

DATE: 5/04/99 AGENDA ITEM # 12  
( ) APPROVED ( ) DENIED  
( ) CONTINUED TO \_\_\_\_\_

TO: JAMES L. APP, CITY MANAGER  
FROM: BOB LATA, COMMUNITY DEVELOPMENT DIRECTOR *Bob*  
SUBJECT: REZONE 98004 (GHORMLEY): SECOND READING  
DATE: MAY 4, 1999

Needs: For the City Council to adopt an ordinance rezoning a 14.75 acre property, located on the west side of Airport Road at Turtle Creek Road from PM to R-2,PD.

- Facts:
1. At its meeting of July 21, 1998, the City Council approved General Plan Amendment (GPA) 98-01(C), which redesignated the subject property from Business Park (BP) to Multiple Family, Low (RMF-L).
  2. Jack Ghormley, the applicant, has received approval to subdivide the site into 71 lots for development of single family attached homes for exclusive occupancy by seniors (Tract 2276).
  3. Rezone 98004 accompanied GPA 98-01(C), and first reading of the attached ordinance was given on July 21, 1998. Second reading of the rezone ordinance, and approval of a Mitigated Negative Declaration, were conditioned upon recordation of a deed restriction limiting use of the site for seniors (at least one member of each household must be age 55 or older).
  4. To satisfy the condition for a deed restriction, the City Attorney drafted the attached "Restrictive Covenant on Use of Property". This covenant was recorded by Jack Ghormley, the applicant, on April 2, 1999.

Analysis and Conclusion: With the recordation of the deed restriction limiting occupancy of the site to seniors, the prerequisite for rezoning the property to R-2,PD has been completed.

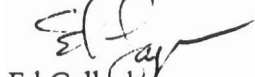
Policy Reference: Resolution 98-154 (General Plan Amendment 98-01(C))

Fiscal Impact: None

RIMC CODE  
DATE: May 4, 1999  
FILE PLAN/GEN CAT: Current Planning/Rezoning  
SUBJECT: GPA 98-01(C), Rezone 98004, Tract 2276 and PD 98005 (Ghormley)  
LOCATION: Development Services File Room  
RETENTION: 3 Years  
OTHER: ED\GPA-RZ\GHORMLEYREZONE 2ND READING \CCR 050499

- Options:
- a. Conduct second reading and adopt the attached rezone ordinance.
  - b. Amend, modify or reject the foregoing option.

Prepared by:



Ed Gallagher  
Housing Programs Manager

**Attachments:**

1. Ordinance Approving Rezone 98004
2. Recorded Restrictive Covenant on Use of Property

ORDINANCE NO. \_\_\_\_ N.S.

AN ORDINANCE OF THE CITY OF EL PASO DE ROBLES  
AMENDING THE ZONING MAP ESTABLISHED BY REFERENCE IN  
SECTION 21.12.020 OF THE ZONING CODE (TITLE 21)  
(REZONE 98004 - GHORMLEY)

WHEREAS, in conjunction with General Plan Amendment (GPA) 98-01(C), John Ghormley has filed and application for Rezone 98004 to rezone a 14.75 acre parcel, described as Parcel 2 of Parcel Map PR 79-198 (the "site") from PM to R-2,PD; and

WHEREAS, John Ghormley has proposed that occupancy of dwelling units to be built on the site be restricted to seniors and the Initial Study prepared for this rezoning recommends that, in order to preserve land use compatibility with the adjacent Sierra Bonita neighborhood, a deed restriction limiting occupancy to the same senior age group effective in Sierra Bonita; and

WHEREAS, at its meetings of May 26 and July 14, 1998, the Planning Commission took the following actions:

a. Considered the facts and analysis, as presented in the staff report prepared for this project (general plan amendment and rezone);

b. Conducted a public hearing to obtain public testimony on the proposed project;

c. Based on the information contained in the Initial Study prepared for this project, unanimously found that there was no substantial evidence that this project would have significant adverse effects on the environment and recommended that the City Council approve a Negative Declaration, subject to the following mitigation measure:

