

ZBA10-00004

440 Raynolds Street

William L. Carvajal and Steven R. Carvajal

Applicant requests a Special Exception under Section 2.16.050 L (15 years or more, Side Street Yard Setback) in an M-1 (Manufacturing) zone.

This would permit an existing office building that is encroaching 10' into the required side street yard setback and that is located to within 0' of the side street property line.

The required side street yard setback is 10' feet in the M-1 zone district.

BACKGROUND

The applicant is requesting the Special Exception for an addition that can be seen in the 1986 aerial, existing 24 years ago as it does now. The current owners purchased the property in 1996 and are not responsible for the addition to the building that encroaches 10 feet into the required side street yard setback. They are seeking to legalize the encroachment. A site visit shows that there is a portion of a rock landscape wall and a wall decoration that are encroaching in public right-of-way. The applicant's representative has been notified about the encroachment and has agreed to remove the landscape wall and the wall decoration. The representative is asking for 90 days to remove these items.

CALCULATIONS

Required side street yard setback = 10'

Requested side street yard setback = 0'

STAFF RECOMMENDATION

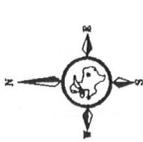
Staff recommends approval with a condition that an approximate 3' by 17' portion of the rock landscape wall along Rosa Street and the wall decoration on the portion of the building that is encroaching in the side street yard be removed from the public right-of-way within 90 days, by June 8, 2010.

The Zoning Board of Adjustment is empowered under Section 2.16.050 L 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; and,
2. Neither the applicant nor current property owner is responsible for the construction of the encroachment; and,
3. Neither the applicant nor the current property owner owned the property at the time the encroaching structure was constructed or built; and,
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 Municipal Code."

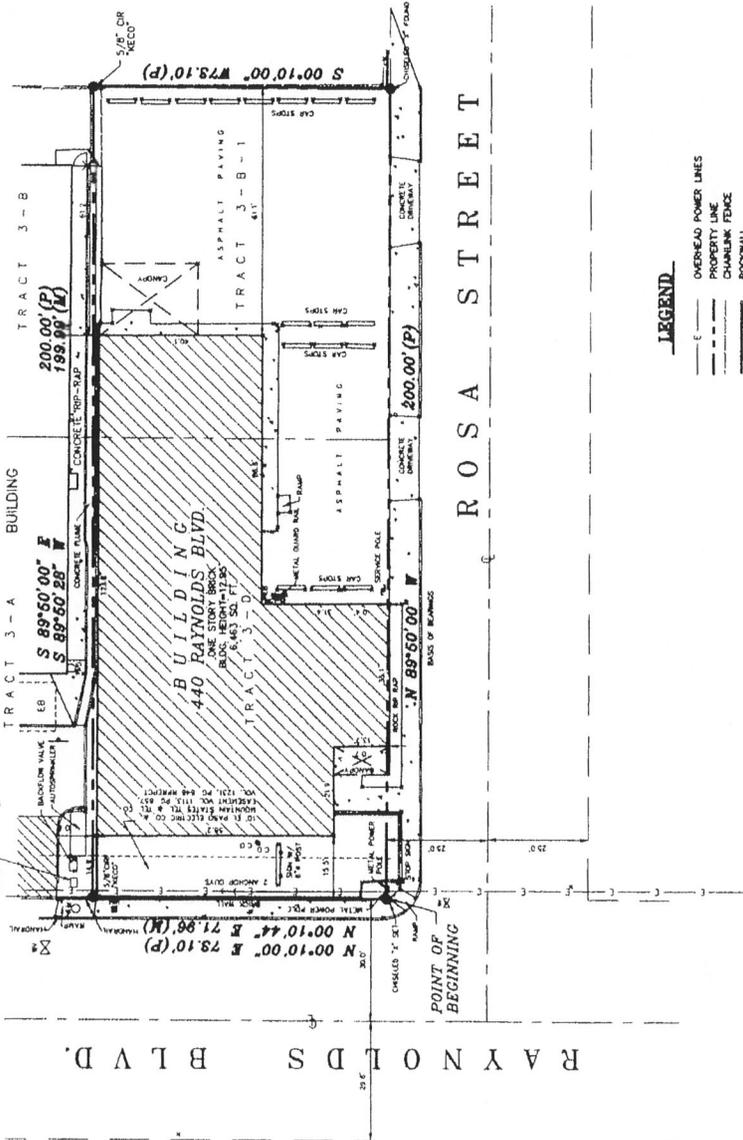
ITEM #1



GRAPHIC SCALE
(IN FEET)
1 inch = 20 ft.

