

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

DEPARTMENT: Development Services/Planning Division
AGENDA DATE: Public Hearing: Resolution 09/26/06
CONTACT PERSON/PHONE: Christina Valles, Senior Planner – 541-4930
DISTRICT(S) AFFECTED: #8

SUBJECT:

A Resolution that the City Manager be authorized to sign a Partial Release of Contract releasing Conditions 1, 2, and 3 set forth in the Contract entered into on October 18, 1973, by and between Mortgage Investment Company of El Paso, Texas; Individual Homes, Inc.; Celeste Raspberry, Individually and as Independent Executrix of the Estate of J. L. Raspberry, deceased; Louise Murchison, Individually and as Independent Executrix of the Estate of S. M. Murchison, deceased; Jonathan Rogers, and Patricia Murchison Rogers and the City of El Paso (hereinafter the "Contract"), placing conditions on real property described as Lot 1, Block 3, Medical Center Plaza and a portion of Block 14, Highland Park Addition, El Paso, El Paso County, Texas (hereinafter, the "Property"), and imposing a further condition. Subject Property: 1810 Murchison Drive. Applicant: Ready One Industries, Inc. ZON06-00093 (District 8)

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:

R E S O L U T I O N

WHEREAS, a contract was entered into on October 18, 1973, by and between Mortgage Investment Company of El Paso, Texas; Individual Homes, Inc.; Celeste Rasberry, Individually and as Independent Executrix of the Estate of J. L. Rasberry, deceased; Louise Murchison, Individually and as Independent Executrix of the Estate of S. M. Murchison, deceased; Jonathan Rogers, and Patricia Murchison Rogers and the City of El Paso (hereinafter the "Contract"), placing conditions on real property described as Lot 1, Block 3, Medical Center Plaza and a portion of Block 14, Highland Park Addition, El Paso, El Paso County, Texas (hereinafter, the "Property"); and

WHEREAS, the Contract was amended on December 15, 1974, and such amendment modified Condition 3 of the Contract and released Condition 4 of the Contract; and

WHEREAS, Ready One Industries, Inc. (hereinafter, the "Owner"), successor in title and interest to the Property, has applied for a release of the remaining conditions imposed by the Contract;

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, releasing Conditions 1, 2, and 3 set forth in the Contract and imposing a further condition.

ADOPTED this _____ day of _____, 2006.

THE CITY OF EL PASO

ATTEST:

John F. Cook
Mayor

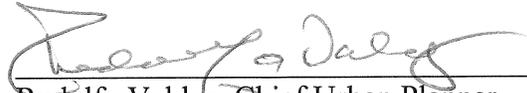
Richarda Duffy Momsen,
City Clerk

APPROVED AS TO FORM:



Hillary S. McGinnes
Assistant City Attorney

APPROVED AS TO CONTENT:



Rodolfo Valdez, Chief Urban Planner
Development Services Department

THE STATE OF TEXAS
COUNTY OF EL PASO

}
}
}

**PARTIAL
RELEASE OF CONTRACT**

WHEREAS, a contract, attached as Exhibit "A," was entered into on October 18, 1973, by and between Mortgage Investment Company of El Paso, Texas; Individual Homes, Inc.; Celeste Rasberry, Individually and as Independent Executrix of the Estate of J. L. Rasberry, deceased; Louise Murchison, Individually and as Independent Executrix of the Estate of S. M. Murchison, deceased; Jonathan Rogers, and Patricia Murchison Rogers and the City of El Paso (hereinafter the "Contract"), placing conditions on real property described as Lot 1, Block 3, Medical Center Plaza and a portion of Block 14, Highland Park Addition, El Paso, El Paso County, Texas, as more particularly described in the attached Exhibit "B" (hereinafter, the "Property"); and

WHEREAS, the Contract was amended on December 15, 1974, and such amendment modified Condition 3 of the Contract and released Condition 4 of the Contract; and

WHEREAS, Ready One Industries, Inc. (hereinafter, the "Owner"), successor in title and interest to the Property, has applied for a release of the remaining conditions imposed by the Contract;

WHEREAS, the City Plan Commission and City Council have reviewed the conditions once made necessary by the rezoning and is now of the determination that, due to changed conditions in the area, such conditions are no longer necessary to ensure compatibility with adjacent land uses and should be partially released.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the Parties agree as follows:

1. The Contract is hereby amended to release Conditions 1, 2, and 3, on the property described as *Lot 1, Block 3, Medical Center Plaza and a portion of Block 14, Highland Park Addition*, in the City of El Paso, El Paso County, Texas, as more particularly described in the attached Exhibit "B."

