POSTPONED FROM 12.08.2014 ZBA MEETING

PZBA14-00040 9005 Montana Avenue Seisa Investments LP

Applicant requests a Special Exception under Section 2.16.050 K (15 Years or more) in a C-4 (Commercial) zone.

This would allow an existing 96.4' by 48.5' building which is located to within 0.9 feet of the rear property line and 0.4 feet of the side street property line.

The required rear yard setback is 10 feet and the required side street yard setback is 10 feet in the C-4 zone district.

BACKGROUND

The subject building is shown existing in a 1974 aerial and in the 1996-1997 aerial, 17 years ago, as it exists today. The current owner submitted a warranty deed showing that they purchased the property in November 2009. A site visit shows that there is no sidewalk adjacent to the property on Mattox Street, and that the sidewalk at the front of the property on Montana Street does not extend the entire width of the property.

At the applicant's request, the Board postponed the case at the December 8th meeting for four weeks, until the next regularly scheduled meeting, scheduled for January 12, 2015.

CALCULATIONS

Required rear yard setback in C-4 zone district = 10'
Requested rear yard setback = 0.9'
Required side street yard setback in C-4 zone district = 10'
Requested side street yard setback = 0.4'

STAFF RECOMMENDATION

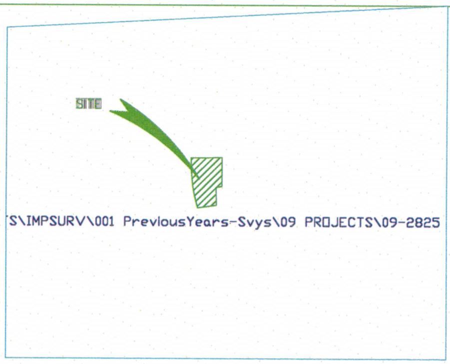
Staff recommends approval of the request for the Special Exception K, with a Condition that sidewalks are provided adjacent to the subject property along Mattox Street and Montana Avenue.

The Zoning Board of Adjustment is empowered under Section 2.16.050 K to:

"Permit the encroachment into the required yard setbacks for structures; provided, however, that the applicant can prove the following conditions:

1. The encroachment into the required yard setback has been in existence for more than fifteen years;
2. Neither the applicant nor the current property owner is responsible for the construction of the encroachment;
3. Neither the applicant nor the current property owner owned the property at the time the encroaching structure was constructed or built;
4. The encroachment, if into the required front yard setback, does not exceed fifty percent of the required front yard setback; and
5. The encroachment does not violate any other provision of the El Paso City Code."

ITEM #1



VICINITY MAP
SCALE: 1" = 600'

METES & BOUNDS

The parcel of land herein described is a portion of a portion of Tracts 1-B and 1-B-3-A, Section 40, Block 80, Township 2, Texas and Pacific Railway Company Survey, City of El Paso, El Paso County, Texas and is more particularly described by metes and bounds as follows:

COMMENCING at an existing city monument located at the centerline of Mattox Street (50' right-of-way), From whence, a found 9 inch nail for the centerline intersection of said Mattox Street and Mayflower Avenue (60' right-of-way) bears N01°01'50"E a distance of 1.44 feet; Thence, from the POINT OF COMMENCEMENT, S01°01'50"W along the centerline of Mattox Street, a distance of 641.47 feet to a point; Thence, leaving said centerline, N88°58'10"E a distance of 25 feet to a set ½ inch rebar with SLI cap stamped TX-2998 lying on the east right-of-way line of said Mattox Street, said point being the common westerly corner of parcel owned by Warren T. Investments Inc., (Tracts 1B3 & 1D1A1 & 1D1C1, Section 40, Block 80, Township 2, Texas and Pacific Railway Company Survey) and Subject Parcel, said point also being the POINT OF BEGINNING of this description;

THENCE, along said common boundary line, North 88° 58' 10" East, a distance of 297.19 feet to a set ½ inch rebar with SLI cap stamped TX-2998 for a corner lying on the west boundary line of Montana Industrial Center Unit Three (Vol. 26, Pg. 38, E.P.C.P.R.);

