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

DEPARTMENT: **Development Services Department, Planning Division**

AGENDA DATE: **Introduction: September 1, 2009**
Public Hearing: September 22, 2009

CONTACT PERSON/PHONE: Linda Castle, (915) 541-4029, castlelj@elpasotexas.gov

DISTRICT(S) AFFECTED: 6

SUBJECT:
An Ordinance granting Special Permit No. ZON08-00060, to allow for a planned residential development with reduced setbacks and reduced lot width on Tract 71, Section 3, Block 79, Township 3, Texas and Pacific Railway Company Survey, City of El Paso, El Paso County, Texas, pursuant to section 20.04.270 (Zoning) of the El Paso City Code. The penalty is as provided for in Chapter 20.24 of the El Paso City Code. Subject Property: East of Shreya Street and Northeast of Windermere Avenue. Applicants: Walnut Creek, LLC, ZON08-00060 (District 6).

BACKGROUND / DISCUSSION:
See attached report.

PRIOR COUNCIL ACTION:
There is a related annexation case (AN08001) and a related rezoning case to change the zoning from R-F (Ranch and Farm) to R-5 (Residential) (ZON08-00036)

AMOUNT AND SOURCE OF FUNDING:
N/A

BOARD / COMMISSION ACTION:
Development Coordinating Committee (DCC) – Denial Recommendation
City Plan Commission (CPC) – Approval Recommendation (4-1)

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

LEGAL: N/A **FINANCE:** N/A

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

APPROVED FOR AGENDA:

CITY MANAGER: _____ **DATE:** _____

ORDINANCE NO. _____

AN ORDINANCE GRANTING SPECIAL PERMIT NO. ZON08-00060, TO ALLOW FOR A PLANNED RESIDENTIAL DEVELOPMENT WITH REDUCED SETBACKS AND REDUCED LOT WIDTH ON TRACT 71, SECTION 3, BLOCK 79, TOWNSHIP 3, TEXAS AND PACIFIC RAILWAY COMPANY SURVEYS, CITY OF EL PASO, EL PASO COUNTY, TEXAS, PURSUANT TO SECTION 20.04.270 (ZONING) OF THE EL PASO CITY CODE. THE PENALTY IS AS PROVIDED FOR IN CHAPTER 20.24 OF THE EL PASO CITY CODE.

WHEREAS, Walnut Creek, LLC, has applied for a Special Permit under Section 20.04.270 of the El Paso City Code, to allow for a planned residential development to permit reduced setbacks, and reduced lot width; and,

WHEREAS, a report was made to the City Plan Commission and a public hearing was held regarding such application; and,

WHEREAS, the City Plan Commission has recommended approval of the subject Special Permit; and,

WHEREAS, the subject Special Permit has been submitted to the City Council of the City of El Paso for review and approval; and,

WHEREAS, the City Council of the City of El Paso finds that, except to the extent waived by City Council, the application conforms to all requirements of Section 20.04.320.D of the El Paso City Code.

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

1. That the property described as follows is in **R-5 (Residential)** District:

   Tract 71, Section 3, Block 79, Township 3, Texas and Pacific Railway Company Surveys, City of El Paso, El Paso County, Texas, as more particularly described by metes and bounds on the attached Exhibit "A", incorporated by reference; and,

2. That a planned residential development is authorized by Special Permit in **R-5 (Residential)** district under Section 20.08.030 of the El Paso City Code; and,

3. That the requirements for a planned residential development under Section 20.04.270 have been satisfied; and,

4. That the City Council hereby grants a Special Permit under Section 20.04.270 of the El Paso City Code, in order to allow a planned residential development on the above-

described property to allow for Planned Residential with reduced setbacks, and reduced lot widths; and,

5. That this Special Permit is issued subject to the development standards in the **R-5 (Residential)** district regulations and subject to the approved Site Development Plan, signed by the Applicant, the City Manager and the Executive Secretary to the City Plan Commission. A copy of this plan is attached hereto as Exhibit "B" and incorporated herein by reference for all purposes; and,

6. That the Applicant shall sign an Agreement incorporating the requirements of this Ordinance. Such Agreement shall be signed and filed with the Zoning Administrator and the Executive Secretary of the City Plan Commission before building permits are issued; and,

7. That if the Applicant fails to comply with any of the requirements of this Ordinance, **Special Permit No. ZON08-00060** shall automatically terminate, and construction shall stop or occupancy shall be discontinued, until any such violation ceases.

