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

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

AGENDA DATE: **Introduction: November 20, 2007**
Public Hearing: December 11, 2007

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

DISTRICT(S) AFFECTED: **1**

SUBJECT:

An ordinance changing the zoning of Tract 2, Block 8, Upper Valley Surveys, City of El Paso, El Paso County, Texas from R-F (Ranch and Farm) to R-2 (Residential), and imposing a condition. The penalty is as provided for in Chapter 20.24 of the El Paso City Code. Subject Property: Upper Valley Road at Westside Drive. SHAB, Inc., ZON07-00113, (District 1)

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) – Approval Recommendation (7-0)

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

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

DEPARTMENT HEAD: Kelly Carpenter

APPROVED FOR AGENDA:

CITY MANAGER: _____ **DATE:** _____

CITY CLERK DEPT.

07 NOV -8 PM 4:55

ORDINANCE NO. _____

AN ORDINANCE CHANGING THE ZONING OF TRACT 2, BLOCK 8, UPPER VALLEY SURVEYS, CITY OF EL PASO, EL PASO COUNTY, TEXAS FROM R-F (RANCH AND FARM) TO R-2 (RESIDENTIAL), 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 2, Block 8, Upper Valley Surveys, 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 **R-F (Ranch and Farm)** to **R-2/c (Residential/condition)**, 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 condition 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:

Density is limited to a maximum of 2.5 dwelling units per acre in accordance with the Northwest Upper Valley Plan.

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

ORDINANCE NO._____

Zoning Case No: ZON07-00113

#34490 v1 - Planning/ORD/ZON07-00113/Rezoning Application

Exhibit "A"

PROPERTY DESCRIPTION

BEING the description of Tract 2, Block 8, UPPER VALLEY SURVEYS, City of El Paso, El Paso County, Texas, according to the resurvey of said UPPER VALLEY SURVEYS made by El Paso County, Texas and being more particularly described by metes and bounds as follows:

BEGINNING at a found 1/2" rebar at the intersection of the westerly right of way line of Upper Valley Road with the northerly line of Country Club Road, said rebar being the True Point of Beginning of the property being described;

THENCE S 89° 54' 51" W, 47.00 feet (51.85 feet record) along the northerly line of Country Club Road to a set 5/8" rebar with cap in the northeasterly right of way line of Westside Drive;

THENCE N 79° 32' 17" W, 281.11 feet (276.21 feet record) along the northeasterly right of way line of Westside Drive to a set 5/8" rebar with cap;

THENCE N 55° 26' 02" W, 277.24 feet (276.86 feet record) continuing along the northeasterly right of way line of Westside Drive to a found 1/2" rebar;

THENCE N 43° 53' 00" W, 362.75 feet (363.02 feet record) continuing along the northeasterly right of way line of Westside Drive to a found 1/2" rebar;

THENCE N 89° 54' 00" E, 802.51 feet (802.41 feet record) leaving the northeasterly right of way line of Westside Drive to a set 5/8" rebar with cap in the westerly right of way line of Upper Valley Road;

THENCE S 00° 05' 00" E, 471.12 feet (470.20 feet record) along the westerly right of way line of Upper Valley Road to the True Point of Beginning and containing 255,809 square feet or 5.8726 acres of land more or less.

Basil R. Smith, Jr. Texas R.P.L.S. No. 4707
Smith & Associates, LLC
P.O. Box 220025
El Paso, TX 79913
(915) 585-1227

STATE OF TEXAS
REGISTERED
BASIL SMITH JR.
4707
PROFESSIONAL
LAND SURVEYOR

CITY CLERK DEPT.
07 NOV -8 PM 4:55

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
PLANNING DIVISION
MEMORANDUM

DATE: November 7, 2007

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

FROM: Esther Guerrero, Planner

SUBJECT: **ZON07-00113**

The City Plan Commission (CPC), on October 18, 2007, voted 7-0 to recommend APPROVAL of rezoning the subject property from R-F (Ranch and Farm) to R-2 (Residential) and imposing a condition. The condition will restrict the maximum density to 2.5 dwelling units per acre in accordance with the Northwest Upper Valley Plan, concurring with staff recommendation.