THENCE, along said boundary line the following courses:

South 01° 01' 50" East, a distance of 276.60 feet to a set nail on top of a block wall;

South 81° 10' 00" West, a distance of 50 feet to a set ½ inch rebar with SLI cap stamped TX-2998;

South 01°01'50" East, a distance of 150.00 feet to a point lying on the northerly right-of-way line of Montana Avenue (200' right-of-way), from which a found 9-inch nail bears S05°36'44"E 0.15 feet;

Thence, along said right-of-way line South 81°10'00" West, a distance of 197.90 feet to a set chiseled "X";

Thence, a distance of 29.95 feet along the arc of a curve to the right having a radius of 20.00 feet, a delta angle of 85°47'20", and a chord bearing North 55°56'20" West a distance of 27.23 feet to a point lying on the easterly right-of-way line of said Mattox Street, from which a 9-inch nail bears S75°03'29"W 0.12 feet;

Thence, along said easterly right-of-way line the following courses:

North 13°02'40" West, a distance of 93.45 feet to a set ½ inch rebar with SLI cap stamped TX-2998;

A distance of 94.35 feet along the arc of a curve to the right having a radius of 449.98 feet, a delta angle of 12°00'50", and a chord bearing North 07°02'15" West a distance of 94.18 feet to a set chiseled "X";

North 01°01'50" West, a distance of 259.54 feet to the POINT OF BEGINNING of this description.

Said parcel of land contains 2.814 acres (122,591 Sq. Ft.) of land more or less.

A METES AND BOUNDS DESCTRIPTION OF EVEN DATE ACCOMPANIES THIS PLAT OF SURVEY.

NOTES CORRESPONDING TO FLOOD ZONE

ACCORDING TO THE FEDERAL EMERGENCY MANAGEMENT AGENCY FLOOD INSURANCE RATE MAP COMMUNITY-PANEL NUMBER 480214 0035 B, DATED OCTOBER 15, 1982 THIS PROPERTY LIES IN FLOOD ZONE C.

ZONE C: AREAS OF MINIMAL FLOODING.

DUE TO INHERENT INACCURACIES OF FEMA OR FLOOD INSURANCE RATE MAPS THIS SURVEYOR DOES NOT CERTIFY TO THE ACCURACY OF LOCATIONS BASED ON SUCH MAPS. THIS FLOOD STATEMENT SHALL NOT CREATE LIABILITY ON THE PART OF THE SURVEYOR.

NOTES CORRESPONDING TO ZONING

CLASSIFICATION: •PROPERTY IS CURRENTLY ZONED C-4

MINIMUM SET BACKS REQUIRED FOR C-4:

- FRONT YARD....................15'
- REAR YARD....................10'
- CUMULATIVE FRONT & REAR YARD.....N/A
- SIDE YARD....................10'
  WHEN ABUTTING A RESIDENTIAL OR APARTMENT DISTRICT
- SIDE STREET....................10'
- MAXIMUM HEIGHT....................60'
  MAY EXCEED 60' WHEN AN ADDITIONAL SETBACK OF ONE FOOT IS PROVIDED FROM ALL ADJACENT YARDLINES FOR EACH FOOT OF HEIGHT IN EXCESS OF 60.

REFERENCE OF ZONING INFORMATION:

ZONING ORDINANCE FOR THE CITY OF EL PASO, TEXAS, ADOPTED BY ORDINANCE NO. 16751, PASSED ON SEPTEMBER 25, 2007

CONTACT: ZONING ADMINISTRATION
BUILDING SERVICES DEPT.
2 CIVIC CENTER PLAZA
EL PASO, TX 79901-1196

LEGEND

- BUSH
- GUARD POST
- MANHOLE
- CW CROSSWALK SIGNAL
- FOCM FIBER OPTIC CABLE MARKER
- EBX ELECTRIC BOX
- TB TRAFFIC SIGNAL BOX
- WATER METER
- GAS METER
- CHAINLINK FENCE
- WATER VALVE
- FIRE HYDRANT
- SANITARY SEWER
- TELEPHONE PEDESTAL
- UTILITY POLE
- UTILITY POLE W/RISER
- UTILITY POLE W/TRANSFORMER
- GUY WIRE
- EM UTILITY POLE W/ELECTRIC METER
- SERVICE UTILITY POLE

