

Applicants request 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 ZBA approved a Special Exception (case ZBA10-00004) for this property on March 8, 2010, to legalize the encroachment into the side street yard setback, with conditions that the landscape wall and the decorative posts on the building which are encroaching into the City right-of-way be removed within 90 days. The approval was based on the facts that the owner was not responsible for the encroachment and the encroachment had existed for more than 15 years.

Ownership of the property has changed since the March 2010 approval. The current owner is required to apply again for the Special Exception since one year has lapsed and the conditions of approval were not complied with. The landscape wall has now been removed; however, the posts that are part of the building wall cannot be removed without damaging the building structure. Please see enclosed information from the applicant and the applicant's engineer.

The applicant is requesting that the conditions of the Special Exception be amended to allow an application for a Special Privilege through the City's Department of Transportation to permit the posts to remain in the public right-of-way. The Special Privilege would allow the applicant to pay the City for the use of 23.26 square feet of public right-of-way. The applicant has applied for the Special Privilege, and City staff supports the request which requires final approval by City Council.

CALCULATIONS

Required side street yard setback = 10'

Requested side street yard setback = 0'

STAFF RECOMMENDATION

Staff recommends approval of the request for the Special Exception L as the encroachment has existed for 15 years or more and the current owner is not responsible, with the condition that the posts that are located on the encroaching portion of the building and that are encroaching into the public right-of-way be removed by May 31, 2011, or that a Special Privilege license be sought and granted to allow the encroachment to continue, or that the encroachment into the public right-of-way be vacated.

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 #4

Dedicated to Outstanding Customer Service for a Better Community

S E R V I C E S O L U T I O N S S U C C E S S

ZONING BOARD OF ADJUSTMENT

March 8, 2010



William L. Carvajal and Steven R. Carvajal

Re: 440 Reynolds Street

Legal Description: Tracts 3-B-1 and 3-D, formerly described as part of Tracts 3-A and 3-B,
F. Neve Survey No. 8, City of El Paso, El Paso County, Texas

Case# ZBA10-00004: The applicant requested a Special Exception under Section 2.16.050 L (15 Years or More, Side Street Yard Setback) in an M-1 (Light Manufacturing) zone district. This permits a 10' by 35.1' addition that encroaches 10' into the required side street yard setback and is located to within 0' of the side street property line. The required side street yard setback is 10' in the M-1 zone district.

The Zoning Board of Adjustment acting under the authority vested in it by Article 211.008 of the Local Government Code of the State of Texas and by Chapter 2.16 of the El Paso City Code, after due public notice at an Open Public Meeting on March 8, 2010, **GRANTED** the Special Exception under Section 2.16.050 L (15 Years or More, Side Street Yard Setback) in an M-1 (Light Manufacturing) zone district with the following **CONDITIONS**:

- That an approximate 3' by 17' portion of the rock landscaped wall that is located in the public right-of-way be removed by July 8, 2010.
- That the decorative posts that are located on the encroaching portion of the building and that are encroaching in the public right-of-way be removed by July 8, 2010.

The Board determined that this request **QUALIFIED** under the criteria of Section 2.16.050 L of the ordinance for the following reasons:

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

Filed for permanent record the 8th day of March 2010, in the office of the Zoning Board of Adjustment.

Linda Castle

Linda Castle

Senior Planner

PLEASE NOTE: Any privilege granted by this decision must be exercised within **12 months** of the date of this decision after obtaining the necessary building permits for the proposed construction at the Development Services Department – Building Permits and Inspection Division.

Inspections will be made by the Building Permits and Inspections Division of the Development Services Department, and compliance with Board action will be noted in official Board records. This order may be revoked by the Board after notice and opportunity to be heard for violation of any of the conditions imposed.

The decision of the Zoning Board of Adjustment may be appealed by a person aggrieved by this decision or by any officer, department, board, or bureau of the municipality by filing an action with the District Court for this county within **10 Days** after the date of the hearing.