1. Prior to second reading of an ordinance to rezone the site to R-2, a deed restriction limiting use of the site for seniors (at least one member of each household must be age 55 or older and no household member may be less than 18 years of age) shall be recorded;

d. Recommended that the City Council approve this project; and

WHEREAS, at its meetings of June 16 and July 21, 1998, the City Council took the following actions:

a. Considered the facts and analysis, as presented in the staff report prepared for this project;

b. Considered the recommendation of the Planning Commission;

c. Conducted a public hearing to obtain public testimony on the proposed project;

d. Found that there was no substantial evidence that the proposed project would have a significant adverse effect on the environment and approved a Negative Declaration for this application in accordance with the California Environmental Quality Act, subject to the following mitigation measure:

1. Prior to second reading of an ordinance to rezone the site to R-2,PD, a deed restriction limiting

use of the site for seniors (at least one member of each household must be age 55 or older and no household member may be less than 18 years of age) shall be recorded;

e. Adopted a resolution to approve General Plan Amendment 98-01, which enables Rezone 98001 to be in conformance with the General Plan;

WHEREAS, On April 2, 1999, Jack Ghormley recorded a deed restriction on the site in which at least one member of each household must be age 55 or older and no household member may be less than 18 years of age;

NOW, THEREFORE, BE IT KNOWN that the Paso Robles City Council, based upon the substantial evidence presented at the above referenced public hearing, including oral and written staff reports, finds as follows:

1. The above stated facts of this ordinance are true and correct.
2. This rezone is consistent with the City's General Plan.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EL PASO DE ROBLES DOES ORDAIN AS FOLLOWS:

**SECTION 1.** Section 21.12.020 of the Municipal Code (Zoning Map) is hereby amended as shown on the attached Exhibit A.

**SECTION 2.** Publication. The City Clerk shall cause this ordinance to be published once within fifteen (15) days after its passage in a newspaper of general circulation, printed, published and circulated in the City in accordance with Section 36933 of the Government Code.

**SECTION 3.** Severability. If any section, subsection, sentence, clause, or phrase of the Ordinance is, for any reason, found to be invalid or unconstitutional, such finding shall not affect the remaining portions of this Ordinance.

The City Council hereby declares that it would have passed this ordinance by section, subsection, sentence, clause, or phrase irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases are declared unconstitutional.

**SECTION 4.** Inconsistency. To the extent that the terms of provisions of this Ordinance may be inconsistent or in conflict with the terms or conditions of any prior City ordinance(s), motion, resolution, rule, or regulation governing the same subject matter thereof and such inconsistent and conflicting provisions of prior ordinances, motions, resolutions, rules, and regulations are hereby repealed.

**SECTION 5.** Effective Date. This Ordinance shall go into effect and be in full force and effect at 12:01 a.m. on the 31st day after its passage.

Introduced at a regular meeting of the City Council held on July 21, 1998, and passed and adopted by the City Council of the City of El Paso de Robles on the 4th day of May, 1999, by the following roll call vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAINING:

\_\_\_\_\_  
Duane J. Picanco, Mayor

ATTEST:

\_\_\_\_\_  
Madelyn Paasch, City Clerk

ED\GPA-RZ\IGHORMELY\REZONE ORD

RECORDING REQUESTED BY AND  
AFTER RECORDATION, MAIL TO:

The City of El Paso de Robles  
1000 Spring Street  
Paso Robles, CA 93446  
Attn: City Clerk

Doc No: 1999-023842

Rpt No: 0002' E

Official Records  
San Luis Obispo Co.  
Julie L. Rodewald  
Recorder  
Apr 02, 1999  
Time: 11:31

NF -1

0.00

[ 5 ]

