:** _____

CITY CLERK DEPT.

08 AUG -4 AM 10: 58 ORDINANCE NO. _____

AN ORDINANCE RELEASING A CONDITION PLACED ON PROPERTY BY ORDINANCE NO. 8527 WHICH CHANGED THE ZONING OF A PORTION OF LOTS 20 AND 23, BLOCK B, PIONEER SUBDIVISION, CITY OF EL PASO, EL PASO COUNTY, TEXAS, AND WHICH IMPOSED CERTAIN CONDITIONS. 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 Lots 20 and 23, Block B, Pioneer Subdivision, City of El Paso, El Paso County, Texas*, was changed by Ordinance No. 8527, approved by City Council on April 22, 1986; and,

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

"The property can only be used for warehouses or the storage of recreational vehicles"

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 recommends imposing additional conditions; 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. 8527 dated April 22, 1986 requiring that *"the property can only be used for warehouses or the storage of recreational vehicles"* be released on the portion of land identified in Exhibit "A"; and imposing conditions as follows:

That the following uses be restricted:

"Beverage Product Manufacturing; Commercial & Service Industry Manufacturing; Dairy Product Processing; Fabricated Metal Product Manufacturing; Grain & Oil Seed Milling; Leather & Allied Product Manufacturing; Recycling Collection Facility; and Truck Stop"

2. Except as herein amended, Contract dated April 22, 1986 shall remain in full force and effect.

PASSED AND APPROVED this _____ day of _____, 2008.

CITY CLERK DEPT.
08 AUG -4 AM 10:58

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:

Philip Elmer

Mathew S. McElroy
Deputy Director – Planning
Development Services Department

Exhibit "A"

BARRAGAN & ASSOCIATES

Land Planning & Land Surveying

CITY CLERK DEPT.

08 AUG -4 AM 10:58

10950 Pellicano Drive, Building "F" El Paso, Texas 79935 Ph.(915) 591-5709 Fax (915) 591-5706

DESCRIPTION

DESCRIPTION of the west 85.93 feet of Lot 23, and the east 97.50 feet of Lot 20, Block B, Pioneer Subdivision, a subdivision in El Paso County Texas, and being more particularly described by metes and bounds as follows:

COMMENCING for reference at a point on the northeasterly corner of Lot 23, and the northwesterly corner of Lot 20, Block B, of said subdivision; **THENCE**, East, along the southerly right-of-way of Mohair Drive, a distance of 85.93 feet to the **POINT OF BEGINNING** of this parcel of land;

THENCE, South, a distance of 223.81 feet to a point marking the southeast corner for this parcel;

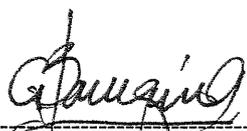
THENCE, West, along the common line of Lots 25 and 23, in Block B, of said subdivision, a distance of 183.43 feet to a point marking the southwest corner for this parcel;

THENCE, North, a distance of 223.81 feet to a point lying on the southerly right-of-way of Mohair Drive and marking the northwest corner for this parcel;

THENCE, East, along said southerly right-of-way of Mohair Drive, a distance of 183.43 feet to the **POINT OF BEGINNING** of the herein parcel being described said parcel containing 0.94 acres of land more or less;

NOTES:

1. A parcel plan of even date accompanies this description.
2. Bearings recited herein are based on the filed County plat for Pioneer Subdivision (Vol. 15 Pg. 46)