Development Services Department

Victor Q. Torres - Director

2 Civic Center Plaza – 5th Floor · El Paso, Texas 79901 · (915) 541-4622 · Fax (915) 541-4725

Mayor
John F. Cook

City Council

District 1
Ann Morgan Lilly

District 2
Susie Byrd

District 3
Emma Acosta

District 4
Carl L. Robinson

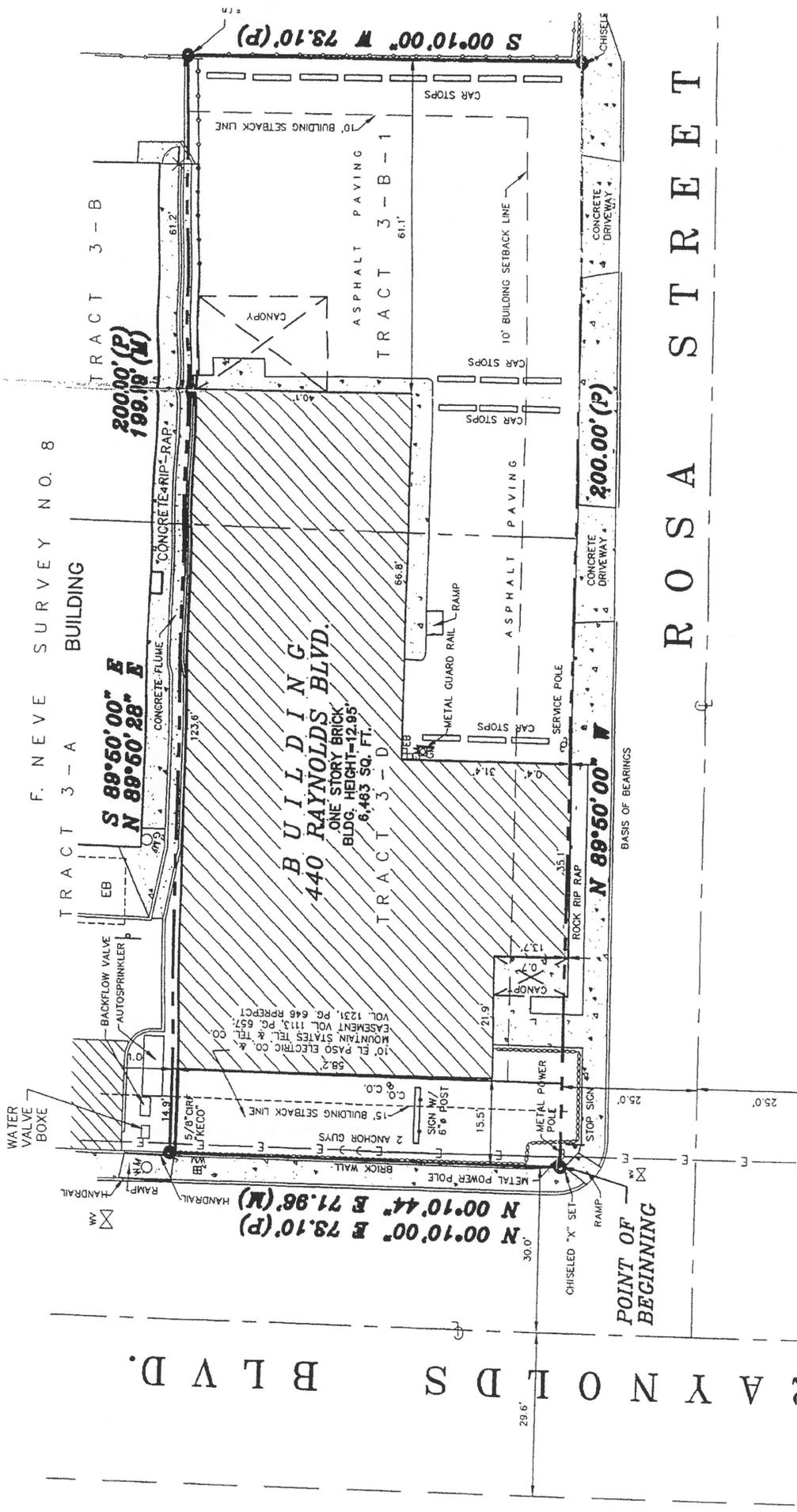
District 5
Rachel Quintana

District 6
Eddie Holguin Jr.

District 7
Steve Ortega

District 8
Beto O'Rourke

City Manager
Joyce A. Wilson



RAYNOLDS BLVD.

