

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

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

**AGENDA DATE:** Introduction: December 10, 2013  
Public Hearing: January 2, 2014

**CONTACT PERSON/PHONE:** Andrew Salloum, (915) 541-4633, salloumam@elpasotexas.gov

**DISTRICT(S) AFFECTED:** 4

**SUBJECT:**

An Ordinance changing the zoning of a portion of Tracts 5 and 6, Milagro Acres, 5332 Marcillus Avenue, City of El Paso, El Paso County, Texas from C-1 (Commercial) to R-4 (Residential). The penalty is as provided for in Chapter 20.24 of the El Paso City Code. Subject Property: 5332 Marcillus Avenue. Property Owner: Olga R. Sanchez. PZRZ13-00031 (**District 4**)

**BACKGROUND / DISCUSSION:**

Staff report attached.

**PRIOR COUNCIL ACTION:**

N/A

**AMOUNT AND SOURCE OF FUNDING:**

N/A

**BOARD / COMMISSION ACTION:**

City Plan Commission (CPC) – Approval Recommendation (8-0)

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

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

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

**DEPARTMENT HEAD:** Mathew S. McElroy  
Director, City Development Department

**APPROVED FOR AGENDA:**

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

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

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE CHANGING THE ZONING OF A PORTION OF TRACTS 5 AND 6, MILAGRO ACRES, 5332 MARCILLUS AVENUE, CITY OF EL PASO, EL PASO COUNTY, TEXAS FROM C-1 (COMMERCIAL) TO R-4 (RESIDENTIAL). 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:**

Pursuant to Section 20.04.360 of the El Paso City Code, the zoning of *a portion of Tracts 5 and 6, Milagro Acres, 5332 Marcillus Avenue, City of El Paso, El Paso County, Texas, and as more particularly described by metes and bounds on the attached Exhibit "A", incorporated by reference*, be changed from **C-1 (COMMERCIAL)** to **R-4 (RESIDENTIAL)**, as defined in Section 20.06.020, and that the zoning map of the City of El Paso be revised accordingly.

The penalties for violating the standards imposed through this rezoning ordinance are found in Section 20.24 of the El Paso City Code.

**PASSED AND APPROVED** this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

**CITY OF EL PASO**

**ATTEST:**

\_\_\_\_\_  
Oscar Leeser, Mayor

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

**APPROVED AS TO FORM:**

**APPROVED AS TO CONTENT:**

\_\_\_\_\_  
Karla M. Nieman  
Assistant City Attorney

\_\_\_\_\_  
Mathew S. McElroy, Director  
City Development Department

13-1007-909/PL#231891/PZRZ13-00031 - 5332 Marcillus Avenue - Rezoning Ordinance/kmn

ORDINANCE NO. \_\_\_\_\_

Zoning Case No: PZRZ13-00031

# Calderon Engineering

3031 Trawood Drive  
El Paso, Texas 79936  
(915) 855-7552  
Fax: 855-8350  
CalderonEngineering@elpbizclass.com

August 20, 2013

## METES AND BOUNDS DESCRIPTION

Description of a parcel of land being a portion of Tracts 5 and 6, Milagro Acres, City of El Paso, El Paso County, Texas, as filed and recorded in Book 9, Page 47, Deed Records of El Paso County, Texas, and being more particularly described by metes and bounds as follows:

Beginning at a city monument located at the intersection of the centerline of Marcillus Avenue and the centerline of Cornell Avenue in Milagro Hills Addition Unit 7, City of El Paso, El Paso County, Texas, as filed and recorded in Book 23, Page 12, Deed Records of El Paso County, Texas;

Thence South 60°37'00" East, along the centerline of Marcillus Avenue, a distance of 130.00 feet to a found concrete nail;

Thence South 29°23'00" West, a distance of 30.00 feet to a found concrete nail marking the "Point of Beginning";

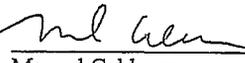
Thence South 60°37'00" East, along the south right of way line of Marcillus Avenue, a distance of 100.00 feet to a set concrete nail;

Thence South 29°23'00" West, a distance of 100.00 feet to a found concrete nail;

Thence North 60°37'00" West, a distance of 100.00 feet to a found concrete nail;

Thence North 29°23'00" East, a distance of 100.00 feet to the "Point of Beginning", and containing in all 10,000.00 square feet or 0.23 acres of land more or less. A plat of survey dated August 23, 2013 is a part of this description and is attached hereto.



