

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

DEPARTMENT: Planning and Economic Development

AGENDA DATE: Regular Agenda, 11-02-10

CONTACT PERSON/PHONE: Linda Castle, (915) 541-4029

DISTRICT(S) AFFECTED: 7

SUBJECT:

A Resolution removing a condition placed on property by a contract dated February 10, 1972 and amended on January 12, 1979, which imposed conditions on a portion of Lot 2, Block 2, Rancho Alegre Subdivision, City of El Paso, El Paso County, Texas. Subject property: 7740 Lilac. Property Owner: The Evangelical Lutheran Good Samaritan Society. ZON10-00082 (**District 7**)

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 and Economic Development



APPROVED FOR AGENDA:

CITY MANAGER: _____

DATE: _____

RESOLUTION

A RESOLUTION REMOVING A CONDITION PLACED ON PROPERTY BY A CONTRACT DATED FEBRUARY 10, 1972 AND AMENDED ON JANUARY 12, 1979, WHICH IMPOSED CONDITIONS ON A PORTION OF LOT 2, BLOCK 2, RANCHO ALEGRE SUBDIVISION, CITY OF EL PASO, EL PASO COUNTY, TEXAS.

WHEREAS, the zoning of the property described as a portion of Lot 2, Block 2, Rancho Alegre Subdivision, City of El Paso, El Paso County, Texas, and as more particularly described on the attached Exhibit "A", incorporated by reference, was changed by City Council on February, 10, 1972; and,

WHEREAS, as part of the rezoning, conditions were imposed on the property by a Contract dated on February, 10, 1972; and,

WHEREAS, one of the conditions restricted the property to no more than 16 apartment units per acre; and,

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

WHEREAS, on January 12, 1979, the above condition was amended to allow 22 efficiency or one bedroom apartment units for housing for the elderly; and,

WHEREAS, the owner (applicant) submitted an application requesting the removal of that above condition on the above described property; and,

WHEREAS, a public hearing regarding removal of the condition was held before the City Plan Commission, and the Commission recommended removing the condition; and,

WHEREAS, the City Council of the City of El Paso has determined that the removal of the condition is appropriate in order to encourage this type of development,

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

1. That the following zoning condition imposed by Contract dated February, 10, 1972 and amended on January 12, 1979, restricting the number of dwelling units that can be constructed on the property described as *a portion of Lot 2, Block 2, Rancho Alegre Subdivision, City of El Paso, El Paso County, Texas* as identified as Exhibit "A" be released:

Not more than sixteen apartment units per acre shall be constructed or maintained on the property described in Exhibit "A"; provided, however, that if housing for the elderly is constructed on part of the property described as Lot 2, Block 2, Rancho Alegre Subdivision, the 22 efficiency or one-bedroom apartment units shall be permitted on said part of the property.

2. Except as herein amended, Contract dated February 10, 1972 and amended on January 12, 1979, 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:

APPROVED AS TO CONTENT:

Lupe Cuellar
Assistant City Attorney

Mathew S. McElroy, Deputy Director
Planning and Economic Development
Department

PROPERTY DESCRIPTION

7740 LILAC DRIVE

Description of a parcel of land being a 2.0595 acre parcel in Lot 2, Block 2, Rancho Alegre Subdivision, City of El Paso, El Paso County, Texas, said Rancho Alegre Subdivision recorded in book 43, page 5, Plat Records, El Paso County, Texas, being a remnant portion of that parcel described in book 1024, page 1659, and also being that same parcel recorded in book 1024, page 1681 (described as having 2.05984 acres), El Paso County Clerks Records, and described as follows;

Commencing for reference at an existing city monument located at the centerline PC of Lilac Drive (60' wide ROW) as shown on the plat of said Rancho Alegre Subdivision, and located approximately 135' south of the common easterly corner of Lots 1 and 2 of said Block 2, said monument also located North 01°52'00" East a distance of 207.56' from an existing city monument located at the PT of said centerline (bearing basis); Thence, leaving said centerline, North 88°08'00" West a distance of 30.00' to a rebar found on the westerly ROW line of said Lilac Drive, and being the "Point Of Beginning";