PASSED AND APPROVED this _____ day of _____, 2009.

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:

_____
Mathew S. McElroy
Deputy Director – Planning
Development Services Department

AGREEMENT

Walnut Creek, LLC., the Applicant referred to in the above Ordinance, hereby agrees to develop the above-described property in accordance with the approved Site Development Plan and in accordance with the standards identified in the **R-5 (Residential)** District regulations, and subject to all other requirements set forth in this Ordinance.

EXECUTED this _____ day of _____, 2009.

By: _____
(name/title)

_____
(signature)

ACKNOWLEDGMENT

THE STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument is acknowledged before me on this _____ day of _____, 2009, by _____, on behalf of **Walnut Creek, LLC,** as Applicant.

My Commission Expires:

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

Being Tract 71, Section 3, Block 79, Tsp. 3,
Texas and Pacific Railway Company Surveys,
El Paso County, Texas
April 15, 2008
(Parcel 1, R-5)

METES AND BOUNDS DESCRIPTION

Description of a parcel of land being Tract 71, A/K/A the west 1/2, of the southwest 1/4, of the southwest 1/4, of the southwest 1/4, of Section 3, Block 79, Tsp. 3, Texas and Pacific Railway Company Surveys, El Paso County, Texas, and being more particularly described by metes and bounds as follows:

"**TRUE POINT OF BEGINNING**" being a found 1" iron rod held for the southwest corner of Section 4; Whence a found 1" iron rod held for the southeast corner of Section 4 bears North 89°58'43" East a distance of 5313.63 feet

Thence, **North 00°33'24" West** a distance of **651.85** feet to a point;

Thence, **North 89°58'46" East** a distance of **332.09** feet to a point;

Thence, **South 00°33'27" East** a distance of **651.85** feet to a point;

Thence, South 89°58'43" West a distance of 332.10 feet to "**TRUE POINT OF BEGINNING**" and containing in all 216,467 square feet or **4.969** acres of land more or less.

Zoning Plat dated March 25, 2008 accompanies this metes and bounds description.

Not a ground survey.

