

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

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

**AGENDA DATE:** Public Hearing: October 16, 2007

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

**DISTRICT(S) AFFECTED:** 7

**SUBJECT:**

A resolution releasing conditions placed on property by a contract dated December 15, 1973, which imposed conditions on Tract 2A, Block 11, Ysleta Grant, City of El Paso, El Paso County, Texas. Subject Property: Lee Trevino Drive and Assyria Drive. Applicant: Woodchase Senior Community, LTD, ZON07-00106 (District 7)

**BACKGROUND / DISCUSSION:**

See attached report.

**PRIOR COUNCIL ACTION:**

N/A

**AMOUNT AND SOURCE OF FUNDING:**

N/A

**BOARD / COMMISSION ACTION:**

Development Coordinating Committee (DCC) – Unanimous Approval Recommendation  
City Plan Commission (CPC) – Scheduled for October 4, 2007.

\*\*\*\*\*REQUIRED AUTHORIZATION\*\*\*\*\*

**LEGAL:** (if required) N/A

**FINANCE:** (if required) N/A

**DEPARTMENT HEAD:** Kelly Carpenter

**APPROVED FOR AGENDA:**

**CITY MANAGER:** \_\_\_\_\_

**DATE:** \_\_\_\_\_

**RESOLUTION**

**A RESOLUTION RELEASING CONDITIONS PLACED ON PROPERTY BY A CONTRACT DATED DECEMBER 15, 1973, WHICH IMPOSED CONDITIONS ON TRACT 2A, BLOCK 11, YSLETA GRANT, CITY OF EL PASO, EL PASO COUNTY, TEXAS.**

**WHEREAS**, the zoning of the property described as *Tract 2A, Block 11, Ysleta Grant, City of El Paso, El Paso County, Texas*, was changed by City Council on December 15, 1973; and,

**WHEREAS**, the rezoning was subject to the property owner entering into a contract with the city and such contract imposed the following zoning conditions:

*1. Prior to the issuance of building permits for construction on the property, First Party will, at no cost to the City dedicate a 30-foot wide strip of land along the easterly boundary of the property as additional right-of-way for the widening of Pendale Road.*

*2. Prior to the issuance of certificates of occupancy and compliance for any buildings constructed on the property, First Party will, at no cost to the City, do the following:*

*(a) Construct a six-foot high man proof fence at all locations where the property abuts the Mesa Drain and the Juan de Herrera Lateral, such fence to meet standards of the U.S. Bureau of Reclamation.*

*(b) Construct drainage structures necessary to carry storm water from the property into the Mesa Drain, plans and specifications for such drainage structures to be approved by the City Engineer of the City of El Paso; and,*

**WHEREAS**, placement of such conditions was necessitated by and attributable to the increased intensity of use generated by the change of zoning; and,

**WHEREAS**, these conditions have been satisfied; and,

**WHEREAS**, the owner (applicant) submitted an application requesting the removal of the above conditions 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 release of the above conditions will protect the best interest, health, safety and welfare of the public in general.

*(Signatures on following page)*

CITY CLERK DEPT.  
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**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO, TEXAS:**

1. That all zoning conditions imposed by a contract dated December 15, 1973 be released on the portion of land identified as Lot 1, Block 13 and Lot 1, Block 15, Colonia del Carmen Unit 4, City of El Paso, El Paso County, Texas.

**PASSED AND APPROVED** this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

**THE CITY OF EL PASO**

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

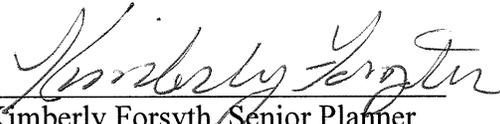
**ATTEST:**

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

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Lupe Cuellar  
Assistant City Attorney

**APPROVED AS TO CONTENT:**

  
\_\_\_\_\_  
Kimberly Forsyth, Senior Planner  
Development Services Department

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**JOHN COOK**  
MAYOR

**JOYCE WILSON**  
CITY MANAGER

**R. ALAN SHUBERT**  
DIRECTOR, DEVELOPMENT SERVICES

**KELLY CARPENTER, AICP**  
DEPUTY DIRECTOR, PLANNING



**CITY COUNCIL**  
ANN MORGAN LILLY, DISTRICT 1  
SUSANNAH M. BYRD, DISTRICT 2  
J. ALEXANDRO LOZANO, 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 DEPARTMENT**  
**PLANNING DIVISION**

**MEMORANDUM**

**DATE:** September 26, 2007

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

**FROM:** Esther Guerrero, Planner

**SUBJECT: ZON07-00106**

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The City Plan Commission (CPC), on October 4, 2007, will make a recommendation of this request to release conditions on the subject property.