NOTES CORRESPONDING TO SURVEY

1. A METES AND BOUNDS DESCRIPTION OF EVEN DATE ACCOMPANIES THIS PLAT OF SURVEY.
2. SET 1/2" IRON WITH SLI CAP STAMPED TX2998 ON ALL PROPERTY CORNERS UNLESS OTHERWISE INDICATED.
3. DEED REFERENCE IN VOL. 4242, PG. 1335 DEED RECORDS OF EL PASO COUNTY.
4. BASIS OF BEARING: McRAE COMMERCIAL DISTRICT UNIT 2B, RECORDED IN VOL. 38, PG. 2, EL PASO COUNTY PLAT RECORDS.
5. TITLE COMMITMENT PROVIDED BY STEWART TITLE COMPANY. FILE NO. 902738 AND EFFECTIVE DATE OF JULY 15, 2009.

NOTES CORRESPONDING TO SCHEDULE B

(1.) RESTRICTIVE COVENANTS OF RECORD IN VOLUME 1348, PAGE 148, VOLUME 1361, PAGE 473 AND VOLUME 119, PAGE 1063 (N/A), REAL PROPERTY RECORDS, EL PASO COUNTY, TEXAS, ITEM IS NOT PLOTTED HEREON, IT IS BLANKET IN NATURE AND AFFECTS THE ENTIRE PROPERTY.

(10b.) EASMENT TO EL PASO ELECTRIC COMPANY AND MOUNTAIN STATES TELEPHONE AND TELEGRAPH COMPANY, RECORDED IN VOLUME 202, PAGE 71, REAL PROPERTY RECORDS OF EL PASO COUNTY, TEXAS. (NOT APPLICABLE).

(10c.) EASMENT TO EL PASO ELECTRIC COMPANY, RECORDED IN VOLUME 3801, PAGE 1875, REAL PROPERTY RECORDS OF EL PASO COUNTY, TEXAS. ITEM IS PLOTTED HEREON AND AFFECT THE SUBJECT PROPERTY.

(10e.) WATER RIGHTS RESERVED TO THE CITY OF EL PASO, RECORDED IN VOLUME 119, PAGE 1063, REAL PROPERTY RECORDS OF EL PASO COUNTY, TEXAS. (NOT APPLICABLE).