  
Manuel Calderon  
Registered Professional Land Surveyor No. 2564  
Calderon Engineering  
Texas Registered Engineering Firm No. F-3788  
Texas Licensed Surveying Firm No. 100200-00

## MEMORANDUM

**DATE:** December 2, 2013

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

**FROM:** Andrew Salloum, Planner

**SUBJECT: PZRZ13-00031**

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The City Plan Commission (CPC) on November 14, 2103, voted **8-0** to recommend **APPROVAL** of the rezoning the subject property from C-1 (Commercial) to R-4 (Residential).

The CPC found that the rezoning is in conformance with Plan El Paso. 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 negative effects on the natural environment, social economic conditions, and property values in the vicinity and the city as a whole.

**Attachments:**  
Staff Report



## *City of El Paso – City Plan Commission Staff Report*

**Case No:** PZRZ13-00031  
**Application Type:** Rezoning  
**CPC Hearing Date:** November 14, 2013  
**Staff Planner:** Andrew Salloum, 915-541-4633, salloumam@elpasotexas.gov

**Location:** 5332 Marcillus Avenue  
**Legal Description:** A portion of Tracts 5 and 6, Milagro Acres, City of El Paso, El Paso County, Texas  
**Acreage:** 0.23  
**Rep District:** 4  
**Current Zoning:** C-1 (Commercial)  
**Existing Use:** Duplex  
**C/SC/SP/ZBA/LNC:** No  
**Request:** From C-1 (Commercial) to R-4 (Residential)  
**Proposed Use:** Duplex

**Property Owner:** Olga R. Sanchez  
**Representative:** Olga R. Sanchez

### **SURROUNDING ZONING AND LAND USE**

**North:** C-1 (Commercial) / Motor vehicle repair, minor  
**South:** R-4 (Residential) / Single-family dwellings  
**East:** C-1 (Commercial) / Cash Pawn Shop  
**West:** R-4 (Residential) / Single-family dwellings

**PLAN EL PASO DESIGNATION:** G-3, Post-War  
**NEAREST PARK:** Milagro Park (2,853 feet)  
**NEAREST SCHOOL:** Dowell Elementary (3,084 feet)

### **NEIGHBORHOOD ASSOCIATIONS**

There are no registered neighborhood associations in the area. This was verified through community development department data on recognized neighborhood associations.

### **NEIGHBORHOOD INPUT**

Notice of a Public Hearing was mailed to all property owners within 300 feet of the subject property on October 30, 2013. The Planning Division has not received any phone calls or letters in support or opposition to the rezoning request.

### **CASE HISTORY**

On April 14, 1966, City Council approved the rezoning request for the subject property from R-4 (Residential) to C-1 (Commercial) and imposing conditions by Ordinance No. 3499 (see Attachment #4).

On October 23, 1979, City Council approved the release of all special contract conditions.

### **APPLICATION DESCRIPTION**

The applicant is requesting to rezone the subject property from C-1 (Commercial) to R-4 (Residential) in order to allow for a duplex. The existing duplex is not permitted in C-1 (Commercial) district. In 2006, the property started being used as a duplex. Considering the surrounding land uses, the R-4 (Residential) is the most-compatible zoning district permitting the existing use. The subject property is 0.23 acres in size. The detailed site plan shows the existing 1,086 sq. ft. duplex with 2-driveways. Access to the subject property is provided from Marcillus Avenue. If rezoned to R-4 (Residential), the lot will comply with all dimensional

standards for the zone:

<b>Lot &amp; Dwelling Size / Building Setback</b>	<b>Required (Minimum)</b>	<b>Proposed (Existing)</b>
<b>Lot Area</b>	7,000 sq. ft.	10,000 sq. ft.
<b>Lot Width</b>	70 ft.	100 ft.
<b>Lot Depth</b>	90 ft.	100 ft.
<b>Front Yard</b>	10 ft., except that a 20 ft. driveway must be provided	20 ft.
<b>Rear Yard</b>	10 ft.	28 ft. 2 in.
<b>Cumulative Front &amp; Back Yard</b>	45 ft.	48 ft. 2 in.
<b>Side Yard</b>	5 ft.	12 ft. 6 in. and 10 ft. 5 in.
<b>Side Street Yard</b>	10 ft.	N/A
<b>Height</b>	35 ft.	12 ft.