Zoning Case No: ZON06-00093

CONTRACT

This contract, made this 19th day of October, 1973, by and between MORTGAGE INVESTMENT COMPANY, OF EL PASO, TEXAS, a corporation, INDIVIDUAL HOMES, INC., CELESTE RASBERRY, Individually and as Independent Executrix of the Estate of J. L. RASBERRY, deceased, LOUISE MURCHISON, Individually and as Independent Executrix of the Estate of S. M. MURCHISON, deceased, JONATHAN ROGERS and wife, PATRICIA MURCHISON ROGERS, First Parties, and the CITY OF EL PASO, Second Party, witnesseth:

Application has been made to the City of El Paso for rezoning of a portion of H. F. Fisher Survey No. 293 in the City of El Paso, El Paso County, Texas, such property being more particularly described in Ordinance No. 5193, now pending before the City Council of the City of El Paso, a copy of which is attached hereto, marked Exhibit "A" and made a part hereof by reference.

In order to remove certain objections to such rezoning, First Parties covenant that if the property is rezoned as indicated in the attached ordinance, it shall be subject to the following restrictions, conditions and covenants:

1. Prior to the issuance of building permits for construction on the property, complete and detailed site development and architectural plans of the proposed development must be submitted by First Parties and approved by the City Plan Commission of the City of El Paso. All improvements on the property must be built in accordance with such approved plans.
2. Prior to the issuance of certificates of occupancy and compliance for any buildings constructed on the property, First Parties will, at no cost to the City, do the following:
 - (a) First Parties will dedicate in writing and construct a deceleration traffic lane along Murchison Drive, including grading, paving, curbing and gutters. Such deceleration lane shall be dedicated and constructed in accordance with plans and specifications to be approved by the Director of Traffic and Transportation of the City of El Paso.

(b) First Parties will enlarge and modify the Wright Street Dam to provide proper drainage for additional storm water runoff resulting from development of First Parties' property. Such enlargement and modification shall be done in accordance with plans and specifications to be approved by the City Engineer of the City of El Paso.

(c) First Parties will dedicate in writing and construct a 60-foot wide extension of Medical Center (Utah) Street between its present northerly terminus and Murchison Drive, including grading, paving, curbing and gutters. Such street extension shall be dedicated and constructed in accordance with plans and specifications to be approved by the City Engineer of the City of El Paso.

The City Engineer must certify that First Parties have complied with this paragraph and have completed all improvements required hereunder before certificates of occupancy and compliance will issue.

3. The following part of the property shall be used only for the following purposes:

A parcel of land out of the H. F. Fisher Survey No. 293, more particularly described as follows:

Beginning at a point that is the southeast corner of said Survey No. 293;

Thence west along the south line of said Survey No. 293, a distance of 1180.00 feet to a point;

Thence North $47^{\circ} 47' 56''$ East a distance of 1592.86 feet to a point on the east line of said Survey No. 293;

Thence south along the east line of said Survey No. 293, a distance of 1070.00 feet to the point of beginning, containing 14.49 acres of land, more or less.

(a) Medical, dental, clinic, hospital, rest home, licensed healing service;

(b) Medical research laboratory;

(c) A use customarily incidental or subordinate to one of the above uses, providing that such use is so situated within a building that it is not directly accessible from any public way, that no sign or window display relating to such use is discernible from any public way, that such use does not involve the keeping of a stock of goods on the premises, and that it does not generate commercial vehicular traffic.

4. For a period of five years from the date hereof, no building shall be erected on the following part of the property and such part of the property shall be used only as a site for off-street parking facilities for the uses conducted on the tract described in paragraph 3 above:

NOTE: MOTION DATED 12-5-74
DELETES PARAGRAPH 4 IN ITS
ENTIRETY. R. G. [Signature]

MOTION DATED 12-5-74
AMENDS PARAGRAPH 3 TO
PERMIT THE CONSTRUCTION OF
OFFICE BUILDINGS. R. G. [Signature]

From a point that is the southeast corner of said Survey No. 293;

Thence west along the south line of said Survey No. 293, a distance of 1180.00 feet to the point of beginning of the parcel herein being described;

Thence North $12^{\circ} 41' 29''$ west a distance of 346.41 feet to a point;

