

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

DEPARTMENT: Development Services Department, Planning Division

AGENDA DATE: Introduction: September 14, 2010
Public Hearing: October 5, 2010

CONTACT PERSON/PHONE: Esther Guerrero, (915) 541-4720

DISTRICT(S) AFFECTED: 8

SUBJECT:

An ordinance releasing conditions placed on property by Ordinance No. 3764 which changed the zoning on a portion of Lot 1 thru 4, Block O-3, Moellers Addition, City of El Paso, El Paso County, Texas. The penalty is as provided for in Chapter 20.24 of the El Paso City Code. Subject Property: 3001 E. Paisano Drive. Property Owner: Amado and Rosa Urbina. ZON10-00039 (**District 8**)

BACKGROUND / DISCUSSION:

N/A

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 (5-0)

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

LEGAL: (if required) N/A

FINANCE: (if required) N/A

DEPARTMENT HEAD: Mathew S. McElroy
Deputy Director-Planning, Development Services Department

APPROVED FOR AGENDA:

CITY MANAGER: _____

DATE: _____

ORDINANCE NO. _____

**AN ORDINANCE RELEASING CONDITIONS PLACED ON PROPERTY BY
ORDINANCE NO. 3764 WHICH CHANGED THE ZONING ON A PORTION OF LOT 1
THRU 4, BLOCK O-3, MOELLERS ADDITION, CITY OF EL PASO, EL PASO
COUNTY, TEXAS. 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 Lot 1 thru 4, Block O-3, Moellers Addition, City of El Paso, El Paso County, Texas*, was changed by Ordinance No. 3764, approved by City Council on June 8, 1967; and,

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

1. *No curb cuts will be made or vehicular access provided on the sides of the property lying along Paisano Drive and Raynor Street; and*
2. *No sign will be erected on the property which directs attention to a business, commodity, service or entertainment conducted, sold or offered elsewhere than on said property.*

WHEREAS, placement of such conditions 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 a partial release of Condition No. 1, to allow curb cuts and vehicular access along Raynor Street on the above described property; and,

WHEREAS, a public hearing regarding amendment of the conditions was held before the City Plan Commission, and the Commission recommended approval of the release; and,

WHEREAS, the City Council of the City of El Paso has determined that the partial release of the Condition No. 1 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:

That zoning conditions imposed by Ordinance No. 3764 dated June 8, 1967 release a partial of zoning condition no. 1 on the portion of land identified in Exhibit "A" because the conditions are no longer necessary.

1. *A partial release of Condition No. 1, to allow curb cuts and vehicular access along Raynor Street.*

Except as herein amended, Ordinance 3764 shall remain in full force and effect.

PASSED AND APPROVED this _____ day of _____, 2010.

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

DORADO ENGINEERING, INC.
2717 E. Yandell El Paso, Texas 79903 (915) 562-0002 Fax (915) 562-7743

3001 E. Paisano Drive
City of El Paso, County of El Paso, Texas

Metes and Bounds description of a portion of Lot 1 thru 4, Block 0-3, Moellers Addition, City of El Paso, County of El Paso, Texas, and being more particularly described as follows:

From an existing common Southwesterly corner of Lot 1, Block O-2, Moeller's Addition and the North Right-of-Way line of Central Avenue, Thence South along the extended lot line of Lot 1, Block O-2, Moeller's Addition a distance of forty and no hundredths (40.00) feet to a found "X" in concrete at the common Southerly Right-of-Way line of Central Avenue and the Easterly Right-of-Way line of Raynor Street, said corner also being the Point of Beginning for this description;

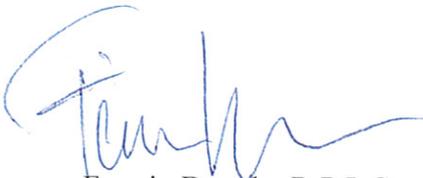
Thence East along the Southerly Right-of-Way line of Central Avenue, a distance of one hundred twenty and no hundredths (120.0) feet to an "X" on the concrete at the Northwesterly corner of the parcel being described;

Thence South along the Easterly line of the parcel being described a distance of ten and seventy five hundredths (10.75) feet to an "X" on concrete on a corner lying on the Northerly Right-of-Way line Paisano Drive;

Thence South 60° 30' 00" West along Easterly Right-of-Way line of Paisano Drive a distance of one hundred thirty seven and eighty nine hundredths (137.89) feet to a rebar for a corner on the Easterly Right-of-Way line of Raynor Street;

Thence North along the Easterly Right-of-Way line of Raynor Street, a distance of seventy eight and sixty four hundredths (78.64) feet to an "X" on concrete at the Northwesterly corner of the parcel being described, said corner also being the Point of Beginning for this description.

