

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

PUBLIC HEARING DATE: November 8, 2022

CONTACT PERSON(S) NAME AND PHONE NUMBER: Philip F. Etiwe, (915) 212-1553
Saul Pina, (915) 212-1612

DISTRICT(S) AFFECTED: District 2

STRATEGIC GOAL: #3 Promote the Visual Image of El Paso

SUBGOAL: 3.2 Set one standard for infrastructure across the city

SUBJECT:

A Resolution approving a detailed site development plan for the property described as all of Lots 9 through 16, Block 47, and a portion of San Jose Street, Third Amended Map of Highland Park Addition, 1360 N. Cotton Street, City of El Paso, El Paso County, Texas. The penalty is as provided for in Chapter 20.24 of the El Paso City Code.

The proposed detailed site plan meets the intent of the Future Land Use designation for the property and is in accordance with *Plan El Paso*, the City's Comprehensive Plan.

Subject Property: 1360 Cotton St.

Applicant: Scenic View Townhomes LLC, PZDS22-00021

BACKGROUND / DISCUSSION:

The applicant is requesting a Detailed Site Development Plan approval per Ordinance 5058, dated February 7, 1974 to allow for an apartment use. The City Plan Commission recommended 5-0 to approve the proposed Detailed Site Development Plan on October 6, 2022. As of November 1, 2022, the Planning Division has not received any communication in support or opposition to the detailed site development plan request. See attached staff report for additional information.

PRIOR COUNCIL ACTION:

N/A

AMOUNT AND SOURCE OF FUNDING:

N/A

HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED? X YES ___ NO

PRIMARY DEPARTMENT: Planning & Inspections, Planning Division

SECONDARY DEPARTMENT: N/A

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

DEPARTMENT HEAD:

Philip Etiwe

Philip F. Etiwe – Planning and Inspections Director

RESOLUTION

A RESOLUTION APPROVING A DETAILED SITE DEVELOPMENT PLAN FOR ALL OF LOTS 9 THROUGH 16, BLOCK 47, AND A PORTION OF SAN JOSE STREET, THIRD AMENDED MAP OF HIGHLAND PARK ADDITION, 1360 N. COTTON STREET, CITY OF EL PASO, EL PASO COUNTY, TEXAS, PURSUANT TO SECTION 20.04.150. THE PENALTY IS AS PROVIDED FOR IN CHAPTER 20.24 OF THE EL PASO CITY CODE.

WHEREAS, SCENIC VIEW TOWNHOMES LLC, (the "Owner") has applied for approval of a detailed site development plan which requires City Plan Commission and City Council approval as per section 20.04.150. The detailed site development plan is subject to the development standards in the A-2/SC (APARTMENT/SPECIAL CONTRACT) District regulations and subject to the approved Detailed Site Development Plan signed by the Applicant, the City Manager and the Executive Secretary to the City Plan Commission. A copy of this plan is attached hereto as **Exhibit "B"** and is incorporated herein by reference for all purposes; and,

WHEREAS, a report was made by the staff to the City Plan Commission and a public hearing was held regarding such application;

WHEREAS, the City Plan Commission has approved and herein recommends Council approval of the subject detailed site development plan; and

WHEREAS, the City Council finds that the detailed site development plan meets all applicable requirements of the El Paso City Code:

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

1. Pursuant to requirements, the City Council hereby approves the detailed site development plan submitted by the Applicant, to **permit an apartment** as required under the **A-2/sc (Apartment/special contract)** District as per Section **20.04.150**, on the following described property which is located in a **A-2/sc (Apartment/special contract)** District:

All of Lots 9 through 16, Block 47, and a portion of San Jose Street, Third Amended Map of Highland Park Addition, 1360 N. Cotton Street, City of El Paso, El Paso County, Texas, and more particularly described in the attached metes and bounds as Exhibit "A".

2. A copy of the approved detailed site development plan, signed by the Applicant, the City Manager and the Secretary of the City Plan Commission, is attached hereto, as **Exhibit "B"** and incorporated herein by reference.
3. All construction and development on the property shall be done in accordance with the approved detailed site development plan and the development standards applicable in the A-2/SC (APARTMENT/SPECIAL CONTRACT) District regulations.

4. The Applicant shall sign an agreement to develop the property and to perform all construction thereon in accordance with the approved detailed site development plan and the standards applicable in the A-2/SC (APARTMENT/SPECIAL CONTRACT) District. Such agreement shall be signed and filed with the Zoning Administrator and the Executive Secretary of the City Plan Commission before building permits are issued.
5. This approval shall be void if construction on the property is not started in accordance with the approved detailed site development plan within four (4) years from the date hereof.

APPROVED this _____ day of _____, 2022.


THE CITY OF EL PASO

Oscar Leeser
Mayor

ATTEST:

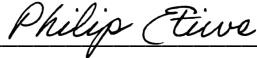
Laura D. Prine
City Clerk

APPROVED AS TO FORM:



Joyce Garcia
Assistant City Attorney

APPROVED AS TO CONTENT:



Philip F. Etiwe, Director
Planning & Inspections Department

(Agreement on following page)

DEVELOPMENT AGREEMENT

By execution hereof, SCENIC VIEW TOWNHOMES LLC, ("Owner"), identified in the Resolution to which this Development Agreement is attached, hereby covenant and agree, to develop the above-described property in accordance with the approved Detailed Site Development Plan, and in accordance with the standards applicable to the A-2/SC (APARTMENT/SPECIAL CONTRACT) District located within the City of El Paso.

EXECUTED this 27 day of October, 2022.

SCENIC VIEW TOWNHOMES LLC

By: Fred Marcus, Manager

ACKNOWLEDGMENT

THE STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument is acknowledged before me on this 27th day of October, 2022, by Fred Marcus, in his legal capacity on behalf of Scenic View Townhomes, LLC.

