

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

**AGENDA DATE:** April 9, 2024

**PUBLIC HEARING DATE:** May 7, 2024

**CONTACT PERSON(S) NAME AND PHONE NUMBER:** Philip F. Etiwe, (915) 212-1553  
Andrew Salloum, (915) 212-1603

**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:**

An Ordinance changing the zoning of the property described as Tracts 407 and 408, Sunrise Acres #1, 8935 Mercury Street, City of El Paso, El Paso County, Texas from R-4 (Residential) to S-D (Special Development), pursuant to Section 20.04.150 and 20.10.360 and approving a detailed site development plan with reduction to side yard setback pursuant to Section 20.04.150 and 20.10.360 of the El Paso City Code to allow for a single-family dwelling and a triplex as permitted in the S-D (Special Development) zone district. The penalty is as provided for in Chapter 20.24 of the El Paso City Code.

The proposed rezoning 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: 8935 Mercury Street

Applicant: Gary L. Herman and Shawn M. Schulz, PZRZ23-00026

**BACKGROUND / DISCUSSION:**

The applicant is requesting to rezone from R-4 (Residential) to S-D (Special Development) and approval of a Detailed Site Development Plan with a reduction to side yard setback to allow for a single-family dwelling and a triplex. City Plan Commission recommended 7-0 to approve the proposed rezoning on February 22, 2024. As of March 25, 2024, the Planning Division has received five (5) phone calls and one (1) email of inquiry, and one (1) phone call in opposition to the 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?** ☒ YES ☐ NO

**PRIMARY DEPARTMENT:** Planning & Inspections, Planning Division

**SECONDARY DEPARTMENT:** N/A

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

**DEPARTMENT HEAD:**

*Philip Etiwe*

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

AN ORDINANCE CHANGING THE ZONING OF THE PROPERTY DESCRIBED AS TRACTS 407 AND 408, SUNRISE ACRES #1, 8935 MERCURY STREET, CITY OF EL PASO, EL PASO COUNTY, TEXAS FROM R-4 (RESIDENTIAL) TO S-D (SPECIAL DEVELOPMENT), PURSUANT TO SECTION 20.04.360 AND APPROVING A DETAILED SITE DEVELOPMENT PLAN WITH REDUCTION TO SIDE YARD SETBACK PURSUANT TO SECTION 20.04.150 AND 20.10.360 OF THE EL PASO CITY CODE TO ALLOW FOR A SINGLE-FAMILY DWELLING AND A TRIPLEX AS PERMITTED IN THE S-D (SPECIAL DEVELOPMENT) ZONE DISTRICT. THE PEANLTY IS AS PROVIDED FOR IN CHAPTER 20.24 OF THE EL PASO CITY CODE.

**WHEREAS**, Gary L. Herman and Shawn M. Schulz., (Owners) has applied for a rezoning of property from **R-4 (Residential)** to **S-D (Special Development)** per Section 20.04.360 of the El Paso City Code; and,

**WHEREAS**, Owners have also applied for approval of a detailed site development plan pursuant to Sections 20.04.150 and 20.10.360 of the El Paso City Code for with reduction to side yard setback for a single-family and a triplex, which requires approval from both City Plan Commission and City Council; and,

**WHEREAS**, a public hearing was held for the rezoning and detailed site plan requests at a City Plan Commission meeting; and,

**WHEREAS**, City Plan Commission has recommended approval of the subject rezoning and detailed site development plan; and,

**WHEREAS**, the rezoning and detailed site development plan has been submitted to the City Council of the City of El Paso for review and approval; and,

**WHEREAS**, the City Council of the City of El Paso finds that the application conforms to all requirements of the El Paso City Code.

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

1. Pursuant to Section 20.04.360 of the El Paso City Code, that the zoning of *Tracts 407 and 408, Sunrise Acres #1, City of El Paso, El Paso County, Texas*, be changed from **R-4 (Residential)** to **S-D (Special Development)**, as defined in Section 20.06.020, and that the zoning map of the City of El Paso be revised accordingly.

