

Ex C to ATTACHMENT TO RESOLUTION NO. 18489

EXHIBIT C
(El Con Mall Conditions)
To
El Con Mall
Development Agreement

2/10/00 Development at the El Con Mall, including the areas designated in cases C9-56-01, C9-74-34 and C9-88-12 that have been developed with the associated R-1, R-2 and C-1 parcels, shall continue to be developed as a single unified development except that nothing herein shall change the zoning classification of the R-1, R-2 and C-1 parcels. All future development shall be in substantial conformity with a final, approved development plan that is in substantial conformity with the conceptual development plan approved by the Mayor and Council on February 14, 2000 and the following conditions:

I. LANDSCAPING AND SCREENING

- a. Screen/Sound attenuation walls along property boundaries. Walls shall be constructed with sound attenuation properties which substantially reduce the effect of sound on adjacent residential properties (split-face and fluted, minimum 8 inches thick and filled with sound attenuation material). All walls to be capped to increase sound attenuation. All changes in wall height from one segment to another shall be stepped to provide visual continuity.
1. El Encanto /El Con common property line. A 10 foot high decorative sound/screen masonry wall shall be provided.
 2. El Conquistador-Miramonte / El Con between Jones and Dodge. A 10 foot high decorative sound/screen masonry wall shall be provided between Jones and Palo Verde. An 8 foot high decorative sound/screen masonry wall shall be provided between Palo Verde and Dodge.
 3. West Side of Dodge from the existing alley to Calle del Prado. An 8 foot decorative sound/screen masonry wall shall be provided.
 4. East Side of Dodge from Fifth to the northeast corner of the El Con property (Tamarac). a.) Add one foot to the existing decorative masonry wall, if approved by the property owners. b.) A new 4 foot high decorative sound/screen wall shall be provided adjacent to the (reconstructed) east curb line, except where openings are needed for access and for sight distance.
 5. El Montevideo / El Con. A 10 foot high decorative sound/screen masonry wall shall be provided. ~~which shall step up to a height of 13 feet opposite the portion of the ring road which is approximately within 120 feet of the residential property lines as shown on the traffic concept plan.~~ Trees and landscaped nodes shall be provided to break up the visual impact of the wall on the El Con side.
- b. Landscape and security buffers. A landscape buffer shall be provided adjacent to the screen/sound walls as listed below. The landscape buffers shall provide varied vegetation to break up long lengths of wall face and

shall include river rocks, cactus, pyracantha or similar unfriendly vegetation which will deter access over the wall, and canopy trees at regular intervals of 20 to 30 feet. ~~(e.g. landscape nodes)~~

1. El Encanto / El Con common property line. A minimum 8 foot buffer integrated with landscape nodes, which extend into the parking areas.
 2. El Conquistador-Miramonte / El Con between Jones and Dodge. A minimum 8 foot buffer integrated with landscape nodes, which extend into the parking areas.
 3. West Side of Dodge from the existing alley to Calle del Prado. Augmented landscaping shall be provided in conjunction with the traffic mitigation measures.
 4. East Side of Dodge from Fifth to the northeast corner of the El Con property (Tamarac). Augmented landscaping shall be provided in conjunction with the traffic mitigation measures.
 5. El Montevideo / El Con. A minimum 8 foot buffer integrated with landscape nodes, which extend into the parking areas. ~~The buffer shall be located on the El Montevideo neighborhood side of the wall required by condition 1.a.5.~~
- b.c. All walls shall be constructed of graffiti resistant materials.
- e.d. Any wall over 3 feet in height and 75 feet in length shall vary the wall alignment with jogs, curves, notches, setbacks, or other similar architectural features.
- d.e. Landscaping shall be provided on Broadway Boulevard per current City codes. Required landscaping may be placed in the City right of way as permitted by the LUC.
- e.f. A landscape design shall be developed for the entire El Con Mall development, including all out-pad development, to meet current City code and provide for continuity and consistency in the landscaping of the site. All landscaped areas shall be designed for water-harvesting effectiveness.