[Signature]

Notary Public, State of Texas

My Commission Expires:

August 15th, 2026

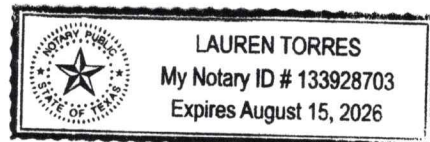


EXHIBIT "A"

All of Lots 9 through 16, Block 47, and a
Portion of San Jose Street, Third Amended
Map of Highland Park Addition
City of El Paso, El Paso County, Texas
August 26, 2022

EXHIBIT "A"

METES AND BOUNDS DESCRIPTION 1360 Cotton Avenue Exhibit "A"

FIELD NOTE DESCRIPTION of All of Lots 9 through 16, Block 47, and a Portion of San Jose Street, Third Amended Map of Highland Park Addition, City of El Paso, El Paso County, Texas and being more particularly described by metes and bounds as follows:

COMMENCING FOR REFERENCE at a found $\frac{1}{2}$ inch rebar at the northerly right-of-way line of San Jose Street (70' R.O.W) and the common boundary corner of Lots 8 and 9, same being the **POINT OF BEGINNING** of the herein described parcel;

THENCE, along said northerly right-of-way line of San Jose Street, North $90^{\circ}00'00''$ West, a distance of 50.00 feet to a found point for corner along said northerly right-of-way line and Lots 10 and 11;

THENCE, leaving said northerly right-of-way line, South $00^{\circ}00'00''$ West, a distance of 70.00 feet to a point for corner at the southerly right-of-way line of San Jose Street and the common boundary corner of Lots 26 and 27, Block 42;

THENCE, along said southerly right-of-way line, North $90^{\circ}00'00''$ West, a distance of 50.00 feet to a point for corner along said right-of-way line and the common boundary corner of Lots 28 and 29;

THENCE, leaving said southerly right-of-way line, North $00^{\circ}00'00''$ East, a distance of 35.00 feet to a point for corner along said centerline right-of-way line of San Jose Street;

THENCE, along said centerline right-of-way line, North $90^{\circ}00'00''$ West, a distance of 100.00 feet to a point for corner along said centerline right-of-way line of San Jose Street;

THENCE, leaving said centerline right-of-way line and along the easterly right-of-way line of Cotton Avenue (70' R.O.W.), North $00^{\circ}00'00''$ East, a distance of 155.00 feet to a found $\frac{5}{8}$ inch rebar for corner along said easterly right-of-way line and the common boundary corner of Lot 16 and a 15 foot Alley;

THENCE, leaving said easterly right-of-way line and along the southerly right-of-way line of a 15 foot Alley and Lots 9 through 16, South $90^{\circ}00'00''$ East, a distance of 200.00 feet to a found $\frac{5}{8}$ inch rebar for corner along said southerly right-of-way line and the common boundary corner of Lots 8 and 9;

THENCE, leaving said southerly right-of-way line of a 15 foot alley and along the common boundary line of Lots 8 and 9, South $00^{\circ}00'00''$ West, a distance of 120.00 feet to the **POINT OF BEGINNING** of the herein described parcel and containing 31,000.00 square feet or 0.7117 acres of land more or less.

CAD Consulting Co.
1790 Lee Trevino Drive. Suite 309
El Paso, Texas 79936
(915) 633-6422
I:\M&B\2022\22-1984_1360 Cotton.wpd



EXHIBIT "B"

ISSUED FOR DETAIL SITEPLAN APPROVAL

1360 North Cotton Street

City Plan Commission — October 6, 2022

SITE PLAN



CASE NUMBER: PZDS22-00021
CASE MANAGER: Saul Pina, (915) 212-1612, PinaSJ@elpasotexas.gov
PROPERTY OWNER: Scenic View Townhomes LLC
REPRESENTATIVE: Jorge Garcia (Sitework Engineering LLC)
LOCATION: 1360 North Cotton St. (District 2)
PROPERTY AREA: 0.56 acres
REQUEST: Detailed Site Development Plan Approval per Ordinance No. 5058
RELATED APPLICATIONS: None
PUBLIC INPUT: None

SUMMARY OF REQUEST: The applicant is requesting approval of a detailed site development plan as required per the special contract imposed by Ordinance No. 5058, requiring approval from both City Plan Commission and City Council prior to issuance of building permits. The applicant proposes to develop two apartment buildings on the subject property.

SUMMARY OF STAFF'S RECOMMENDATION: Staff recommends **APPROVAL** of the detailed site development plan request. The proposed development is permissible by right in an A-2/sc (Apartment/special contract) zone and is compatible with surrounding residential uses. Moreover, the proposed development meets the requirements of El Paso City Code Section 20.04.150 – Detailed Site Development Plan and complies with the G-2, Traditional Neighborhood land use designation of *Plan El Paso*, the City's adopted Comprehensive Plan.

