

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

DEPARTMENT: Development Services Department, Planning Division

AGENDA DATE: Introduction: December 1, 2009
Public Hearing: December 22, 2009

CONTACT PERSON/PHONE: Andrew Salloum, (915) 541-4029, salloumam@elpasotexas.gov

DISTRICT(S) AFFECTED: 1

SUBJECT:

An Ordinance changing the zoning of Tract 6B, Block 5, Upper Valley Surveys, City of El Paso, El Paso County, Texas from R-3/sc (Residential/special contract) to A-2/sc (Apartment/special contract), and imposing a condition. The penalty is as provided for in Chapter 20.24 of the El Paso City Code. Subject Property: 5257 Charl Ann Street. Applicant: Enrique Escobar. ZON09-00062 (**District 1**).

BACKGROUND / DISCUSSION:

N/A

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) – Approval Recommendation (5-0)

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

LEGAL: (if required) N/A

FINANCE: (if required) N/A

DEPARTMENT HEAD: Victor Q. Torres
Director, Development Services

APPROVED FOR AGENDA:

CITY MANAGER: _____

DATE: _____

ORDINANCE NO. _____

AN ORDINANCE CHANGING THE ZONING OF TRACT 6B, BLOCK 5, UPPER VALLEY SURVEYS, CITY OF EL PASO, EL PASO COUNTY, TEXAS, FROM R-3/sc (RESIDENTIAL/SPECIAL CONTRACT) TO A-2/sc (APARTMENT/SPECIAL CONTRACT), AND IMPOSING A CONDITION. THE PENALTY IS AS PROVIDED FOR IN CHAPTER 20.24 OF THE EL PASO CITY CODE.

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

That the zoning of *Tract 6B, Block 5, Upper Valley Surveys, City of El Paso, El Paso County, Texas*, and more particularly described by metes in bounds in the attached Exhibit "A", be changed from **R-3/sc (Residential/special contract)** to **A-2/sc (Apartment/special contract)**, within the meaning of the zoning ordinance, and that the zoning map of the City of El Paso be revised accordingly.

Further, that the property described above be subject to the following conditions which is necessitated by and attributable to the increased density of use generated by the change of zoning in order to protect the health, safety and welfare of the adjacent property owners and the residents of this City:

1. *That a detailed site development plan to be reviewed and approved in conformance with the El Paso City Code prior to issuance of building permits.*
2. *The existing trees along the westerly property line of subject property along the lateral shall be preserved.*

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:

APPROVED AS TO CONTENT:

Lupe Cuellar
Assistant City Attorney

Mathew S. McElroy
Deputy Director – Planning
Development Services Department

MEMORANDUM

DATE: November 17, 2009

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

FROM: Andrew Salloum, Planner

SUBJECT: ZON09-00062

The City Plan Commission (CPC), on November 5, 2009, voted **5-0** to recommend **APPROVAL** of rezoning subject property from R-3/sc (Residential/special contract) to A-2/sc (Apartment/special contract) with the following conditions:

1. *That a detailed site development plan be reviewed and approved in conformance with the El Paso City Code prior to issuance of building permits.*
2. *The existing trees along the westerly property line of subject property along the lateral shall be preserved.*

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 Northwest Planning Area. The CPC also determined that the rezoning protects the best interest, health, safety and welfare of the public in general; that the proposed use is compatible with adjacent land uses; 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.

The Planning Division received a signed petition in **OPPOSITION** to the rezoning request from area residents, all of whom reside outside the 300-foot notification area. The Planning Division also received 1 phone call and 1 letter by fax in opposition to this request from two residents who reside within the required 300-foot notification area.

Attachment: Staff report



City of El Paso – City Plan Commission Staff Report

Case No: ZON09-00062
Application Type: Rezoning
CPC Hearing Date: November 5, 2009
Staff Planner: Andrew Salloum, 915-541-4029, salloumam@elpasotexas.gov

Location: 5257 Charl Ann Street
Legal Description: Tract 6B, Block 5, Upper Valley Surveys, City of El Paso, El Paso County, Texas
Acreage: 4.932 acres
Rep District: 1
Existing Use: Vacant
Request: R-3/sc (Residential/special contract) to A-2/sc (Apartment/special contract)
Proposed Use: Apartment Complex

Property Owner: Enrique Escobar
Applicant: Enrique Escobar
Representative: CAD Consulting Co.