Thence North $28^{\circ} 32.65'$ East a distance of 176.38 feet to a point;

Thence North $13^{\circ} 05'$ East a distance of 215.00 feet to a point on the southerly right of way line of Murchison Drive;

Thence South $76^{\circ} 55'$ East a distance of 3.20 feet to a point;

Thence easterly along said southerly right of way line, being a curve to the left, an arc distance of 511.29 feet; curve having a radius of 540.00 feet, a central angle of $54^{\circ} 15'$, and a long chord bearing North $75^{\circ} 57' 30''$ East a distance of 492.41 feet;

Thence North $48^{\circ} 50'$ East, continuing along said southerly right of way line a distance of 684.11 feet to the P. C. of a curve to the left;

Thence continuing easterly along said right of way line, being said curve to the left, an arc distance of 238.36 feet to its intersection with the east boundary line of said Survey No. 293; curve having a radius of 540.00 feet, a central angle of $25^{\circ} 17' 30''$, and a long chord bearing North $36^{\circ} 11' 15''$ East a distance of 236.44 feet;

Thence south along said east boundary line a distance of 391.27 feet to a point;

Thence South $47^{\circ} 47' 56''$ West a distance of 1592.86 feet to the point of beginning. This parcel contains 11.26 acres, more or less.

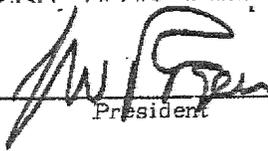
After the expiration of such five-year period, said 11.26 acre parcel shall be used only for the purposes listed in paragraph 3 above or as a site for off-street parking facilities.

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

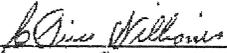
The City may enforce this agreement by injunction or any other legal or equitable remedy. The City Council of the City of El Paso may release the above restrictions, conditions and covenants in its discretion without the consent of any third person who may be benefited thereby.

WITNESS the following signatures and seals:

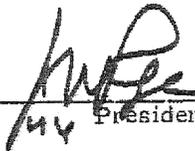
MORTGAGE INVESTMENT COMPANY
OF EL PASO, TEXAS, a corporation

by 
President

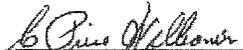
ATTEST:


Secretary

INDIVIDUAL HOMES, INC., a corporation

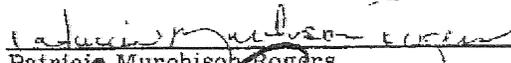
by 
President

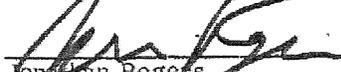
ATTEST:


Secretary

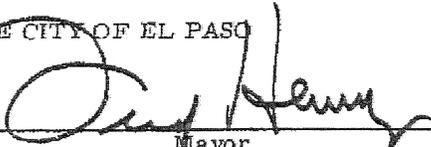

Celeste Rashberry


Louise Murchison


Patricia Murchison Rogers


Jonathan Rogers

THE CITY OF EL PASO

by 
Mayor

ATTEST:


City Clerk

K

M O T I O N

December 5, 1974

Motion made, seconded and carried that Paragraph Three of the contract dated October 18, 1973, between Mortgage Investment Company et al., and the City of El Paso be amended to permit the construction of office buildings and that Paragraph Four be deleted in its entirety. It was further agreed that the Option Agreement dated October 16, 1973 by and between Mortgage Investment Company, et al., and the City of El Paso, be cancelled.

W. L. Rieger, City Clerk

cc: Mr. Jonathan W. Rogers
President
Mortgage Investment Co.
420 Texas, 79901

Planning Department ✓

ORD. 5193
11-15-73

NOV 1 1974

DEPT. OF
PLANNING

**PREPARED FOR: Land America Lawyers Title Insurance Corporation and Alameda Medical Building , L.L.C., a Texas Limited Liability Company, or its assigns.
A Portion of Lot 1, Block 3, Medical Center Plaza, and a Portion of Block 14 Highland Park Addition (Third Amended Map)
City of El Paso, El Paso County, Texas
July 25, 2006**

METES AND BOUNDS DESCRIPTION
(1810 Murchison & Parcels 2&3)

Description of a 2.6002 acre parcel of land being a Portion of Lot 1, Block 3, Medical Center Plaza, and a Portion of Block 14, Highland Park Addition (Third Amended Map), an addition to the City of El Paso, El Paso County, Texas, according to the plat thereof on file in Volume 13, Page 8, Real Property Records, City of El Paso, El Paso County, Texas and being more particularly described by metes and bounds as follows to wit:

Commencing at an existing city monument located at the centerline intersection of Curie Drive and Murchison Street, Thence North 48°50'00" East along the centerline of Murchison Street a distance of 50.00 feet, Thence South 41°10'00" East a distance of 40.00 feet to a point lying on the Southeasterly right-of-way line of Murchison Street and a found "X" mark, said point being the "True Point of Beginning";

Thence North 48°50'00" East along said Southeasterly right-of-way line a distance of 108.12 feet to a found "X" mark, said point lying on a curve;

Thence 256.03 feet along the arc of a curve to the left, whose radius is 540.00 feet, whose interior angle is 27°10'00" whose chord bears North 35°15'00" East a distance of 253.64 feet to a found "X" mark;

Thence North 21°40'00" East a distance of 42.05 feet to a found "X" mark;

Thence North 90°00'00" East a distance of 20.46 feet to a found 5/8" diameter rebar on the corner of Lot 1, Block 3;

Thence South 00°00'00" West along the Easterly right-of-way line of Lot 1 a distance of 334.70 feet to a set nail with flagging lying on the Southerly right-of-way line of Denver Street;

Thence North 89°41'00" East along said Southerly right-of-way line a distance of 114.31 feet to a set chiseled "X";

Thence South 00°19'00" East a distance of 84.58 feet to a set chiseled "X";

Thence South 00°29'47" West a distance of 10.06 feet to a set chiseled "X", and a point lying on a curve;

Thence 3.39 feet along the arc of a curve to the right, whose radius is 2.20 feet, whose interior angle is $88^{\circ}00'20''$ whose chord bears South $44^{\circ}29'57''$ West a distance of 3.06 feet to a set chiseled "X";

Thence South $81^{\circ}56'58''$ West a distance of 11.33 feet to a set "X" mark;

Thence South $00^{\circ}32'38''$ East a distance of 60.18 feet to a set chiseled "X";

Thence South $00^{\circ}00'00''$ West a distance of 25.97 feet to a set nail with flagging;

Thence South $89^{\circ}41'00''$ West a distance of 20.04 feet to a set nail with flagging;

Thence South $00^{\circ}19'00''$ East a distance of 28.99 feet to a set nail with flagging;

Thence South $89^{\circ}41'00''$ West a distance of 3.11 feet to a set nail with flagging;

Thence South $00^{\circ}19'00''$ East a distance of 32.25 feet to a set chiseled "X";

Thence South $89^{\circ}40'39''$ West a distance of 30.32 feet to a set nail with flagging;

Thence South $00^{\circ}19'21''$ East a distance of 44.15 feet to a set nail with flagging;

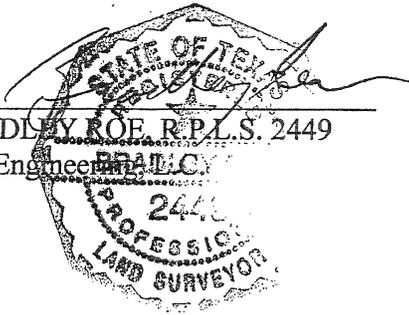
Thence South $56^{\circ}17'14''$ West a distance of 58.94 feet to a set nail with flagging;

Thence South $00^{\circ}00'00''$ West a distance of 19.71 feet to a set nail with flagging lying on a curve;

Thence 99.11 feet along the arc of a curve to the left, whose radius is 270.44 feet, whose interior angle is $20^{\circ}59'58''$ whose chord bears North $30^{\circ}40'01''$ West a distance of 98.56 feet to a found "X" mark;

Thence North $41^{\circ}10'00''$ West a distance of 327.22 feet to a found "X" mark;

Thence 31.42 feet along the arc of a curve to the right, whose radius is 20.00 feet, whose interior angle is $90^{\circ}00'00''$ whose chord bears North $03^{\circ}50'00''$ East a distance of 28.28 feet to a found "X" mark, and back to the "True Point of Beginning"; and containing in all 113,263.17 square feet or 2.6002 acres of land more or less.


BRADLEY ROE, P.L.S. 2449
Roe Engineering, P.C.