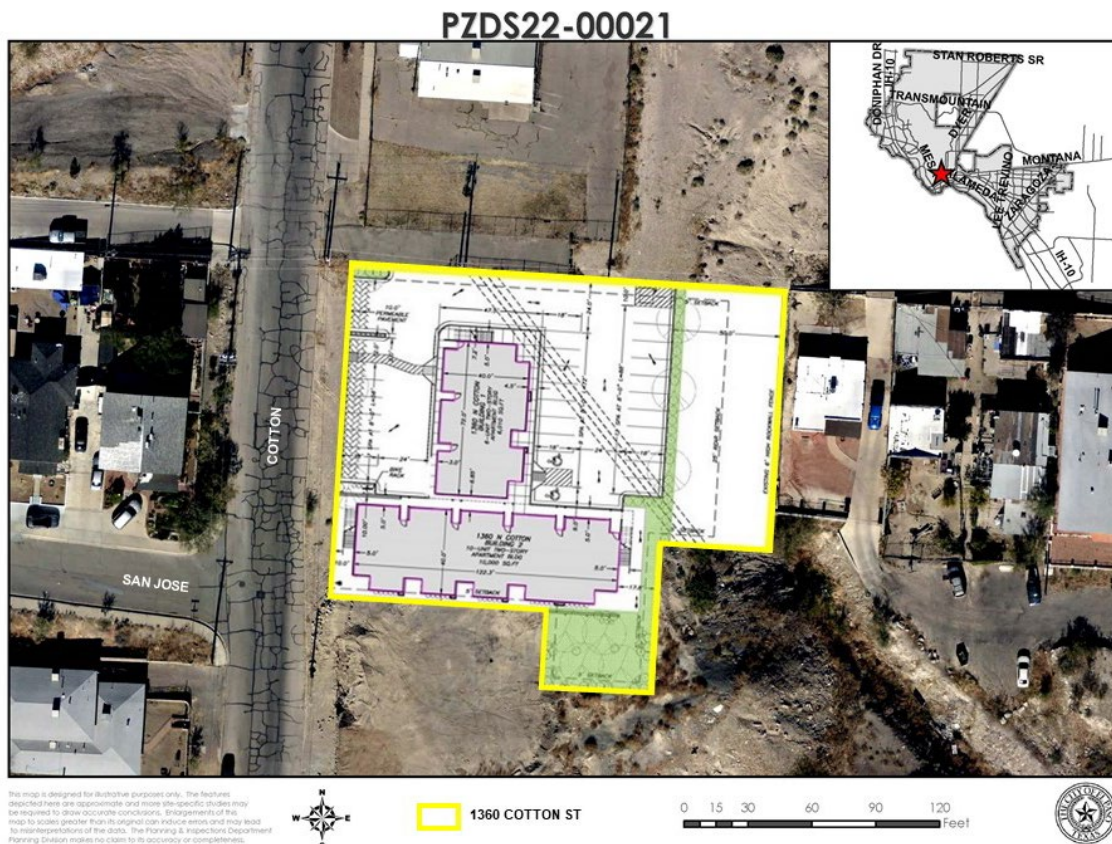


Figure A. Site Plan Superimposed on Aerial Imagery

DESCRIPTION OF REQUEST: The applicant is requesting a review and approval of a Detailed Site Development Plan for two proposed apartment buildings on the subject property. Review and approval from both City Plan Commission and City Council are required due to the special contract condition imposed by Ordinance No. 5058, dated February 7, 1974. The lot size is currently 24,000 square feet, with topographical constraints limiting development to approximately 13,000 square feet. Out of the mandatory wall placement required per code, the applicant obtained approval for a screening wall requirement waiver due to the various elevation grades on the property.

The two proposed apartments buildings will each have an area of 6,000 and 10,000 square feet and a height of 24 feet below the maximum height required of 35 feet. The detailed site plan shows 28 parking spaces provided. Out of the 32 parking spaces required per code, the applicant obtained approval for a 12.5% parking reduction through the Zoning Board of Adjustment (ZBA). Two (2) ADA spaces will be provided within the 28-parking space count. Three (3) bicycle spaces will also be provided on site to comply with parking requirements.

Access to the property will be provided from Cotton Street. The proposed site plan is compliant with the 40% open space, landscape, parking, and drainage requirements per code.

PREVIOUS CASE HISTORY: The following is a previous case applicable to the subject property:

Ordinance No. 5058, dated February 7, 1974 (attachment 3), changed the zoning from R-5 (Residential) to A-2 (Apartment) with the following special contract conditions:

- 1) The property shall be used only as a site for a hospital, nursing home or clinic, other than for tubercular, liquor, narcotic, insane, or feeble-minded patients.

Note: Condition No. 1 was deleted through a Contract Amendment, dated February 15, 1983. (Attachment 4)

- 2) No building permits shall be issued for construction on the property until all of the following conditions have been met:

- A. Site development and architectural plans of the proposed development must be reviewed and approved by the City Plan Commission of the City of El Paso. Such plans shall conform substantially with the architectural rendering dated December 17, 1972, entitled "Magnolia Manor Nursing Home. Such rendering is on file in the records of the City, Plan Commission under Zoning Case No. 122. 3677 and is made part hereof by reference. Any deviation from the rendering must have prior written approval of the City Plan Commission.

Note: Condition No. 2(A) was modified through a Contract Amendment, dated February 15, 1983, to read: "Site development and architectural plans of the proposed development must be reviewed and approved by the City Plan Commission and City Council prior to the issuance of any building permits." (Attachment 4)

- B. First Party shall use its best efforts to obtain for the City of El Paso a proposal from a contractor for the improvement of Cotton Street between San Diego Avenue and San Jose Avenue, and of San Diego Avenue between Cotton Street and Ohio Street. Such improvements shall include grading, paving, curbing and gutters and may be accomplished by the contractor either by private agreement with the abutting property owners or as a lien paving project. Written evidence that such efforts have been made shall be furnished by First Party to the City Engineer of the City of El Paso.

Note: Condition No. 2(B) has been fulfilled or is not applicable. There are existing improvements on the referenced streets.

- C. First Party will, at its expense, have soil tests made by an independent testing laboratory approved by the City Engineer of the City of El Paso, and will furnish to the City Engineer test results, showing that the load bearing capacity of the property is sufficient to support permanent structures.

Note: Condition No. 2(C) was modified through a Contract Amendment, dated January 22, 1985, to read: "First party will, at its expense, have soil tests made by an independent testing laboratory approved by the City Engineer of the City of El Paso and will furnish to the City Engineer test results showing that the load bearing capacity of the property is sufficient to support permanent structures. In addition, First Party shall not construct any permanent structures on the surface of the ground over the easement described in Exhibit "C", a copy of which is attached hereto and made a part hereof by reference, without the prior approval of the City Engineer of the City of El Paso." (Attachment 5)

Note: Condition No. 2 (C) to be reviewed during building permitting.

- D. First Party will, at its expense, relocate the 36-inch diameter storm water pipe which runs diagonally across the property in a northwesterly-southeasterly direction. Plans for such relocation must be approved by the City Engineer of the City of El Paso and such relocation must be satisfactorily completed before building permits are issued for construction on the property. If the pipe is not relocated on public right of way, First Party will dedicate an adequate easement for such purpose to the City without cost.

Note: Condition No. 2(D) was deleted through a Contract Amendment, dated January 22, 1985. (Attachment 5)

- E. First Party must apply to the City of El Paso for vacation of the part of the alley in Block 47, Highland Park Addition, abutted by the property and obtain from the City Council a final decision on such application. The application for such alley vacation has not yet been filed and the City does not represent that it will be granted.