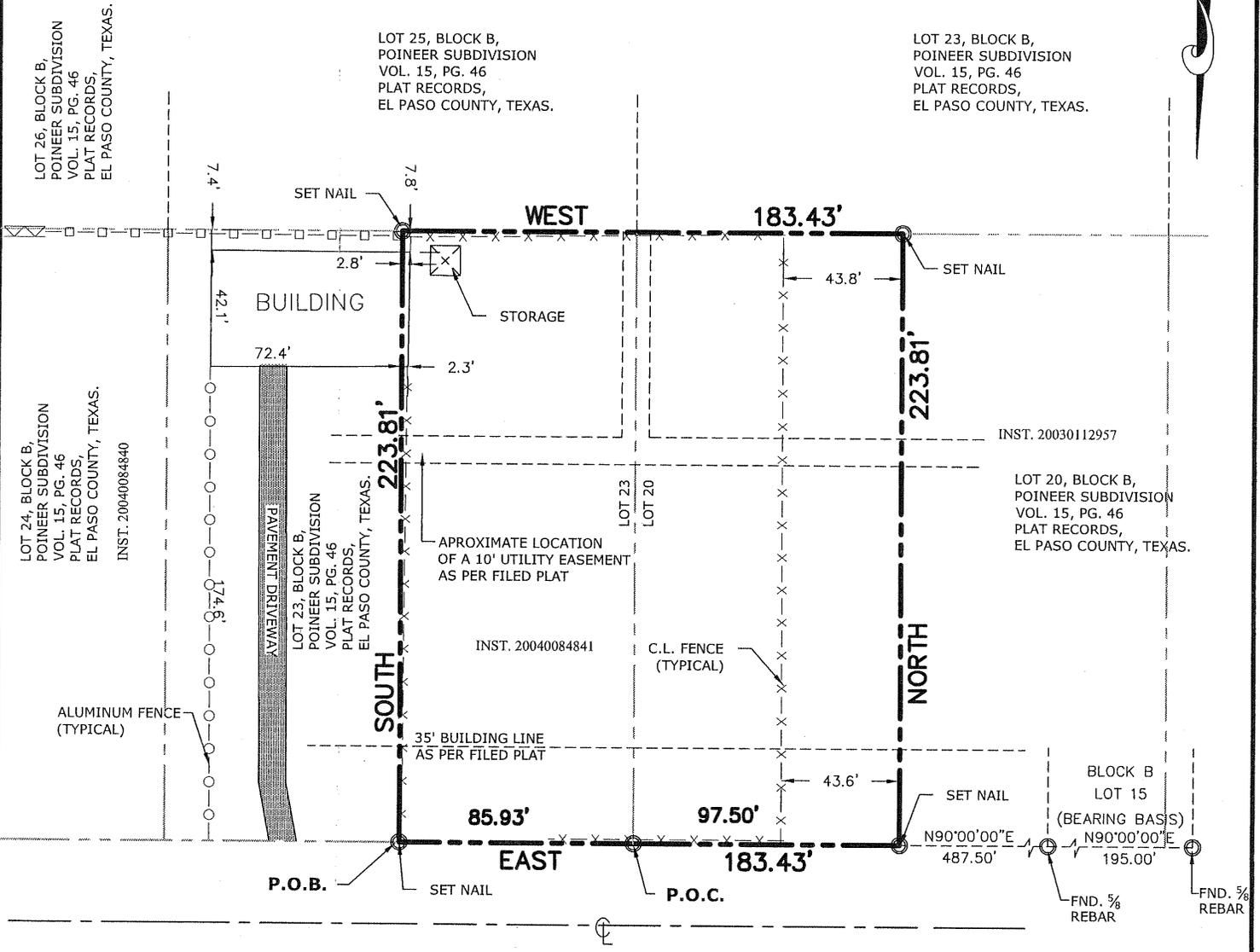
Benito Barragan TX R.P.L.S. 5615, August 29, 2007
Revised Date: September 25, 2007
6540 Mohair



Exhibit "A"

CITY CLERK DEPT.

08 AUG -4 AM 10:58



**6540
MOHAIR DRIVE
(60' R.O.W.)**

NOTES:

1. SUBJECT PROPERTY SHOWN HEREON APPEARS TO BE LOCATED IN FLOOD ZONE "C", AREA OF MINIMAL FLOODING, PER F.I.R.M. PANEL NUMBER 15 D, LAST REVISION DATE 01-03-97. THIS SURVEYOR MAKES NO GUARANTEES AS TO THE ACCURACY OF THE ABOVE INFORMATION. THE LOCAL F.E.M.A. AGENT SHOULD BE CONTACTED FOR VERIFICATION.
2. BEARINGS SHOWN ARE BASED ON THE FILED PLAT FOR PIONEER SUBDIVISION.
3. THIS PROPERTY MAY BE SUBJECT TO EASEMENTS WHETHER RECORDED OR NOT (NOT SHOWN).
4. A WRITTEN DESCRIPTION OF EVEN DATE ACCOMPANIES THIS PLAN.