TOTAL

0.00

## RESTRICTIVE COVENANT ON USE OF PROPERTY

For valuable consideration, the receipt of which is hereby acknowledged, BONITA HOMES, INCORPORATED ("Owner") hereby agrees with the CITY OF EL PASO DE ROBLES ("City"), with respect to that certain parcel of real property (the "Site") legally described on Exhibit A, that the Site will be subject to the covenants, conditions, restrictions, reservations and rights specified below:

1. PURPOSE OF COVENANT. Owner is the fee owner of the Site. Owner has requested from the City and is in the process of obtaining from the City necessary approvals for development of a single-family attached housing development on the Site, which approvals include, but are not limited to, approval of a final subdivision map and a rezoning of the Site to an R-2, PD designation. As a condition to approval of such map and rezoning, the Owner has agreed to the covenants, conditions, restrictions, reservations and rights contained herein and the recordation of this Covenant against the Site.

2. USE OF THE SITE. The Owner hereby covenants and agrees, for itself, its lessees, successors and assigns, as follows:

A. Development. Owner shall promptly commence and diligently construct improvements on the Site and develop approximately: 71 dwelling units, and appurtenant parking and landscaping improvements (the "Project"). The Project shall be developed in accordance with all conditions, standards and approvals of the City and other governmental agencies, if any, which may have jurisdiction over the Project.

B. Use and Occupancy. The Project shall be developed and used as a senior citizen housing development in accordance with Civil Code Section 51.3. All dwelling units developed in the Project shall be occupied by households in which (i) at

least one member is a "senior citizen" of at least 55 years of age or older, and (ii) each other resident in the same dwelling unit shall be 40 years of age or older, or otherwise be a "qualified permanent resident" as defined in Civil Code Section 51.3.

C. Temporary Residency. Persons less than 40 years of age shall be allowed to reside in the project, from time to time, on a temporary residency basis, provided (i) such temporary resident is a guest of a senior citizen or qualified permanent resident, and (ii) residency by any such temporary resident shall not exceed a total of sixty (60) days in any twelve (12) month period.

D. Permitted Resident. Upon the death or dissolution of marriage, or upon hospitalization, or other prolonged absence of the qualifying senior citizen of any dwelling unit in the Project, any qualified permanent resident under the age of 55 who is currently residing in such dwelling unit shall be entitled to continue his or her occupancy, residency or use of such dwelling unit as a "permitted resident" until such time as (a) the permitted resident reaches the age of 55, at which time the permitted resident shall then be entitled to reside in the Project as a qualified senior citizen, or (b) the permitted resident relocates from the dwelling unit, or otherwise ceases to occupy the dwelling unit as his or her main residence.

E. Permitted Health Care Resident. Any person who is hired to provide live-in, long-term, or terminal health care to a qualifying resident or senior citizen residing in the Project shall be permitted to occupy a dwelling unit as a "permitted health care resident" during any period that the permitted health care resident is actually providing live-in, long-term, or hospice health care to the qualifying resident or senior citizen of such dwelling unit for compensation.

3. MAINTENANCE. The Owner and all successors in interest agree that they shall maintain the improvements and landscaping on the Site in a clean and orderly condition and in good condition and repair and keep the Site free from accumulation of debris and waste materials.

4. NO DISCRIMINATION. The Owner covenants by and for itself and any successors in interest that there shall be no discrimination against or segregation of any person or group of persons on account of race, color, creed, religion, sex, marital status, sexual preference, national origin or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Site, nor shall the Owner itself or any person claiming under or through it establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees in the Site.

5. NO IMPAIRMENT OF LIEN. No violation or breach of the covenants, conditions, restrictions, provisions or limitations contained in this Covenant shall defeat

or render invalid or in any way impair the lien or charge of any mortgage, deed of trust or other financing or security instrument; provided, however, that any successor of Owner to the Site shall be bound by such covenants, conditions, restrictions, limitations and provisions, whether such successor's title was acquired by foreclosure, deed in lieu of foreclosure, trustee's sale or otherwise.