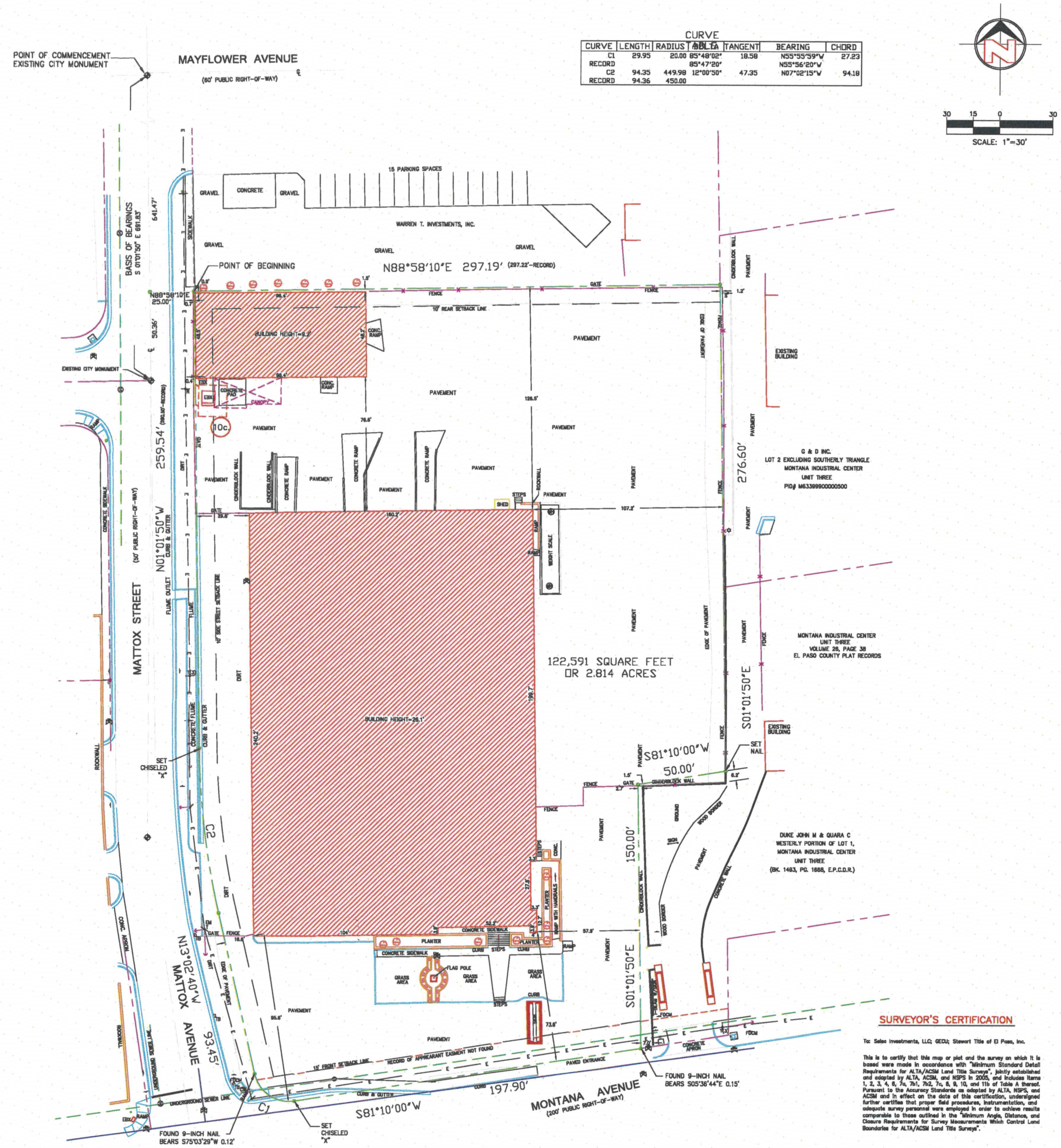
NOTES CORRESPONDING TO UTILITIES

ALL INFORMATION SHOWN HEREON WITH RESPECT TO UNDERGROUND CONDITIONS WAS DETERMINED BY DATA COLLECTED THROUGH SURVEY CREW OBSERVATION AND OTHER INFORMATION TAKEN FROM EXISTING PLANS AND MAPS OF RECORD. NO UNDERGROUND UTILITIES EXISTING OR ABANDONED WERE EXPOSED OR LOCATED.

UNLESS SPECIFICALLY ACCEPTED BY SLI ENGINEERING, INC. IN WRITING, SLI ENGINEERING, INC. MAKES NO CLAIM, EXPRESSED OR IMPLIED, AS TO THE UNDERGROUND SITE CONDITIONS.

CURVE TABLE

CURVE	LENGTH	RADIUS	DELTA	TANGENT	BEARING	CHORD
C1	29.95	20.00	85°48'02"	18.58	N55°55'59"W	27.23
RECORD			85°47'20"		N55°56'20"W	
C2	94.35	449.98	12°00'50"	47.35	N07°02'15"W	94.18
RECORD	94.36	450.00				



SURVEYOR'S CERTIFICATION

To: Seisa Investments, LLC; GECU; Stewart Title of El Paso, Inc.