Note: Condition No. 2(E) was deleted through a Contract Amendment, dated January 22, 1985. (Attachment 5)

COMPATIBILITY WITH NEIGHBORHOOD CHARACTER: The proposed development is consistent with surrounding residential districts. To the north is an amateur and CB radio station zoned A-2/sc (Apartment/special contract); to the south are single-family dwellings zoned R-5 (Residential); to the east are single-family dwellings zoned R-5 (Residential); and to the west are single-family dwellings zoned R-5 (Residential). The nearest school, Moreno Elementary School, is 0.17 miles and the nearest park, Roger Brown Ballfield Park, is 0.63 miles in proximity to the subject property.

COMPLIANCE WITH THE ZONING ORDINANCE – When evaluating whether a proposed Detailed Site Development Plan is in accordance with the Zoning Ordinance, consider following factors:	
Criteria	Does the Request Comply?
El Paso City Code Section 20.04.140 – When Required. Except as stated herein, a detailed site development plan is required prior to development in a special purpose district or with a special permit application and may be required if a zoning condition exists on a particular piece of property. Detailed site development plans are not required for any projects for development in the Mixed-Use District (RMU, GMU and IMU) or for any other projects other than those located in special purpose districts or as otherwise required herein.	Yes. Per Ordinance No. 5058, dated February 7, 1974, a detailed site development plan is required to be approved by City Plan Commission and City Council prior to issuance of a building permit.

COMPLIANCE WITH <i>THE ZONING ORDINANCE</i> – When evaluating whether a proposed Detailed Site Development Plan is in accordance with the Zoning Ordinance, consider following factors:	
<p>Compatibility with Zoning Regulations: The zoning district permits the proposed use, and all applicable regulations are met</p> <p>A-2 (Apartment) District: The purpose of these 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.</p>	<p>Yes. The subject property will have a proposed use of apartments (5 or more units), which is permitted by right in the A-2/sc (Commercial/special contract) zone district and complies with the supplemental use regulations listed in section 20.10.420 of the El Paso City Code. This proposal will be compatible with surrounding residential uses and will be accessible to schools and commercial establishments located near the area.</p>
THE PROPOSED ZONING DISTRICT'S EFFECT ON THE PROPERTY AND SURROUNDING PROPERTY, AFTER EVALUATING THE FOLLOWING FACTORS:	
<p>Historic District or Special Designations & Study Area Plans: Any historic district or other special designations that may be applicable. Any adopted small areas plans, including land-use maps in those plans.</p>	<p>None. The subject property is not located within any Historic Overlay District nor any other special designation areas.</p>
<p>Potential Adverse Effects: Potential adverse effects that might be caused by approval or denial of the special permit.</p>	<p>None. There are no anticipated adverse impacts from the approval of the Detailed Site Development Plan request.</p>
<p>Natural Environment: Anticipated effects on the natural environment.</p>	<p>None. There are no anticipated adverse impacts from the approval of the Detailed Site Development Plan request.</p>

ADEQUACY OF PUBLIC FACILITIES, SERVICES AND INFRASTRUCTURE: Access is proposed from Cotton Street, a local road classified on the City of El Paso's Major Thoroughfare Plan (MTP) and is appropriate for mixed residential uses.

In order to maintain the adequacy of the proposed development, right-of-way improvements along Cotton Street will have to be provided. The nearest side walk and bus stop is located 2 blocks away from the subject property, limiting pedestrian access to the site.

PUBLIC COMMENT: Notices do not apply per El Paso City Code Section 20.04.150.

CITY PLAN COMMISSION OPTIONS: The purpose of the Zoning Ordinance is to promote the health, safety, morals and general welfare of the City. The City Plan Commission (CPC) has the authority to advise City Council on Zoning matters. In evaluating the request, the CPC may take any of the following actions:

1. **Approve/Recommend Approval** of the Detailed Site Development Plan, finding that the request is in conformance with the review criteria of *Plan El Paso* as reflected in the Staff Report, or that the request is in conformance with other criteria that the CPC identifies from the Comprehensive Plan. (Staff Recommendation)
2. **Approve/Recommend Approval of the Detailed Site Development Plan With Modifications** to bring the request into conformance with the review criteria of *Plan El Paso* as reflected in the Staff Report, or other criteria that the CPC identifies from the Comprehensive Plan.