Said parcel of land contains 5,365.00 square feet or 0.123 acres of land more or less.


Fermin Dorado, R.P.L.S.



May 12, 2010



MEMORANDUM

DATE: August 30, 2010
TO: Honorable Mayor and City Council
Joyce Wilson, City Manager
FROM: Esther Guerrero, Planner
SUBJECT: ZON10-00039

The City Plan Commission (CPC) on July 29, 2010, voted **5-0** to recommend **approval** of a partial release of condition no. 1 listed on the special contract imposed on the subject property by Ordinance No. 3764 dated June 8, 1967, which reads as follows: “No curb cuts will be made or vehicular access provided on the sides of the property lying along Paisano Drive and Raynor Street”. The CPC recommended allowing curb cuts and vehicular access along Raynor Street only. The remaining portion of condition no. 1 will remain in effect. This recommendation is in agreement with the recommendation from staff and the Development Coordinating Committee (DCC).

The CPC found that the partial release of the special contract is in conformance with The Plan for El Paso. The CPC found that the proposed uses are in conformance with the 2025 Projected General Land Use Map for the Central Planning Area. The CPC also determined that the partial release of the special contract protects the best interest, health, safety, and welfare of the public in general; and the partial release of the special contract 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 one person present to speak in opposition to this request.

Attachment: Staff Report

Mayor
John F. Cook

City Council

District 1
Ann Morgan Lilly

District 2
Susie Byrd

District 3
Emma Acosta

District 4
Carl L. Robinson

District 5
Rachel Quintana

District 6
Eddie Holguin Jr.

District 7
Steve Ortega

District 8
Beto O'Rourke

City Manager
Joyce A. Wilson



City of El Paso – City Plan Commission Staff Report

Case No: ZON10-00039
Application Type Zoning Condition Release/Amendment
CPC Hearing Date July 29, 2010
Staff Planner Esther Guerrero, (915) 541-4720, guerreroex@elpasotexas.gov

Location 3001 E. Paisano Drive
Legal Description Portion of Lot 1 thru 4, Block O-3, Moellers Addition, City of El Paso, El Paso County, Texas

Acreage 0.123 acres
Rep District 8
Present Zoning C-1/sc (Commercial/special contract)

Request Partial release of zoning Condition No. 1, imposed by Contract dated June 8, 1967
Existing Use Commercial Building (Cash Exchange Store)
Property Owner Amado and Rosa Urbina
Representative Dorado Engineering

SURROUNDING ZONING AND LAND USE

North: C-3/sc (Commercial/special contract) / single-family
South: A-2 (Apartment) / vacant, Bowie High School
East: A-2 (Apartment) / Paisano Drive
West: C-1 (Commercial) / Commercial business

THE PLAN FOR EL PASO DESIGNATION: Residential (Central Planning Area)

NEAREST PARK: Chamizal National Memorial (470 feet)

NEAREST SCHOOL: Bowie High (940 feet)

NEIGHBORHOOD ASSOCIATIONS

El Paso Central Business Association

NEIGHBORHOOD INPUT

Notices of the July 15, 2010 City Plan Commission hearing were mailed out to property owners within 300 feet of the subject property on July 1, 2010. The Planning Division has one letter in opposition to this request.

APPLICATION DESCRIPTION

The applicant is requesting the partial release of Condition No. 1 to allow a curb cut and vehicular access from Raynor Drive. The subject property currently has access from Central Avenue and Raynor Street. The site plan shows an existing commercial building with seven (7) parking spaces and access from Central Avenue and Raynor Street.

DEVELOPMENT SERVICES DEPARTMENT-PLANNING DIVISION RECOMMENDATION

The Planning Division recommends **approval** of the partial release of Condition No. 1 to allow access from Raynor Street.

The Plan for El Paso –City-wide Land Use Goals

All applications for zoning condition release shall demonstrate compliance with the following criteria:

- a. Goal: provide a pattern of commercial and office development which best serves community needs and which complements and serves all other land uses.
- b. 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.

Development Coordinating Committee Review

The DCC reviewed and discussed the application for partial release of Condition No. 1 and offered no objections to Planning Staff's recommendation for approval.

Development Services Department - Building Permits and Inspections Division

No objections.

Engineering Department - Traffic Division

No objections.

Street Department

We offer no objection to the release of the condition pending the submittal of a Site Plan that reflects current site conditions.

All existing/proposed paths of travel, accessible sidewalks, wheel chair access curb ramps and driveways within public right-of-ways shall be in compliance with current ADA /TAS rules and regulations and Current City of El Paso Design Standards for Construction.

Fire Department

No comments received.