This is to certify that this map or plat and the survey on which it is based were made in accordance with "Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys", jointly established and adopted by ALTA, ACSM, and NSPS in 2005, and includes items 1, 2, 3, 4, 6, 7a, 7b1, 7b2, 7c, 8, 9, 10, and 11b of Table A thereof. Pursuant to the Accuracy Standards as adopted by ALTA, NSPS, and ACSM and in effect on the date of this certification, undersigned further certifies that proper field procedures, instrumentation, and adequate survey personnel were employed in order to achieve results comparable to those outlined in the "Minimum Angle, Distance, and Closure Requirements for Survey Measurements Which Control Land Boundaries for ALTA/ACSM Land Title Surveys".

GUILLERMO LICON, R.P.L.S.
REGISTERED PROFESSIONAL LAND SURVEYOR
TEXAS LICENSE NO. 2998

DATE: ____________

	DATE	REVISIONS	BY
1	10/29/09	Updated Certification	
2			
3			
4			
5			
6			
7			

FILE

SCALE: 1"=30'
JOB NO.: 06-09-2825
DRAWN BY: HIG
CHECKED BY: GH
DATE: SEPTEMBER 08, 2009

Copyright 2009 SLI Engineering, Inc.
This map and survey are being provided solely for the use of Seisa Investments LP. and no license has been created, expressed or implied, to copy the surveys and/or map(s) except as necessary in conjunction with the original transaction. This transaction shall be effective within six (6) months from the date hereon September 08, 2009.

ALTA/ACSM LAND TITLE SURVEY

9005 MONTANA

A PORTION OF TRACTS 1-B AND 1-B-3-A, SECTION 40, BLOCK 80, TOWNSHIP 2, TEXAS AND PACIFIC RAILWAY COMPANY SURVEY, IN THE CITY OF EL PASO, EL PASO COUNTY, TEXAS, ACCORDING TO THE RESURVEYED MADE BY EL PASO COUNTY TEXAS FOR TAX PURPOSES.

SLI ENGINEERING, INC.
CIVIL ENGINEERS
LAND SURVEYORS
LAND PLANNERS
6600 WESTWIND DRIVE
EL PASO, TEXAS
(915) 584-4457

STATE OF TEXAS REGISTERED GUILLERMO LICON 2998 PROFESSIONAL LAND SURVEYOR

SLI ENGINEERING, INC.
F-1902

SHEET TITLE

ALTA/ACSM LAND TITLE SURVEY

1 OF 1

902738
#105-MP
588
2

Doc# 20090079072

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

SPECIAL WARRANTY DEED WITH VENDOR'S LIEN

Date: November 4, 2009

Grantor: NORTH AMERICAN DEVELOPMENT BANK, an International Bank Created by Treaty Between the United States of America and the Government of the United Mexican States

Grantor's Mailing Address: P.O. Box 683
Walnut, California 91788

Grantee: SEISA INVESTMENTS, LP, a Texas limited partnership

Grantee's Mailing Address: P.O. Box 221616
El Paso, Texas 79913

Consideration: Ten and No/100ths Dollars ($10.00) and other good and valuable consideration to the undersigned paid by the Grantee herein named, the receipt of which is hereby acknowledged, and the further consideration of the execution and delivery by Grantee of that one certain promissory note in the original principal amount of SIX HUNDRED EIGHTY THOUSAND AND NO/100THS DOLLARS ($680,000.00), said note being payable to the order of GECU, and bearing interest as therein provided, containing the usual clauses providing for acceleration of maturity and for attorney's fees, the payment of which note is secured by the vendor's lien herein retained, and is additionally secured by a Deed of Trust of even date herewith to a trustee named therein.

Property:

A portion of Tracts 1-B and 1-B-3-A, Section 40, Block 80, Township 2, TEXAS AND PACIFIC RAILWAY COMPANY SURVEY, in the City of El Paso, El Paso County, Texas, according to the resurvey made by El Paso County, Texas for tax purposes and being more particularly described by metes and bounds in Exhibit "A" attached hereto and made a part hereof for all purposes.