Thence, with said westerly ROW line of said Lilac Drive, South 01°52'00" West a distance of 98.59' (98.61' record) to the northeasterly corner of that parcel recorded in book 1024, page 1684, from whence a rebar found lies 1.2' northeasterly;

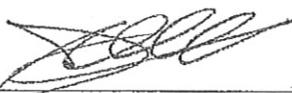
Thence, with the northerly boundary line of said parcel recorded in book 1024, page 1684, North 88°08'00" West a distance of 280.18' (280.20' record) to the northwesterly corner of said parcel recorded in book 1024, page 1684, from whence a rebar found lies 1.2' northeasterly;

Thence, with the easterly ROW line of Gallagher Street (70' wide ROW), North 01°52'00" East a distance of 384.53' (384.56' record) to a point lying on a rockwall being the common westerly corner of said Lots 1 and 2;

Thence, with the common lot line of said Lots 1 and 2, South 61°53'06" East a distance of 341.62' (341.64' record) to a "V" chiseled in concrete found at said common easterly corner of Lots 1 and 2;

Thence, along the arc of a curve to the left a distance of 138.23', having a central angle of 22°00'00", a radius of 360.00' and a chord that bears South 12°52'00" West a distance of 137.38' to the "Point Of Beginning" and containing 89,713 sq. ft. or 2.0595 acres.

Based on a field survey performed under my supervision and dated 11/02/2009 and revised on 11/12/2009.



John A Eby, Texas R.P.L.S. 5372 NM PLS 17779

Paso Del Norte Surveying Inc.
13998 Bradley Road
El Paso, TX. 79938
915-241-1841





Date: October 25, 2010
TO: Honorable Mayor and City Council
Joyce Wilson, City Manager
FROM: Linda Castle, Senior Planner
SUBJECT: ZON10-00082

The City Plan Commission (CPC) on October 21, 2010, voted **5-0** to recommend **approval** of a partial release of conditions imposed on the subject property by a Special Contract dated February 10, 1972, attached to Ordinance No. 4775 and as amended on January 12, 1979.

The following conditions are currently imposed. Conditions No. 2 is recommended for release with Condition No. 1 to remain in effect:

Original contract conditions

1) *No development of any kind will be done on the property and no building permits issued for construction thereon until:*

(a) *street, drainage and traffic circulation plans have been approved by the Director of Traffic and Transportation and the City Engineer of the City of El Paso;*

(b) *subdivision maps of the property have been approved and filed for record.*

2) *Not more than sixteen apartment units per acres shall be constructed or maintained on the property.*

As amended

(2) *Not more than sixteen apartment units per acre shall be constructed or maintained on the property described in Exhibit "A"; provided, however, that if housing for the elderly is constructed on the part of the property described as Lot 2, Block 2, Rancho Alegre Subdivision, then 22 efficiency or one-bedroom apartment units shall be permitted on said part of the property.*

This recommendation to release Condition #2 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 East 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.

Attachment: Staff Report



Planning & Economic Development

2 Civic Center Plaza • El Paso, Texas 79901 • (915) 541-4024

Mayor
John F. Cook

City Council

District 1
Ann Morgan Lilly

District 2
Susannah M. 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: ZON10-00082
Application Type Zoning Condition Release
CPC Hearing Date October 21, 2010
Staff Planner Linda Castle, (915) 541-4029, castlelj@elpasotexas.gov

Location 7740 Lilac Drive
Legal Description North portion of Lot 2, Block 2, Rancho Alegre Subdivision, City of El Paso, El Paso County, Texas

Acreage 2.0598 acres
Rep District 7
Present Zoning A-2/sc (Apartment/special contract)

Request Release of Contract Condition, Ordinance No. 4775, and as amended
Existing Use Vacant
Property Owner The Evangelical Lutheran Good Samaritan Society
Representative ASA Architects, William Helm

SURROUNDING ZONING AND LAND USE

North: R-5/sc (Residential/special contract) and C-1/sc (Commercial/special contract) / Single-family dwellings / Apartments
South: A-2/sc (Apartment/special contract) / Good Samaritan Towers
East: C-4/sc (Commercial/special contract) / Bienvivir Clinic and Casa Bienvivir
West: R-3 (Residential) / Single-family dwellings

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

NEAREST PARK: Green Lilac Park (1,227 feet)

NEAREST SCHOOL: North Loop Elementary (2,181 feet)

NEIGHBORHOOD ASSOCIATIONS

Santa Lucia Neighborhood Association

NEIGHBORHOOD INPUT

Notices of the October 21, 2010 City Plan Commission hearing were mailed out to property owners within 300 feet of the subject property on October 5, 2010. The Planning Division has not received any letters or phone calls regarding the request.