**PLANNING DIVISION RECOMMENDATION**

The Planning Division recommends **approval** of rezoning the subject property from C-1 (Commercial) to R-4 (Residential). The recommendation is based on the compatibility with the surrounding land uses and in compliance with the Plan El Paso future land use designation, G-3, Post-War.

**Plan El Paso- Future Land Use Map Designation**

All applications for rezoning shall demonstrate compliance with the following criteria:

G-3, Post-War: This sector applies to transitional neighborhoods typically developed from the 1950s through the 1980s. Streets were laid out with curvilinear patterns without alleys and shopping centers are located at major intersections behind large parking lots. This sector is generally stable but would benefit from strategic suburban retrofits to supplement the limited housing stock and add missing civic and commercial uses.

The purpose of the R-4 (Residential) district is to promote and preserve residential development within the city to create basic neighborhood units. It is intended that the district regulations maintain a low density of dwelling units supporting a suburban-urban interface that permits developments utilizing varying lot configurations. The regulations of the districts will permit primarily single-family and two-family residential areas, and recreational and institutional uses incidental to and serving the neighborhood.

**COMMENTS:**

**Planning Division - Transportation**

1. No objections to the rezoning request.
2. TIA is not required.

**City Development Department – Plan Review**

No objections.

**City Development Department - Land Development**

No objections.

**Fire Department**

No objections to the rezoning cases as presented.

**El Paso Water Utilities**

1. EPWU-PSB does not object to this request.

Water:

2. There is an existing 6-inch diameter water main extending along Marcillus Avenue that is available for

service, the water main is located approximately 10-ft north from the center line of the right-of-way.

3. EPWU records indicate two 3/4-inch water meters serving the subject property. The service address for these meters is 5332 Marcillus Avenue.

4. Previous water pressure tests from fire hydrant # 2821 located at the northeast corner of Corenell and Marcillus Avenues have yielded a static pressure of 98 (psi) pounds per square inch, a residual pressure of 90 (psi) pounds per square inch, and a discharge of 750 (gpm) gallons per minute.

5. The owner should, for his own protection and at his own expense, install at the discharge side of each water meter a pressure regulator, strainer and relief valve, to be set for pressure as desired by the customer. The Lot owner shall be responsible for the operation and maintenance of the above-described water pressure regulating device.

Sanitary Sewer:

6. There is an existing 8-inch diameter sanitary sewer main extending along Marcillus Avenue that is available for service, the sewer main is located approximately 5-ft north from the center line of the right-of-way.

General

7. EPWU requires a new service application to provide service to the property. New service applications are available at 1154 Hawkins, 3rd floor and should be made 6 to 8 weeks in advance of construction to ensure water for construction work. A site plan, utility plan, grading and drainage plans, landscaping plan, the legal description of the property and a certificate-of-compliance are required at the time of application. Service will be provided in accordance with the current EPWU – PSB Rules and Regulations. The applicant is responsible for the costs of any necessary on-site and off-site extensions, relocations or adjustments of water and sanitary sewer lines and appurtenances.

#### **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 Plan 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 Plan 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 Plan El Paso as reflected in CPC report or other criteria identified in the Plan by the CPC.