REVISED DATE: 09-25-07

**Barragan
&
Associates**

LAND PLANNING & SURVEYING
1450 Pendale Drive Suite B - El Paso Tx 79936
Phone (915) 591-5709 Fax (915) 591-5706

Plat of Survey

WEST 85.93 FEET OF LOT 23, AND
THE EAST 97.50 FEET OF LOT 20,
BLOCK B, PIONEER SUBDIVISION
AN ADITION TO THE
CITY OF EL PASO,
EL PASO COUNTY, TEXAS.
AREA 0.94 ACRES ±

Plat reference vol/bk 15 pages 46
Scale 1"=60' Date 08-29-07 Drawn by OM/RV

Benito Barragan, R.P.L.S., Tex.: No. 5615

Job No. 070730-07 Copy Rights ©

JOHN COOK
MAYOR

JOYCE WILSON
CITY MANAGER

VICTOR Q. TORRES
DIRECTOR, DEVELOPMENT SERVICES

MATHEW S. McELROY
DEPUTY DIRECTOR, PLANNING



ANN MORGAN LILLY, DISTRICT 1
SUSANNAH M. BYRD, DISTRICT 2
EMMA ACOSTA, DISTRICT 3
MELINA CASTRO, DISTRICT 4
RACHEL QUINTANA, DISTRICT 5
EDDIE HOLGUIN, JR., DISTRICT 6
STEVE ORTEGA, DISTRICT 7
BETO O'ROURKE, DISTRICT 8

**DEVELOPMENT SERVICES
PLANNING DIVISION**

MEMORANDUM

DATE: July 28, 2008
TO: The Honorable Mayor and City Council
Joyce A. Wilson, City Manager
FROM: Ismael B. Segovia, Senior Planner
SUBJECT: ZON07-00154

The City Plan Commission (CPC), on June 18, 2008, voted unanimously to recommend **DENIAL** of the request to release conditions imposed by Ordinance No. 8527 dated April 22, 1986. The condition states:

“The property can only be used for warehouses or the storage of recreational vehicles.”

The CPC found that removing the condition is not in conformance with The Plan for El Paso and the proposed use is not in conformance with the Year 2025 Projected General Land Use Map. The CPC determined that the removal of the condition does not protect 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.

Applicant is seeking to appeal the denial recommendation made by CPC on June 18, 2008.

There were two letters in opposition to the request.

Attachment: Staff Report; Conceptual Site Plan, Ordinance No.8527 containing Special Contract dated April 22, 1986; 2 Letters in Opposition



ZON07-00154

Application Type: Zoning Condition Release
Property Owner(s): Eduardo Guzman
Representative(s): Eduardo Guzman
Legal Description: A portion of Lot 20 and 23, Block B, Pioneer Subdivision, City of El Paso, El Paso County, Texas
Location: 6540 Mohair Drive
Representative District: 4
Area: 0.94 acres
Present Zoning: C-4/sc (Commercial/special contract)
Present Use: Vacant
Proposed Request: Release zoning condition imposed by contract dated April 22, 1986 by Ordinance No. 8527 (attached)

Recognized Neighborhood
Associations Contacted: Northeast El Paso Civic Association
Public Response: 2 letters of opposition
Surrounding Land Uses: **North:** M-1 / vacant; **South:** C-3/sc / vacant; **East:** C-4/sc / automotive repair shop; **West:** C-4/sc / storage yard
Year 2025 Designation: **Mixed-Use, Industrial, Residential** (Northeast Planning Area)



General Information

The applicant requests the release of condition in a contract dated April 22, 1986 when the property was rezoned from R-F (Ranch and Farm) to C-4 (Commercial).

Release of this condition on the subject property will allow all permitted uses in the C-4 (Commercial) District. A related rezoning request is also being considered (ZON07-00125).

The condition considered to be released is as follows:

“The property can only be used for warehouses or the storage of recreational vehicles”

The C-4 (Commercial) uses in the area existed prior to the annexation of these properties in 1978 and the zoning designation was imposed up on annexation.