APPLICATION DESCRIPTION

The applicant is requesting the release of Condition No. 2 in the Contract attached to Ordinance 4775 in order to allow the development of 40 apartment units for the elderly on the subject property. The condition in the Contract, as amended, restricts density to 22 units per acre if the property is developed for apartments for the elderly:

Original Contract Conditions

- 1) *No development of any kind will be done on the property and no building permits issued for construction thereon until:*
 - (a) *street, drainage and traffic circulation plans have been approved by the Director of Traffic and Transportation and the City Engineer of the City of El Paso;*
 - (b) *subdivision maps of the property have been approved and filed for record.*
- 2) *Not more than sixteen apartment units per acres shall be constructed or maintained on the property.*

2) *Not more than sixteen apartment units per acres shall be constructed or maintained on the property.*

Contract Amendment

(2) Not more than sixteen apartment units per acre shall be constructed or maintained on the property described in Exhibit "A"; provided, however, that if housing for the elderly is constructed on the part of the property described as Lot 2, Block 2, Rancho Alegre Subdivision, then 22 efficiency or one-bedroom apartment units shall be permitted on said part of the property.

Condition No. 1 will remain in effect (see Attachments 4 and 5).

DEVELOPMENT SERVICES DEPARTMENT-PLANNING DIVISION RECOMMENDATION

Recommend **approval** of releasing Condition No. 2 in the Contract attached to Ordinance 4775 and as amended.

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 wide range of housing types that respond to the needs of all economic segments of the community.
- b. Goal: protect residential areas from incompatible land uses and encroachment which may have a negative impact on the residential living environment.
- c. 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 release of conditions and offered no objections to Planning Staff's recommendation for approval.

Engineering Department – Construction Management Division

Plan Review has no objections.

Engineering Department – Land Development Section

1. Provide flood zone boundary, (Zone AE and Zone X).
 2. Provide 5' sidewalk along Gallagher Street.
 3. ADA accessible Sidewalks, Wheel-chair ramp(s), and Driveway(s) will be required.*
 4. Grading plan and permit shall be required.*
 5. Storm Water Pollution Prevention Plan and/or permit required.*
 6. Drainage plans must be approved by the Development Services Department, Engineering Section.*
 7. No water runoff allowed outside the proposed development boundaries. (On-site ponding required.)
 8. The Subdivision is within Flood Zone AE - "Base flood elevations determined "Panel # 480214 0044C, dated February 16, 2006 and Zone X - "Areas determined to be outside the 0.2% annual chance floodplain, (no shading)." - Panel # 480214 0045C, dated February 16, 2006.
- * This requirement will be applied at the time of development.

Department of Transportation - Traffic Section

- No objection to condition release.
- 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.
- Sidewalks provided along Gallagher.
- Recommend pedestrian access on Gallagher side.
- Show detail of sidewalk across driveway.
- Clarify if there is access to adjoining property.

Sun Metro

Sun Metro does not oppose this request.

Sun Metro's Route 65 travels along Lilac which borders the eastern property line of the subject property.

Sun Metro does recommend the construction of sidewalks to provide pedestrian access to public transit services.

Fire Department

The adopted 2003 International Fire Code, Section D105.3, requires fire apparatus access to one entire side of the building. The detailed site plans do not reflect compliance.

El Paso Water Utilities

EPWU does not object to this request.

