

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

**DEPARTMENT:** Development Services/Planning Division

**AGENDA DATE:** Resolution 09/05/06

**CONTACT PERSON/PHONE:** Esther Guerrero, Planner – 541-4720

**DISTRICT(S) AFFECTED:** #2

**SUBJECT:**

That the City Manager be authorized to sign a Partial Release of Contract by and between the City of El Paso and Michael Johnson, successor in title and interest, releasing Condition 1., in the Contract dated January 2, 1979, for the property described as Lots 15, 16, and the West 17 feet of Lot 14, Block 109, Grandview Addition, El Paso, El Paso County, Texas, and imposing further conditions.

Subject Property: 3100 Dyer Street. Applicant: Michael Johnson. ZON06-00078 (District 2)

**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:** Alan Shubert

**APPROVED FOR AGENDA:**

JOHN COOK  
MAYOR

JOYCE WILSON  
CITY MANAGER



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**

August 14, 2006

**TO:** The Honorable Mayor and City Council  
Ms. Joyce A. Wilson

**FROM:** Esther Guerrero, Planner

**SUBJECT: ZON06-00078**

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The City Plan Commission (CPC), on July 20, 2006, voted **(5-0)** to recommend **approval** to release the condition which restricts this property to a child care facility and for no other use. The property is currently zoned C-1/sc (Commercial/special contract) and the applicant has stated that the subject property will be utilized as an office and retail use. The CPC recommended the release of the condition and imposing further conditions, concurring with staff's recommendation.

The following are the conditions that the CPC recommends imposing:

- (a) *Banks, or other similar financial institutions, drive-in or otherwise; and,*
- (b) *Copy shops; and,*
- (c) *Dry Cleaning shop, Laundromat or laundries; and,*
- (d) *Restaurants or ice cream parlors, including drive-in restaurants; and,*
- (e) *All automotive uses including stores and shops with or without gasoline or diesel fueling pumps for refueling motor vehicles; and,*
- (f) *Outdoor flea markets.*

The CPC found that the release of the condition restricting this property to a child care facility only and imposing additional conditions 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, which designates the subject property for Mixed-Use land uses.

The CPC also determined that these conditions protect the best interest, health, safety, and welfare of the public in general; that the proposed use is compatible with adjacent land uses; and the effects of the release of condition and imposing further conditions will have no effects on the natural environment, social economic conditions, and property values in the vicinity and the city as a whole.

There were no calls or letters in support or opposition to this request.

**Attachments:** Staff Report, Location Map, Aerial, Site Plan

**RESOLUTION**

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

THAT the City Manager be authorized to sign a Partial Release of Contract by and between the City of El Paso and Michael Johnson, successor in title and interest, releasing Condition 1., in the Contract dated January 2, 1979, for the property described as *Lots 15, 16, and the West 17 feet of Lot 14, Block 109, Grandview Addition, El Paso, El Paso County, Texas,* and imposing further conditions.

**ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

THE CITY OF EL PASO

ATTEST:

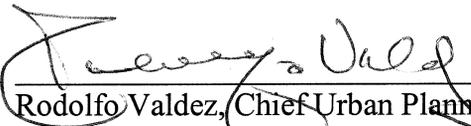
\_\_\_\_\_  
John F. Cook  
Mayor

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

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Carolyn J. Gosby  
Assistant City Attorney

APPROVED AS TO CONTENT:

  
\_\_\_\_\_  
Rodolfo Valdez, Chief Urban Planner  
Development Services Department



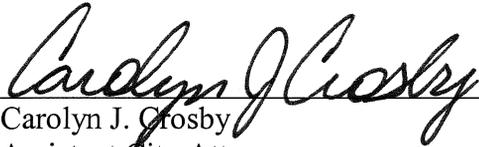
EXECUTED this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

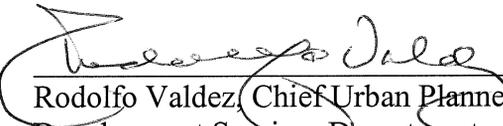
THE CITY OF EL PASO

\_\_\_\_\_  
Joyce A. Wilson, City Manager

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

  
\_\_\_\_\_  
Carolyn J. Crosby  
Assistant City Attorney

  
\_\_\_\_\_  
Rodolfo Valdez, Chief Urban Planner  
Development Services Department

**ACKNOWLEDGMENT**

THE STATE OF TEXAS    )  
  )  
COUNTY OF EL PASO    )

This instrument is acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_, 2006, by Joyce Wilson as City Manager, on behalf of City of El Paso.