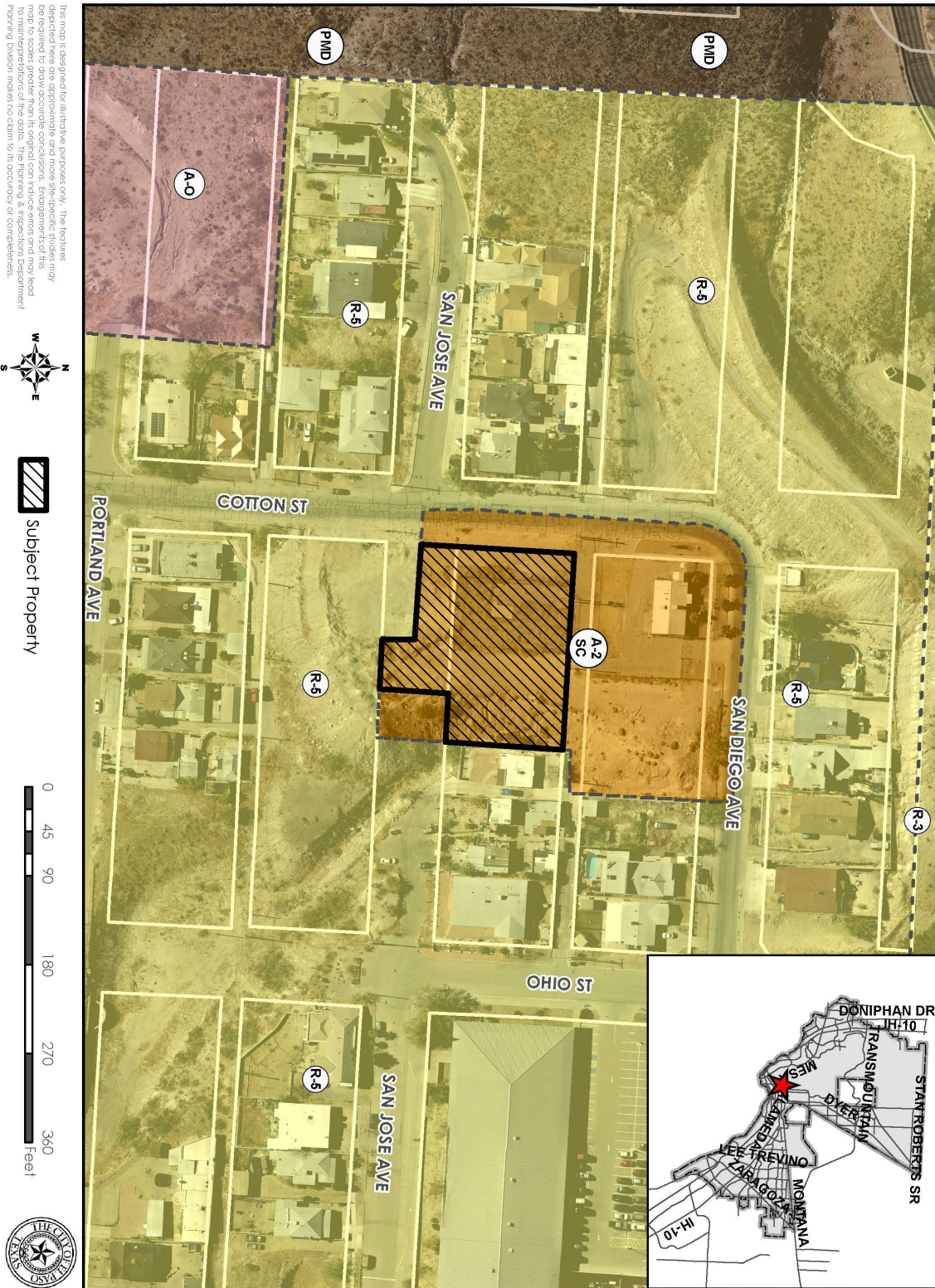
3. **Deny/Recommend Denial** of the rezoning request, finding that the request does not conform to the review criteria of *Plan El Paso* as reflected in the Staff Report, or other criteria that the CPC identifies from the Comprehensive Plan.

ATTACHMENTS:

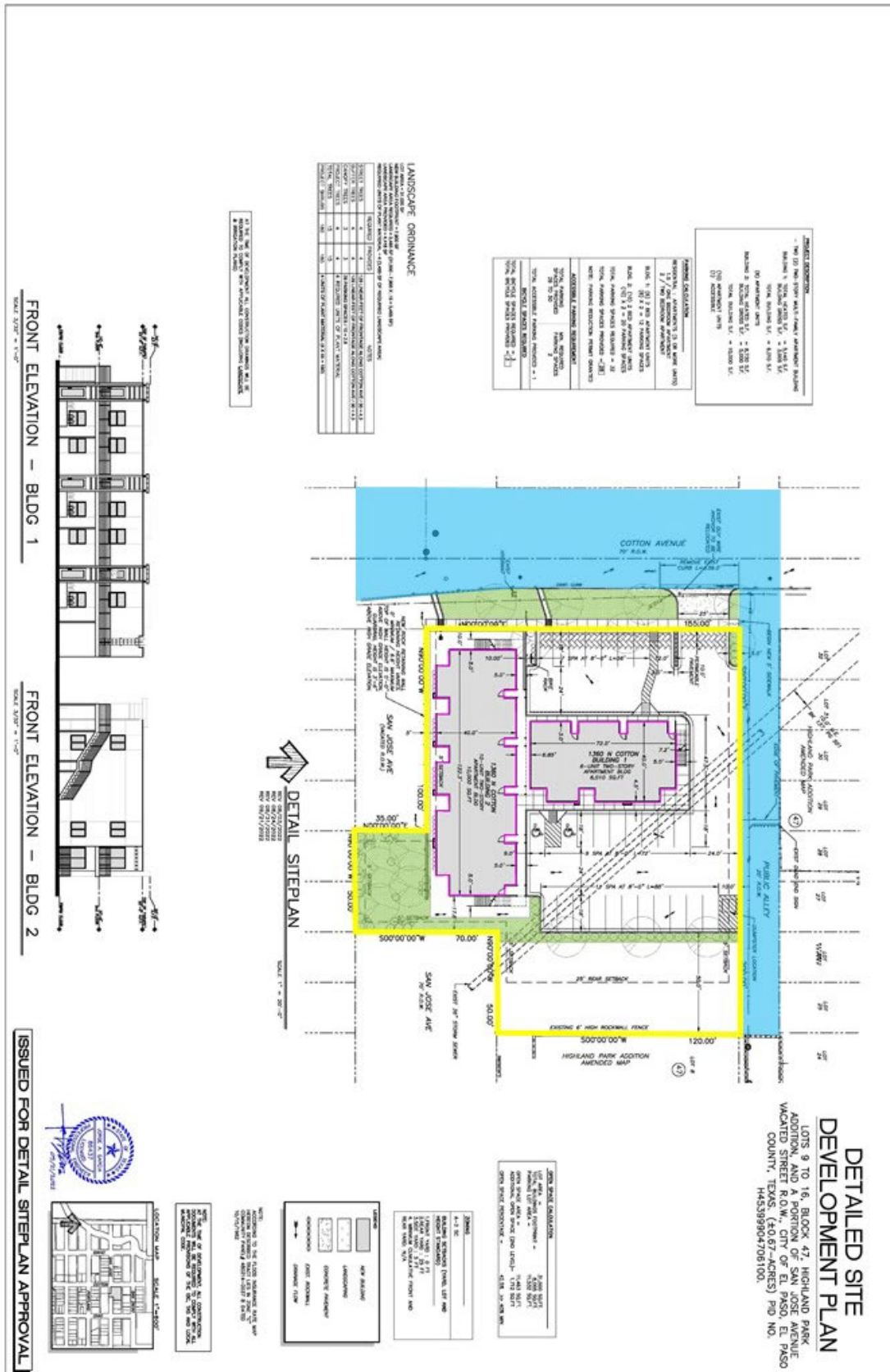
1. Zoning Map
2. Detailed Site Plan
3. Ordinance No. 5058
4. Contract Amendment, February 15, 1983
5. Contract Amendment, January 22, 1985
6. Department Comments