JOHN COOK
MAYOR

JOYCE WILSON
CITY MANAGER

R. ALAN SHUBERT
DIRECTOR



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**

September 7, 2006

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

FROM: Christina Valles, Senior Planner

SUBJECT: ZON06-00093

The City Plan Commission (CPC), on August 17, 2006, voted **(5-0)** to recommend **APPROVAL** to release the conditions imposed by a special contract dated October 18, 1973, and amended on December 5, 1974. The property is currently zoned A-O/sc (Apartment/Office/special contract). The CPC recommended the release of the conditions and imposing the following condition, concurring with staff's recommendation.

That no access to the subject property be allowed via Murchison Drive.

The CPC found that the release of the conditions and imposing an additional condition 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 Residential land uses.

The CPC also determined that release of prior conditions and the imposing of a new condition 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 conditions and imposing further a condition 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

STAFF REPORT

Zoning Condition

Amendment/Release:: ZON06-00093

Property Owner(s): Ready One Industries, Inc.

Applicant(s): Ready One Industries, Inc.

Representative(s): Gordon & Mott, P.C.

Legal Description: Lot 1, Block 3, Medical Center Plaza, and a portion of Block 14, Highland Park Addition

Location: 1810 Murchison Drive

Representative District: 8

Area: 1.958 Acres

Present Zoning: A-O (Apartment/Office)

Request: Release of all contract conditions

Proposed Use: Medical office building

Recognized Neighborhood Associations Contacted:

Golden Hills Neighborhood Association, Central El Paso Community Organization, A Presidential Neighborhood Association

Surrounding Land Uses:

North -	A-3O/sp (Apartment/Office/special permit) / Assisted Living
South -	R-5 (Residential) / Medical office building
East -	R-5 (Residential) / Medical office building
West-	A-O/sc (Apartment/Office/special contract) / Medical office building

Year 2025 Designation: Residential (Central Planning Area)

**CITY PLAN COMMISSION HEARING, AUGUST 17, 2006,
1:30 P.M., CITY COUNCIL CHAMBERS, 2ND FLOOR, CITY HALL**

Zoning Condition
Amendment/Release: ZON06-00093

General Information:

Ordinance No. 5193, dated October 18, 1973, rezoned to A-O (Apartment/Office) and R-5 (Residential) and conditioned the property. The conditions were imposed by special contract in order to remove certain objections to such rezoning. The special contract was further amended on December 5, 1974. The special contract and subsequent amendment are included as attachments to this report.

The applicant is requesting that special contract conditions be removed because the conditions have been complied with or are no longer necessary.

The property is currently zoned A-O (Apartment/Office). The site is currently a medical office and is 1.958 acres in size. The site plan shows an existing medical building currently located on the site. Access is currently via Curie Drive.

Information to the Commission:

The Development Services Department – Planning Division has received no calls or letters in support or opposition to this application.

Staff Recommendation:

The Development Coordinating Committee (DCC) unanimously recommends **APPROVAL** of this request for special contract condition release with the following conditions:

That no access to the subject property be allowed via Murchison Drive.

The DCC further recommends that the existing drainage be reviewed and any necessary improvements be coordinated with the Land Development section.

Its recommendation is based on the following:

The special contract conditions have been met or are no longer necessary.

The **A-O (Apartment/Office)** zoning district permits a medical office and **is compatible** with adjacent development.

The proposed use is in accordance with and in furtherance of *The Plan for El Paso*.

The Commission must determine the following:

1. Will the release of all special contract conditions on the subject property protect the best interest, health, safety and welfare of the public in general?
2. Will a medical office be compatible with adjacent land uses?
3. What is the relation of the proposed zone change to the City's Comprehensive Plan?
4. What effects will the change 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: No objection to the release of all contract conditions.

Landscape Review: No comments received.

Development Services Department - Planning Division Comments:

Current Planning: Recommend approval of the proposed rezoning.

Subdivision Review: No comments received.

Engineering Department - Traffic Division Comments:

Recommend approval of the special contract release subject to release of access on Murchison Drive.

Fire Department Comments:

No comments received.

El Paso Water Utilities Comments:

Water

Along Murchison Drive between Curie Circle and Detroit Street there is an existing twelve (12) inch diameter water main. Along Curie Circle between Murchison Drive and Laurel Street there is an existing twelve (12) inch diameter water main. From the intersection of Detroit Street and Idaho Street along Detroit Street towards the west there is an existing six (6) inch diameter water main. This main dead-ends at approximately 400 feet west of Idaho Street. From the intersection of Denver Street and Idaho Street along Denver Street towards the west there is an existing six (6) inch diameter water main. This main dead-ends at approximately 148 feet west of Idaho Street. Previous water pressure readings conducted on a fire hydrant located at the corner of Murchison Drive and Curie Circle have yielded a static pressure of 140 pounds per square inch (psi), residual pressure of 116 psi, discharge of 1,635 gallons per minute (gpm).