ROSA STREET

ADDENDUM TO ZONING BOARD OF ADJUSTMENT APPLICATION

1. **Statement of Facts.** On March 8, 2010, the Zoning Board of Adjustments granted a Special Exception under Section 2.16.050 L to the previous owners of the property at 440 Raynolds with the following conditions (see Exhibit C, "ZBA Letter Granting a Special Exception – case #ZBA10-00004," and Exhibit D, "ZBA Application – case #ZBA10-00004"):

- a. That an approximate 3' by 17' portion of the rock landscaped wall that is located in the public right-of-way be removed by July 8, 2010.
- b. That the decorative posts that are located on the encroaching portion of the building and that are encroaching into the public right-of-way be removed by July 8, 2010.

The rock landscaped wall was subsequently removed; however, the three (3) posts situated on the southerly portion of the structure on the property encroach onto the public right-of-way along Rosa Avenue for a total area in the public right-of-way of 23.26 square feet were not removed. Upon attempt to remove the posts, the current owners of 440 Raynolds, MCAmericas Realty, Inc., found that the posts serve a structural purpose and not merely a decorative purpose, and removal of said posts would compromise the integrity of the structure as well as diminish the attractiveness of the building. This portion of the structure was constructed in 1968 and has remained unmodified since then.

2. **Request.** Pursuant to El Paso Municipal Code section 2.16.050 L, the Applicants are requesting that the second condition of the Special Exception granted on March 8, 2010 (case #ZBA10-00004) be amended as follows:

"That the decorative posts that are located on the encroaching portion of the building and that are encroaching into the public right-of-way be removed by May 31, 2011, or that a Special Privilege license be sought and granted to allow the encroachment to continue, or that the encroachment into the public right-of-way be vacated."

3. **Special Privilege.** The Applicant is seeking a special privilege under section 15.08.120 M the for this encroachment onto the public right-of-way (see Exhibit E, "Application for Special Privilege Permits & Licenses").



April 26, 2011

Mrs. Emma Schwartz
President, MCA Foundation
201 E. Main, Suite 1514
El Paso, Texas 79901

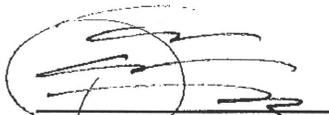
Reference: Visual Evaluation for Protruding Columns at
440 Raynolds, El Paso, Texas

Dear Mrs. Schwartz,

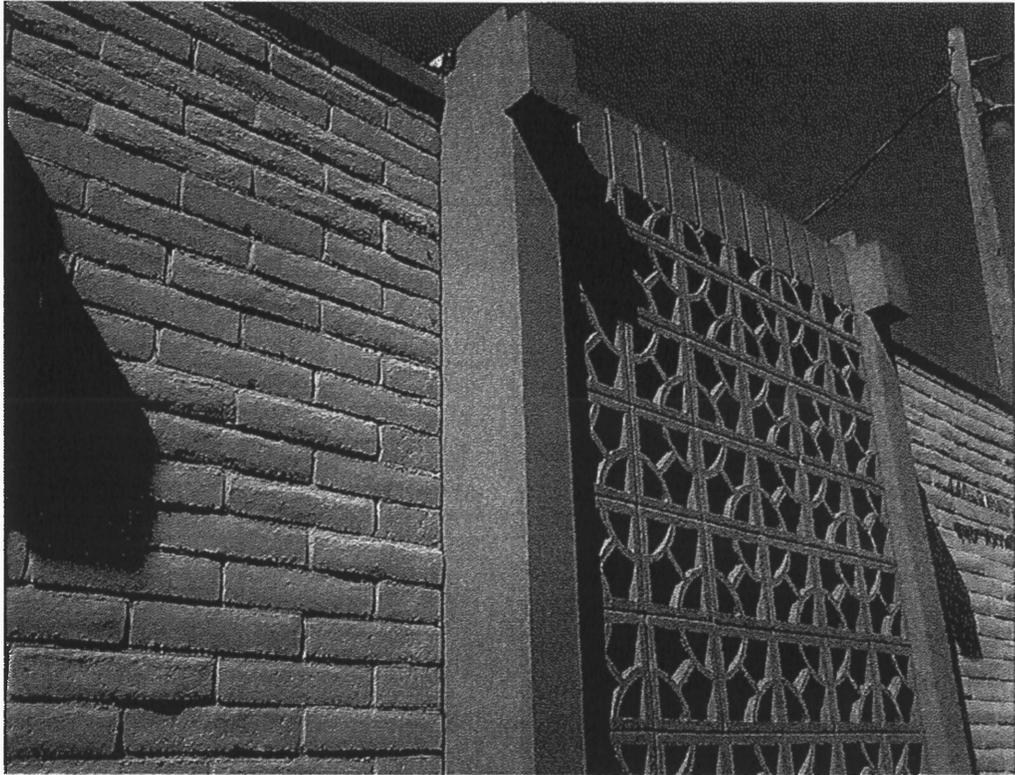
Per your request we conducted a visual evaluation to determine if the protruding columns are cosmetic or are part of the 43 year old building structure. The evaluation would be used to determine if the column's protruding section could be safely removed without compromising the integrity of the building.