2. Pursuant to the requirements of the El Paso City Code, the City Council hereby approves the detailed site development plan submitted by the Owner, to request for side yard setback reduction for a single-family dwelling and a triplex as permitted under the **S-D (Special Development)** district regulations of 20.04.150 and 20.10.360.

3. A copy of the approved detailed site development plan, signed by the Owner, the City Manager, and the Secretary of the City Plan Commission, is attached hereto, as Exhibit “A” and incorporated herein by reference for all purposes.

4. 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 **S-D (Special Development)** District regulations.

5. 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 **S-D (Special Development)** 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.

6. The approval of this detailed site development plan shall automatically be void if construction on the property is not started in accordance with the attached plan Exhibit “A” within four (4) years from the date hereof.

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

**ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

**THE CITY OF EL PASO**

**ATTEST:**

\_\_\_\_\_  
Oscar Leaser  
Mayor

\_\_\_\_\_  
Laura D. Prine  
City Clerk

**APPROVED AS TO FORM:**

*Russell Abeln*

Russell T. Abeln  
Senior Assistant City Attorney

**APPROVED AS TO CONTENT:**

*Philip Etiwe*

Philip Etiwe, Director  
Planning & Inspections Department

## AGREEMENT

By execution hereof, Gary L. Herman and Shawn M. Schulz ("Owners"), referred to in the above Ordinance, hereby agrees to develop the above-described property in accordance with the approved Detailed Site Development Plan attached to same Ordinance, and in accordance with the standards identified in the **S-D (Special Development)** District regulations, and subject to all other requirements set forth in this Ordinance.

EXECUTED this 21 day of MARCH, 2024

OWNER: Gary L. Herman and  
Shawn M. Schulz

By: [Signature] [Signature]  
SHAWN SCHULZ Gary L. Herman  
(Print name & Title)

## ACKNOWLEDGEMENT

THE STATE OF ~~TEXAS~~ ) New Mexico

COUNTY OF ~~EL PASO~~ ) Jotero

This instrument is acknowledged before me on this 21 day of March, 2024, by Shawn Schulz, in his legal capacity on behalf of Owners.

My Commission Expires:

[Signature]  
Notary Public, State of ~~Texas~~ New Mexico

24 APRIL 2027







# 8935 Mercury Street

City Plan Commission — February 22, 2024

REZONING



**CASE NUMBER:** PZRZ23-00026 (Revised)  
**CASE MANAGER:** Andrew Salloum, (915) 212-1603, [SalloumAM@elpasotexas.gov](mailto:SalloumAM@elpasotexas.gov)  
**PROPERTY OWNER:** Gary L. Herman and Shawn M. Schulz  
**APPLICANT:** Gary L. Herman and Shawn M. Schulz  
**REPRESENTATIVE:** CAD Consulting Company  
**LOCATION:** 8935 Mercury Street (District 2)  
**PROPERTY AREA:** 2.00 acres  
**REQUEST:** Rezone from R-4 (Residential) to S-D (Special Development) and approval of Detailed Site Development Plan with a reduction to side yard setback  
**RELATED APPLICATIONS:** N/A  
**PUBLIC INPUT:** Five (5) phone calls and one (1) email of inquiry, and one (1) phone call in opposition as of February 22, 2024.

**SUMMARY OF REQUEST:** The applicant is requesting to rezone the subject property from R-4 (Residential) to S-D (Special Development) and approval of a Detailed Site Development Plan with a reduction to side yard setback to allow for a single-family dwelling and a triplex.

**SUMMARY OF STAFF'S RECOMMENDATION:** Staff recommends **APPROVAL** of the request as the proposed development is in keeping with the policies of the G-3, Post-War Land Use Designation of *Plan El Paso*, the City's adopted Comprehensive Plan.