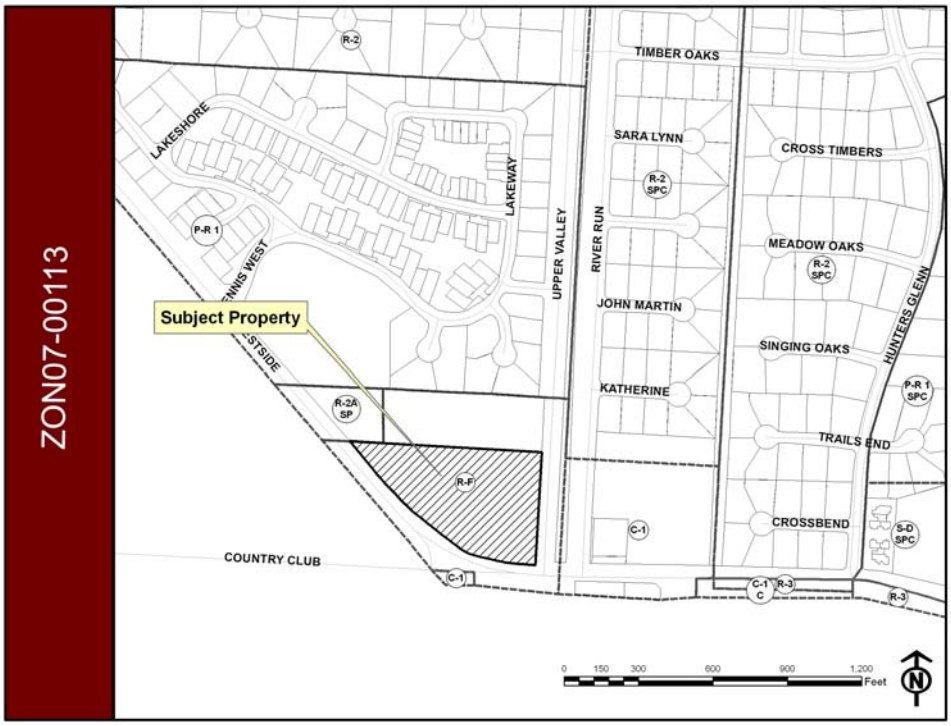
The CPC found that this rezoning is in conformance with The Plan for El Paso; and the proposed use is in conformance with the Year 2025 Projected General Land Use Map. The CPC also determined that this rezoning protects the best interest, health, safety and welfare of the public in general; that the proposed use is compatible with adjacent land uses; and the effects of the rezoning will have no effects on the natural environment, social economic conditions, and property values in the vicinity and the city as a whole.

Attachment: Staff Report

CITY CLERK DEPT.
07NOV -8 PM 4:55

ZON07-00113

Application Type:	Rezoning
Property Owner(s):	SHAB, Inc.
Representative(s):	Sam Phillips
Legal Description:	Tract 2, Block 8, Upper Valley Surveys, City of El Paso, El Paso County, Texas
Location:	Upper Valley Road at Westside Drive
Representative District:	1
Area:	5.88 acres
Present Zoning:	R-F (Ranch and Farm)
Present Use:	Vacant
Proposed Zoning:	R-2 (Residential)
Recognized Neighborhood Associations Contacted:	Save the Valley, Coronado Neighborhood Association, Upper Mesa Hills Neighborhood Association, Upper Valley Improvement Association, New Upper Valley Neighborhood Association
Public Response:	One letter in opposition
Surrounding Land Uses:	**North:** R-F, R-2A/sp; Residential and vacant **South:** C-1, City limits; **East:** C-1; Commercial business and vacant **West:** City limits
Year 2025 Designation:	**Residential** (Northwest Planning Area)



General Information:
The applicant is requesting rezoning from R-F (Ranch and Farm) to R-2 (Residential) in order to permit single-family residential development. The conceptual site plan shows fourteen single-family lots. Access is proposed via Upper Valley Road. There are no zoning conditions on this property.