SURROUNDING ZONING AND LAND USE

North: R-2 (Residential) / Vacant and Single-Family Residential
South: R-2 (Residential) / Single-Family Residential and Nursery
East: R-3 (Residential) / Railroad, C-3/sc (Commercial/special contract) / shopping center and restaurants
West: R-2 (Residential) / Single-Family Residential and Montoya Main Lateral

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

Nearest Park: Thorn Park (1,020 Feet)

Nearest School: Mitzi Bond Elementary (1,040 Feet)

NEIGHBORHOOD ASSOCIATIONS

Coronado Neighborhood Association
Mountain Arroyos Neighborhood Association
Save the Valley
Upper Mesa Hills Neighborhood Association
Upper Valley Improvement Association

NEIGHBORHOOD INPUT

Notice of a Public Hearing was mailed to all property owners within 300 feet of the subject property on October 7, 2009. The Planning Division has not received any letters or phone calls in support or opposition of the rezoning request.

CASE HISTORY

On July 21, 1981, the subject property was rezoned from R-2 (Residential) to R-3 (Residential) to permit development of townhouses. The following conditions were imposed on the property by Ordinance No. 7266 dated July 21, 1981:

1. *No building permits shall be issued for construction on the property until First Party has, at no cost to the City, done the following:*

- a. *Constructed 8 foot high masonry wall adjacent to the portion of the southerly boundary of the property which runs along the northerly boundary of Tract 7B, Block 5, Upper Valley Surveys;*
 - b. *Installed a concrete pipe in the community irrigation ditch which runs along the southerly boundary of the portion of the property which is adjacent to the northerly boundary of Tract 7B, Block 5, Upper Valley Surveys.*
2. *The work required under paragraph 1 hereof shall be completed by First Party and approved by the City Engineer of the City of El Paso before building permits shall be issued for construction on the property.*

APPLICATION DESCRIPTION

The applicant is requesting to rezone the subject property from R-3/sc (Residential/special contract) to A-2/sc (Apartment/special contract) in order to permit an apartment complex. The property is 4.931 acres in size. The conceptual plan shows a 26-unit apartment complex, a clubhouse, and a swimming pool. Access to the property is from Charl Ann Street.

PLANNING DIVISION RECOMMENDATION

The Planning Division recommends **APPROVAL** of rezoning the property from R-3/sc (Residential/special contract) to A-2/sc (Apartment/special contract) with the following conditions:

1. *That a detailed site development plan be reviewed and approved in conformance with the El Paso City Code prior to issuance of building permits.*
2. *The existing trees along the westerly property line of subject property along the lateral shall be preserved.*

DEVELOPMENT COORDINATING COMMITTEE RECOMMENDATION

The DCC recommends **APPROVAL** of rezoning the property from R-3/sc (Residential/special contract) to A-2/sc (Apartment/special contract) with the following conditions:

1. *That a detailed site development plan be reviewed and approved in conformance with the El Paso City Code prior to issuance of building permits.*
2. *The existing trees along the westerly property line of subject property along the lateral shall be preserved.*

The Plan for El Paso-City-Wide Land Use Goals

All applications for rezoning 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: protect residential areas from incompatible land uses and encroachment which may have a negative impact on the residential living environment.
- c. Goal: preserve, protect, and enhance the integrity, economic vitality, and livability of the city's neighborhoods.

The purpose of A-2 (Apartment) districts is to promote and preserve residential development within the city associated with a landscape more urban in appearance and permitting a mixture of housing types. It is intended that the district regulations allow for medium densities of dwelling units supported by higher intensity land uses located at the periphery of single-family neighborhoods providing that the overall character and architectural integrity of the neighborhood is preserved. The regulations of the districts will permit building types designed for transition from areas of low density residential neighborhoods to other residential areas, and certain nonresidential uses and support facilities.