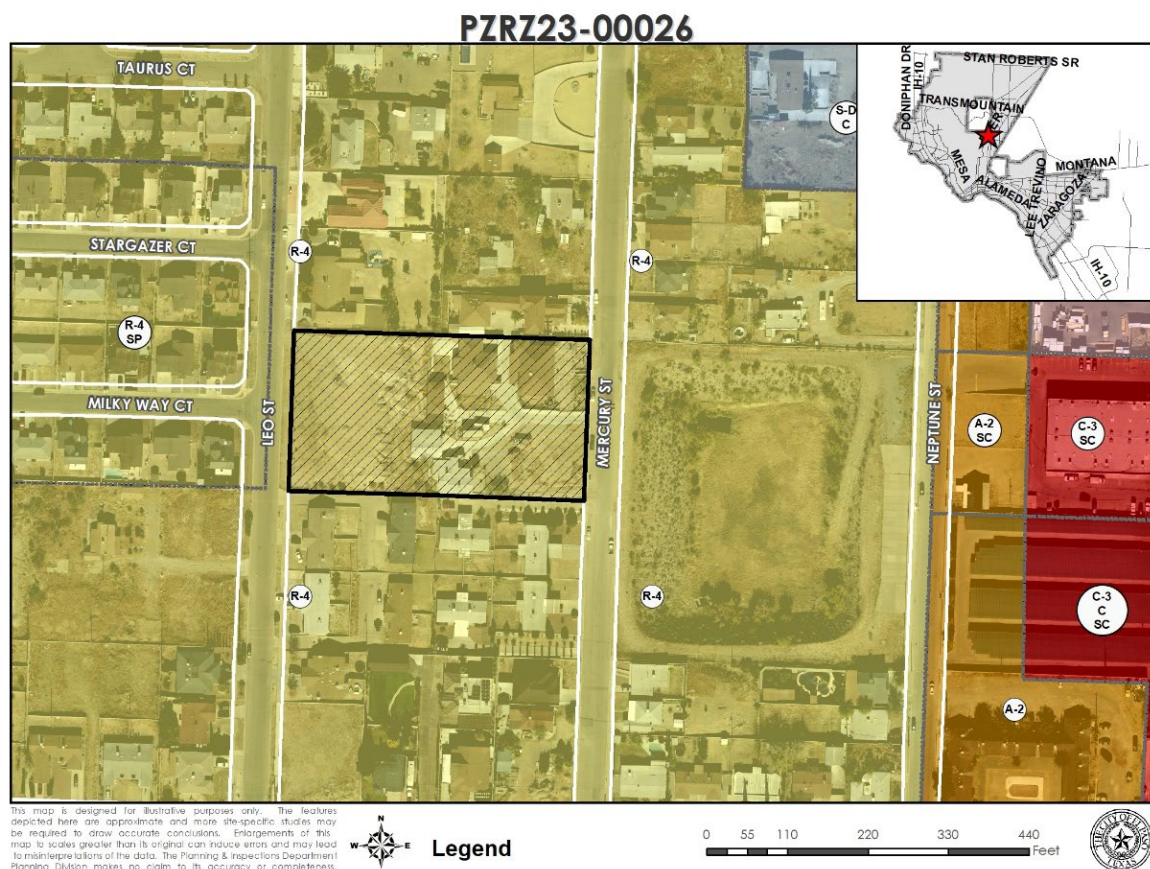


Figure A. Subject Property & Immediate Surroundings

**DESCRIPTION OF REQUEST:** The applicant is requesting to rezone from R-4 (Residential) to S-D (Special Development) and approval of a Detailed Site Development Plan with a reduction to side yard setback to allow for a single-family dwelling and a triplex. Approval of a Detailed Site Development Plan is required as per proposed zoning district, proposed use, and requested reduction. The size of the property is 2 acres. The detailed site development plan shows the existing 5,506 square foot triplex structures along with garage and storage accessory structures on the eastern portion of the subject property and a proposed 2,110 square-foot single-family dwelling on the western portion of the subject property. The applicant is also requesting the following reduction: from the minimum required 10-foot side yard setback to 2.4 foot as shown in the table below. The development is compliant with the required minimum vehicular parking. Access to the subject property is provided from Mercury Street and Leo Street.