H.II. TRAFFIC CIRCULATION AND ACCESS

1. General

- a. Traffic circulation shall substantially conform to the attached concept plan.
- b. The truck circulation route shall be located adjacent to the buildings to along the west and north and a minimum of ~~120~~ 200 feet from the east El Con Mall property line. All other PAAL's shall be designed to discourage truck traffic or through traffic along neighborhood boundaries. The location of the truck circulation route shall be in substantial conformance with the attached concept plan.
- c. Indirect or offset access from Jones Boulevard and Dodge Boulevard shall be designed to discourage through traffic.
- d. All improvements shall substantially comply with the mitigation measures identified in the Traffic Mitigation Study, which is being conducted on behalf of the City.
- e. A smooth surface to assist with sound attenuation shall be used to surface reconstructed Jones, Dodge and the mall's ring road.

2. Dodge Boulevard

- a. The City shall offer to purchase the existing private homes along the west side of Dodge Boulevard, and be re-marketed after mitigation improvements.
- b. Dodge Boulevard shall be designed to provide for 2-way traffic.
- c. The Dodge Boulevard street cross-section shall be reduced from 48 feet to two (2) twelve foot wide, travel lanes, except as required for turning movements at the 5th Street intersection and moved as far west as practical.
- d. Traffic calming mitigation shall be installed on Dodge Boulevard including, but not limited to, stop signs, traffic islands, roadway narrowing and/or speed humps.
- e. Sidewalk shall be provided on the West Side of Dodge Boulevard.
- f. A traffic control device shall be installed at the intersection of Calle del Prado restricting northbound vehicles on Dodge Boulevard from entering Calle del Prado.
- g. No separate right turn lane for east bound travel on 5th Street at Dodge Boulevard.

3. North Access

- a. Mall access to Jones, Palo Verde Road and Avenida Del Rio from the northern property line shall be closed or shall remain closed.
4. Broadway Boulevard
- a. A single right turn lane shall be installed to Dodge Boulevard.
 - b. A dual left turn lane may be installed to Dodge Boulevard and at the El Con entrance west of the Randolph Way alignment, if desired and/or warranted by the Traffic Mitigation Study.
 - c. Access to El Con at the present alignment of Randolph Way shall be closed and moved further to the west.
 - d. A minimum six foot wide sidewalk shall be installed along the Broadway Boulevard frontage.
 - e. An Improvement District may be utilized if desired to fund the improvements along Broadway Boulevard as necessitated by the El Con Mall development. Only El Con property will be assessed.
 - f. A diamond lane for right turn traffic and busses shall be provided on Broadway along the southern boundary of the El Con property. If approved by the Mayor and Council, the City shall pay for one half the cost of the construction of the diamond lane.
5. 5th Street
- a. The existing right turn lane at Jones Boulevard shall be removed.
 - b. Truck access shall not be allowed to and from 5th Street.
 - ~~c. Left turns with prohibited from 5th street to Jones Boulevard.~~

III. PEDESTRIAN ACCESS / ALTERNATE MODES

- a. Bus stops shall be developed on Broadway Boulevard with ADA designed shelters and canopy trees. Specific design of the shelters shall be compatible with the overall architectural theme of El Con Mall (shall include original artwork).
- b. A dedicated pedestrian access with a 6 to 8 foot wide sidewalk and canopy trees or other shading devices to shade at least sixty-five (65) to seventy-five (75) percent of the sidewalks during the major part of the day (shadow pattern needs to be taken into consideration) at regular intervals shall be provided from the bus stop/street to a principal entrance of El Con Mall.

- c. A bicycle connection through the El Con Mall from Broadway Boulevard to 5th Street shall be developed with appropriate signage per the adopted *Arroyo Chico Bikeway Plan*.

IV. LIGHTING

- a. All parking lot lighting shall be shielded and directed down and away from the residential neighborhoods.
- b. The height of the parking lot lighting shall be the stair-stepped from approximately 14 feet within 150 feet of the residential neighborhoods to a maximum 30 feet for the remainder of the property and shall be consistent with the landscape plan.
- c. All wall-mounted lighting on buildings shall be directed down and away from the residential neighborhoods.
- d. All lighting shall comply with the Outdoor Lighting Code, Chapter 6 Tucson Code.

V. DRAINAGE

- a. A drainage report shall be provided for the entire El Con Mall property.
- b. The drainage line on Palo Verde Road shall be extended to the El Con Mall property line by the City of Tucson.
- c. El Con shall insure that all water, which collects on site, shall be retained, detained and discharged from the site only in conformance with City floodplain regulations and a drainage report approved by the City Engineer.