The Development Coordinating Committee, on September 12, 2007, recommended **approval** of this request.

The CPC must find that the rezoning is in conformance with The Plan for El Paso Citywide land use goals that El Paso: City-Wide Land Use Goals recommends that El Paso “provide a wide range of housing types that respond to the needs of all economic segments of the community.” The CPC must find that the proposed rezoning will not have an adverse impact on the natural environment, social and economic conditions, and property values in the vicinity and in the city as a whole. The CPC also must determine that the rezoning protects the best interest, health, safety, and welfare of the public in general.

No opposition has been received to this request.

**Attachment:** Staff Report

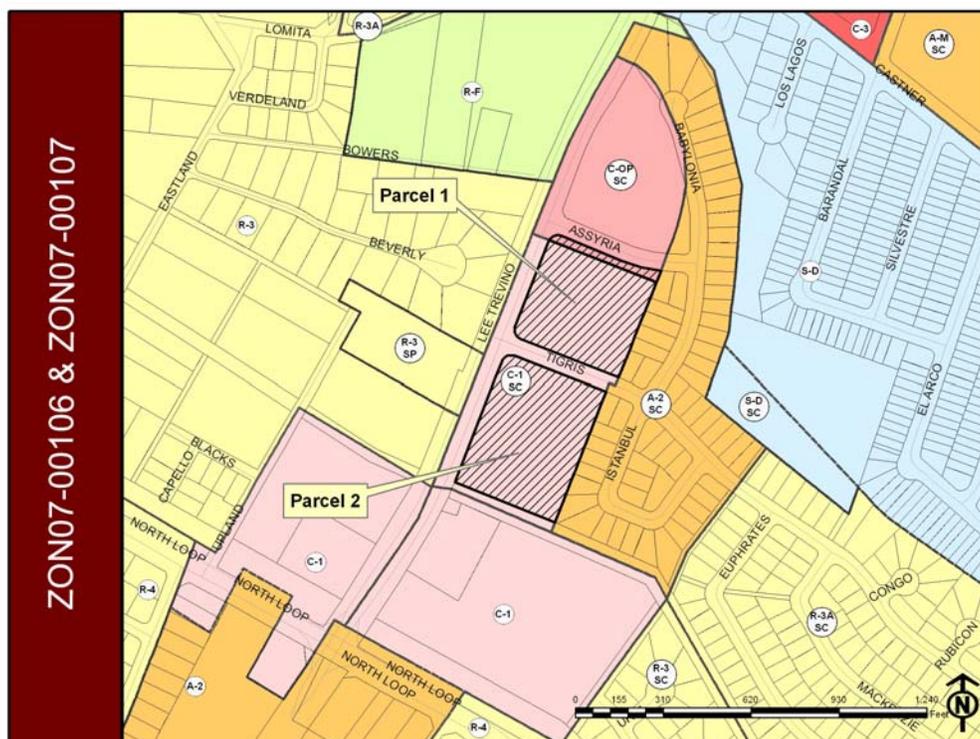


## ZON07-00106

**Application Type:** Zoning Condition Release  
**Property Owner(s):** Franco Construction, Inc.  
**Applicant(s):** Woodchase Senior Community, Ltd.  
**Representative(s):** Gordon & Mott, P.C.  
**Legal Description:** Parcel 1: Lot 1, Block 13, Colonia Del Carmen Unit 4 and Parcel 2: Lot 1, Block 15, Colonia Del Carmen Unit 4, City of El Paso, El Paso County, Texas