JAMM ELIZABETH KEYSWOOD EAKES
VOL. 24625, PG. 2163
EP.C.D.R.

F. NEVE SURVEY NO. 8



PROPERTY DESCRIPTION (TITLE COMMITMENT)
TRACTS 3-B-1 AND 3-D FORMERLY DESCRIBED AS PART OF TRACTS 3-A AND 3-B, F. NEVE SURVEY NO. 8, EL PASO COUNTY, TEXAS;
BEGINNING AT THE SOUTHWEST CORNER OF TRACT 3-A, F. NEVE SURVEY NO. 8, EL PASO COUNTY, TEXAS, SAID CORNER ALSO BEING THE EAST ROW LINE OF RAYNOLDS STREET;
THENCE NORTH 00°10'00" EAST ALONG SAID EAST ROW LINE A DISTANCE OF 73.10 FEET;
THENCE SOUTH 89°50'00" EAST A DISTANCE OF 200.00 FEET;
THENCE SOUTH 00°10'00" WEST A DISTANCE OF 73.10 FEET TO A POINT ON SAID NORTH ROW LINE OF ROSA AVENUE;
THENCE NORTH 89°50'00" WEST ALONG SAID NORTH ROW A DISTANCE OF 200.00 FEET TO THE POINT OF BEGINNING
THE DESCRIBED PARCEL LIES IN SAID F. NEVE SURVEY NO. 8, EL PASO COUNTY, TEXAS AND CONTAINS 14,620 SQUARE FEET EQUAL TO 0.336 ACRES.

PROPERTY DESCRIPTION (AS SURVEYED)
TRACTS 3-B-1 AND 3-D FORMERLY DESCRIBED AS PART OF TRACTS 3-A AND 3-B, F. NEVE SURVEY NO. 8, EL PASO COUNTY, TEXAS;
BEGINNING AT A CHISELED "X" SET AT THE SOUTHWEST CORNER OF TRACT 3-D, F. NEVE SURVEY NO. 8, EL PASO COUNTY, TEXAS, SAID CORNER ALSO BEING THE EAST ROW LINE OF RAYNOLDS STREET;
THENCE NORTH 00°10'44" EAST ALONG SAID EAST ROW LINE A DISTANCE OF 71.98 FEET TO A 5/8" CAPPED IRON ROD FOUND "XECOD";
THENCE SOUTH 89°50'28" WEST A DISTANCE OF 198.99 FEET TO A 5/8" CAPPED IRON ROD FOUND "XECOD";
THENCE SOUTH 00°10'00" WEST A DISTANCE OF 73.10 FEET TO A CHISELED "X" FOUND ON SAID NORTH ROW LINE OF ROSA AVENUE;
THENCE NORTH 89°50'00" WEST ALONG SAID NORTH ROW A DISTANCE OF 200.00 FEET TO THE POINT OF BEGINNING
THE DESCRIBED PARCEL LIES IN SAID F. NEVE SURVEY NO. 8, EL PASO COUNTY, TEXAS AND CONTAINS 14,506 SQUARE FEET EQUAL TO 0.333 ACRES.

I, Steve Donatson, Registered Professional Land Surveyor No. 4094, do hereby certify that the plat shown herein was prepared from an actual survey made on the ground under my supervision and conforms to the Texas Board of Professional Land Surveyors' rules and regulations. I am not aware of any unrecorded easements, encroachments, or other matters which are shown on this plat but which are not shown on the reference plat unless noted otherwise. This plat was prepared except as shown. All comments shown are for the reference plat unless noted otherwise. The undersigned certifies no responsibility for any other site specifically for the transaction referenced below.