CITY PLAN COMMISSION OPTIONS

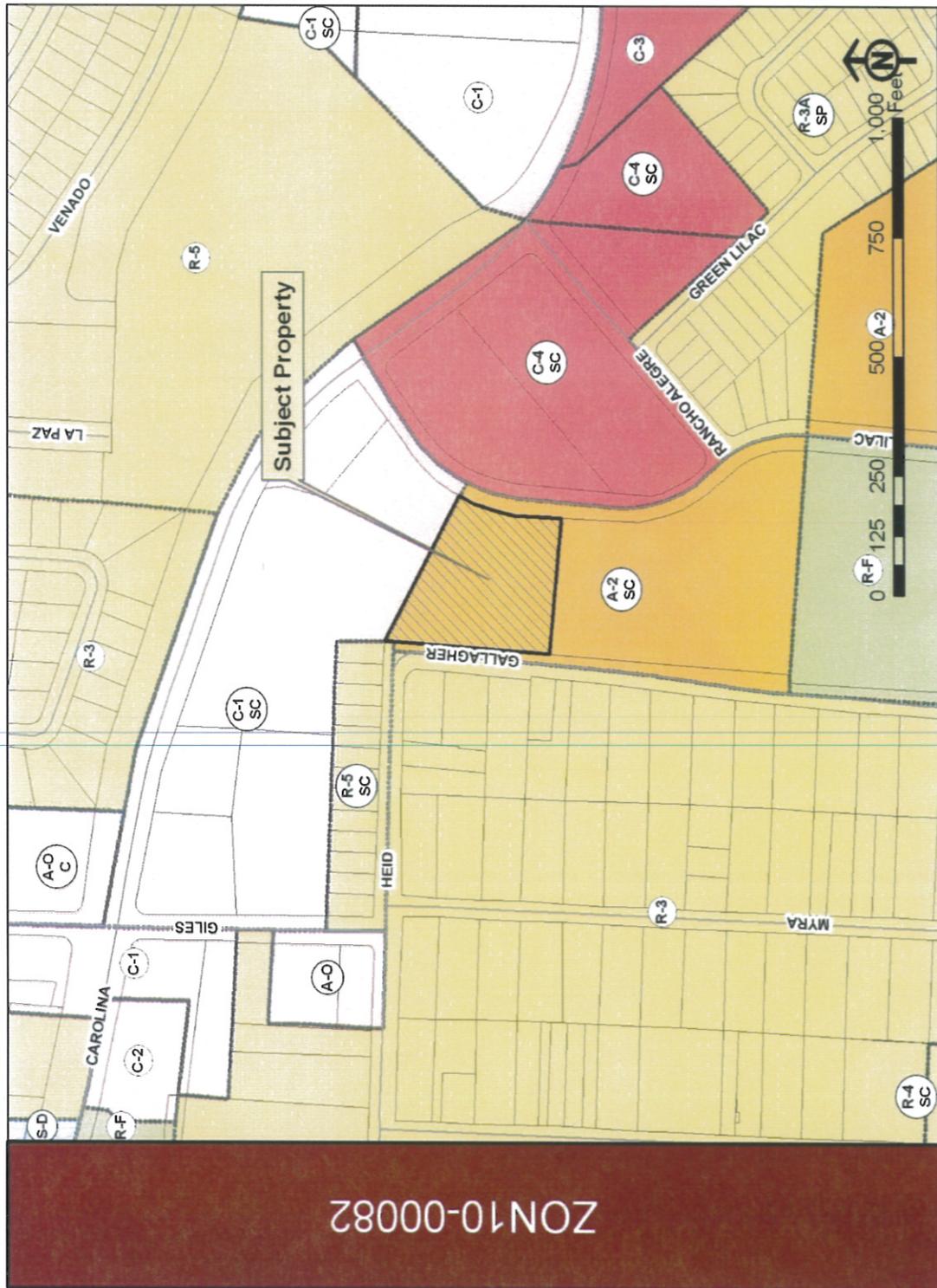
The City Plan Commission may consider the following options and additional options that it identifies when reviewing the zoning condition release application:

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
5. Amendment to Contract

ATTACHMENT 1: ZONING MAP

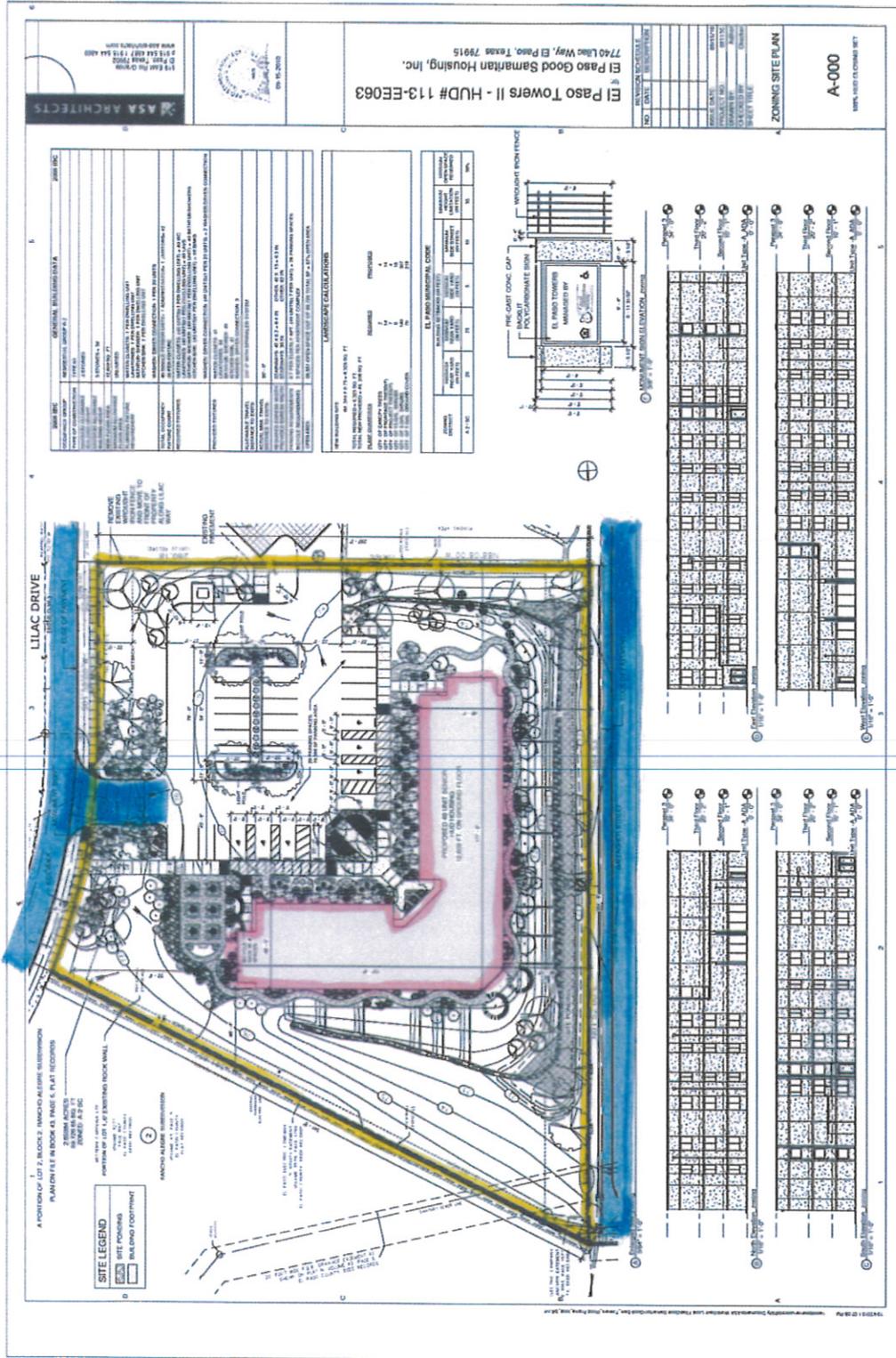


ZON10-00082

ATTACHMENT 2: AERIAL MAP



ATTACHMENT 3: SITE PLAN

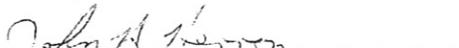


The City may enforce this agreement by injunction or any other legal or equitable remedy. The City Council of the City of El Paso may release the above restrictions, conditions and covenants in its discretion without the consent of any third person who may be benefited thereby.