El Paso Water Utilities

EPWU does not object to this request

CITY PLAN COMMISSION OPTIONS

The City Plan Commission may consider the following options and additional options that it identifies when reviewing the zoning condition release application:

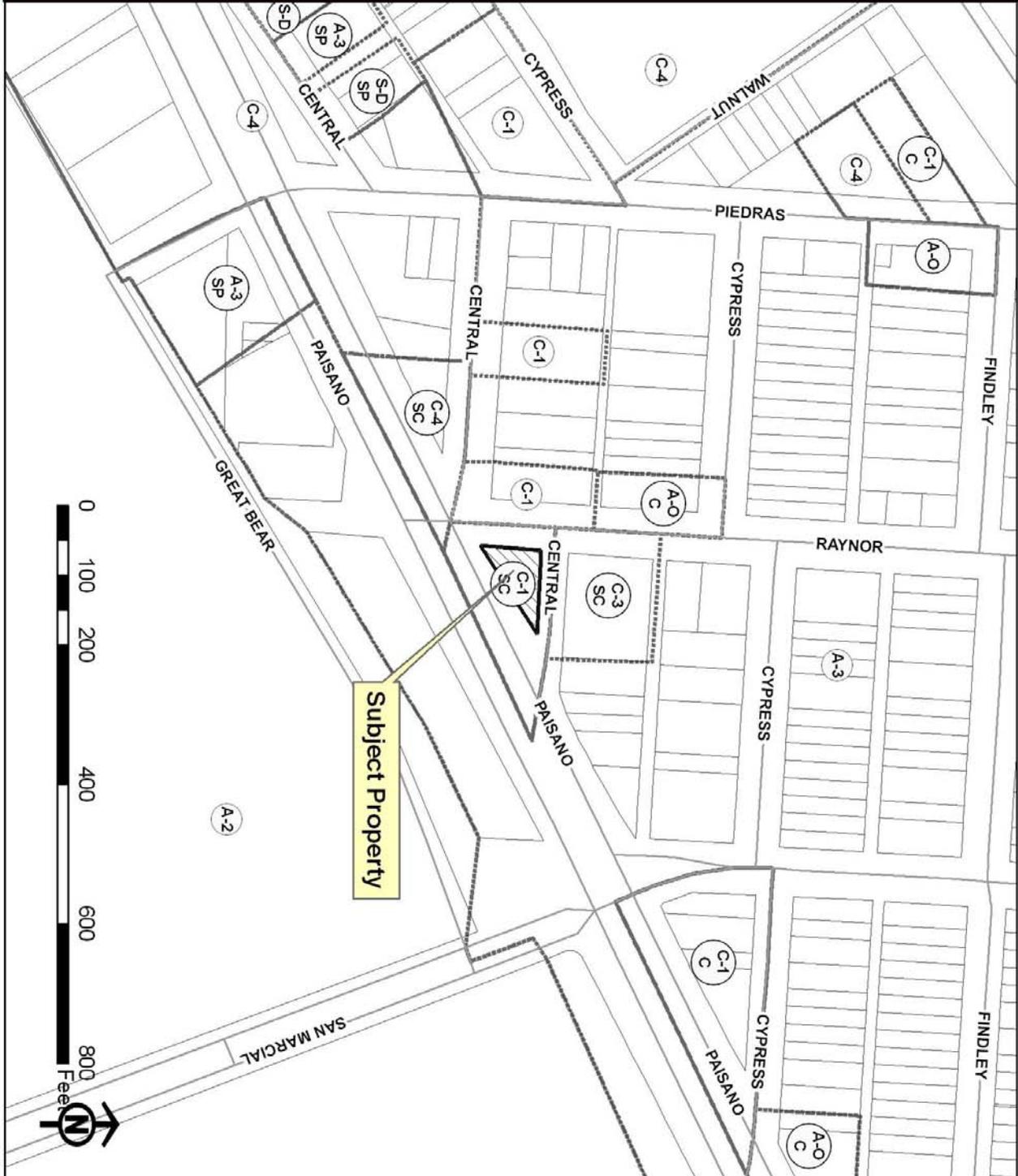
1. Recommend approval of the application finding that the zoning condition release is in conformance with the review criteria of The Plan for El Paso as reflected in CPC report or other criteria that the CPC identifies from the Plan.
2. Recommend approval of the application with modifications to bring the zoning condition release 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 zoning condition release 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

1. Zoning Map
2. Aerial Map
3. Site Plan
4. Contract dated June 8, 1967
5. Letter of opposition

ATTACHMENT 1: ZONING MAP

ZON10-00039



ATTACHMENT 2: AERIAL MAP

ZON10-00039



AN ORDINANCE CHANGING THE ZONING
OF LOTS 1 THROUGH 4, BLOCK 3, MORLLER
ADDITION, THE PENALTY BEING AS PRO-
VIDED IN SECTION 25-10 OF THE EL PASO
CITY CODE

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

That the zoning of Lots 1 through 4, Block 3, Morller Addition to
the City of El Paso, be changed to C-1 within the meaning of the Zoning
Ordinance, and the zoning map of the City be revised accordingly.