ATTACHMENT 1

PZDS22-00021



ATTACHMENT 2



ATTACHMENT 3

Contrast

PUBLIC RECORDS

Date 2-19-73

City Clerk [Signature]

Date 2/2/74

City Clerk [Signature]

NO. 5058

AN ORDINANCE CHANGING THE ZONING
OF LOTS 9 THROUGH 16, WEST TWENTY
FEET OF LOT 23, AND ALL OF LOTS 24
THROUGH 32, BLOCK 47, HIGHLAND PARK
ADDITION, 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 Lots 9 through 16, the west twenty feet of Lot 23
and all of Lots 24 through 32, Block 47, Highland Park Addition, be changed
to A-2 within the meaning of the Zoning Ordinance, and the zoning map of the
City be revised accordingly.

PASSED AND APPROVED this 7 day of February
1974.

[Signature]
Mayor
Pro Tem

ATTEST:

[Signature]
City Clerk

NO. 5058

105

CONTRACT

This contract, made this 11 day of February, 1973, by and between MAGNOLIA MANOR, INC., a corporation, First Party, E. W. McCRACKEN, H. W. McKINNEY, and THE STATE NATIONAL BANK OF EL PASO, a corporation, Second Parties, and the CITY OF EL PASO, Third Party, witnesseth:

Application has been made to the City of El Paso for rezoning of Lots 9 through 16, the west 20 feet of Lot 23, and all of Lots 24 through 32, Block 47, Highland Park Addition in the City of El Paso, El Paso County, Texas. In order to remove certain objections to such rezoning, First Parties covenant that if the property is rezoned to A-2 (apartment) 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. The property shall be used only as a site for a hospital, nursing home or clinic, other than for tubercular, liquor, narcotic, insane or feeble minded patients.

2. No building permits shall be issued for construction on the property until all of the following conditions have been met:

(a) Site development and architectural plans of the proposed development must be reviewed and approved by the City Plan Commission of the City of El Paso. Such plans shall conform substantially with the architectural rendering dated December 17, 1972, entitled "Magnolia Manor Nursing Home." Such rendering is on file in the records of the City Plan Commission under Zoning Case No. 122.3677 and is made a part hereof by reference. Any deviation from the rendering must have prior written approval of the City Plan Commission.

(b) First Party shall use its best efforts to obtain for the City of El Paso a proposal from a contractor for the improvement of Cotton Street between San Diego Avenue and San Jose Avenue, and of San Diego Avenue between Cotton Street and Ohio Street. Such improvements shall include grading, paving, curbing and gutters and may be accomplished by the contractor either by private agreement with the abutting property owners or as a lien paving project. Written evidence that such efforts have been made shall be furnished by First Party to the City Engineer of the City of El Paso.

1373-1372

Exhibit A

- (c) First Party will, at its expense, have soil tests made by an independent testing laboratory approved by the City Engineer of the City of El Paso and will furnish to the City Engineer test results showing that the load bearing capacity of the property is sufficient to support permanent structures.
- (d) First Party will, at its expense, relocate the 36-inch diameter storm water pipe which runs diagonally across the property in a northwesterly-southeasterly direction. Plans for such relocation must be approved by the City Engineer of the City of El Paso and such relocation must be satisfactorily completed before building permits are issued for construction on the property. If the pipe is not relocated on public right of way First Party will dedicate an adequate easement for such purpose to the City without cost.
- (e) First Party must apply to the City of El Paso for vacation of the part of the alley in Block 47, Highland Park Addition, abutted by the property and obtain from the City Council a final decision on such application. The application for such alley vacation has not yet been filed and the City does not represent that it will be granted.

This agreement 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 this restriction, condition and covenant and shall embody this agreement by express reference.

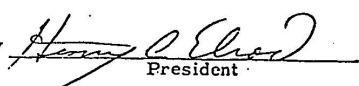
The City may enforce this agreement by injunction or any other legal or equitable remedy. The City Council of the City of El Paso may release the above restrictions, conditions and covenants in its discretion without the consent of any third person who may be benefited thereby.

Second Parties are the owners and holders of liens on various portions of the property and consent to the above restrictions, conditions and covenants, but do not join herein for any other purpose.

Witness the following signatures and seals:

MAGNOLIA MANOR, INC., a corporation

by


President

ATTEST:


Secretary

1373-1373

ATTACHMENT 4

02233

THE STATE OF TEXAS }
COUNTY OF EL PASO }

CONTRACT AMENDMENT

This contract amendment, made this 15th day of FEBRUARY, 1983, by and between MAG-MAN JOINT VENTURE AND THE CITY OF EL PASO, witnesseth:

Mag-Man Joint Venture is the owner of Lots 9 through 16, the west 20 feet of Lot 23, and all of Lots 24 through 32, Block 47, Highland Park Addition in the City of El Paso, El Paso County, Texas. The City of El Paso and Mag-Man Joint Venture's predecessors in title, entered into a contract February 7, 1974, placing certain conditions and restrictions on the use of that property, a copy of which said contract is attached hereto, identified as Exhibit "A," and made a part hereof.

It has now been determined between parties that it would be in the best interest of the public to make certain changes in those conditions and restrictions and those changes are hereby made as follows:

1. Restriction No. 1 is deleted.
2. Restriction No. 2(a) is revised to read, "Site development and architectural plans of the proposed development must be reviewed and approved by the City Plan Commission and City Council prior to the issuance of any building permits."

The remainder of the contract shall continue to have full force and effect.