#### **Attachments:**

Attachment 1: Zoning Map

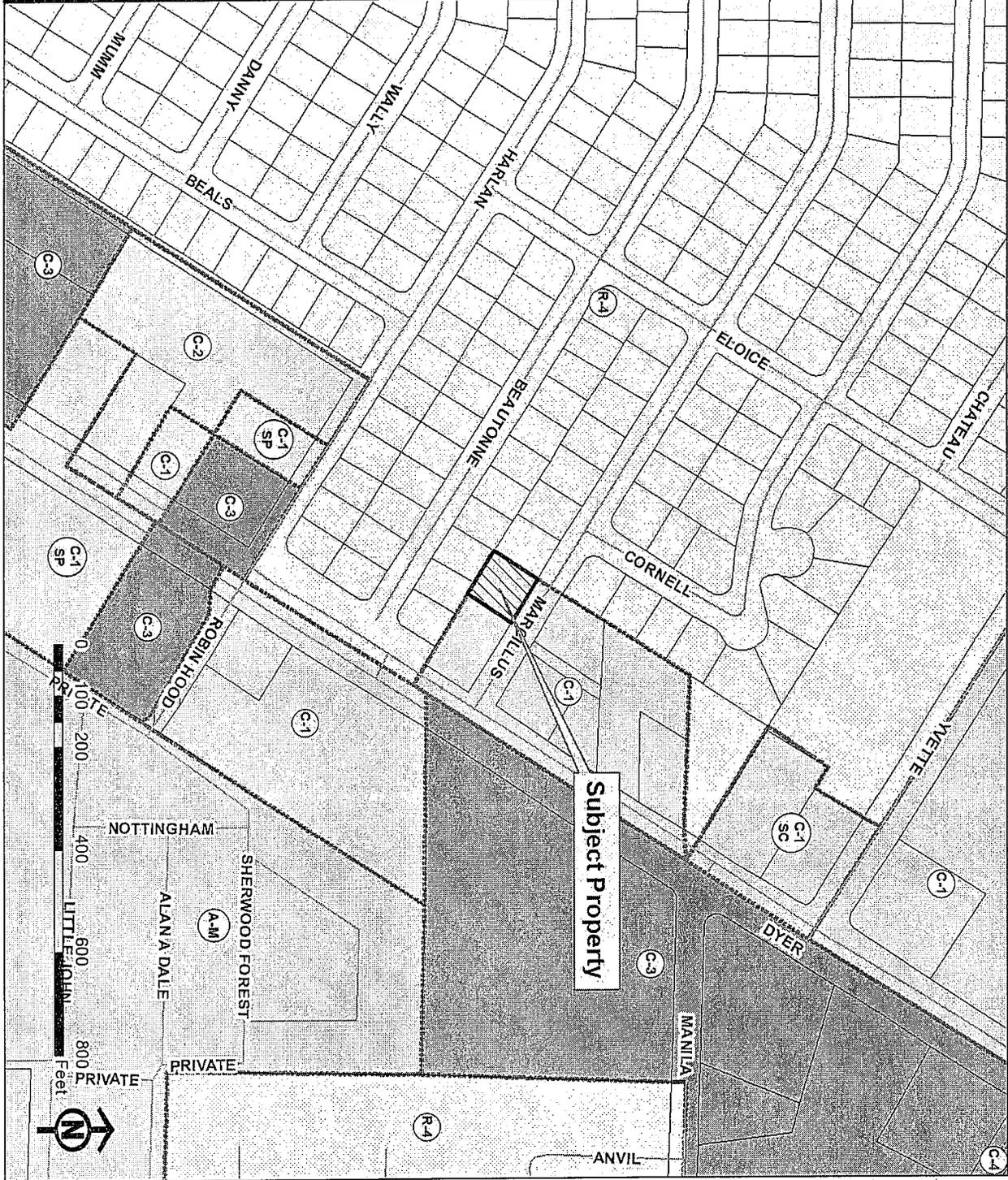
Attachment 2: Aerial Map

Attachment 3: Detailed Site Plan

Attachment 4: Ordinance No. 3499 (These conditions have all been released and no longer apply).