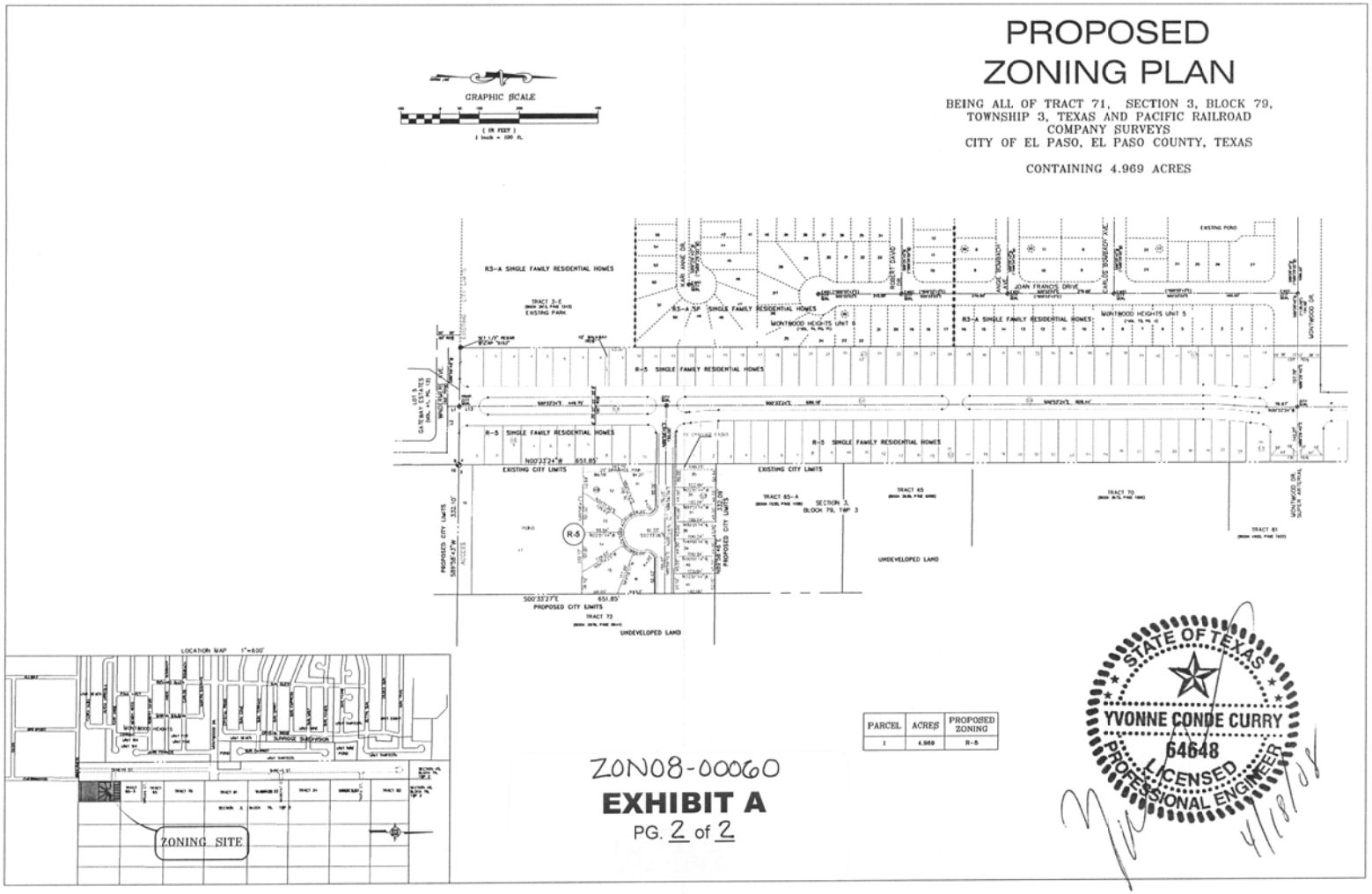
STATE OF TEXAS
REGISTERED
RONALD ROBERT CONDE
5152
PROFESSIONAL
LAND SURVEYOR

4-15-08

Ron R. Conde
R.P.L.S. No. 5152

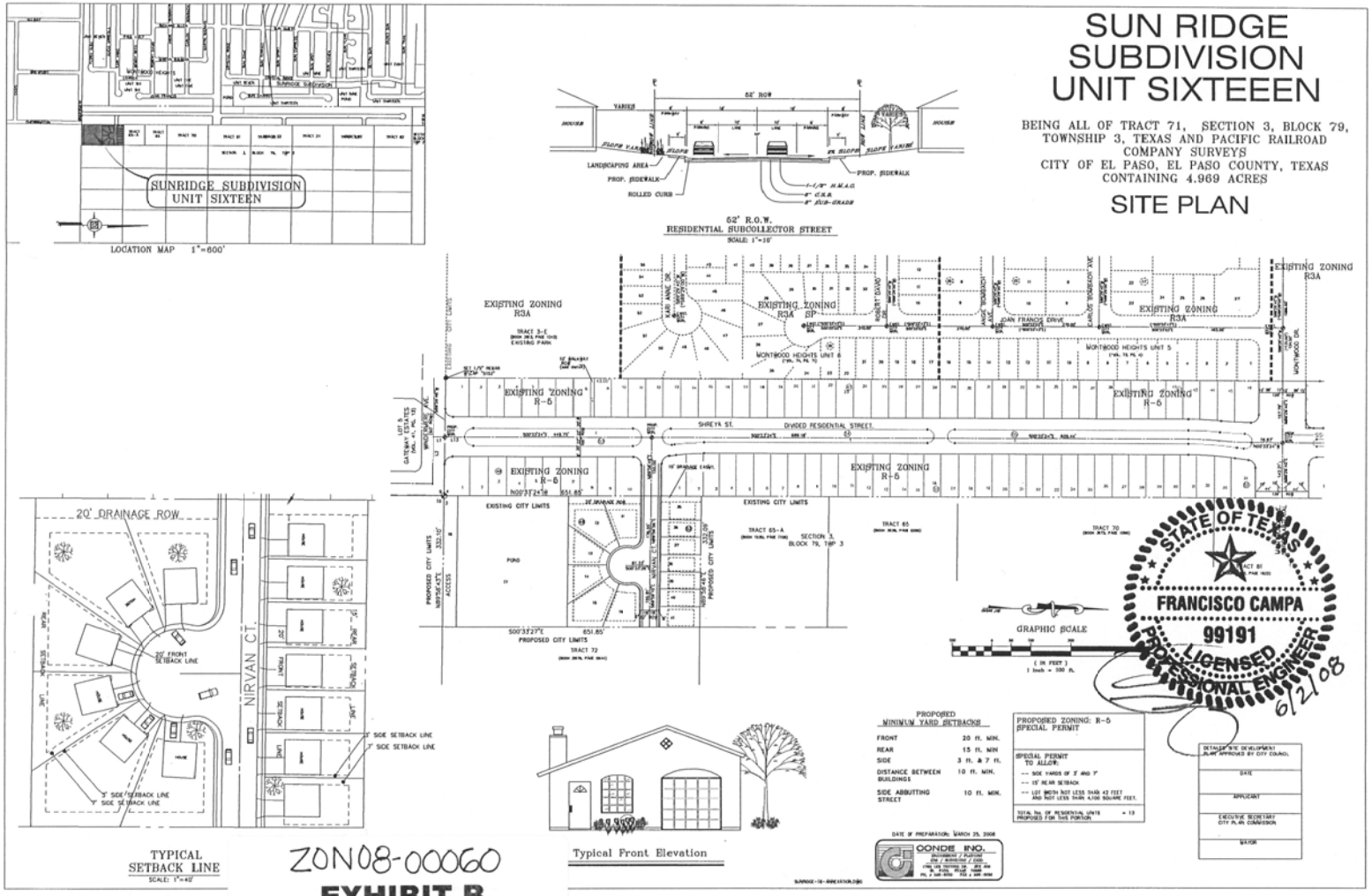
ZON08-00060
EXHIBIT A
PG. 1 of 2

CONDE, INC.
ENGINEERING / LAND SURVEYING / PLANNING
1790 LEE TREVINO SUITE 400 / EL PASO, TEXAS 79936 / (915) 592-0283



ORDINANCE NO._____

Special Permit No. ZON08-00060



Doc #41717/Planning/Ord/ZON08-00060/LCUE

ORDINANCE NO._____

Special Permit No. ZON08-00060

M E M O R A N D U M

DATE: August 24, 2009

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

FROM: Linda Castle, Senior Planner

SUBJECT: Special Permit - **ZON08-00060**

The City Plan Commission (CPC), on July 31, 2008, voted **4-1** to recommend **APPROVAL** of special permit to allow for reduced setbacks and lot width no less than 42' (4,100 sq. ft.) minimum against the recommendations from staff and the DCC. The recommendation from staff and the DCC were **DENIAL** of the special permit and detailed site development plan for the property.

Staff and the DCC determined the application does not comply with the citywide land use goals. The proposed residential development is requesting that the lot widths be reduced past the minimum lot widths allowed for the City's highest density single-family residential district. As per Title 20 Section 20.04.320(5) Special Permit approvals, the design of the proposed development needs to mitigate substantial environmental problems and this case does not show that environmental problems are mitigated by the requested variable setbacks and reduced lot widths.

There is a related annexation (AN08001) and rezoning request (ZON08-00036) for subject property. The request is to rezone the subject property to R-5 (Residential).

The CPC found that the rezoning is in conformance with The Plan for El Paso. The CPC found that the proposed use is in conformance with the 2025 Projected General Land Use Map for the Northeast Planning Area. The proposed development is compatible with adjacent land uses. The CPC also determined that the rezoning protects 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.

There was no opposition to this request.