Sanitary Sewer

Along Murchison Drive between Curie Circle and Detroit Street there are no existing sanitary sewer mains. Along Curie Circle between Murchison Drive and Laurel Street there is an existing eight (8) inch diameter sanitary sewer main. From the intersection of Detroit Street and Idaho Street along Detroit Street towards the west there is an existing eight (8) inch diameter sanitary sewer main. This main dead-ends at approximately 400 feet west of Idaho Street. From the intersection of Denver Street and Idaho Street along Denver Street towards the west there are no existing sanitary sewer mains.

General

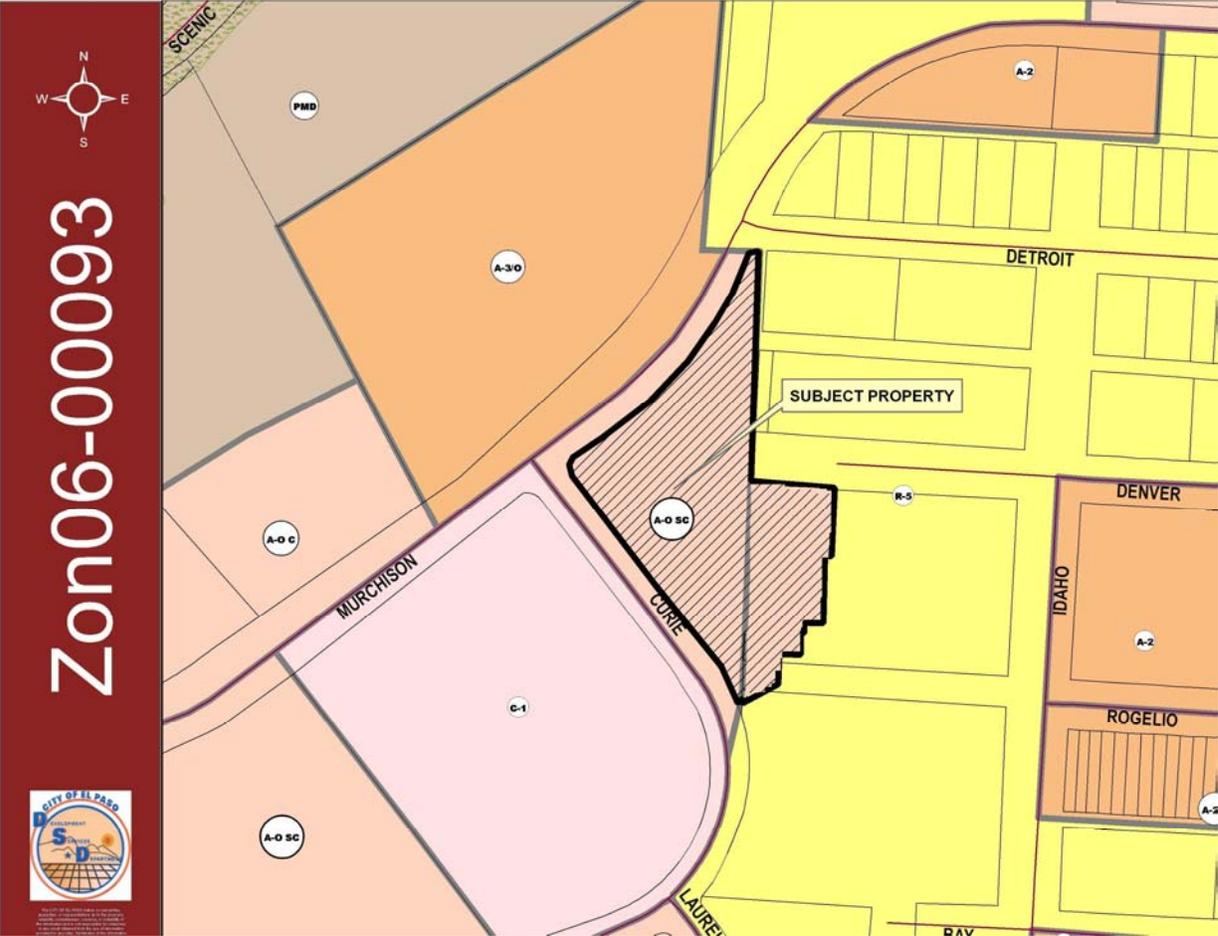
As per EPWU-PSB records, 1810 Murchison Drive has water and sanitary sewer service. Application for additional water and sanitary sewer services should be made 6-8 weeks prior to any construction to ensure water for construction work. A site plan, a utility plan, grading &