ATTACHMENT 1: ZONING MAP

PZST13-00031

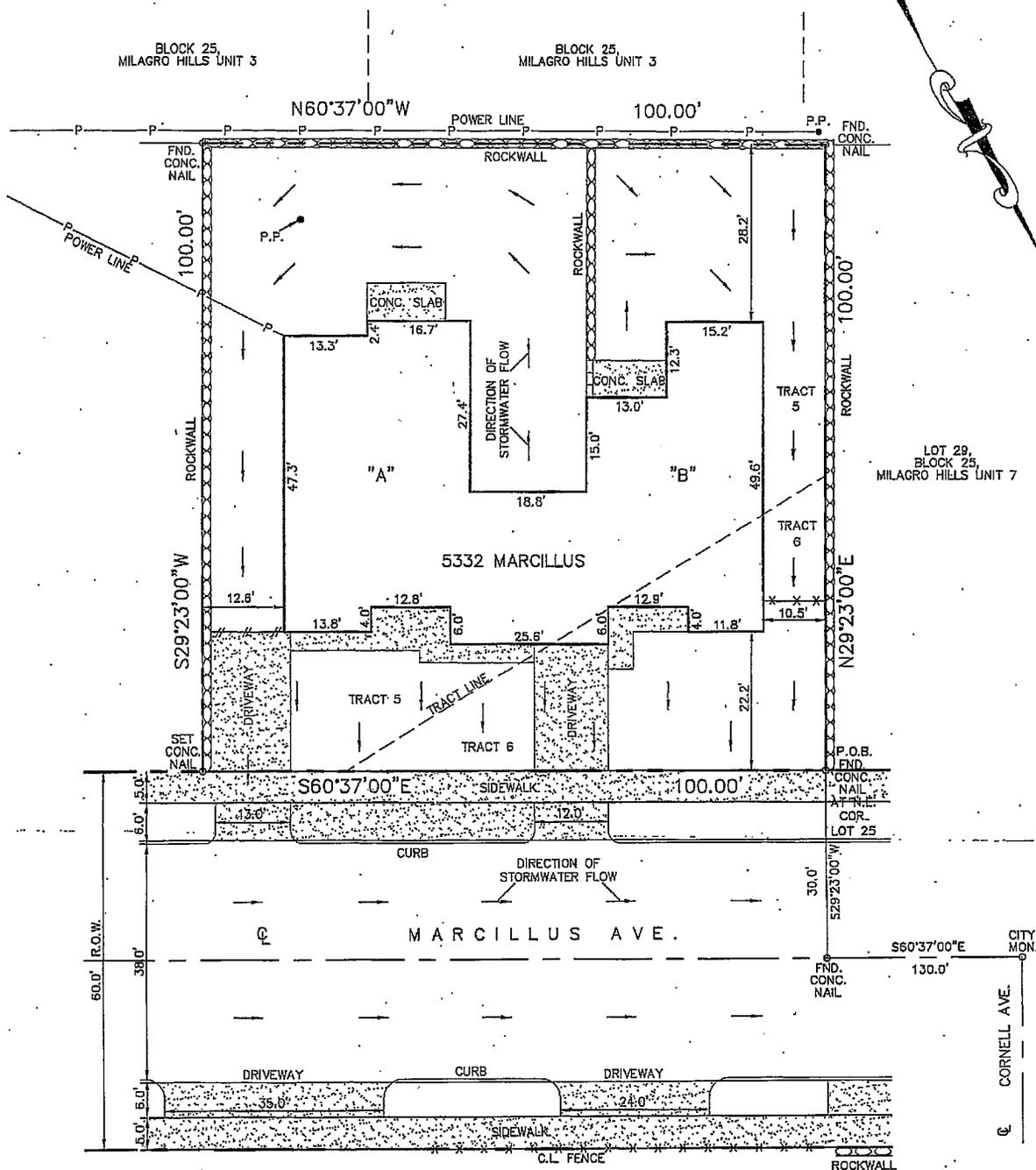


ATTACHMENT 2: AERIAL MAP

PZST13-00031



# ATTACHMENT 3: DETAILED SITE PLAN



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**ATTACHMENT 4: ORDINANCE NO. 3499**  
**(THESE CONDITIONS HAVE ALL BEEN RELEASED AND NO LONGER APPLY)**

3499

AN ORDINANCE CHANGING THE  
ZONING OF PORTIONS OF ~~LOTS~~ <sup>TRACTS</sup>  
4, 5, and 6, MILAGRO ACRES,  
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 the following described portions of ~~lots~~ <sup>TRACTS</sup>  
4, 5, and 6, Milagro Acres, be changed to C-1 within the meaning of the  
Zoning Ordinance, and the zoning map of the City be revised accordingly:

Beginning at a point which is the northeasterly corner of  
Lot 29 of Block 25, Milagro Hills, Unit 7;

Thence South 60° 37' East along the south right of way  
line of Marcellus Avenue 238.52 feet to the P.C. of a  
curve to the right;

Thence 31.42 feet along the arc of a curve to the right;  
said curve having a central angle of 99°, a radius of  
28.06 feet, and has a long chord bearing South 18° 37'  
East a distance of 28.28 feet to a point in the westerly  
right of way line of Dyer Street, (U.S. Highway 54);

Thence South 29° 23' West along said westerly right of  
way line of Dyer Street (U.S. Highway 54) 80 feet to a  
point;

Thence North 60° 37' West 238.52 feet to the southeasterly  
corner of Lot 29, Block 25 of Milagro Hills Unit 7;

Thence North 29° 23' East 100.00 feet to the place of  
beginning and containing 0.392 acres of land, more or less.

122-2953

PASSED AND APPROVED this 14<sup>th</sup> day of April,

1966.

*John Williams*  
Mayor

ATTEST:

*[Signature]*  
City Clerk

I CERTIFY THAT THE FOLLOWING ZONING MAPS  
HAVE BEEN REVISIONED:

A-4-44  
A-4-44  
A-4-44  
A-4-44

ZONING MAP

*[Signature]*

3499

I certify that the zoning map has been revised to

reflect the 3499 act of ordinance

By *[Signature]* Date 4/18/66

OK  
M

RESOLUTION

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

That the Mayor be authorized to sign a contract with Milagro Development Corporation, placing certain restrictions on property reserved by Ordinance No. 3499.

ADOPTED this 7th day of April, 1966.

*M. Williams*  
\_\_\_\_\_  
Mayor

ATTEST:

*R. H. Gabel*  
\_\_\_\_\_  
City Clerk

CONTRACT

This contract, made this 14<sup>th</sup> day of April, 1966,  
by and between Milagro Development Corporation, First Party and the  
City of El Paso, Second Party, witnesseth:

Application has been made to the City of El Paso for rezoning the  
following described portion of Tracts 4, 5 and 6, Milagro Acres, in the  
City of El Paso:

Beginning at a point which is the northeasterly corner of  
Lot 29, Block 25, Milagro Hills, Unit 7;

Thence South 60° 37' East along the south right of way  
line of Marcellus Avenue 238.52 feet to the P. C. of a  
curve to the right;

Thence 31.42 feet along the arc of a curve to the right,  
said curve having a central angle of 90°, a radius of  
20.00 feet, and has a long chord bearing South 15° 37'  
East a distance of 28.28 feet to a point in the westerly  
right of way line of Dyer Street, (U. S. Highway 54);

Thence South 29° 23' West along said westerly right of  
way line of Dyer Street (U. S. Highway 54) 80 feet to a  
point;

Thence North 60° 37' West 238.52 feet to the southeast-  
erly corner of Lot 29, Block 25 of Milagro Hills Unit 7;

Thence North 29° 23' East 100.00 feet to the place of be-  
ginning and containing 0.392 acres of land, more or less.

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 construction work of any kind shall be done thereon until  
complete and detailed construction and plot plans have been submitted to  
the City Plan Commission of the City of El Paso for approval before any  
building permit is issued.

(2) A solid masonry wall not less than six feet nor more than  
eight feet in height shall be erected along the south boundary line of said  
property.

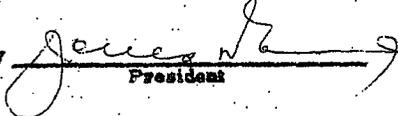
This contract constitutes a restriction, condition and covenant running with the land, and a charge and servitude thereon, and shall bind First Party and its successors in title. Any future conveyance of the land shall embody this contract by express reference.

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 restriction, condition and covenant in its discretion without the consent of any third person who may be benefited thereby.

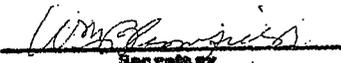
Witness the following signatures and seals:

MILAGRO DEVELOPMENT CORPORATION

by

  
President

ATTEST:

  
Secretary

THE CITY OF EL PASO

by

  
Mayer

ATTEST:

  
City Clerk