Minimum Density/Setback: S-D zone district	Required	Proposed
District area	1 acre	2 acres
Lot Area	N/A	N/A
Lot Width	N/A	N/A
Lot Depth	N/A	N/A
Front yard setback	20 feet	No change
Rear yard setback	10 feet	No change
<b>Side yard setback</b>	<b>10 feet between structures</b>	<b>2.4 feet</b>
Side street yard setback	10 feet	N/A
Cumulative front & rear yard setback	N/A	N/A

**COMPATIBILITY WITH NEIGHBORHOOD CHARACTER:** The proposed development is permitted by right with approval of detailed site development plan in the S-D (Special Development) zoning district and will supplement the existing housing stock with multi-family housing. To the north and south are duplexes zoned R-4 (Residential); to the east is ponding area zoned R-4 (Residential) and to the west are single-family dwellings zoned R-4 (Residential). The closest school is Canyon Hills Middle School located 0.26 miles away and the closest park is Sunrise Park located 0.45 miles away.

<b>COMPLIANCE WITH PLAN EL PASO/REZONING POLICY – When evaluating whether a proposed rezoning is in accordance with <i>Plan El Paso</i>, consider the following factors:</b>	
<b>Criteria</b>	<b>Does the Request Comply?</b>
<p><b>Future Land Use Map:</b> Proposed zone change is compatible with the Future Land Use designation for the property:</p> <p><b>G-3, Post-War:</b> 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.</p>	<p>Yes. The subject property is proposed to be developed into single-family dwelling and multi-family dwellings development, which is in character with the future land use designation of <i>Plan El Paso</i>.</p>



<b>COMPLIANCE WITH <i>PLAN EL PASO</i>/REZONING POLICY – When evaluating whether a proposed rezoning is in accordance with <i>Plan El Paso</i>, consider the following factors:</b>	
<p><b>Compatibility with Surroundings:</b> The proposed zoning district is compatible with those surrounding the site:</p> <p><b>S-D (Special Development) District:</b> The purpose of this district is to provide an opportunity for mixed-use projects, integrated in design, in certain older residential areas where there is a desire to permit a variety of nonresidential uses while maintaining the established residential appearance and landscaping of the area. The regulations of this district are designed to ensure compatibility with existing uses in the district; to permit the production, exhibit or sale of goods and the providing of services to the public in such older residential areas; to protect the traffic capacity of streets serving such older residential areas; to encourage flexibility by prescribing general performance standards for such older residential areas; and to protect the environment of adjacent areas. For the purpose of this district, older areas of the city shall be deemed those areas where development has existed for at least twenty-five years.</p>	<p>Yes. The proposed S-D (Special Development) zone district will provide for the integration of single-family dwelling and multi-family dwelling development with adjacent R-4 (Residential) zoning districts in an older area.</p>
<p><b>Preferred Development Locations:</b> Located along an arterial (or greater street classification) or the intersection of two collectors (or greater street classification). The site for proposed rezoning is not located mid-block, resulting in it being the only property on the block with an alternative zoning district, density, use and/or land use.</p>	<p>Yes. Proposed development will have access to the subject property is provided from Mercury Street and Leo Street which are classified as local street and collector, respectively, under the City's Major Thoroughfare Plan (MTP). The classification of this road is appropriate for the proposed development.</p>
<b>THE PROPOSED ZONING DISTRICT'S EFFECT ON THE PROPERTY AND SURROUNDING PROPERTY, AFTER EVALUATING THE FOLLOWING FACTORS:</b>	
<p><b>Historic District or Special Designations &amp; Study Area Plans:</b> 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>The subject property does not lie within an historic district, study area plan, or overlay district.</p>
<p><b>Potential Adverse Effects:</b> Potential adverse effects that might be caused by approval or denial of the requested rezoning.</p>	<p>There are no anticipated adverse impacts.</p>
<p><b>Natural Environment:</b> Anticipated effects on the natural environment.</p>	<p>The subject property does not involve green field or environmentally sensitive land or arroyo disturbance.</p>
<p><b>Stability:</b> Whether the area is stable or in transition.</p>	<p>There has been some transition within the last 10 years in the nearby area. The property located at 9025 Neptune Street to the northeast was rezoned from R-4 (Residential) to S-D (Special Development) in 2016. Additionally, the property located at 8835 Neptune Street to the southeast was rezoned from R-4 (Residential) to A-2 (Apartment) in 2022. This area supports multi-family developments.</p>