Development Services Department - Building Permits and Inspections Division

Zoning Review: no objections.

Landscape Review: no comments received.

Development Services Department - Planning Division

The Planning Division recommends **APPROVAL** of rezoning the property from R-3/sc (Residential/special contract) to A-2/sc (Apartment/special contract) with the following conditions:

1. *That a detailed site development plan be reviewed and approved in conformance with the El Paso City Code prior to issuance of building permits.*
2. *The existing trees along the westerly property line of subject property along the lateral shall be preserved.*

Land Development:

- Comments:
 - Verify legal description. This land was platted on March 15, 1978.
 - Coordination with Food Plain Administrator for requirements.
- ADA accessible Sidewalks, Wheel-chair ramp(s), and Driveway(s) will be required.*
- Grading plan and permit shall be required.*
- Storm Water Pollution Prevention Plan and/or permit required.*
- Drainage plans must be approved by the Development Services Department, Engineering Section.*
- No water runoff allowed outside the proposed development boundaries, (On-site ponding required)*
- The Subdivision is **within Flood Zone A1** – “Areas of 100-years flood; base flood elevations and flood hazard factors not determined.” – Panel # **480214 0021 D, dated January 3, 1997.**

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

Engineering Department - Traffic Division

No objection to proposed zoning, provided that property is platted to insure necessary improvements to Charl Ann Street that will be needed to serve the additional traffic.

Street Department

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 the City of El Paso Design Standards for Construction.

Fire Department

No adverse comments.

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 rezoning application

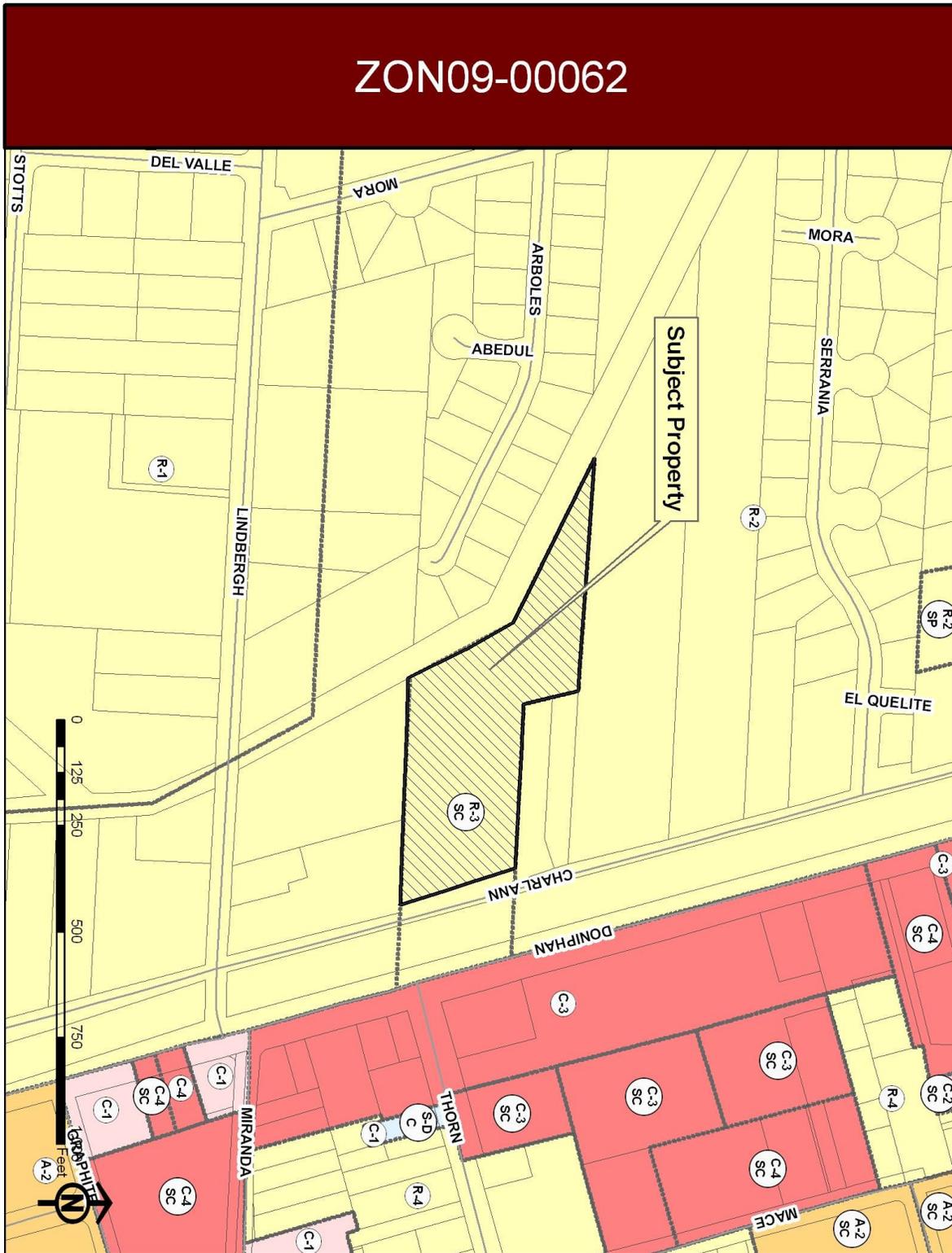
1. Recommend approval of the application finding that the rezoning is in conformance with the review criteria of The Plan for El Paso as reflected in CPC report or other criteria that the CPC identifies from the Plan.
2. Recommend approval of the application with modifications to bring the rezoning into 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 rezoning does not conform to the review criteria in The Plan for El Paso as reflected in CPC report or other criteria identified in the Plan by the CPC.