VI. OUTDOOR ACTIVITIES

- a. Outdoor dining areas shall not be permitted within ~~200~~ 250 feet of residential neighborhoods.
- b. Loudspeakers or music, live or recorded, shall not be permitted within ~~200~~ 250 feet of residential neighborhoods and where permitted shall be directed away for residential neighborhoods in a manner which protects against undue noise in the residential neighborhoods.
- c. Outdoor storage areas shall not be permitted within ~~200~~ 250 feet of residential neighborhoods and where permitted shall be screened ~~from sight~~ with an 8 foot high wall. No storage shall be permitted in excess of its screen wall.

- d. Loading zones shall not be permitted within 200 feet of residential neighborhoods, except for those, which exist at the time of the adoption of these conditions. All such existing loading zones shall be nonconforming but shall lose that nonconforming status on the reconstruction or change of use of the principal business using the loading zone at the time these conditions are adopted.
- e. Loading docks, trash compactors, trash dumpsters or recycling containers shall not be permitted within 200 feet of residential neighborhoods except for those, which exist at the time these conditions are adopted. All such existing loading docks, trash compactors, trash dumpsters or recycling containers shall be phased out upon the change in any business using them and in no event later than 5 years from the adoption of these conditions. All loading docks shall be screened by a minimum 10 foot high masonry wall or by buildings measured from the loading dock floor elevation.; All trash compactors, trash dumpsters or recycling containers shall be screened by a minimum 6 8 foot high masonry wall or by buildings. New loading docks, trash compactors, trash dumpsters and recycling containers may be installed as necessary for the out pads along Broadway provided they are adequately screened.
- f. New auto service bay doors shall not be permitted facing residential neighborhoods.
- g. Drive-through lanes shall not be permitted on the western-most pad for any food service use or on the west side of western-most pad for any other use.
- h. Exhaust scrubbers shall be provided on all food-service tenants and developments.
- i. ~~A overnight RV and~~ Truck parking shall only be in a designated area that shall be developed in the commercially zoned parking lot to the south and shall not be located within 300 feet of residential neighborhoods.
- j. Temporary delivery truck parking shall not be permitted within 200 feet of residential neighborhoods.
- k. Delivery and loading operations shall not be permitted between the hours of 10:00 p.m. and 7:00 a.m. except as permitted by existing leases in place as of 1/1/00.
- l. No trash may be removed between the hours of 4:00 p.m. and 9:00 a.m. as ~~part of a scheduled trash collection.~~
- m.m. ~~Idling Trucks shall not be left idling~~ **prohibited** between the hours of 6:00 p.m. and 7:00 a.m.

VII. GENERAL

- a. An architectural design and color scheme (theme) shall be developed for the entire Mall development, including all out-pad development, to be compatible with general area and to provide for continuity and consistency in the architecture of the site.
- b. A uniform signage plan shall be developed for Broadway Boulevard and integrated into the landscape plan. El Con shall not seek any variance or other exemption from the sign code for any sign which would be visible to surrounding neighborhood residential properties.
- c. "Safe by Design" concepts shall be utilized in the Mall development as recommended by the Tucson Police Department.
- d. Any relocation, modification, etc., of existing utilities and/or public improvements necessitated by the proposed development shall be at no expense to the public unless determined by the City to be for a public purpose.
- e. Provide a Hazardous Materials Management Plan and Hazardous Materials Inventory Statement as provided in the Fire Code to assure that the building site and design will protect public health and safety from accidental exposure to hazardous materials as provided in the Tucson Fire Code.
- f. The Owners of the property shall participate in a commission with representatives of the City and adjoining neighborhoods that shall monitor the observance of these conditions.
- g. The Home Depot to be located as designated on the Development Plan shall not be open for business to the public between the hours of ~~11:00 p.m.~~ and 6:00 a.m. * 10:00 p.m.
- h. The owners shall comply with the City of Tucson noise ordinance.

VIII. FUTURE BUILDING SITE ~~Future Building Site~~

- a. If the area south of the Future Building Site designated on the approved conceptual development plan and north of the existing buildings of the Mall is to be used for loading, the loading and any noise therefrom shall be shielded and screened from the residential properties to the west.

IX. CONDITIONS PRECEDENT

* amended at Mayor and Council meeting of 2/14/2000

These conditions shall take effect upon the completion of the following conditions precedent:

- a. A final, non-appealable determination establishing that parking lost due to the implementation of these conditions shall be subtracted from the required parking for the development;
- b-b. A final, non-appealable determination that the implementation of these conditions shall not affect the continued use of the existing nonconforming parking.;