Staff Recommendation

The Development Coordinating Committee (DCC) recommends **approval** of this request and recommends imposing the following additional conditions:

“That the following uses be restricted:

Beverage Product Manufacturing; Commercial & Service Industry Manufacturing; Dairy Product Processing; Fabricated Metal Product Manufacturing; Grain & Oil Seed Milling; Leather & Allied Product Manufacturing; Recycling Collection Facility; and Truck Stop”

The recommendation is based on the following:

C-4 (Commercial) is compatible with adjacent C-4 (Commercial) uses. Restricting any manufacturing uses will protect the residential districts to the east and south of the subject property.

- The Plan for El Paso City-Wide Land Use Goals recommends that El Paso “protect residential areas from incompatible land uses and encroachment which may have a negative impact on the residential living environment”.
- The Year 2025 Projected General Land Use Map for the **Northeast Planning Area** designates this property for **Mixed-Use, Industrial** and **Residential** land uses.
- C-4 (Commercial) zoning is compatible with adjacent development.

Findings

The Commission must determine the following:

1. Will release of these conditions protect the best interest, health, safety and welfare of the public in general?
2. What is the relation of the proposed change to the city’s Comprehensive Plan?
3. Will the release of conditions be compatible with adjacent land uses?
4. What effect will this have upon the natural environment social and economic conditions and property values in the vicinity and in the city as a whole?

Development Services-Building Permits

No objection to the releasing of conditions imposed by contract dated April 22, 1986 through Ordinance No. 8527.

Development Services-Planning

Recommend approval of releasing existing conditions and imposing additional land use restrictions.

Engineering Department-Traffic

No objection to proposed zoning condition release.

Fire Department

No comments received.

El Paso Water Utilities

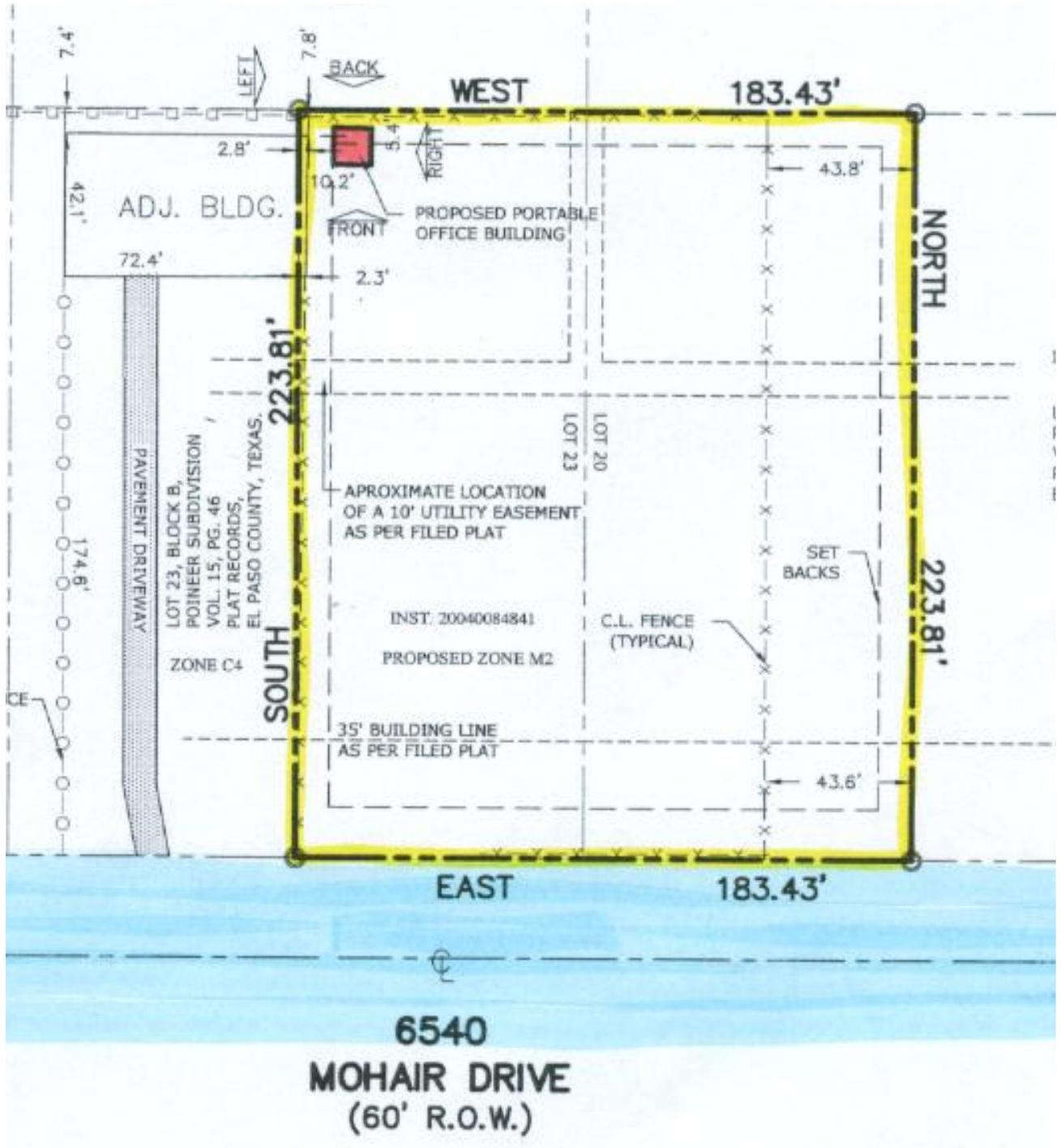
EPWU does not object to this request.