**Location:** Lee Trevino Drive at Assyria Drive and Tigris Drive  
**Representative District:** 7 **Area:** 7.957 acres  
**Present Zoning:** C-1/sc (Commercial /special contract) and C-OP/sc (Commercial-Office Park/special contract)  
**Present Use:** vacant  
**Request:** Release conditions of contract dated December 15, 1973 by Ordinance No. 5217

**Recognized Neighborhood Associations Contacted:** N/A  
**Public Response:** None  
**Surrounding Land Uses:** **North** - C-OP/sc / Residential; **South** - C-1/sc / Vacant, Apartments; **East** - A-2/sc / Residential; **West**- R-3 / Residential  
**Year 2025 Designation:** Residential (Mission Valley Planning Area)



**General Information**

The applicant requests the release of conditions of contract dated December 15, 1973 by Ordinance No. 5217.

1. *Prior to the issuance of building permits for construction on the property, First Party will, at no cost to the City dedicate a 30-foot wide strip along the easterly boundary of the property as additional right-of-way for the widening of Pendale Road.*
2. *Prior to the issuance of certificates of occupancy and compliance for any buildings constructed on the property, First Party will, at no cost to the City, do the following:*
  - (a) *Construct a six-foot high man proof fence at all locations where the property abuts the Mesa Drain and the Juan de Herrera Lateral, such fence to meet standards of the U.S. Bureau of Reclamation.*
  - (b) *Construct drainage structures necessary to carry storm water from the property into the Mesa Drain, plans and specifications for such drainage structures to be approved by the City Engineer of the City of El Paso.*

A related rezoning request (ZON07-00108) and a related condition release (ZON07-00107) will also be considered.

**Staff Recommendation**

The Development Coordinating Committee (DCC) recommends **approval** of this request.

The recommendation is based on the following:

- **The Plan for El Paso** City-Wide Land Use Goals recommends that El Paso “provide a wide range of housing types that respond to the needs of all economic segments of the community.”
- **The Year 2025 Projected General Land Use Map** for the Mission Valley Planning Area designates this property for **Residential** land uses.
- Release of the conditions will permit construction of a senior living community and **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**

Construction of a six foot man proof fence at all locations where the property abuts the Mesa Drain and the Juan de Herrera Lateral is mandatory by ordinance (Required Fences). No objection to the releasing of other contract conditions.

**Development Services-Planning**

Recommend approval. Conditions have been complied with, no objections.

**Engineering Department-Traffic**

Traffic Division has no objection to release condition Number One if fence has been constructed. If necessary drainage structures are already constructed, Traffic Division has no objection to release condition Number Two.

**Fire Department**

No comments received.

**EI Paso Water Utilities**

EPWU does not object to this rezoning request.

**List of Attachments**

Attachment 1: Conceptual Site Plan

Attachment 2: Contract dated December 15, 1973 by Ordinance No. 5217

Attachment 3: Application





**Attachment 2: Contract dated December 15, 1973 by Ordinance No. 5217**

*Record*

67235

CONTRACT

This contract, made this 15 day of December 1973, by and between ENRIQUE L. FRANCO, First Party, MORTGAGE AND TRUST, INC., 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 Tract 2A, Block 11, Ysleta Grant in the City of El Paso, El Paso County, Texas, such property being more particularly described by metes and bounds in Ordinance No. 5217, 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 Party covenants 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, First Party will, at no cost to the City dedicate a 30-foot wide strip along the easterly boundary of the property as additional right of way for the widening of Pendale Road. An appropriate deed of dedication will be executed and delivered to the City.

② Prior to the issuance of certificates of occupancy and compliance for any buildings constructed on the property, First Party will, at no cost to the City, do the following:

- (a) Construct a six-foot high man proof fence at all locations where the property abuts the Mesa Drain and the Juan de Herrera Lateral, such fence to meet standards of the U. S. Bureau of Reclamation.
- (b) Construct drainage structures necessary to carry storm water from the property into the Mesa Drain, plans and specifications for such drainage structures to be approved by the City Engineer of the City of El Paso.