Attachment: Staff Report, Zoning Map, Aerial Map, Detailed Site Development Plan

Case No:	ZON08-00060
Application Type	Special Permit and Detailed Site Development Plan
CPC Hearing Date	July 31, 2008
Staff Planner	Ismael B. Segovia, 915-541-4027, segoviaib@elpasotexas.gov
Location	East of Shreya Street and Northeast of Windermere Avenue
Legal Description	Tract 71, Section 3, Block 79, Township 3, Texas and Pacific Railway Company Surveys, El Paso County, Texas
Acreage	4.969
Rep District	6
Existing Use	Vacant
Existing Zoning	R-F (Ranch and Farm)
Proposed Zoning	R-5 (Residential)
Property Owner	Walnut Creek, LLC.
Representative	Conde, Inc.

SURROUNDING ZONING AND LAND USE
North: ETJ; Vacant
South: ETJ; Quarry
East: ETJ; Vacant
West: R-5/sp (Residential/special permit); Single-family residential dwellings

THE PLAN FOR EL PASO DESIGNATION: Residential

NEIGHORHOOD ASSOCIATIONS: Las Tierra Neighborhood Association; East Side Civic Association

APPLICATION DESCRIPTION

The applicant is requesting a special permit and detailed site development plan for residential development. The special permit is to allow variable setbacks and lot width less than 45'. The special permit request the following setbacks: front setbacks to be 20 ft; rear setbacks to be 15 ft; and side yard setbacks to be 3 ft. and 7 ft. on the sides. The site is vacant and is 4.969 acres in size. The detailed site development plan shows 13 single family houses and a pond on the site. Access is proposed via Nirvan Court. There are no zoning conditions imposed on this property.

This special permit and detailed site development plan request is associated with annexation case (AN08001) and rezoning request (ZON08-00036). If annexed, the property will be zoned R-F (Ranch-Farm). The rezoning request is to change the zoning from R-F (Ranch and Farm) to R-5 (Residential).

NEIGHBORHOOD INPUT

Notice of the public hearing was mailed to all property owners within 300 feet of this proposed special permit and detailed site development plan. Planning did not receive any calls or letters in support or opposition.

DEVELOPMENT COORDINATING COMMITTEE

The Development Coordinating Committee provides the following comments:
Recommends **denial** of the special permit and detailed site development plan request.

Development Services Department - Building Permits and Inspections Division
No comments received

Development Services Department - Planning Division
Current Planning:

- The Year 2025 Projected General Land Use Map for the East Planning Area designates this property for Residential land uses.
- R-5 (Residential) zoning permits lots with a minimum lot area of 4,500 sq. ft. The special permit would allow variable setbacks and lot width no less than 42' (4,100 sq. ft.) min. Planning recommends **denial** of the special permit request and detailed site development plan.

Land Development:

- ADA accessible Sidewalks, Wheel-chair ramp(s), and Driveway(s) will be required.*****
- Grading plan and permit shall/may be required.*****
- Storm Water Pollution Prevention plan and/or permit shall/may be required.*
- Drainage plans must be approved by the City Engineer.*
- No water runoff allowed outside the proposed development boundaries.*
- Additional Comments: Site location is located within a Special Flood Hazard Area, Flood Zone(s) AH, Panel 480214 0044 C. The buildings will have to be built at or above the Base Flood Elevation for the area, confirmed by elevation certificates.

* This requirement will be applied at the time of development.

Engineering Department - Traffic Division
No objections to proposed zoning change.

Fire Department
No opposition at this time.

El Paso Water Utilities
EPWU does not object to this request.

The Plan for El Paso –City-wide Land Use Goals
All applications for a special permit and detailed site development plan shall demonstrate compliance with the following criteria:

a. Goal: develop a balanced and complete community which contains a mix of land uses and densities, housing types and styles, economic development, job opportunities, educational opportunities, and outlets for social and cultural expression.

b. Goal: provide and enforce standards for providing decent, safe and sanitary housing for all El Pasoans in accordance with federal, state and local regulations.

c. Goal: provide a wide range of housing types that respond to the needs of all economic segments of the community.

d. Goal: protect residential areas from incompatible land uses and encroachment which may have a negative impact on the residential living environment.