List of Attachments

- Attachment 1: Conceptual Site Plan
- Attachment 2: Contract dated April 22, 1986 by Ordinance No. 8527
- Attachment 3: Letters of opposition
- Attachment 4: Application

Attachment 1: Conceptual Site Plan



Attachment 2: Contract dated April 22, 1986 by Ordinance No. 8527

8527

AN ORDINANCE CHANGING THE ZONING OF LOTS 20, 23 AND 24, BLOCK B, PIONEER SUBDIVISION, THE PENALTY BEING AS PROVIDED IN SECTION 25-96 OF THE EL PASO CITY CODE

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

That the zoning of Lots 20, 23 and 24, Block B, Pioneer Sub-
Division be changed from R-4 (Residential) to C-4 (Commercial)
within the meaning of the zoning ordinance, subject to a special
contract placing certain restrictions, conditions and covenants
on the property, and that the zoning map of the City of El Paso
be revised accordingly.

PASSED AND APPROVED this 3rd day of December, 1985.

ATTEST:

Carolee Hunter
City Clerk

Justin W. Pappas
Mayor

APPROVED AS TO FORM:

Robert R. Bond
Assistant City Attorney

APPROVED AS TO CONTENT:

Ray Silyard
Planning Department

I certify that the zoning map has been revised to
reflect the amendment of ordinance #8527
Ray Silyard Date 5-12-86

I CERTIFY THAT THE FOLLOWING ZONING MAPS
HAVE BEEN REVISED: 2-0
5-12-86 COUNTER
5-12-86 ORIGINAL
5-12-86 Bldg. Inspection
5-12-86 CONTROL Ray Silyard

805106

RECEIVED
APR 23 1986
PLANNING DEPARTMENT

L. 8527
Contract dated 4/22/86

Attachment 2: Contract dated April 22, 1986 by Ordinance No. 8527

THE STATE OF TEXAS)
COUNTY OF EL PASO)

CONTRACT

THIS CONTRACT, made this 22nd day of April, 1986, by and between CONSOLIDATED INDUSTRIAL DEVELOPMENT OF EL PASO, INC., First Party, INTERFIRST BANK CHELMONT, NATIONAL ASSOCIATION, Second Party, and the CITY OF EL PASO, Third Party, witnesseth:

Application has been made to the City of El Paso for rezoning Lots 20, 23, and 24, Block B, Pioneer Subdivision, City and County of El Paso, Texas.

To remove certain objections to such rezoning, First Party covenants that if the property is rezoned from R-4 (Residential) to C-4 (Commercial) District within the meaning of the zoning ordinance of the City of El Paso, it shall be subject to the following restrictions, conditions and covenants:

The property can only be used for warehouses or the storage of recreational vehicles.

This agreement is a restriction, condition and covenant running with the land and a charge and servitude thereon, and shall bind First Party and its successors in title. Any future conveyance of the land shall contain this restriction, condition and covenant and shall embody this agreement by express reference.