By: Steve Donatson, Registered Professional Land Surveyor No. 4094 Date: _____

STEWART TITLE GUARANTY COMPANY
FILE NO. 804007 DATED: OCTOBER 29, 2009

BOUNDARY & IMPROVEMENT SURVEY

TRACTS 3-B-1 & 3-D
F. NEVE SURVEY NO. 8

CITY OF EL PASO
EL PASO COUNTY
TEXAS

DATE: DECEMBER 7, 2009

BY: STEVE DONATSON, REGISTERED PROFESSIONAL LAND SURVEYOR NO. 4094

PROJECT NO. 804007

LEGEND

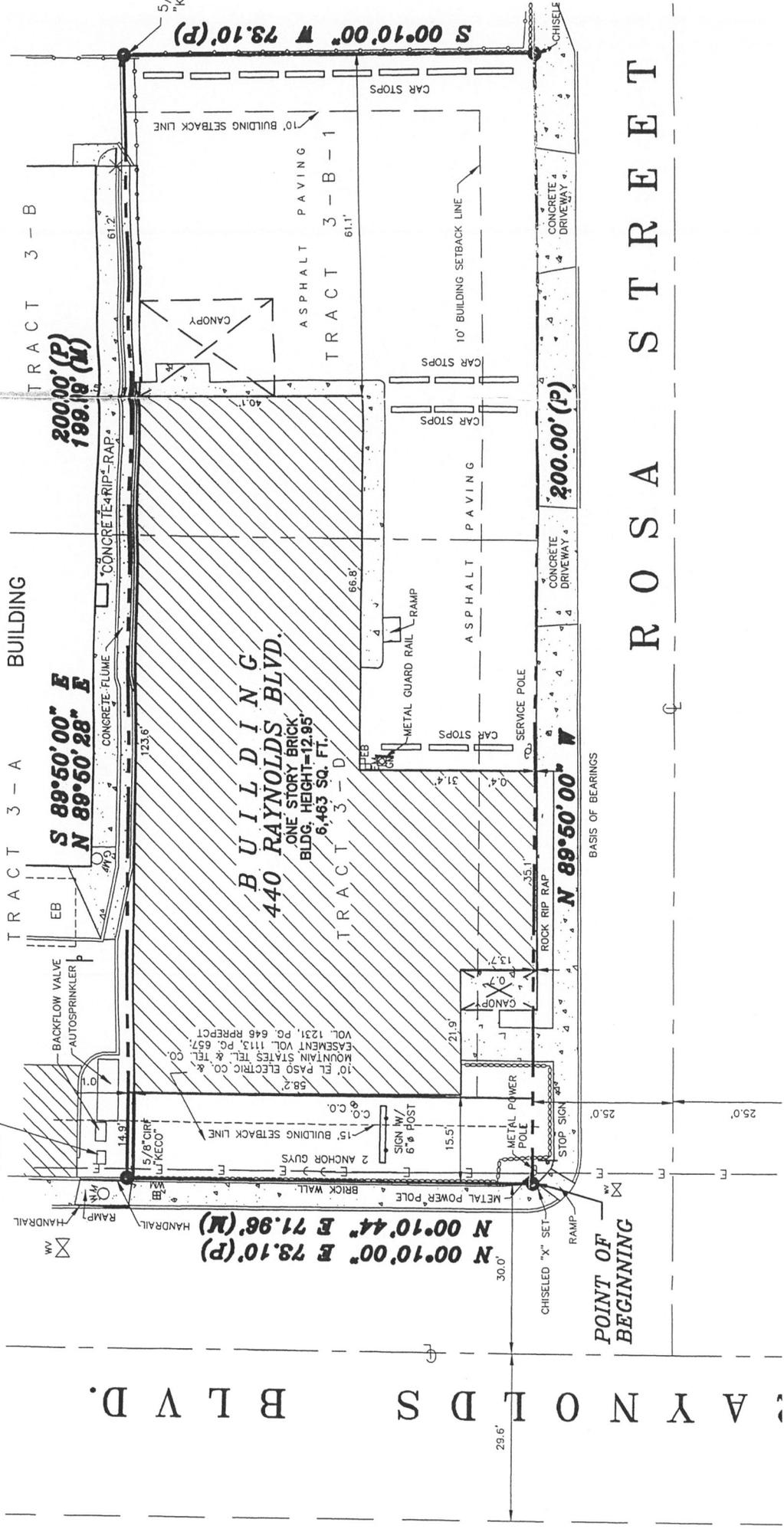
- OVERHEAD POWER LINES
- PROPERTY LINE
- CHAINLINK FENCE
- ROOF/WALL
- POWER POLE
- GUY WIRE
- WATER VALVE
- WATER METER
- GAS METER
- ELECTRIC METER
- SIGN
- ELECTRIC BOX
- CONCRETE