Staff Recommendation:
The Development Coordinating Committee (DCC) recommends **APPROVAL** of this request for rezoning from R-F to R-2 with the condition that the density be limited to 2.5 dwelling units per acre in accordance with the *Northwest Upper Valley Plan*.

The recommendation is based on the following:

- ***The Plan for El Paso***'s Citywide Land-Use Goals recommend 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 Northwest Planning Area designates this property for **Residential** land uses.
- **R-2 (Residential) zoning** permits single-family residential development and **is compatible** with adjacent development.

Findings:
The Commission must determine the following:

1. Will the zoning protect the best interest, health, safety and welfare of the public in general?
2. Will residential development be compatible with adjacent land uses?
3. What is the relation of the proposed change to the City's Comprehensive Plan?
4. What effect will the rezoning have upon the natural environment social and economic conditions and property values in the vicinity and in the city as a whole?

Development Services Department - Building Permits and Inspections Division:
Zoning Review
Proposed R-2 (Residential) development meets the District's minimum general lot-size standards.
Landscape Review
No comments received.

Development Services Department - Planning Division:
Current Planning:
Planning recommends **DENIAL** of the rezoning from R-F (Ranch and Farm) to R-2 (Residential), and instead recommends R-1 zoning due to density and traffic onto access street.

Land Development
No comments received

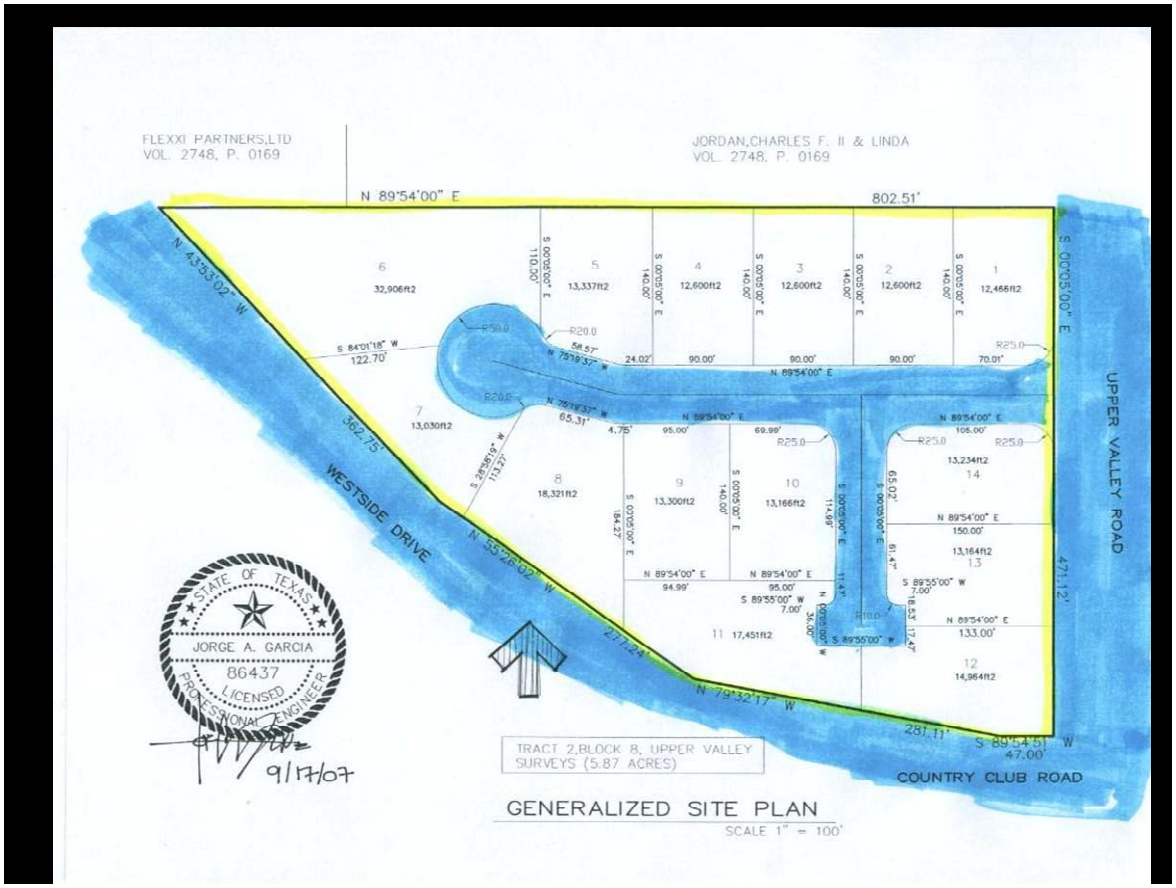
Engineering Department - Traffic Division:
No apparent traffic concerns with the proposed zoning change.