PASSED AND APPROVED this 8th day of June,

1967.

J. Williams
Mayor

ATTEST:

R. H. Habel
City Clerk

RESOLUTION

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

That the Mayor be authorized to sign a contract with Oscar L. Casco, placing certain restrictions on property rezoned by Ordinance No. 3764.

ADOPTED this 8th day of June, 1967.

J. Williams
Mayor

ATTEST:

R. H. Habel
City Clerk

CONTRACT

This contract, made this 8th day of JUNE, 1967, by and between Oscar L. Casas (not joined by his wife because the property described herein is not and has never been their homestead), First Party, and the City of El Paso, Second Party, witnesseth:

Application has been made to the City of El Paso for rezoning of Lots 1, 2, 3 and 4 in Block 3 of the Moeller Addition to the City of El Paso, El Paso County, Texas.

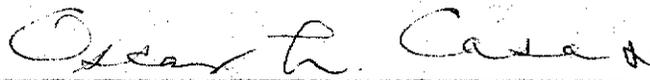
In order to remove certain objections to such rezoning, First Party covenants that if the property is rezoned to C-1 it shall be subject to the following restrictions:

1. No curb cuts will be made or vehicular access provided on the sides of the property lying along Paisano Drive and Raynor Street.
2. No sign will be erected on the property which directs attention to a business, commodity, service or entertainment conducted, sold or offered elsewhere than on said property.

This agreement is a restriction, condition and covenant running with the land and a charge and servitude thereon, and shall bind First Party and his successor 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 signature and seal:


Oscar L. Casas

THE CITY OF EL PASO

by Judson F. Williams
Mayer

ATTEST:

[Signature]
City Clerk

THE STATE OF TEXAS)
)
COUNTY OF EL PASO)

Before me, the undersigned authority, on this day personally appeared OSCAR L. CASAS, 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 official seal this 7th day of June, 1967.

Way Law Ennis
Notary Public in and for El Paso County, Texas.

THE STATE OF TEXAS)
)
COUNTY OF EL PASO)

Before me, the undersigned authority, on this day personally appeared JUDSON F. WILLIAMS, Mayor 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 official seal this 8th day of JUNE, 1967.

William L. Rieger, Jr.
Notary Public in and for El Paso County, Texas.

WILLIAM L. RIEGER, JR., Notary Public
In and for El Paso County, Texas
My commission expires June 1, 1969

THE CITY OF EL PASO

by Judson F. Williams
Mayer

ATTEST:

[Signature]
City Clerk

THE STATE OF TEXAS)
COUNTY OF EL PASO)

Before me, the undersigned authority, on this day personally appeared OSCAR L. CABAS, 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 official seal this 7th day of June, 1967.

W. Roy Ferguson
Notary Public in and for El Paso County, Texas.

THE STATE OF TEXAS)
COUNTY OF EL PASO)

Before me, the undersigned authority, on this day personally appeared JUDSON F. WILLIAMS, Mayor 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 official seal this 8th day of JUNE, 1967.

William L. Rieger, Jr.
Notary Public in and for El Paso County, Texas.

WILLIAM L. RIEGER, JR., Notary Public
In and for El Paso County, Texas
My commission expires June 1, 1969

ATTACHMENT 5: LETTER OF OPPOSITION

Tomas T. Gonzales
2931 Central Ave., Apt. #2
El Paso, Texas 79905
915-5443117

July 12, 2010

Att: Esther Guerrero, Planner
or Linda Castle

City Plan Commission
c/o Planning Division
5th Floor
City Hall
2 Civic Center Plaza
El Paso, Tx. 79901-1196

FAX: (915) 541-4028

RE: Case No: ZON 10-00039
Date: July 15, 2010
Time: 1:30 P.M.
Place: City Council Chambers, 2nd. Floor, City Hall
2 Civic Center Plaza, El Paso, Tx. 79901

Dear Ms. Estor Guerrero:

I am faxing this letter in reference to the above. I state that my position in this case is that I oppose the curb cuts or vehicular access to the subject property. I will be present at the hearing.

Respectfully submitted,


Tomas T. Gonzales

Attention: I spoke to Linda Castle by phone. I was informed that the case might be passed until the 29th of July. I will call to verify.

NOTE: I HAVE BEEN FAXING THE LETTER TO YOU
SINCE 8:00AM - YOUR MACHINE HAS NOT BEEN
RECEIVING - IT IS NOW 10:45AM