NOTE: LOT IS NOT SUBJECT TO EASEMENTS GRANTED TO EL PASO ELECTRIC COMPANY AS RECORDED IN PUBLIC RECORDS, VOLUME 494, PAGE 1171.

FLOOD NOTE
THIS PROPERTY IS LOCATED IN ZONE C AS SHOWN ON FIRM FLOOD INSURANCE RATE MAPS PUBLISHED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY. COMMUNITY PANEL NO. 4802140408 DATED: OCTOBER 15, 1982.

NOTE
ALL INFORMATION SHOWN HEREON WITH RESPECT TO UNDERGROUND CONDITIONS, WAS DETERMINED BY DATA COLLECTED THROUGH EXISTING PLANS AND MAPS OF RECORD, NO UNDERGROUND UTILITIES EXISTING OR ABANDONED WERE EXPOSED OR LOCATED UNLESS SPECIFICALLY ACCEPTED BY ASTERNMACHER ENGINEERING COMPANY, INC. IN WRITTEN REPORT AND EXPRESSED ON MAPS, AS TO THE UNDERGROUND SITE CONDITIONS.

F. NEVE SURVEY NO. 8



5' "K"

S 00°10'00" W 73.10' (P)

TRACT 3-B

200.00' (P)
198.18' (M)

TRACT 3-A

S 89°50'00" E
N 89°50'28" E

TRACT 3-C

CONCRETE-FLUME

CONCRETE-4RIP-RAP

123.6'

BACKFLOW VALVE
AUTOSPRINKLER

WATER VALVE BOX

HANDRAIL

RAMP

15/8" CIRF
"K" KECK

15' BUILDING SETBACK LINE

2 ANCHOR GUYS

SIGN W/ POST

METAL POWER POLE

STOP SIGN

N 00°10'00" E 73.10' (P)
N 00°10'44" E 71.96' (M)

BUILDING
440 RAYNOLDS BLVD.
ONE STORY BRICK
BLDG. HEIGHT=12.95'
6,463 SQ. FT.

TRACT 3-D

96.8'

METAL GUARD RAIL RAMP

ASPHALT PAVING

CAR STOPS

10' BUILDING SETBACK LINE

ASPHALT PAVING

CAR STOPS

CONCRETE DRIVEWAY

25.0'

25.0'

30.0'

CHISELED "X" SET-RAMP

POINT OF BEGINNING

TRACT 3-B

61.1'

ASPHALT PAVING

CANOPY

10' BUILDING SETBACK LINE

ASPHALT PAVING

CAR STOPS

CONCRETE DRIVEWAY

200.00' (P)

N 89°50'00" W

ROCK RIP RAP

21.6'

13.7'

0.7'

15.51'

35.1'

31.4'

96.8'

40.1'

61.1'

ROSA STREET

POINT OF BEGINNING

RAYNOLDS BLVD.

29.6'

BASIS OF BEARINGS

ADDENDUM TO ZONING BOARD OF ADJUSTMENT APPLICATION

1. **Statement of Facts.** The southerly ten feet of the structure situated on the property encroaches onto the side street setback all the way to the property line abutting the north edge of Rosa Street. This portion of the structure was constructed in 1968 and has remained unmodified since then. A building permit was issued in February 1986 for the addition of an 864 square foot annex, but after examining aerial photos of the building from January 1986 and 2008, it appears that the annex was constructed on the front of the structure facing Reynolds Street. This addition is within the required fifteen foot front yard setback.