MAG-MAN JOINT VENTURE

By [Signature]
Robert E. Kennedy
Managing Venturer

CITY OF EL PASO

By [Signature]
Mayor

ATTEST

[Signature]
City Clerk

APPROVED AS TO FORM:

[Signature]
Assistant City Attorney

APPROVED AS TO CONTENT:

[Signature]
Planning, Research & Development

1373-1370

THE STATE OF TEXAS)
COUNTY OF EL PASO)

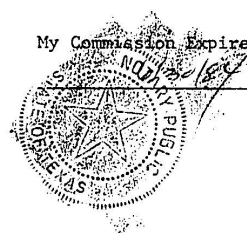
This contract amendment was acknowledged before me on
this 15th day of July, 1983, by Robert E. Kennedy,
Managing Venturer of MAG-MAN JOINT VENTURE.



Billie Jean Beardslee
Notary Public, State of Texas

THE STATE OF TEXAS)
COUNTY OF EL PASO)

This contract amendment was acknowledged before me on
this 15th day of February, 1983, by Jonathan Rogers
as Mayor of the City of El Paso.



Billie Jean Beardslee
Notary Public, State of Texas

1373-1371

ATTACHMENT 5

91154

THE STATE OF TEXAS)
COUNTY OF EL PASO) CONTRACT AMENDMENT

This contract amendment is made this 22nd day of JANUARY, 1985, by and between MAG-MAN JOINT VENTURE, consisting of Robert E. Kennedy and Wesley K. Martin, First Parties, and the CITY OF EL PASO, Second Party, witnesseth:

WHEREAS, by contract dated February 7, 1974, recorded in Book 503, page 821 of the Deed Records of El Paso County, Texas, a copy of which is attached hereto, marked Exhibit "A" and made a part hereof by reference, Magnolia Manor, Inc., E.W. McCracken, H.W. McKinney, the State National Bank of El Paso, and the City of El Paso place certain restrictions, conditions and covenants on Lots 9-16, the west 20 feet of Lot 23, and all of Lots 24-32, Block 47, Highland Park Addition of the City of El Paso, El Paso County, Texas. Said contract is a restriction, condition and covenant running with the land and a charge and servitude thereon, and binding upon the successors in title, and

WHEREAS, by contract amendment dated February 15, 1983, recorded in Book 1373, page 1370 of the Deed Records of El Paso County, Texas, a copy of which is attached hereto marked Exhibit "B" and made a part hereof by reference, Mag-Man Joint Venture and the City of El Paso amended the contract referred to herein as Exhibit "A", and

WHEREAS, First Parties are the successors in title to Magnolia Manor, Inc., and the parties hereto now desire to further amend such contract as hereinafter provided,

NOW, THEREFORE, the Parties do mutually agree as follows:

1. In consideration of the premises, the First and Second Parties agree that Restriction No. 2(c) of the contract referred to herein as Exhibit "A" and the contract amendment referred to as Exhibit "B" is hereby amended to read as follows:

- (c) First Party will, at its expense, have soil tests made by an independent testing laboratory approved by the City Engineer of the City of El Paso and will furnish to the City Engineer test results showing that the load bearing capacity of the property is sufficient for support permanent structures. In addition, First Party shall not construct any permanent structures on the surface of the ground over the easement described in Exhibit "C", a copy of which is attached hereto

1528-1899

and made a part hereof by reference, without the prior approval of the City Engineer of the City of El Paso.

2. First and Second Parties agree that restrictions No. 2(d) and (e) of the contract referred to herein as Exhibit "A" and the contract amendment referred to as Exhibit "B" are hereby deleted.

3. To the extent not herein amended, the contract referred to herein as Exhibit "A" and the contract amendment referred to herein as Exhibit "B" shall continue in full force and effect.

WITNESS the following signatures and seals:

MAG-MAN JOINT VENTURE
First Parties

Robert E. Kennedy by Leonard Hell
Robert E. Kennedy

Wesley K. Martin by Leonard Hell
Wesley K. Martin

CITY OF EL PASO
Second Party

Cecilia R. Chacon
Mayor

ATTEST
[Signature]
City Clerk

APPROVED AS TO CONTENT:

Rudy Valdez
Planning Department

APPROVED AS TO FORM:

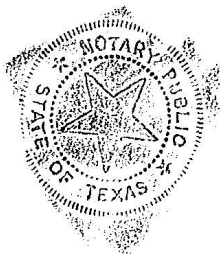
Cherion Cullen Grimes
Assistant City Attorney

THE STATE OF TEXAS)
COUNTY OF EL PASO)

This instrument was acknowledged before me on this 28 day of January, 1985, by Robert E. Kennedy.

My Commission Expires:
THORPE L. PETERSEN
NOTARY PUBLIC STATE OF TEXAS
COMMISSION EXPIRES 6-13-88

[Signature]
Notary Public, State of Texas

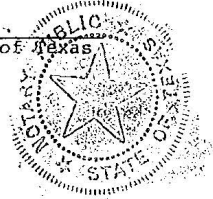


THE STATE OF TEXAS)
COUNTY OF EL PASO)

This instrument was acknowledged before me on this 28 day of January, 1985, by Wesley K. Martin.

My Commission Expires:
THORPE L. PETERSEN
NOTARY PUBLIC STATE OF TEXAS
COMMISSION EXPIRES 6-13-88
THE STATE OF TEXAS)
COUNTY OF EL PASO)

Thorne L. Petersen
Notary Public, State of Texas

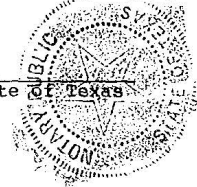


This instrument was acknowledged before me on this 29th day of January, 1985, by ALICIA R. CHACON, Mayor-Pro-Tem of the City of El Paso.