**COMPLIANCE WITH *PLAN EL PASO*/REZONING POLICY – When evaluating whether a proposed rezoning is in accordance with *Plan El Paso*, consider the following factors:**

<b>Socioeconomic &amp; Physical Conditions:</b> Any changed social, economic, or physical conditions that make the existing zoning no longer suitable for the property.	The proposed development is within an older, stable area of the city. The established neighborhood is comprised of single-family and multi-family uses. The property located at 9025 Neptune Street to the northeast was rezoned from R-4 (Residential) to S-D (Special Development) in 2016. Additionally, the property located at 8835 Neptune Street to the southeast was rezoned from R-4 (Residential) to A-2 (Apartment) in 2022.
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**ADEQUACY OF PUBLIC FACILITIES, SERVICES AND INFRASTRUCTURE:** The subject property borders Mercury Street and Leo Street which are classified as local street and collector, respectively, under the City's Major Thoroughfare Plan (MTP). Access is proposed from Mercury Street and Leo Street. The classification of these roads is appropriate for the proposed development. The existing infrastructure and services are adequate to serve the proposed redevelopment. Sidewalks are consistently present around the subject property. There are no bus stops within walkable distance (0.25 mile) of the subject property. The closest bus stop is 0.46 miles away along Echo Street.

**SUMMARY OF DEPARTMENTAL REVIEW COMMENTS:** No adverse comments were received from reviewing departments.

**PUBLIC COMMENT:** The subject property is located within the boundary of Sunrise Neighborhood Association which was notified of the rezoning request by the applicant. Property owners within 300 feet of subject property were notified of the rezone request on February 9, 2024. As of February 22, 2024, the Planning Division has received five (5) phone calls and one (1) email of inquiry, and one (1) phone call in opposition to the request.

**RELATED APPLICATIONS:** None.

**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. **Recommend Approval** of the rezoning request, 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. **Recommend Approval of the rezoning request 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. **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. Future Land Use Map
2. Detailed Site Development Plan
3. Elevations
4. Department Comments
5. Neighborhood Notification Boundary Map
6. Email of Inquiry