2. **Request.** Pursuant to El Paso Municipal Code section 2.16.050L, the Applicants are requesting a special exception for this encroachment onto the side-street yard setback. All requirements of section 2.16.050L are satisfied, as shown below:

a. Requirement: The encroachment onto the required yard setback has been in existence more than fifteen years. Condition: The encroachment occurred when the building was originally constructed in 1968;

b. Requirement: Neither the Applicant nor current property owner is responsible for the construction of the encroachment. Condition: The record owner at the time the encroachment occurred, and the person responsible for the encroachment, was J.D. Abrams, Inc. The Applicants and current record owners are William L. Carvajal and Steven R. Carvajal; the current owners first acquired title to the property in 1996. Copies of the pertinent vesting deeds are attached as Exhibits "C-1" and "C-2";

c. Requirement: Neither the Applicant nor the current property owners owned the property at the time the encroaching structure was constructed or built. Condition: The record owner at the time the encroachment occurred was J.D. Abrams, Inc. The Applicants and current record owners are William L. Carvajal and Steven R. Carvajal;

d. Requirement: The encroachment, if into the required front yard setback, does not exceed fifty percent of the required front yard setback. Condition: The encroachment is not into the front yard setback; rather, it is into the side yard setback; and

e. Requirement: The encroachment does not violate any other provision of the Municipal Code. Condition: The Applicants are not aware of any other violations of the Municipal Code related to the encroachment, and the City's records reveal no such violations

3. **Aerial Photographs of the Property.** As shown in the aerial photographs of the property taken in 1986 and 2008, attached hereto as Exhibits "D" and "E" respectively, the encroachment was already in existence as of January 1986, and the annex constructed in February 1986 is located on the front of the building facing Reynolds Street and is within the required fifteen foot front yard setback. These aerial photographs thus show that the encroaching portion of the structure has existed, unchanged, since at least as far back as 1986.

96-3306
106-3pages

WARRANTY DEED WITH VENDOR'S LIEN

STATE OF TEXAS)
)
COUNTY OF EL PASO)

KNOW ALL PERSONS BY THESE PRESENTS:

That **RICHARD L. CARVAJAL** (*Grantor*) for an adequate consideration to him in hand paid and agreed to be performed by **WILLIAM L. CARVAJAL** and **STEVEN R. CARVAJAL** (*Grantees*), whose address is 615 Bluff Canyon, El Paso, Texas 79912, as follows:

- (1) Ten Dollars (\$10.00) cash and other valuable consideration;
- (2) **SEVENTY-FIVE THOUSAND AND NO/100 DOLLARS (\$75,000.00)** by Grantees' execution and delivery of a Promissory Note in that amount payable to the order of **TEXAS COMMERCE BANK NATIONAL ASSOCIATION**, bearing interest and payable as provided in said Note; which Note is secured by a Vendor's Lien retained herein and by a Deed of Trust of even date from Grantees to David Mendez, Trustee for Texas Commerce Bank National Association;

has GRANTED, SOLD and CONVEYED and by these presents does hereby GRANT, SELL and CONVEY unto the said Grantees all that certain parcel of land situated in El Paso County, Texas, and more particularly described as follows:

Tracts 3-B-1 and 3-D, F. NEVE SURVEY NO. 8, in the City of El Paso, El Paso County, Texas, according to the resurvey of said F. NEVE SURVEY NO. 8 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.

This conveyance is subject to easements, rights-of-way, and prescriptive rights, whether of record or not; all presently recorded instruments, other than liens or conveyances, that affect the property; and the following specific exceptions:

- (a) Any discrepancies, conflicts, or shortages in area or boundary lines, or any encroachments, or protrusions or any overlapping of improvements;
- (b) Standby fees, taxes and assessments by any taxing authority for the year 1996, and subsequent years and subsequent taxes and assessments for any taxing authority for prior years due to change in land usage or ownership which Grantees assume; and
- (c) Rights of parties in possession.