Attachments:

- Attachment 1: Zoning Map
- Attachment 2: Aerial Map
- Attachment 3: Conceptual Site Plan
- Attachment 4: Ordinance No. 7266

ATTACHMENT 1: ZONING MAP

ZON09-00062



ATTACHMENT 2: AERIAL MAP

ZON09-00062



ATTACHMENT 3: CONCEPTUAL SITE PLAN



TUSCANY VALLEY APARTMENTS

ATTACHMENT 4: ORDINANCE NO. 7266

7266

AN ORDINANCE CHANGING THE ZONING OF ALL OF CHARL-ANN PARK SUBDIVISION, THE PENALTY BEING AS PROVIDED IN SECTION 25-96 OF THE EL PASO CITY CODE

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

That the zoning of all of Charl-Ann Park Subdivision, be changed to R-3 (Residential) District within the meaning of the zoning ordinance and the zoning map of the City be revised accordingly.

PASSED AND APPROVED this 21st day of July, 1981.

ATTEST:

[Signature]
Mayor PRO-TEM

[Signature]
City Clerk

APPROVED AS TO FORM:

[Signature]
Assistant City Attorney

APPROVED AS TO CONTENT:

[Signature]
Planning Department

I CERTIFY THAT THE FOLLOWING ZONING MAPS HAVE BEEN REVISED: L.D.
7-28-81 COUNTER
7-28-81 ORIGINAL
7-28-81 *[Signature]*
7-28-81 CONTROL *[Signature]*

I certify that the zoning map has been revised to reflect the amendment of ordinance #7266.
[Signature] Date 7-28-81

81-4652

Contract

ATTACHMENT 4: ORDINANCE NO. 7266

CONTRACT

THIS CONTRACT MADE this 21st day of July, 1981, by and between CHARL ANN JOINT VENTURE, a partnership composed of PAT WATTS, CHUCK LUCIANO, TOM DAWSON and JOE SEAVERNS, First Party, and the CITY OF EL PASO, Second Party, witnesseth:

Application has been made to the City of El Paso for rezoning of all of Charl-Ann Park Subdivision, in 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 R-3 (Residential) District within the meaning of the zoning ordinance of the City of El Paso, it shall be subject to the following restrictions, conditions and covenants:

1. No building permits shall be issued for construction on the property until First Party has, at no cost to the City, done the following:

- (a) Constructed an 8-foot high masonry wall adjacent to the portion of the southerly boundary of the property which runs along the northerly boundary of Tract 7B, Block 5, Upper Valley Surveys;
- (b) Installed a concrete pipe in the community irrigation ditch which runs along the southerly boundary of the portion of the property which is adjacent to the northerly boundary of Tract 7B, Block 5, Upper Valley Surveys.

Such work shall be done in accordance with plans and specifications to be approved by the City Engineer of the City of El Paso.

2. The work required under paragraph 1 hereof shall be completed by First Party and approved by the City Engineer of the City of El Paso before building permits shall be issued for construction on the property.

This contract is a restriction, condition and covenant running with the land and a charge and servitude thereon, and shall bind First Party and its successors in title. Any future conveyance of the land shall contain these restrictions, conditions and covenants and shall embody this contract by express reference.

ATTACHMENT 4: ORDINANCE NO. 7266

The City may enforce this contract 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 seal:

CHARL ANN JOINT VENTURE

By Charles D. Luciano
Managing Partner

THE CITY OF EL PASO

By John P. Shea
Mayor PRO-TEM

ATTEST:

W. R. [Signature]
City Clerk

APPROVED AS TO FORM:

[Signature]
City Attorney

THE STATE OF TEXAS)
COUNTY OF EL PASO)

BEFORE ME, the undersigned authority, on this day personally appeared Charles D. Luciano, a member of the partnership firm of CHARL ANN JOINT VENTURE, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same as the act of CHARL ANN JOINT VENTURE, a co-partnership, for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 17 day of July, 1981.

My Commission Expires: 9-30-85

[Signature]
Notary Public, State of Texas

81-4652

ATTACHMENT 4: ORDINANCE NO. 7266

THE STATE OF TEXAS)
)
COUNTY OF EL PASO)

BEFORE ME, the undersigned authority, on this day personally appeared Jim Scheer, Mayor ~~PRO-TEM~~ 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 SEAL OF OFFICE this 21st day of July, 1981.

My Commission Expires:

6/30/84

Billie Jean Brunkan
Notary Public, State of Texas

81-4652

81-4652

ATTACHMENT 4: ORDINANCE NO. 7266

RESOLUTION

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

That the mayor be authorized to execute a contract with
CHARL ANN JOINT VENTURE placing certain restrictions, conditions
and covenants on the property being rezoned by Ordinance No.
7266.

ADOPTED this 21st day of July, 1981.

ATTEST:

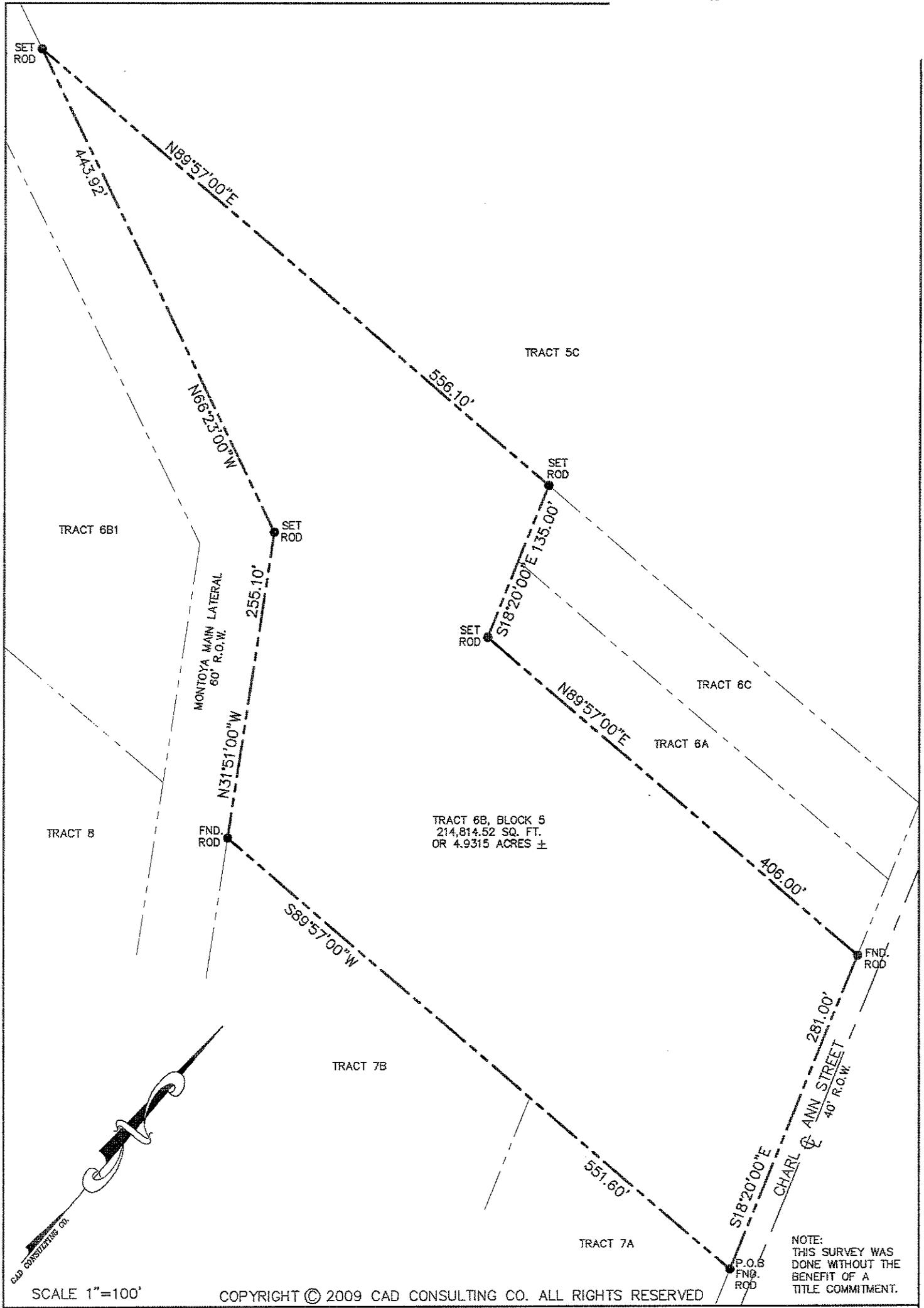
W. R. ...
City Clerk

James P. ...
Mayor PRO-TEM

APPROVED AS TO FORM:

...
City Attorney

81-4652



| | |
|--|--|
| <p>CERTIFICATION</p> <p>I HEREBY CERTIFY THAT THE FOREGOING BOUNDARY SURVEY WAS MADE ON THE GROUND AND UNDER MY SUPERVISION AND IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF. THAT THERE ARE NO ENCROACHMENTS EXCEPT AS SHOWN HEREON.</p> | <p>JOB # 92090 DATE: 09-14-09 FIELD: JM OFFICE: EA FILE: NET:\ENRIQUE\2009\92090</p> |
| | <p>LOCATED IN ZONE A1 PANEL # 480214-0021-D DATED 01-03-97</p> |
| <p>RECORDED IN VOLUME N/A PAGE N/A, PLAT RECORDS, EL PASO COUNTY, TX</p> | <p>5257 CHARL ANN STREET TRACT 6B, BLOCK 5 UPPER VALLEY SURVEYS CITY OF EL PASO, EL PASO COUNTY, TEXAS</p> |
| <p>CAD CONSULTING COMPANY 1790 LEE TREVINO DRIVE SUITE 503 EL PASO, TEXAS 79936 (915) 633-6422</p> | <p>CARLOS M. JIMENEZ R.P.S. No. 3950</p> |

2009.00062