Fire Department:
No comments received.

El Paso Water Utilities:
EPWU does not object to this request.

List of Attachments:
Attachment 1: Conceptual Site Plan
Attachment 2: Application
Attachment 3: Opposition Letters

Attachment 1: Conceptual Site Plan



Attachment 2: Application

REZONING APPLIC N
DEVELOPMENT SERVICES DEPARTMENT
PLANNING DIVISION

City of El Paso, Texas
2 Civic Center Plaza
El Paso, TX 79901-1196
915-541-4024

1. CONTACT INFORMATION

PROPERTY OWNER(S): SHAB INC. Developement
ADDRESS: 6875 OVEJA ZIP CODE 79912 PHONE 526-9876
E-MAIL ADDRESS: FAX 585-1092

REPRESENTATIVE(S): SAM PHILIPS
ADDRESS 6875 OVEJA ZIP CODE 79912 PHONE 526-9876
E-MAIL ADDRESS: FAX

2. PARCEL ONE INFORMATION

PROPERTY IDENTIFICATION NUMBER: U819-999-008A-0202 / 0201
LEGAL DESCRIPTION: TR. 2. Block 8. Upper Valley Surveys
STREET ADDRESS OR LOCATION: REP DISTRICT: 1
ACREAGE: 5.88 PRESENT ZONING: RF PRESENT LAND USE: Res
PROPOSED ZONING: R-2 PROPOSED LAND USE: Res.

3. PARCEL TWO INFORMATION

PROPERTY IDENTIFICATION NUMBER:
LEGAL DESCRIPTION:
STREET ADDRESS OR LOCATION: REP DISTRICT:
ACREAGE: PRESENT ZONING: PRESENT LAND USE:
PROPOSED ZONING: PROPOSED LAND USE:

4. PARCEL THREE INFORMATION

PROPERTY IDENTIFICATION NUMBER:
LEGAL DESCRIPTION:
STREET ADDRESS OR LOCATION: REP DISTRICT:
ACREAGE: PRESENT ZONING: PRESENT LAND USE:
PROPOSED ZONING: PROPOSED LAND USE:

5. ADDITIONAL INFORMATION

OWNER(S) OF RECORD FOR THE ABOVE DESCRIBED PARCEL(S):

Printed Name: SHAB Inc. Signature: X
Printed Name: Signature:
Printed Name: Signature:

Note: Signatures are required for all owners of record for the property proposed for rezoning. Attach additional signatures on a separate sheet of paper.

****OFFICE USE ONLY****

ZON 07-00113 RECEIVED DATE 08/23/07 APPLICATION FEE: $770.00
DCC REVIEW DATE 09/19/07 (8:30 am, Conference Room, 2nd Floor, City Hall Building)
CPC REVIEW DATE 10/18/07 (1:30 pm, City Council Chambers, 2nd Floor, City Hall Building)
ACCEPTED BY: Linda Castle

Revised 9/2006

1

Attachment 3: Opposition Letters

Attachment 3: Opposition

Gordon & Mott P.C.
ATTORNEYS AND COUNSELORS AT LAW

A Member of the Network of Leading Law Firms
"A World-Wide Association of Independent Law Firms"

Mailing Address:
Post Office Box 1322
El Paso, Texas 79947-1322
4695 North Mesa Street
El Paso, Texas 79912
Telephone (915) 545-1133
Telefax (915) 545-4433
E-mail: hdavis@gordonmottpc.com
Web: www.gordonmottpc.com