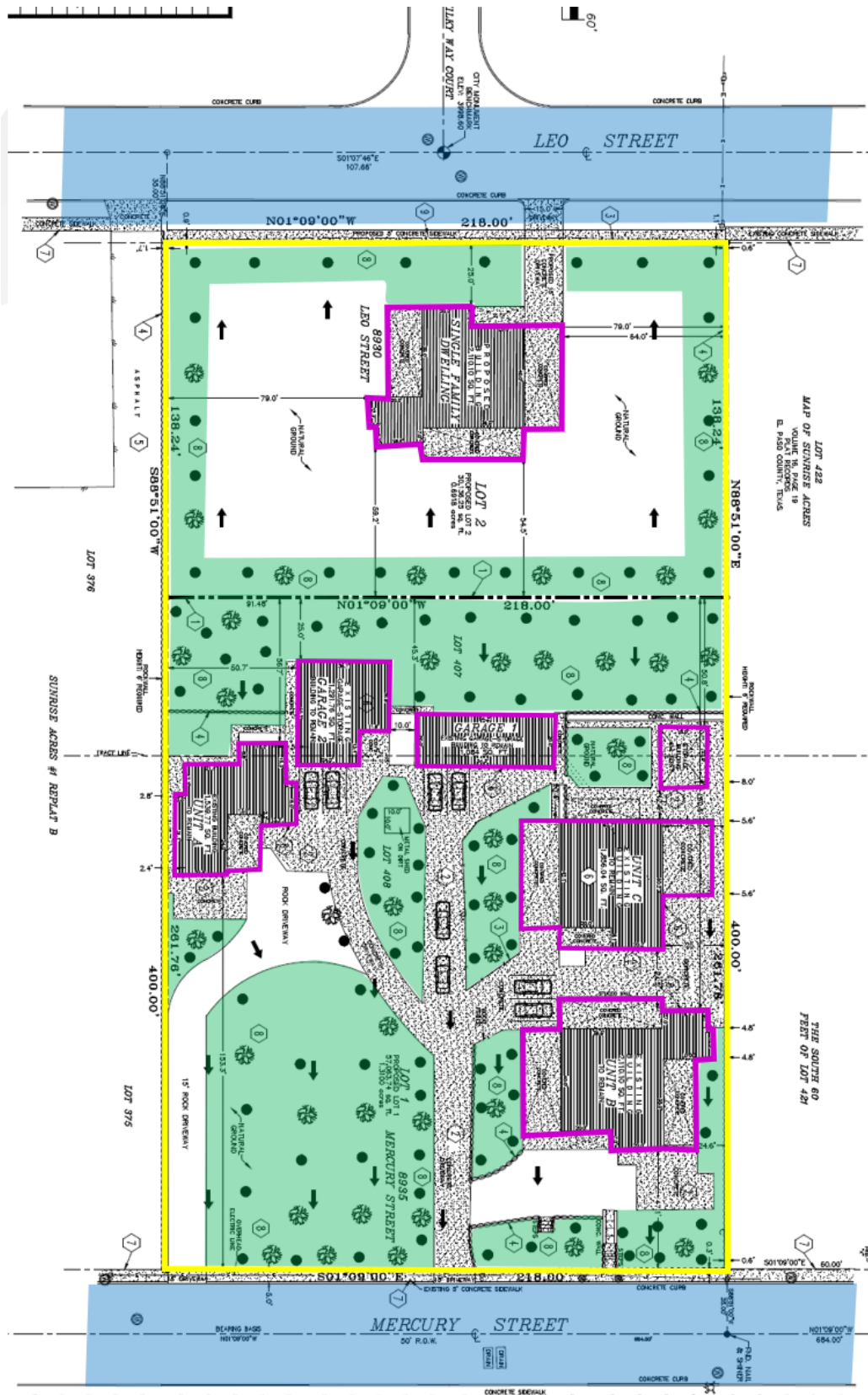
# ATTACHMENT 1

PZR23-00026

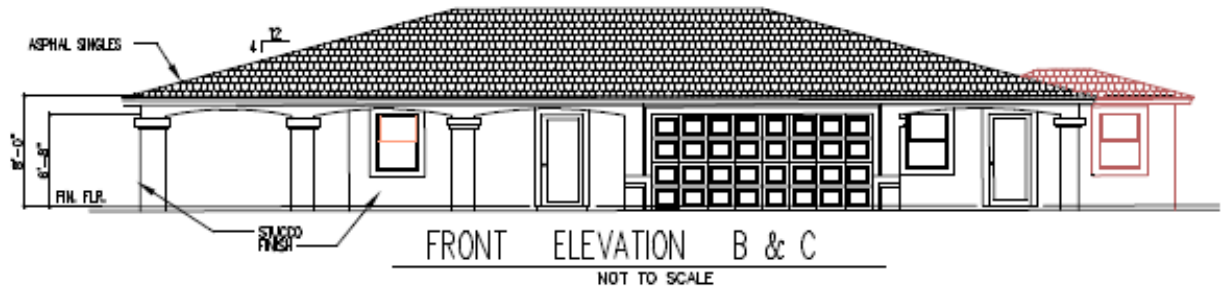
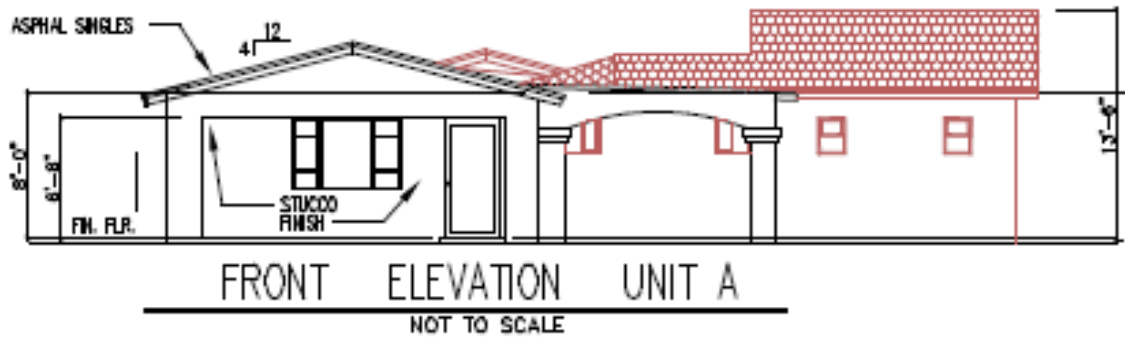




# ATTACHMENT 2



# ATTACHMENT 3



# **ATTACHMENT 4**

## **Planning and Inspections Department - Planning Division**

1. Staff recommends **APPROVAL** of the request as the proposed development is in keeping with the policies of the G-3, Post-War Land Use Designation of *Plan El Paso*, the City's adopted Comprehensive Plan.
2. Request and issuance of building permits for any unpermitted construction will be required as needed to bring the property into compliance.

## **Planning and Inspections Department – Plan Review & Landscaping Division**

No objections to the proposed rezoning and detailed site development plan.

At the time of submittal for building permit, the project will need to comply with all applicable provisions of the ICC, TAS and Municipal Code.

## **Planning and Inspections Department – Land Development**

No objections to the proposed rezoning and detailed site development plan.

## **Fire Department**

If rezoning approved, follow Fire Marshall requirements and building permit process.

*Note: Comments will be addressed at the permitting stage.*

## **Police Department**

No comments received.

## **Environment Services**

No comments received.

## **Streets and Maintenance Department**

No objections.

## **Sun Metro**

No comments received.

## **El Paso Water**

EPWater-PSB does not object to this request.

There is an existing 6-inch diameter water main that extends along Mercury St., located approximately 10-feet west of the east right-of-way line. This main is available for service.

There is an existing 8-inch diameter water main that extends along Leo St., located approximately 25-feet west of the east right-of-way line. This main is available for service.

EPWater-PSB records indicate three (3) active ¾-inch domestic water meters serving the subject property. The service address for these meters is 8935 Mercury St.

EPWater-PSB records indicate a vacant water service connection (inactive meter) serving the subject property. The address for this service is 8935 Mercury St.

Previous water pressure reading from fire hydrant #6321, located on Mercury St. approximately 639-feet south of Skyline Ave., has yielded a static pressure of 70 (psi), a residual pressure of 68 (psi), and a discharge of 1,186 (gpm).

## **Sanitary Sewer:**

There is an existing 8-inch diameter sanitary sewer main that extends along Mercury St., located approximately 20-feet east of the west right-of-way line. This main is available for service.



There is an existing 8-inch diameter sanitary sewer main that extends along Leo St., located approximately 30-feet east of the west right-of-way line. This main is available for service.

**General**

Each lot shall have water and sewer service connections fronting the limits of the lot.