My Commission Expires:

\_\_\_\_\_  
Notary Public, State of Texas  
Notary's Printed or Typed Name:  
\_\_\_\_\_

**Zoning Case No: ZON06-00078**



CONTRACT

This contract, made this 2nd day of January, 1978,  
by and between RAMON ORONA (not joined by his wife because the  
hereinafter described property has never been part of their  
homestead), First Party, EL PASO FEDERAL SAVINGS AND LOAN  
ASSOCIATION, a corporation, Second Party, and the CITY OF EL PASO,  
Third Party, witnesseth:

Application has been made to the City of El Paso for rezoning  
of Lots 9 through 16, Block 109, Grandview Addition in the City  
of El Paso, El Paso County, Texas. In order to remove certain  
objections to such rezoning, First Party covenants that if the  
property is rezoned to C-1 (Commercial) within the meaning of the  
zoning ordinance of the City of El Paso, it shall be subject to  
the following restrictions, conditions and covenants:

1. The property shall be used as the site for a child care  
facility and for no other purpose. The term "child care facility"  
as used in this paragraph shall mean: the use of a structure or  
portion thereof, for the care of seven or more children (not  
constituting a family), for or without compensation. Such term  
includes nursery, day care center, and kindergarten.

2. If the property is ever used for any purpose other than  
a child care facility, the City of El Paso shall have the right  
to rezone the property to A-0 (Apartment-Office) within the meaning  
of the zoning ordinance of the City of El Paso.

The provisions of this contract shall be restrictions, condi-  
tions and covenants running with the land and a charge and servitude  
thereon, and shall bind First Party and his successors in title.  
Any future conveyance of the land shall contain these restrictions,  
conditions and covenants and shall embody this contract by express  
reference.

The City may enforce this contract by injunction or any other  
legal or equitable remedy. The City Council of the City of El Paso  
may release the above restrictions, conditions and covenants in its  
discretion without the consent of any third person who may be benefited  
thereby.

78-4295

Second Party is the owner and holder of recorded liens on the above property and consents to this contract.

WITNESS THE FOLLOWING SIGNATURES AND SEALS:

Ramon Orona  
Ramon Orona

EL PASO FEDERAL SAVINGS AND LOAN ASSOCIATION, a Corporation

By John Jaye  
President

ATTEST:

L. Ann Miller  
Assistant Secretary

THE CITY OF EL PASO

By James Pro-Tem  
Mayor Pro-Tem

ATTEST:

Will Rogers  
City Clerk

APPROVED AS TO FORM:

David A. R. [Signature]  
City Attorney

THE STATE OF TEXAS )  
COUNTY OF EL PASO )

BEFORE ME, the undersigned authority, on this day personally appeared RAMON ORONA, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 2 day of January, 1979.

My Commission Expires: \_\_\_\_\_

James A. Holstern  
Notary Public, El Paso County, Texas

JAMES A. HOLSTERN, Notary Public  
in and for El Paso County, Texas  
My commission expires Feb. 21, 1980

78-4295

THE STATE OF TEXAS )  
COUNTY OF EL PASO )

BEFORE ME, the undersigned authority, on this day personally appeared Robert M. Payne President of EL PASO FEDERAL SAVINGS AND LOAN ASSOCIATION, a corporation, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged before me that the same was the act of said corporation, and that he executed the same as the act of such corporation for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 2nd day of January, 1978. 9

Angela C. Guillen  
Notary Public, El Paso County, Texas

My Commission Expires:  
ANGELA C. GUILLEN, Notary Public  
In and for the County of El Paso, Texas

My Commission Expires 9/30/80

THE STATE OF TEXAS )  
COUNTY OF EL PASO )

BEFORE ME, the undersigned authority, on this day personally appeared Don M. Ponder Mayor Pro-Tem of the City of El Paso, known to me to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged before me in my county aforesaid that he had executed the same for the purposes and consideration and in the capacity therein expressed, and as the act and deed of the City of El Paso.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 9th day of January, 1978. 9

Angela C. Guillen  
Notary Public, El Paso County, Texas

My Commission Expires:  
ANGELA C. GUILLEN, Notary Public  
In and for the County of El Paso, Texas

My Commission Expires 9/30/80

ANGELA C. GUILLEN, Notary Public  
In and for the County of El Paso, Texas  
My Commission Expires 9/30/80

78-4295