These exterior columns support the beams of the flat roof structure, which are an integral part of the building structure, therefore are not cosmetic. Based on our visual evaluation, removing the protruding section of the column is not recommended since it will compromise the integrity of the building. See attached pictures for reference.

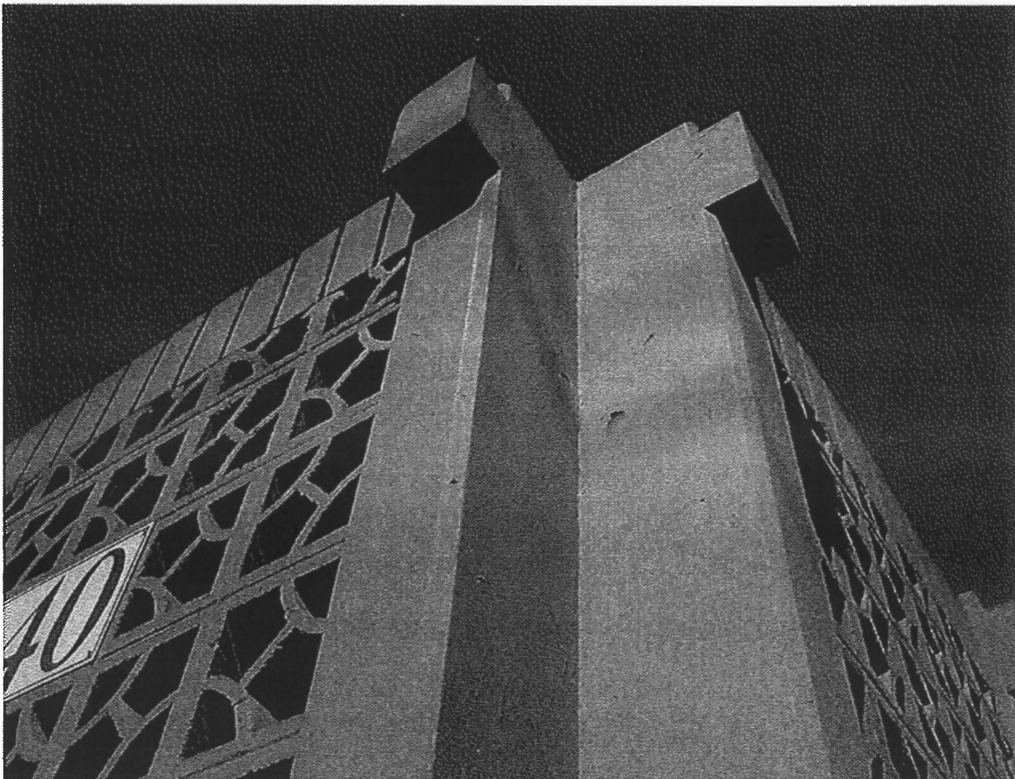
Thank you for the opportunity to serve you if you have any questions please call.



Francisco Campa, P.E.