The above improvements must be completed and the City Engineer of the City of El Paso must inspect and approve them prior to the issuance of certificates of occupancy and compliance.

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 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.

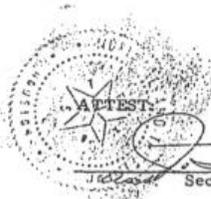
Second Party is the owner and holder of recorded liens on the property and consents to this contract.

WITNESS the following signatures and seals:

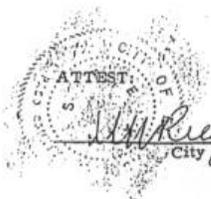
Enrique L. Franco  
Enrique L. Franco

MORTGAGE AND TRUST, INC., a corporation

by Carl S. Howard  
Vice - President

 ATTEST  
[Signature]  
Secretary

THE CITY OF EL PASO  
by [Signature]  
Mayor

 ATTEST  
[Signature]  
City Clerk

**Attachment 1: Application**

CITY CLERK DEPT.

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**DEPARTMENT OF PLANNING, RESEARCH & DEVELOPMENT  
APPLICATION FOR ZONING CONDITION AMENDMENT OR RELEASE**

1. PROPERTY OWNER(S): Franco Construction, Inc.  
ADDRESS: c/o Larry Baskind, 300 E. Main Suite 908 ZIP CODE: 79901 PHONE: 544-0737
2. APPLICANT(S): Madhava Senior Community, Ltd.  
ADDRESS: \_\_\_\_\_ ZIP CODE: \_\_\_\_\_ PHONE: \_\_\_\_\_
3. REPRESENTATIVE(S): Yolanda Giner  
ADDRESS: \_\_\_\_\_ ZIP CODE: \_\_\_\_\_ PHONE: \_\_\_\_\_
4. LEGAL DESCRIPTION: Lot 1, Block 15, Lot 1, Block 13, Colonia del Carmen Unit 4,  
City of El Paso Texas

*NOTE: If legal description consists of portions of lots or blocks; or a legal subdivision has not been recorded; a written sealed metes and bounds description shall be required before this application may be accepted for processing.*

5. STREET ADDRESS OR LOCATION OF PROPERTY: Lee Trevino and Tigris Drive
6. CITY REPRESENTATIVE DISTRICT #: Representative Steve Ortega
- 7.A. PARCEL 1: ACREAGE 3.6318 PRESENT ZONING C-1/COP PRESENT LAND USE Vacant  
PROPOSED ZONING N/A PROPOSED LAND USE Senior Apartments
- 7.B. PARCEL 2: ACREAGE 4.3252 PRESENT ZONING C-1 PRESENT LAND USE vacant  
PROPOSED ZONING N/A PROPOSED LAND USE Senior Apartments
- 7.C. PARCEL 3: ACREAGE \_\_\_\_\_ PRESENT ZONING \_\_\_\_\_ PRESENT LAND USE \_\_\_\_\_  
PROPOSED ZONING \_\_\_\_\_ PROPOSED LAND USE \_\_\_\_\_

*NOTE: If you have additional parcels, please attach a supplementary page.*

8. ZONING CONDITION(S):  AMENDMENT  RELEASE
9. EXPLANATION WHY ZONING CONDITION AMENDMENT/RELEASE IS NECESSARY AND DESIRABLE: \_\_\_\_\_  
conditions have been satisfied
10. SIGNATURE(S) OF OWNER(S) OF RECORD FOR THE ABOVE DESCRIBED PROPERTY:  
A. [Signature] B. \_\_\_\_\_ C. \_\_\_\_\_

*NOTE: Each item on this form shall be completed and all documentation required on the reverse side of this form shall be submitted before this application may be accepted for processing.*

Cashier's Validation  
Fee: \$ 165.00

182-

Accepted by: [Signature]

**OFFICE USE ONLY**		
SC: <u>ZON07-00106</u>	RECEIVED DATE: <u>8/14/07</u>	FIELD DATE: <u>AUG 14 2007</u>
DCC REVIEW DATE: <u>9/12/07</u>	CPC REVIEW DATE: <u>10/4/07</u>	
COMMENTS/INSTRUCTIONS: _____		