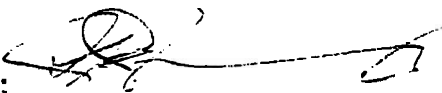
6. DURATION. The covenants contained in paragraphs 2, 3 and 4 of this Covenant shall be deemed to run with the land and shall remain in effect in perpetuity.

7. SUCCESSORS AND ASSIGNS. The covenants contained in this Covenant shall be binding for the benefit of the City and its respective successors and assigns and any successor in interest to the Site or any part thereof, and such covenants shall run in favor of the City and such aforementioned parties for the entire period during which such covenants shall be in force and effect, without regard to whether the City is or remains an owner of any land or interest therein to which such covenants relate. The City, and such aforementioned parties, in the event of any breach of any such covenants, shall have the right to exercise all of the rights and remedies, and to maintain any actions at law or suits in equity or other proper proceedings to enforce the curing of such breach. The covenants contained in this Covenant shall be for the benefit of and shall be enforceable only by the City, and its respective successors and such aforementioned parties.

IN WITNESS WHEREOF, the City and Owner have caused this instrument to be executed on their behalf this 18<sup>th</sup> day of February, 1999.

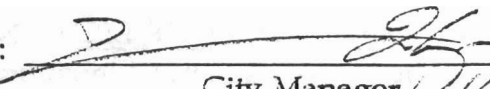
OWNER:

BONITA HOMES, INCORPORATED

By:   
\_\_\_\_\_  
President

CITY:

CITY OF EL PASO DE ROBLES

By:   
\_\_\_\_\_  
City Manager



STATE OF CALIFORNIA )  
 ) ss  
COUNTY OF San Luis Obispo )

On Feb. 16, 1998, before me the undersigned, a notary public, personally appeared  
John H. Ghermley

( X ) personally known to me, or  
( ) proved to me on the basis of satisfactory evidence

to be the person whose name is subscribed to the within instrument and acknowledged to me that ~~he~~ she executed the same in ~~his~~ her authorized capacity, and that by ~~his~~ her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument

WITNESS my hand and official seal.



Signature Rebecca Crowe

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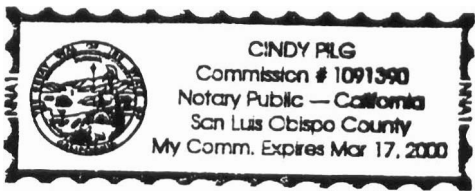
STATE OF CALIFORNIA )  
 ) ss  
COUNTY OF San Luis Obispo )

On Feb. 18, 1999, before me the undersigned, a notary public, personally appeared  
James L. RFP

( X ) personally known to me, or  
( ) proved to me on the basis of satisfactory evidence

to be the person whose name is subscribed to the within instrument and acknowledged to me that ~~he~~ she executed the same in ~~his~~ her authorized capacity, and that by ~~his~~ her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument

WITNESS my hand and official seal.



Signature Cindy Pilg

EXHIBIT A

LEGAL DESCRIPTION OF THE SITE

Parcel 2 of Parcel Map PR-79-198 in the City of Paso Robles, County of San Luis Obispo, State of California, according to the map recorded March 31, 1980 in Book 29, Page 21 of Parcel Maps and as amended by Parcel Map recorded February 6, 1981 in Book 30, Page 24 of Parcel Maps.

Excepting therefrom one-half of all oil, minerals and other hydrocarbon products in and under said land as reserved by Leslie J. Erickson and Jennie M. Erickson, Husband and Wife in deed recorded February 10, 1958 in Book 927, Page 122 of Official Records.

All rights to surface entry and rights in  $\frac{1}{2}$  of all oil, minerals and other hydrocarbon products within the first 500 feet have been relinquished in deed recorded May 10, 1977 in Book 1977, Page 951 of Official Records.