drainage plans, landscaping plan (if applicable), the legal description of the property, and a certificate-of-compliance are required at the time of application. The certificate-of-compliance can be obtained on the 5th floor at City Hall. The owner is responsible for the costs of any necessary on-site & off-site extensions, relocations or adjustments of water and sanitary sewer lines and appurtenances.

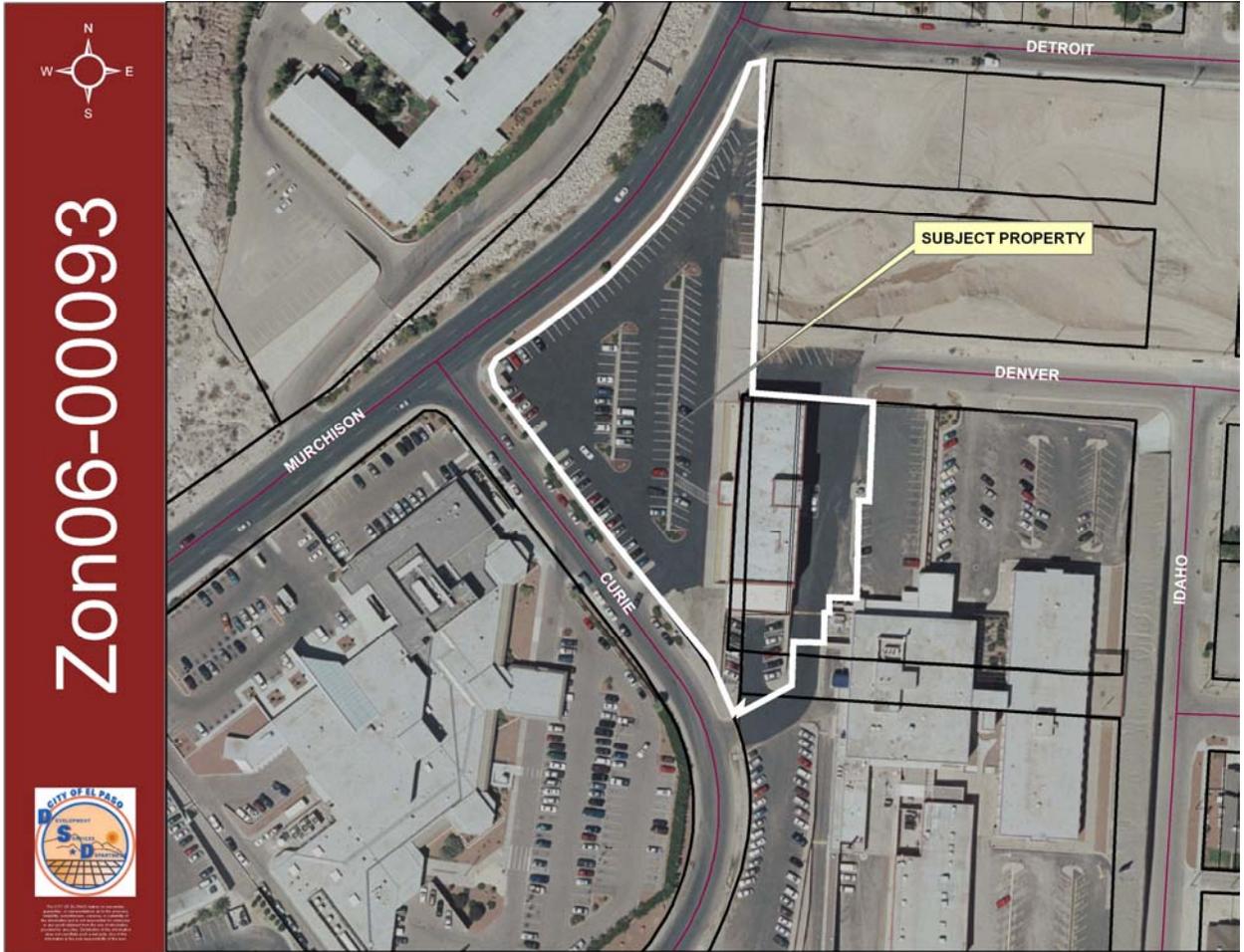
EPWU does not object to this request.