The City may enforce this agreement by injunction or any other legal or equitable remedy. The City Council of the City of El Paso may amend or release the above restrictions, conditions and covenants in its discretion without the consent of any third person who may be benefited thereby, and without affecting the validity, or necessitating the amendment of, the ordinance passed by the City Council embodying this change of zoning and subject to this contract.

*Ord. 8527
dated 12/3/86*



Attachment 3: Letters of opposition

CITY PLAN COMMISSION
C/O DEVELOPMENT SERVICES DEPARTMENT
PLANNING DIVISION, 5TH FLOOR, CITY HALL
2 CIVIC CENTER PLAZA
EL PASO, TEXAS 79901-1196
JANUARY 28, 2008

RE: CASE NO. ZONO7-00125 & ZONO7-00154

DEAR PLANNING COMMISSION:

I OWN THE PROPERTY LOCATED AT 6515 ANGORA LOOP SO. WHICH IS ADJACENT TO SAID PROPERTY. I AM AGAINST CHANGING THE ZONING TO M-2 BECAUSE I BELIEVE MR. GUZMAN OWNS THE PROPERTY ADJACENT TO THIS PROPERTY ON MOHAIR AND HE WILL NOT BE THE ONE WHO OPERATES THE RECYCLING BUSINESS. I HAVE A LAW SUIT AGAINST A PREVIOUS OPERATOR ON THE SAME PROPERTY. THEIR LOTS HAVE NOT BEEN MAINTAINED IN AN ENVIRONMENT HEALTHY CONDITION.

I BELIEVE THAT AN INSPECTION BY THE PLANNING COMMISSION OF SAID PROPERTY AND ADJACENT PROPERTIES SHOULD BE MADE BEFORE A RULING IS MADE.

THANK YOU FOR YOUR CONSIDERATION,



HENRY A. MATTINGLY, CPA
6515 ANGORA LOOP SO.
EL PASO, TEXAS 79934

ENCLOSURES: PICTURES

RECEIVED
JAN 29 10 06 AM '08
CITY OF EL PASO
DEVELOPMENT SERVICES
DEPARTMENT

Attachment 3: Letters of opposition

CITY PLAN COMMISSION
C/O DEVELOPMENT SERVICES DEPARTMENT
PLANNING DIVISION, 5TH FLOOR, CITY HALL
2 CIVIC CENTER PLAZA
EL PASO, TEXAS 79901-1196
JANUARY 28, 2008

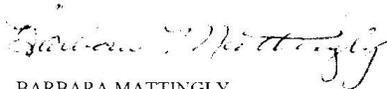
RE: CASE NO. ZON07-00125 & ZON07-00154

DEAR PLANNING COMMISSION:

I AM OPPOSED TO CHANGING THE ZONING ON THE PROPERTY LOCATED AT 6540 MOHAIR DRIVE TO M-2. I LIVE IN THE MOBILE HOME SUBDIVISION CLOSE BY AND WE HAVE ENOUGH PROBLEMS OUT HERE THAT DRAGS DOWN THE PROPERTY VALUES, WE DON'T NEED ANY MORE. THE PLACE LOOKS VERY TRASHY AND THE WALL AROUND IT LOOKS AWFUL. THE METAL PART HAS GRAFFITI ON IT MOST OF THE TIME. THE MOHAIR STREET IS ALL TRASHED OUT FROM THE BUSINESSES THAT WERE OPERATING IN THAT AREA. WHEN THE BUSINESSES WERE OPEN SOMETIMES YOU COULD NOT DRIVE DOWN TO DYER STREET, IT WOULD BE BLOCKED WITH ALL THE TRASH THEY WERE BRINGING IN AND WOULD LET SIT ON THE SIDE OF THE ROAD OR OUT IN THE ROAD. AS STATED ABOVE I AM STRONGLY OPPOSED TO CHANGING THE ZONING.

I AM SENDING THIS BECAUSE THE NOTIFICATION LETTER STATED THE MEETING WOULD BE HELD ON ~~JANUARY 31, 2008~~ REVISED TO FEBRUARY 14, 2008

THANK YOU FOR YOUR CONSIDERATION,



BARBARA MATTINGLY
12432 DESERT VIEW DR.
EL PASO, TEXAS 79934

CITY CLERK DEPT.