Reservations from and Exceptions to Conveyance and Warranty:

1. Any discrepancies, conflicts, or shortages in area or boundary lines, or any encroachments or protrusions, or any overlapping of improvements;

2. Standby fees, taxes and assessments by any taxing authority for the year 2009, and subsequent years and subsequent taxes and assessments by any taxing authority for prior years due to change in land usage or ownership, but not those taxes or assessments for prior years because of an exemption granted to a previous owner of the Property under Section 11.13 Texas Tax Code, or because of improvements not assessed for a previous year;

3. Restrictive covenants recorded in Volume 1348, Page 0146 and Volume 1361, Page 0473, Real Property Records, El Paso County, Texas.

4. Rights of parties to an underground sewer line and electrical easement along the Southerly property line being utility easements and prescriptive rights visible and apparent on the ground and as shown on the survey, dated September 8, 2009, by Guillermo Licon, R.P.L.S. No. 2998, of SLI Engineering, Inc.

5. Easement to EL PASO ELECTRIC COMPANY recorded in Volume 3801, Page 1875, Real Property Records, El Paso County, Texas.

Grantor, for the consideration and subject to the Reservations from and Exceptions Conveyance and Warranty referenced above, grants, sells and conveys to Grantee the Property, together with all and singular the rights and appurtenances thereto in any wise belonging, to have and hold the Property unto Grantee and Grantee's successors and assigns forever. Grantor binds Grantor and Grantor's successors and assigns to warrant and forever defend all and singular the Property unto Grantee and Grantee's successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof when the claim is by, through or under Grantor but not otherwise, except as to the Reservations from and Exceptions to Conveyance and Warranty referenced above.

It is expressly agreed that the vendor's lien, as well as the superior title in and to the Property, are retained against the Property and improvements located thereon until the above described note and all interest thereon is fully paid according to its terms, at which time this deed will become absolute. The vendor's lien and superior title in this Special Warranty Deed with Vendor's Lien are transferred to GECU, without recourse on Grantor.

When the context requires, singular nouns and pronouns include the plural.

(REMAINDER OF PAGE INTENTIONALLY LEFT BLANK)

EXECUTED the date herein first stated.

GRANTOR:

NORTH AMERICAN DEVELOPMENT BANK,
an International Bank Created by Treaty Between the United States of America and the Government of the United Mexican States

By: Hugh Loftus, Director

Name: HUGH D. LOFTUS

Title: DIRECTOR

THE STATE OF CALIFORNIA)
)
COUNTY OF Los Angeles)

This instrument was acknowledged before me on the 4th day of November, 2009 by Hugh Loftus, _____ of NORTH AMERICAN DEVELOPMENT BANK, an International Bank Created by Treaty Between the United States of America and the Government of the United Mexican States, on behalf of said Bank. .

Notary's Seal:

Maria A. Le Gaspe, a notary public
Notary Public in and for the State of California

MARIA A. LE GASPE
COMM. #1643709
NOTARY PUBLIC - CALIFORNIA
LOS ANGELES COUNTY
COMM. EXPIRES FEB. 6, 2010

After Recording Return To:

Seisa Investmens, LP
P.O. Box 221616
El Paso, Texas 79913
Attn: Mr. Julio Chiu

EXHIBIT "A"

9005 Montana Avenue

Property Description: A portion of Tracts 1-B and 1-B-3-A, Section 40, Block 80, Township 2, Texas and Pacific Railway Company Survey, City of El Paso, El Paso County, Texas.