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.

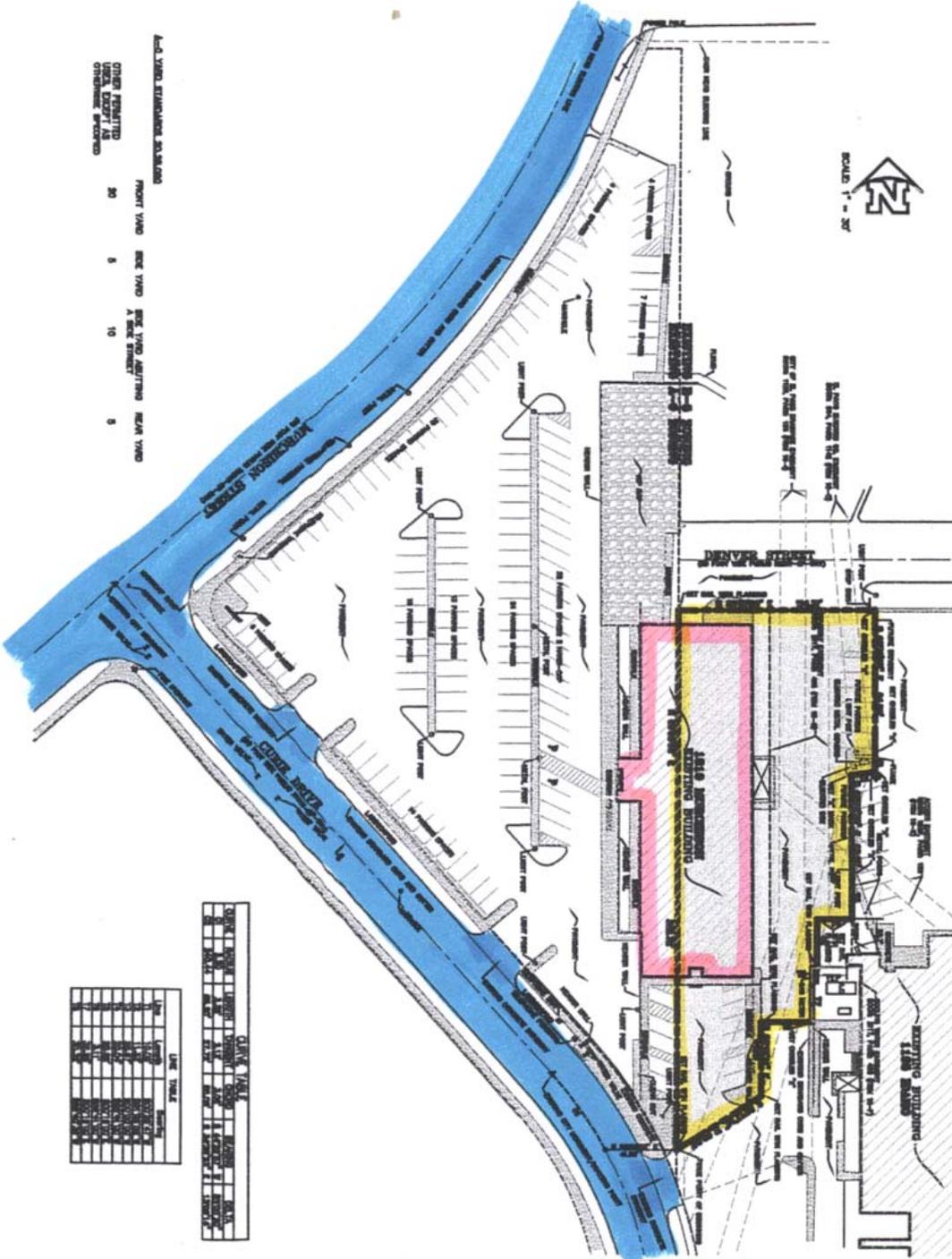
LOCATION MAP



AERIAL



SITE MAP



4'-0" YARD, ESTABLISHED, 20' MIN. 10'
 OTHER PERMITTED USES, EXCEPT AS OTHERWISE SPECIFIED
 FRONT YARD 20' SIDE YARD 5' REAR YARD 10' SIDE YARD, ADJUTING 5' SIDE YARD 5'

CLARK YARD	
AREA	AREA
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