Attachment 4: Application

08 AUG -4 AM 10:57



ZONING CONDITION AMENDMENT OR
RELEASE APPLICATION
DEVELOPMENT SERVICES DEPARTMENT
PLANNING DIVISION

City of El Paso, Texas
2 Civic Center Plaza
El Paso, TX 79901-1196
915-541-4024

1. CONTACT INFORMATION

PROPERTY OWNER(S): Eduardo Guzman
ADDRESS: _____ ZIP CODE: 79934 PHONE: 695
APPLICANT(S): SAME
ADDRESS: _____ ZIP CODE: _____ PHONE: _____
REPRESENTATIVE(S): SAME
ADDRESS: _____ ZIP CODE: _____ PHONE: NOV 19 2007
E-MAIL ADDRESS: _____ FAX: _____

2. PARCEL ONE INFORMATION

PROPERTY IDENTIFICATION NUMBER: P 850-999 0030-2025
LEGAL DESCRIPTION: 3 Pioneer portion of Lot 20 + 23
STREET ADDRESS OR LOCATION: 6540 Mohair REP DISTRICT: 4
ACREAGE: .94 PRESENT ZONING: C4/C PRESENT LAND USE: VACANT
REASON FO REQUEST: Recycling Center

3. PARCEL TWO INFORMATION

PROPERTY IDENTIFICATION NUMBER: _____
LEGAL DESCRIPTION: _____
STREET ADDRESS OR LOCATION: _____ REP DISTRICT: _____
ACREAGE: _____ PRESENT ZONING: _____ PRESENT LAND USE: _____
REASON FO REQUEST: _____

4. PARCEL THREE INFORMATION

PROPERTY IDENTIFICATION NUMBER: _____
LEGAL DESCRIPTION: _____
STREET ADDRESS OR LOCATION: _____ REP DISTRICT: _____
ACREAGE: _____ PRESENT ZONING: _____ PRESENT LAND USE: _____
REASON FO REQUEST: _____

5. ADDITIONAL INFORMATION

OWNER(S) OF RECORD FOR THE ABOVE DESCRIBED PARCEL(S):
Printed Name: Eduardo Guzman Signature: Eduardo Guzman
Printed Name: _____ Signature: _____
Printed Name: _____ Signature: _____

Note: Signatures are required for all owners of record for the property proposed for condition release. Attach additional signatures on a separate sheet of paper.

****OFFICE USE ONLY****
ZON D7-00154 RECEIVED DATE: 11/19/07 APPLICATION FEE: \$ 190.00%
DCC REVIEW DATE: 12/19/07 (8:30 am, Conference Room, 2nd Floor, City Hall Building)
CPC REVIEW DATE: 01/17/08 (1:30 pm, City Council Chambers, 2nd Floor, City Hall Building)
ACCEPTED BY: ART B. AL

CITY CLERK DEPT.

08 AUG -4 AM 10 APPEAL TO THE CITY COUNCIL

DATE: 7/7/08

HONORABLE MAYOR AND CITY COUNCIL
CITY OF EL PASO, TEXAS

DEAR MAYOR AND COUNCIL:

After a public hearing held on 19th of June, 2008, the
City Council denied my request for
rezoning from C4 to M2

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08 JUL -7 PM 3:27

legally described as: west 85.93 feet of Lot 23 and
east 27, 50 of Lot 20 Block B-
pioneer subdivisions,

I hereby request the City Council to review the decision of the release
of conditions AND CONSIDER MY REQUEST

SET OUT ABOVE. I AM ATTACHING A LETTER SETTING FORTH MY
REASONS FOR BELIEVING THEIR DECISION TO BE IN ERROR.

Edwards Gorman Jr.
APPLICANT

ADDRESS

TELEPHONE NUMBER

Two (2) copies filed in City Clerk's Office on: _____

CITY CLERK DEPT.
08 AUG -4 AM 10:59

To whom it may concern:
My name is Eduardo Luyman Jr. I also want to
ask for an appeal for the release of
condition on legal description West 85.93
of lot 23 and East 97.50 of lot 20
Block B. pioneer subdivision. The reason
for the petition is that current condition
is only limited to have storage buildings
and parking for recreational vehicles
which limits the operation of a recycling
center and scrap metal services.

Sincerely,
Eduardo Luyman Jr.

CITY CLERK DEPT.
08 JUL -7 PM 3:27