My Commission Expires:

10/21/87

Marie Douglas
Notary Public, State of Texas



THE STATE OF TEXAS)
COUNTY OF EL PASO)

24649

KNOW ALL MEN BY THESE PRESENTS: That Percy G. Arellanes and Pauline M. Arellanes, his wife, in consideration of One Dollar paid to them by the City of El Paso, the receipt of which is hereby acknowledged and in further consideration of the benefits to be derived by them from the construction of drainage facilities on the land hereinafter described, have given and granted and by these presents do give and grant unto the City of El Paso the right to construct, reconstruct and perpetually maintain a drainage channel, pipes and facilities, or any thereof, with all necessary appurtenances in, upon and across the following described property, situated in El Paso County, Texas:

A portion of Lots 30 to 32, Block 47, Highland Park Addition

Beginning at a point which is on the east right of way line of Cotton Avenue and 35.07 feet north of the north alley line in Block 47, Highland Park Addition, said point being the point of beginning for the desired easement strip;

Thence north along the easterly right of way line of Cotton Avenue, a distance of 13.42 feet to a point for corner;

Thence South $48^{\circ} 11' 30''$ East, a distance of 72.73 feet to a point for corner;

Thence west along the north alley line, a distance of 15.00 feet to the point for corner;

Thence North $48^{\circ} 11' 30''$ West, a distance of 52.60 feet to the point for corner, also being the point of beginning.

Said tract contains in all 0.01438 acres, more or less.

To have and to hold the same perpetually unto the City of El Paso, together with the right at any time to enter upon said land or any part thereof for the purpose of constructing, reconstructing and maintaining said drainage channel, pipes and other facilities and for making connections therewith.

The Grantors and their heirs and assigns shall have the right to construct a building on the surface of the ground over the above-described easement, provided such building is constructed in accordance with sound engineering

principles and so as not to interfere with the construction, maintenance or repair of the drainage facilities.

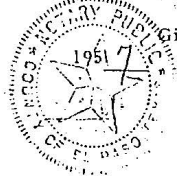
Witness the following signatures this 26 day of December 1957.

Percy G. Arellanes

Pauline M. Arellanes

THE STATE OF TEXAS)
COUNTY OF EL PASO)

Before me, the undersigned authority, on this day personally appeared PERCY G. ARELLANES, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.



Given under my hand and official seal this 26 day of December

Ray J. Wirth
Notary Public in and for El Paso County,
Texas.

THE STATE OF TEXAS)
COUNTY OF EL PASO)

Before me, the undersigned authority, on this day personally appeared PAULINE M. ARELLANES, wife of PERCY G. ARELLANES, known to me to be the person whose name is subscribed to the foregoing instrument, and having been examined by me privily and apart from her husband, and having the same fully explained to her, she, the said PAULINE M. ARELLANES acknowledged such instrument to be her act and deed and declared that she had willingly signed the same for the purposes and consideration therein expressed, and that she did not wish to retract it.



Ray J. Wirth
Notary Public in and for El Paso County,
Texas.

THE STATE OF TEXAS

§

§ KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF EL PASO

§


BEFORE ME appeared the undersigned, ROBERT KENNEDY, an officer of MAG-MAN JOINT VENTURE, after having been duly sworn did depose and state the following:

"I, ROBERT KENNEDY, as an officer of MAG-MAN JOINT VENTURE do hereby authorize LEONARD HALL AND ASSOCIATES to act as our agents/representatives before City Council to seek an amendment to that special contract entered into between the City of El Paso and our predecessor MAGNOLIA MANOR, INC., on property bordered by San Diego Street and Cotton Street in El Paso, Texas. Furthermore, affiant sayeth not."

MAG-MAN JOINT VENTURE


BY: ROBERT KENNEDY

SWORN TO AND SUBSCRIBED before me, this 13th day of
December, 1984.


LILLIAN R. COUDER
NOTARY PUBLIC, in and for
the State of Texas

My commission expires:

October 22, 1985

1528-1906

ATTACHMENT 6

Planning and Inspections Department - Planning Division

Staff recommends approval of the Detailed Site Development Plan request.

Planning and Inspections Department – Plan Review & Landscaping Division

Recommend approval with conditions:

1. Provide accessible route from right of way to building
2. Provide bicycle rack

Note: Comments addressed.

Planning and Inspections Department – Land Development

Recommend approval: No objections to detailed site plan.

1. Verify there are no encroachments by any proposed permanent structures over existing underground stormwater pipes.
2. Darken/bolden landscaping trees.
3. Provide ADA access from the sidewalk into the property.

Note: Comments addressed.

Fire Department

No adverse comments.

Police Department

The 911 District has no comments/concerns regarding this zoning.

Environment Services

No comments received.

Streets and Maintenance Department

A TIA is not required.

Sun Metro

No comments received.

El Paso Water

EPWater does not object to this request.

Water:

There is an existing 6-inch diameter water main that extends along the east side of Cotton St. This main is available for service

There is an existing 6-inch diameter water main that extends along the alley between San Diego Ave. and San Jose Ave. This main is available for service.

Previous water pressure readings conducted on fire hydrant number 633 located at the northeast corner of Cotton St. and San Jose Ave. have yielded a static pressure of 94 pounds per square inch (psi), residual pressure of 88 psi, discharge of 1,501 gallons per minute (gpm). Private water pressure regulating devices will be required at the discharge side of each water meter. The seller of the property / the Developer shall include in the sale of contract documents that the lot/home buyer shall acquire ownership of the above-described water pressure regulating

devices to be located at the discharge side of the water meters. Additionally, the lot/home buyer shall be responsible for the operation and maintenance of the above-described water pressure regulating devices.

Sanitary Sewer:

Along Cotton St. between San Diego Ave. and San Jose Ave. is an existing eight (8) inch diameter sanitary sewer main. This main is available for service.

Along San Jose Ave. there is an existing sanitary sewer main. This main dead ends approximately 145 feet west of Ohio Ave. This main is available for service.

General:

EPWater 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 EPWater – 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.

Stormwater:

The owner needs to stake out the two northern corners of building #2 so that we can stake out the 36" storm sewer pipe. That way we both can see how close the pipe is to the proposed building and stake out the drainage easement needed.

Note: Comment addressed.

Texas Department of Transportation

No comments received.

El Paso County Water Improvement District No. 1

The attached item is not within the boundaries of EPCWID1.