TO HAVE AND TO HOLD the above-described premises together with all and singular the rights and appurtenances thereto in anywise belonging unto the said Grantees, their heirs, administrators, representatives, executors, successors and assigns forever, and Grantor does hereby bind himself, his heirs, administrators, representatives, executors, successors and assigns to warrant and forever defend, all and singular, the said premises unto the said Grantees, their heirs, administrators, representatives, executors, successors and assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof.

IT IS EXPRESSLY AGREED AND STIPULATED that a Vendor's Lien in favor of TEXAS COMMERCE BANK NATIONAL ASSOCIATION is retained against the above-described property, premises and improvements until the Promissory Note described under subparagraph (2) hereinabove and all interest thereon has been fully paid according to its face, tenor, effect and reading when this Deed shall become absolute.

IN WITNESS WHEREOF this Warranty Deed with Vendor's Lien is executed this the 6 day of November, 1996.

Richard L. Carvajal
RICHARD L. CARVAJAL

STATE OF TEXAS §
 §
COUNTY OF EL PASO §

This instrument was acknowledged before me on the 6 day of November 1996 by RICHARD L. CARVAJAL.

Christina B. Myers
Notary Public in and for the
State of Texas

TVC-288430.1
008520-001099

EXHIBIT "A"

TRACTS 3-B-1 and 3-D FORMERLY DESCRIBED AS:

Part of Tracts 3-A and 3-B, F. Neve Survey No. 8, El Paso County, Texas.

BEGINNING at the Southwest corner of Tract 3-A, F. Neve Survey No. 8, El Paso County, Texas, said corner also being the intersection of the North ROW line of Rosa Avenue and the East ROW line of Reynolds Street;

THENCE North 0°10' East along said East ROW line a distance of 73.10 feet;

THENCE South 89°50' East a distance of 200.00 feet;

THENCE South 0°10' West a distance of 73.10 feet to a point on said North ROW line of Rosa Avenue;

THENCE North 89°50' West along said North ROW a distance of 200.00 feet to the POINT OF BEGINNING.

The described parcel lies in said F. Neve Survey No. 8, El Paso County, Texas and contains 14,620 square feet equal to 0.336 acre.

POOR QUALITY COPY
BEST AVAILABLE FILM

EXHIBIT A

Return to:
William Canajal
615 Bluff Canyon
El Paso, Texas
79912

Doc# 96069798
Pages: 3
Date : 11-08-1996
Time : 03:43:43 P.M.
Filed & Recorded in
Official Records
of EL PASO County, TX.
HONORABLE HECTOR ENRIQUEZ, JR
COUNTY CLERK
Rec. \$ 13.00

4

ANY PROVISIONS HEREIN WHICH RESTRICTS THE SALE, RENTAL
OR USE OF THE DESCRIBED REAL PROPERTY BECAUSE OF COLOR
OR RACE IS INVALID AND UNENFORCEABLE UNDER FEDERAL LAW

STATE OF TEXAS

COUNTY OF EL PASO
I hereby certify that this instrument was filed on the date and time
stamped hereon by me and was duly recorded in the volume and
page of the Official Public Record of Real Property El Paso County.



NOV 8 1996

H. Enriquez

EL PASO COUNTY, TEXAS

EXHIBIT "D"

AERIAL PHOTOGRAPH TAKEN JANUARY 1986

[attached]



EXHIBIT "E"

AERIAL PHOTOGRAPH TAKEN 2008

[attached]

80.



SUBJECT PROPERTY

GATEWAY EAST BLVD

ROSA AV

CONCEPCION ST

REYNOLDS ST

C-4

C-4

M-1

R-5

4950

4900

440

4810

4800

401

400

310

300


The CITY OF ST. PAUL and its representatives
make no representation as to the accuracy,
reliability, completeness, currency, or suitability of
the information used to and appearing for conditions
shown on this map. The user of this map is advised
that the City of St. Paul does not warrant or
assume any liability for any errors or omissions
that may appear on this map. Use of this
information is the sole responsibility of the user.

ZONING MAP



NOTIFICATION MAP