METES AND BOUNDS

The parcel of land herein described is a portion of a portion of Tracts 1-B and 1-B-3-A, Section 40, Block 80, Township 2, Texas and Pacific Railway Company Survey, City of El Paso, El Paso County, Texas and is more particularly described by metes and bounds as follows:

COMMENCING at an existing city monument located at the centerline of Mattox Street (50' right-of-way), From whence, a found 9 inch nail for the centerline intersection of said Mattox Street and Mayflower Avenue (60' right-of-way) bears N01°01'50"E a distance of 1.44 feet; Thence, from the POINT OF COMMENCEMENT, S01°01'50"W along the centerline of Mattox Street, a distance of 641.47 feet to a point; Thence, leaving said centerline, N88°58'10"E a distance of 25 feet to a set ½ inch rebar with SLI cap stamped TX-2998 lying on the east right-of-way line of said Mattox Street, said point being the common westerly corner of parcel owned by Warren T. Investments Inc., (Tracts 1B3 & 1D1A1 & 1D1C1, Section 40, Block 80, Township 2, Texas and Pacific Railway Company Survey) and Subject Parcel, said point also being the POINT OF BEGINNING of this description;

THENCE, along said common boundary line, North 88° 58' 10" East, a distance of 297.19 feet to a set ½ inch rebar with SLI cap stamped TX-2998 for a corner lying on the west boundary line of Montana Industrial Center Unit Three (Vol. 26, Pg. 38, E.P.C.P.R.);

THENCE, along said boundary line the following courses:

South 01° 01' 50" East, a distance of 276.60 feet to a set nail on top of a block wall;

South 81° 10' 00" West, a distance of 50 feet to a set ½ inch rebar with SLI cap stamped TX-2998;

South 01°01'50" East, a distance of 150.00 feet to a point lying on the northerly right-of-way line of Montana Avenue (200' right-of-way), from which a found 9-inch nail bears S05°36'44"E 0.15 feet;

Thence, along said right-of-way line South 81°10'00" West, a distance of 197.90 feet to a set chiseled "X";

Thence, a distance of 29.95 feet along the arc of a curve to the right having a radius of 20.00 feet, a delta angle of 85°47'20", and a chord bearing North 55°56'20" West a distance of 27.23 feet to a point lying on the easterly right-of-way line of said Mattox Street, from which a 9-inch nail bears S75°03'29"W 0.12 feet;

Thence, along said easterly right-of-way line the following courses:

North 13°02'40" West, a distance of 93.45 feet to a set ½ inch rebar with SLI cap stamped TX-2998;

A distance of 94.36 feet along the arc of a curve to the right having a radius of 450.00 feet, a delta angle of 12°00'50", and a chord bearing North 07°02'15" West a distance of 94.18 feet to a set chiseled "X";

North 01°01'50" West, a distance of 259.54 feet to the POINT OF BEGINNING of this description.

Said parcel of land contains 2.814 acres (122,591 Sq. Ft.) of land more or less.