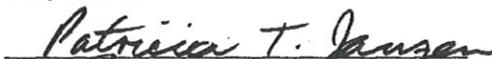
Witness the following signatures and seals:



John DeVoto



John Herron

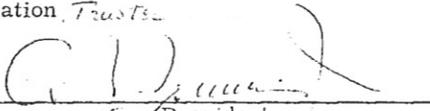


Patricia T. Janzen



George Janzen

THE EL PASO NATIONAL BANK, a corporation, Trustee

by 

C. D. Young
President

ATTEST:



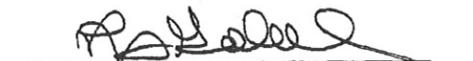
Martin Merrill
Cashier

THE CITY OF EL PASO

by 

Mayor

ATTEST:



City Clerk

ATTACHMENT 5: AMENDMENT TO CONTRACT

THE STATE OF TEXAS)
)
COUNTY OF EL PASO)

AMENDMENT TO CONTRACT

This amendment to contract, made this 12th day of January, 1979, by and between John DeVoto, John Herron, Thomas M. Mayfield III, and Patricia T. Janzen (Individually and as Attorney-in-Fact for Margaret A. Mayfield Palm and Mary Curtiss Mayfield), First Parties, and the City of El Paso, Second Party, witnesseth:

RECITALS

1. By a contract dated February 7, 1972, and recorded in Volume 376, page 1377 of the Deed Records of El Paso County, Texas, John A. DeVoto et al. placed certain restrictions, conditions and covenants on a portion of Tract 1, Block 18, Ysleta Grant in the City of El Paso, El Paso County, Texas, now known as Rancho Alegre Subdivision in the City of El Paso, El Paso County, Texas, to which contract reference is hereby made for the terms and conditions thereof and for a description of the property.

2. Among the restrictions, conditions and covenants contained in such contract is paragraph (2) thereof which provides as follows:

(2) Not more than 16 apartment units per acre.

3. First Parties own all of Lot 2, Block 2, Rancho Alegre Subdivision according to the subdivision plat of Rancho Alegre Subdivision recorded in Volume 43, Page 5 of the Plat Records of El Paso County, Texas. Such lot is part of the property which is subject to the provisions of the contract.

4. First Parties have requested that the contract be amended to change the density restrictions applicable to Lot 2, Block 2, Rancho Alegre Subdivision from 16 apartment units per acre to 22 apartment units per acre to permit the construction of housing for the elderly and a nursing home thereon, and the City has agreed to such amendment.

AGREEMENT

NOW THEREFORE, in consideration of the premises and the mutual agreements of the parties contained herein, it is hereby agreed that paragraph (2) of the aforesaid contract be and is hereby amended to read as follows:

Ord. # 4775

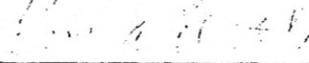
A 1.0 155 3546

(2) Not more than sixteen apartment units per acre shall be constructed or maintained on the property described in Exhibit "A"; provided, however, that if housing for the elderly is constructed on the part of the property described as Lot 2, Block 2, Rancho Alegre Subdivision, then 22 efficiency or one-bedroom apartment units shall be permitted on said part of the property.

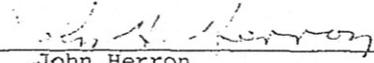
This amendment to contract is executed by Patricia T. Janzen on her own behalf and as Attorney-in-Fact for Margaret A. Mayfield Palm and Mary Curtiss Mayfield.

Except as hereby amended, the provisions of such contract shall remain unchanged.

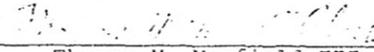
WITNESS THE FOLLOWING signatures and seal:



John A. DeVoto



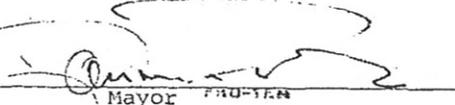
John Herron



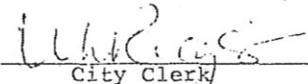
Thomas M. Mayfield III



Patricia T. Janzen, Individually and
as Attorney-in-Fact for Margaret A.
Mayfield Palm and Mary Curtiss Mayfield

THE CITY OF EL PASO
By 

Mayor Pro-Tem

ATTEST:


City Clerk

APPROVED AS TO FORM:

City Attorney

Case file 122-3546 -2-
Ord. 4775