The application does not comply with the City-wide Land Use Goals. The proposed residential development is requesting that the lots widths be reduced past the minimum lot widths allowed for

the City's highest single-family residential district, thus creating smaller lots that would have a negative impact on the residential living environment. The development also does not provide a mixture of land uses or economic development opportunities for the abutting residential zoning districts. The goals require that a wide variety of housing types are provided in developments, but here the development is proposing only to develop high-density single-family dwelling.

CITY PLAN COMMISSION OPTIONS

The City Plan Commission may consider the following options and additional options that it identifies when reviewing the special permit and detailed site development plan application

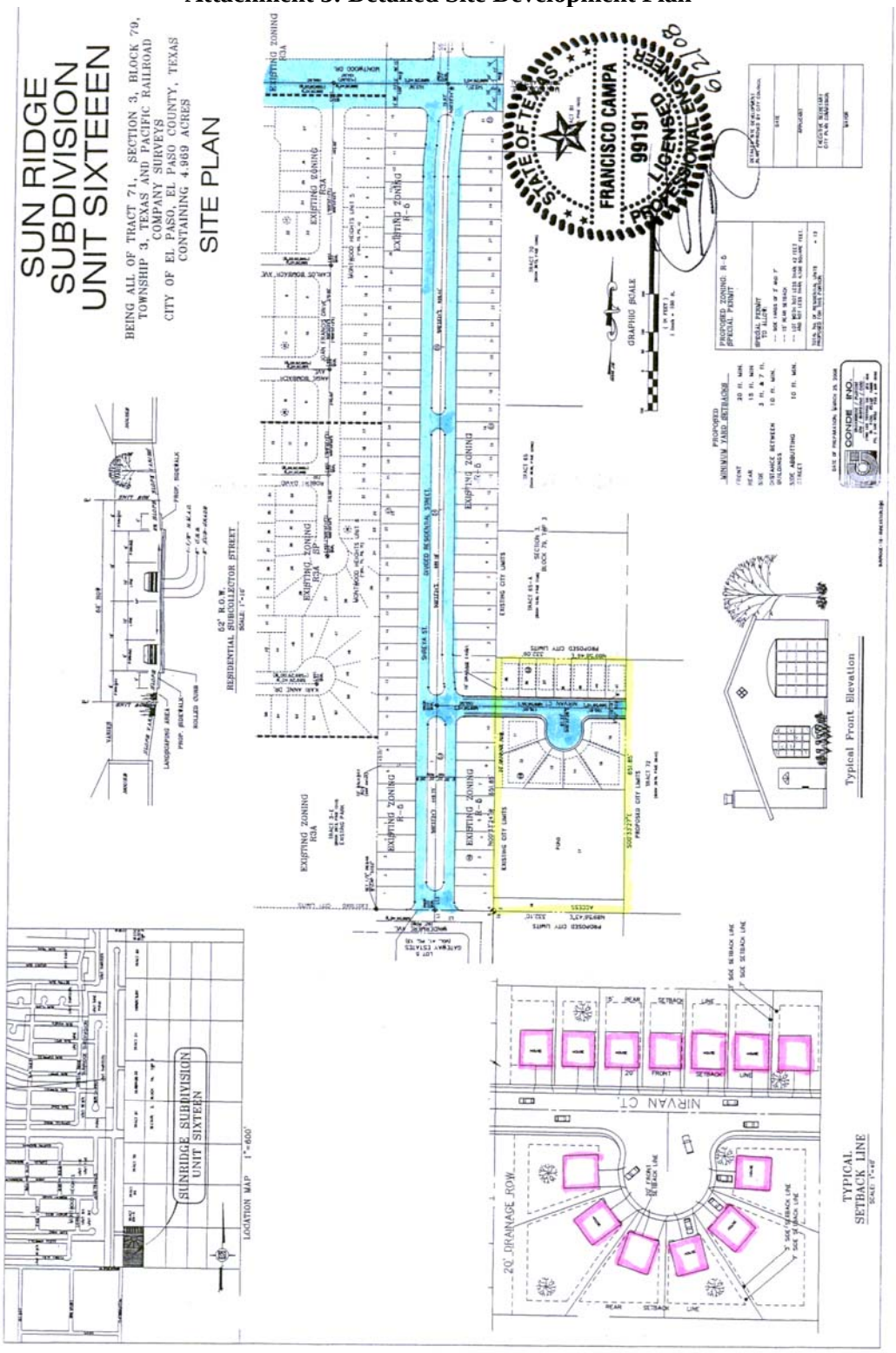
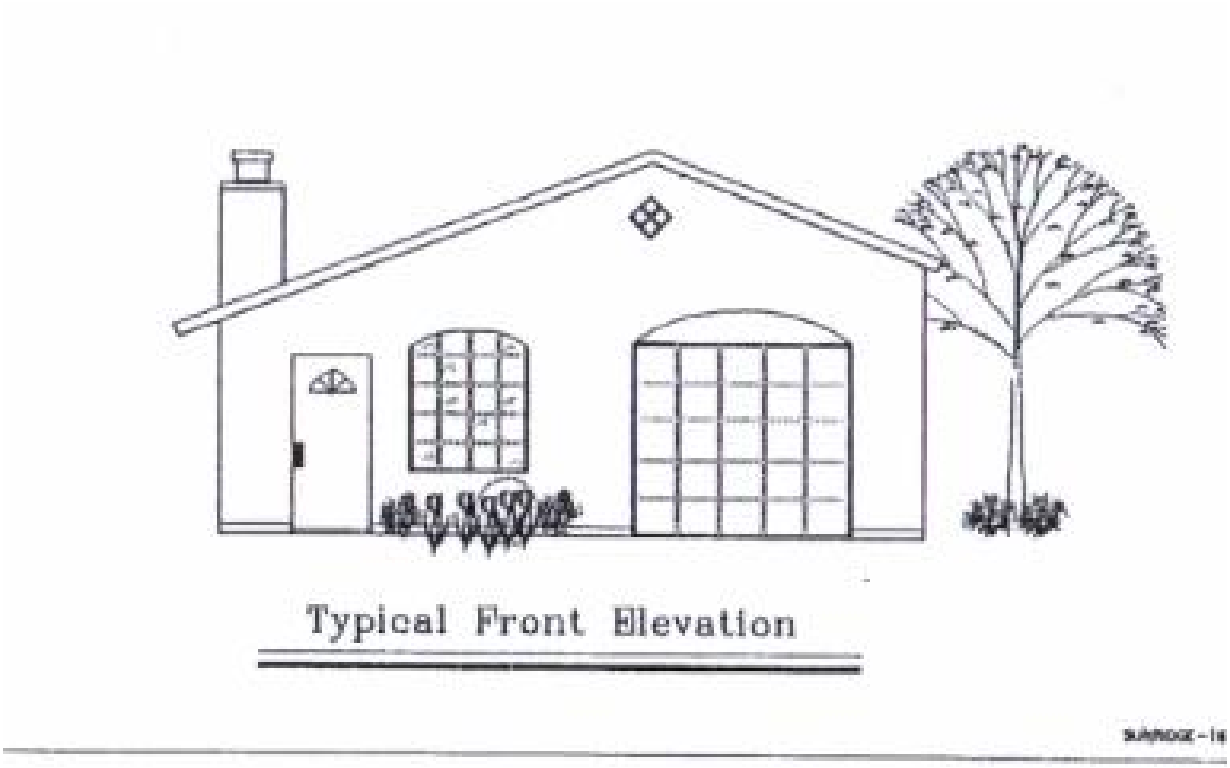
1. Recommend approval of the application finding that the special permit and detailed site development plan is in conformance with the review criteria of The Plan for El Paso as reflected in CPC report or other criteria that the CPC identifies from the Plan
2. Recommend approval of the application with modifications to bring the special permit and detailed site development plan into conformance with the review criteria in The Plan for El Paso as reflected in CPC report or other criteria from the Plan as identified by the CPC.
3. Deny the application finding that the special permit and detailed site development plan does not conform to the review criteria in The Plan for El Paso as reflected in CPC report or other criteria identified from the Plan by the CPC.

Attachments
Attachment 1: Zoning Map
Attachment 2: Aerial Map
Attachment 3: Detailed Site Development Plan
Attachment 4: Elevations

Attachment 1: Zoning Map

Attachment 2: Aerial Map

Attachment 3: Detailed Site Development Plan



Attachment 4: Side Elevations