Harrel L. Davis III

October 9, 2007

Via Hand Delivery

Ms. Christina Valles
Planning Department
City of El Paso
2 Civic Center Plaza
El Paso, Texas 79901

Re: Notice of Protest - Rezoning Application for 5114 Upper Valley Road (the "Property")

Dear Ms. Valles:

This letter is sent on behalf of our clients, Charles F. Jordan III and his wife, Linda Jordan, who own property at 5145 Upper Valley Road. We understand that a rezoning application has been received by the City for the rezoning of the above-referenced Property from its current ranch/farm designation to R-2 by Shab, Inc. Our clients are opposed to the rezoning of the property to this density of use.

On January 13, 2004, the City Council approved the Northwest Upper Valley Plan ("Plan") and incorporated the Plan into the Plan for El Paso. The Plan specifically designates the Property as very low density residential. The Property should be rezoned R-1 if a rezoning is approved at all.

Under Section 211.004 of the Local Government Code, a city's "zoning regulations must be adopted in accordance with a comprehensive plan". Therefore, the City's approval of a zoning regulation that fails to follow the Plan violates Section 211.004 and subject to legal challenge. We believe that the pending rezoning case rules afoul of the Plan and as such, under Section 211.004, it should be denied by the City. Further, we believe that Mr. Jordan's property may constitute 20 percent of the area of land within 200 feet of the subject Property, and that approval of any rezoning request must be by a three-quarters majority, pursuant to Section 211.007 of the Local Government Code.

The adoption of the Plan and the incorporation of the Plan into The Plan for El Paso demonstrated the City's commitment to the preservation of the rural aspects of the Upper

12518-7/HDAV/06056009.11

ZON07-00113 6 October 18, 2

The adoption of the Plan and the incorporation of the Plan into The Plan for El Paso demonstrated the City's commitment to the preservation of the rural aspects of the Upper Valley. We urge the City to continue that commitment by denying rezoning application for the Property. Thank you for your attention to this matter. Please do not hesitate to contact me with any questions.

Very truly yours,

GORDON & MOTT P.C.

By: _____
Harrel L. Davis III

HLD/jk

cc: Honorable John Cook, Mayor (via hand delivery)

City Representatives (via hand delivery to 2 Civic Center Plaza):
Honorable Ann Morgan Lilly, City Representative, District 1
Honorable Susie Byrd, City Representative, District 2
Honorable Joe Alexandro Lozano, City Representative, District 3
Honorable Melina Castro, City Representative, District 4
Honorable Rachel Quintana, City Representative, District 5
Honorable Eddie Holguin, City Representative, District 6
Honorable Steve Ortega, City Representative, District 7
Honorable Beto O'Rourke, City Representative, District 8

City Plan Commission Members (via hand delivery to 2 Civic Center Plaza):
John Rayborn, Mayor
Gus Haddad, District 2
Belinda Luna, District 3
Elijah Graham, District 4
Roman Bustillos, District 5
Richard A. Porras, District 6
Carlos Gallinar, District 7
Katherine Updike, District 8

Mr. C. F. "Paco" Jordan (via e-mail)

{2518.7/HDAV/06056009.1}

FLEXXI PARTNERS, LP

Via Hand Delivery

Ms. Christina Valles
Planning Department
City of El Paso
2 Civic Center Plaza
El Paso, Texas 79901

Re: Notice of Protest - Rezoning Application for 5114 Upper Valley Road (the "Property")

Dear Ms. Valles:

I am sending this letter to protest the above rezoning application. I understand that a rezoning application has been received by the City for the rezoning of the above-referenced Property from its current ranch/farm designation to R-2 by Shab, Inc. This objection is being sent by Flexxi Partners, L.P., which owns approximately eight (8) acres adjacent to the Shab property.

I believe that the proposed rezoning is not in the best interests of the area and that it will have a negative traffic impact on an already congested area. I urge the City to deny the rezoning application for the Property.

Flexxi Partners, L.P.

By: Flexxi Management, LLC
Its General Partner

By: Henry Yoshawirja

Henry Yoshawirja
Its Manager