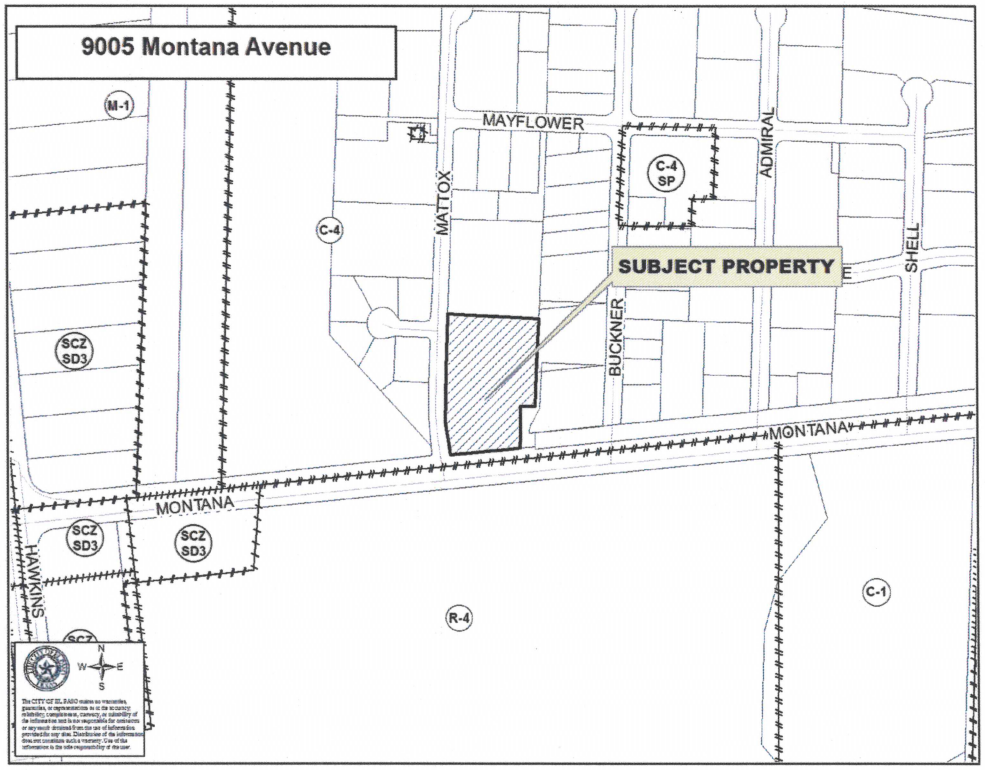
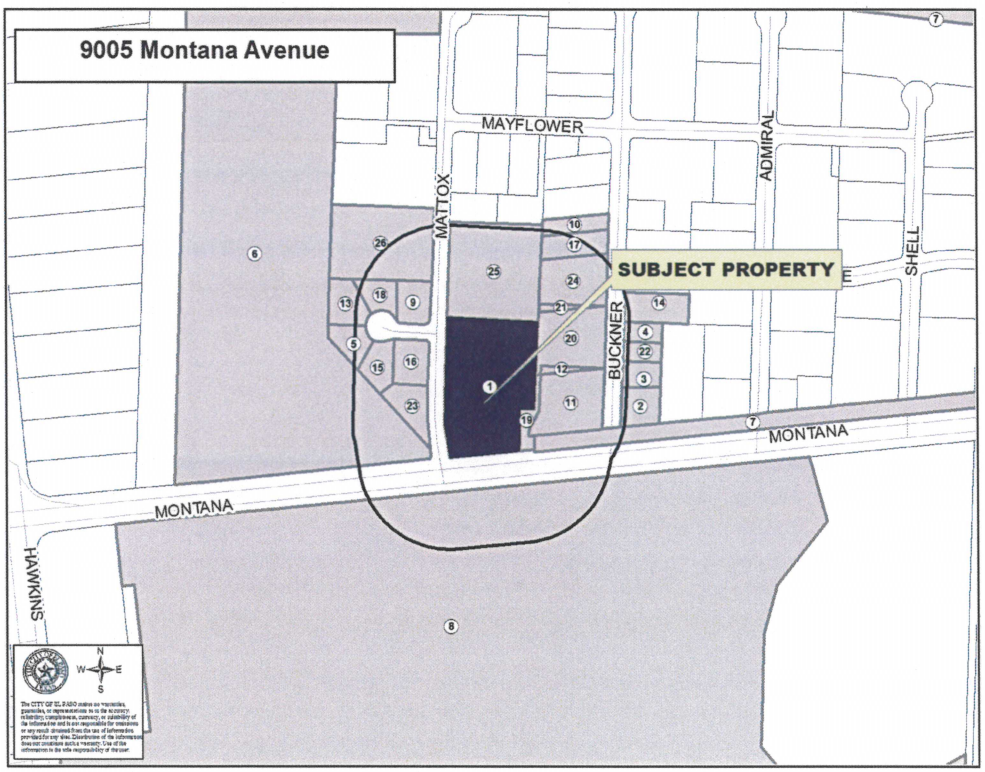
A PLAT OF SURVEY OF EVEN DATE ACCOMPANIES THIS METES AND BOUNDS DESCRIPTION.

SLI ENGINEERING, INC.
Consulting Engineers - Land Surveyors

Guillermo Licon
Registered Professional Land Surveyor
Texas License No. 2998

September 9, 2009
Job# 06-09-2825
M&B/1558

ZONING MAP



NOTIFICATION MAP