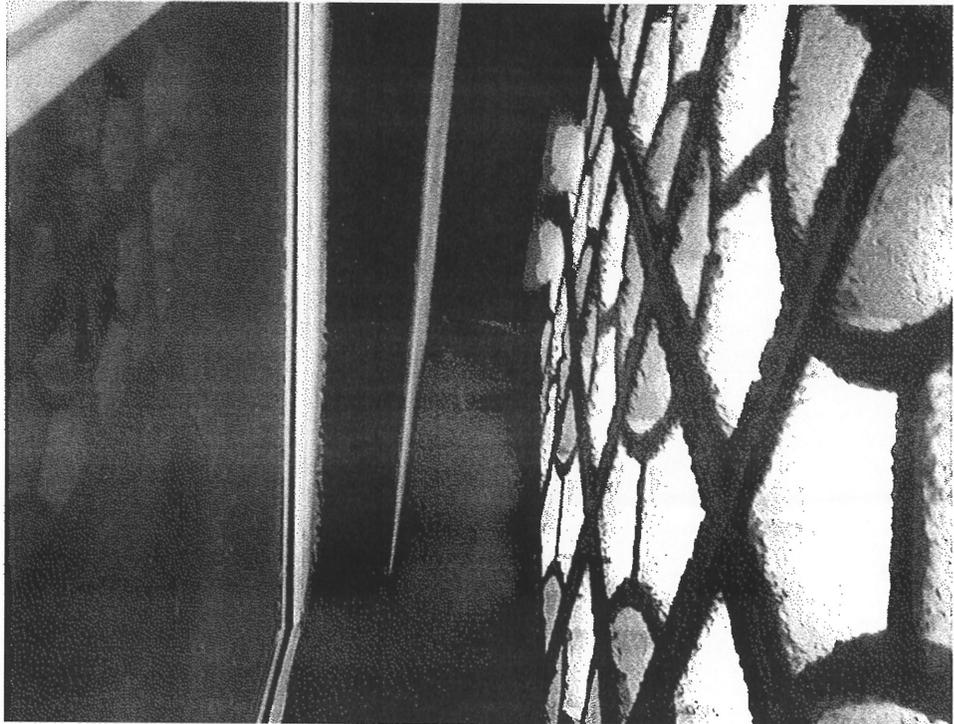
PICTURE 1



PICTURE 2

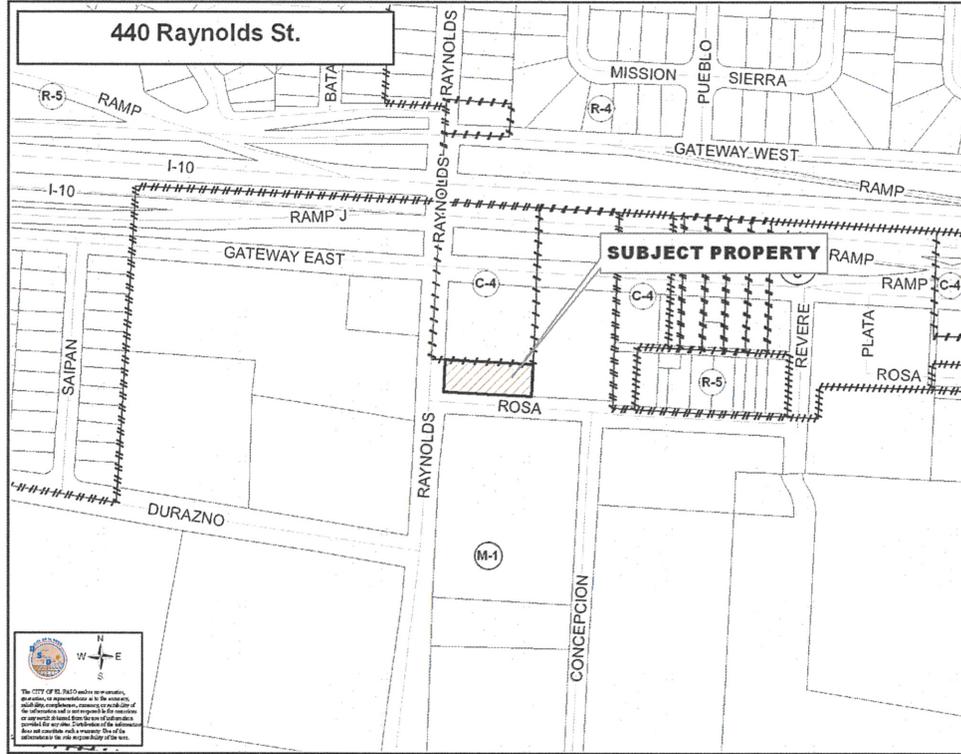


PICTURE 3



PICTURE 4

ZONING MAP



NOTIFICATION MAP