EPWater-PSB requires a new service application to provide additional 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.

**El Paso County 911 District**

No comments received.

**Texas Department of Transportation**

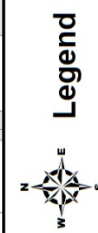
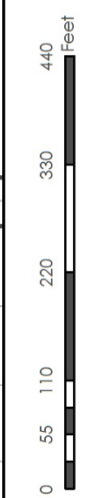
No comments received.

**El Paso County Water Improvement District #1**

No comments received.

# ATTACHMENT 5

PZR23-00026



**Legend**

This map is designed for illustrative purposes only. The features depicted here are approximate and more site-specific studies may be required to draw accurate conclusions. Enlargements of this map to scales greater than its original can induce errors and may lead to misinterpretations of the data. The Planning & Inspections Department Planning Division makes no claim to its accuracy or completeness.

# ATTACHMENT 6

**Salloum, Andrew M.**

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**From:** Salloum, Andrew M.  
**Sent:** Wednesday, February 21, 2024 5:32 PM  
**To:** Charlene Brewer  
**Subject:** RE: PZR23-00026-8935 Mercury Street

Good afternoon,

Thank you for your email. Your questions will be answered tomorrow at the City Plan Commission.

Cordially,  
**Andrew Salloum | Senior Planner**  
P: 915.212.1603  
A: 801 Texas Ave. El Paso, TX 79901  
E: [SalloumAM@elpasotexas.gov](mailto:SalloumAM@elpasotexas.gov)  
[ElPasoTexas.gov](http://ElPasoTexas.gov) | [Take Our Survey](#)



Planning & Inspections Department  
City of El Paso

**\*My availability is from Monday thru Thursday.**

**\*\*For general zoning inquiries, please take a look at our [FAQ](#) section, or you may contact the One Stop Shop in person at 811 Texas Ave. or by phone at (915) 212-0104. The One Stop Shop is open Monday thru Thursday from 8 am to 5:30 pm and Friday from 8 am to 11:30 am.**

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**From:** Charlene Brewer <ch8rry9991@att.net>  
**Sent:** Wednesday, February 21, 2024 4:13 PM  
**Cc:** Salloum, Andrew M. <SalloumAM@elpasotexas.gov>  
**Subject:** PZR23-00026-8935 Mercury Street

You don't often get email from [ch8rry9991@att.net](mailto:ch8rry9991@att.net). [Learn why this is important](#)

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From: Charlene Clark, 3801 Sunrise Ave, El Paso, Texas; current owner of properties located at 8917 Mercury, 8919 and 8921 Mercury, 8923 and 8925 Mercury, and 8927 Mercury.

(1) Is the single family dwelling requested to be built on Tract 407 Sunrise Acres #1? Or Is it already built on Tract 408 Sunrise Acres #1?

(2) If the owners change their mind on construction of a single family dwelling on the land of Tract 407, will City Plan Commission allow any other structure or structures of a non residential nature as defined by Title 20 Appendix "A"? I am adamantly opposed to non-residential building or buildings on Tract 407 and Tract 408. Special development allows that usage. If the city allows the rezoning please include restrictions against non-residential usage.

(3) Does the triplex requested include multiple house or houses on Tract 408 Sunrise Acres #1? Or is a triplex being built on Tract 407?

The Central Appraisal District of El Paso Texas only shows the following improvements/buildings on 8935 Mercury St, El Paso TX for 2023:  
A main area of 1535 sqft., and an open porch both built in 1959. It also has a listing for a detached garage built in 2017. Is this information incomplete?

(4) Please provide clarification on the above questions. Without the complete information on Mssrs Herman and Schulz request, I only have one restriction request for your consideration. I have owned the above named properties on Mercury St for over 40 years, if that information has any merit to my request and/or unknown evaluations once the CPC clarifies what is proposed by these gentlemen.

Thank you  
Sincerely  
Charlene Clark