

DRB CASE ACTION LOG - BLUE SHEET

- Preliminary/Final Plat [FP]
- Site Plan - Subdivision [SPS]
- Site Plan - Building Permit [SBP]

This sheet must accompany your plat or site plan to obtain delegated signatures. Return sheet with site plan/plat once comments have been addressed.

Project #: 1009537 Application #: 12-70386
Project Name: Valley View Addn.
Agent: Cartesian Surveys Inc. Phone #:

Your request was approved on _____ by the DRB with delegation of signature(s) to the following departments - outstanding comments to be addressed

TRANSPORTATION: _____

ABCWUA: _____

CITY ENGINEER / AMAFCA: _____

PARKS / CIP: _____

PLANNING (Last to sign): Utility Company Signatures & Comments

PLATS:

Planning must record this plat. Please submit the following items:

- The original plat and a mylar copy for the County Clerk.
- Tax certificate from the County Treasurer.
- Recording fee (checks payable to the County Clerk). RECORDED DATE: _____
- Tax printout from the County Assessor.
- County Treasurer's signature must be obtained prior to the recording of the plat with County Clerk.


Property Management's signature must be obtained prior to Planning Department's signature.

- AGIS DXF File approval required.
- Copy of recorded plat for Planning.



ALL SITE PLANS:


3 copies of the approved site plan. Include all pages.

SITE DEVELOPMENT PLANS (EFC FINAL SIGN-OFF) AMENDED PLANS AND MASTER DEVELOPMENT PLANS (CITY COUNCIL FINAL SIGN-OFF)

3. **Project# 1009463**
12DRB-70390 MINOR - SDP FOR SUBDIVISION
12DRB-70391 MINOR - SDP FOR BUILDING PERMIT
12DRB-70389 MINOR - PRELIMINARY/FINAL PLAT APPROVAL 
- TIERRA WEST LLC agent(s) for OLD DOMINION FREIGHT LINE INC request(s) the above action(s) for all or a portion of Lot(s) 3 AND 4, Block(s) 2, **LANDS OF THE ATRISCO GRANT** zoned SU-2 FOR M-1, located on CENTRAL BETWEEN 102ND ST AND 106TH ST containing approximately 8.4058 acre(s). (L-8) *[Deferred from 1/2/13]* **THE SITE DEVELOPMENT PLAN FOR SUBDIVISION WAS APPROVED. THE PRELIMINARY/FINAL PLAT WAS APPROVED WITH FINAL SIGN OFF DELEGATED TO PLANNING FOR UTILITY COMPANY SIGNATURE AND AGIS DXF. THE SITE DEVELOPMENT PLAN FOR BUILDING PERMIT WAS DEFERRED TO 1/30/13 AT THE AGENT'S REQUEST.**

MINOR PLATS, FINAL (MAJOR) PLATS, AMENDED PLATS AND PLANS

4. **Project# 1009046**
13DRB-70403 SIDEWALK WAIVER
13DRB-70404 AMENDMENT TO PRELIMINARY PLAT 
- MARK GOODWIN AND ASSOCIATES, P.A. agent(s) for SAWMILL CROSSING, LLC request(s) the above action(s) for all or a portion of Lot(s) B-1-A-Z, **DUKE CITY LUMBER CO.** zoned SU-2/SU-1 PRD, located on ASPEN BETWEEN RIO GRANDE AND 12TH ST containing approximately 7 acre(s). (H-13) **THE SIDEWALK WAIVER WAS APPROVED AS SHOWN ON EXHIBIT C IN THE PLANNING FILE. THE AMENDED PRELIMINARY PLAT, AND THE AMENDED INFRASTRUCTURE LIST DATED 1/16/13 WAS APPROVED. THIS AMENDMENT DOES NOT EXTEND THE EXPIRATION DATE OF THE ALREADY APPROVED PRELIMINARY PLAT.**
5. **Project# 1009537**
12DRB-70386 MINOR - PRELIMINARY/FINAL PLAT APPROVAL 
- CARTESIAN SURVEYS INC agent(s) for RUBEN RAMIREZ request(s) the above action(s) for all or a portion of Lot(s) 32 & 33, Block(s) 11, **VALLEY VIEW ADDITION** zoned OR-2, located on ADAMS BETWEEN COAL AND ZUNI containing approximately .1435 acre(s). (K-17) *[Deferred from 1/2/13]* **THE PRELIMINARY/FINAL PLAT WAS APPROVED WITH FINAL SIGN OFF DELEGATED TO PLANNING FOR UTILITY COMPANY SIGNATURES AND VERIFICATION THAT 1/2/13 COMMENTS HAVE BEEN ADDRESSED.**

6. **Project# 1009537**
12DRB-70386 MINOR - PRELIMINARY/
FINAL PLAT APPROVAL 

CARTESIAN SURVEYS INC agent(s) for RUBEN RAMIREZ request(s) the above action(s) for all or a portion of Lot(s) 32 & 33, Block(s) 11, **VALLEY VIEW ADDITION** zoned OR-2, located on ADAMS BETWEEN COAL AND ZUNI containing approximately .1435 acre(s). (K-17) **DEFERRED TO 1/6/13 AT THE AGENT'S REQUEST.**

NO ACTION IS TAKEN ON THESE CASES:
APPLICANT - AGENT IS REQUIRED TO BE AT THE MEETING

7. **Project# 1004976**
12DRB-70388 SKETCH PLAT REVIEW
AND COMMENT 

BORDENAVE DESIGNS agent(s) for CALABACILLAS GROUP request(s) the above action(s) for all or a portion of Tract(s) B-1-A, **BLACK ARROYO DAM**, zoned C-2, located on WESTSIDE BETWEEN GOLF COURSE AND UNSER containing approximately 4.15 acre(s). (A-12)**THE SKETCH PLAT WAS REVIEWED AND COMMENTS WERE PROVIDED.**

8. Other Matters: None

ADJOURNED:

Complete
1/14

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- Site Plan - Subdivision [SPS]
- Site Plan - Building Permit [SBP]

This sheet must accompany your plat or site plan to obtain delegated signatures. Return sheet with site plan/plat once comments have been addressed.

Project #: 1009537 Application #: 12-70386
 Project Name: Valley View Addn.
 Agent: Cartesian Surveys Inc. Phone #:
896-3050

Your request was approved on 1-16-13 by the DRB with delegation of signature(s) to the following departments - outstanding comments to be addressed

- TRANSPORTATION
- ABCWUA
- CITY ENGINEER / AMAFCA
- PARKS / CIP

PLANNING (Last to sign): Utility Company signatures, and verify comments have been met.

PLATS:

- Planning must record this plat. Please submit the following items:
 - The original plat and a mylar copy for the County Clerk.
 - Tax certificate from the County Treasurer.
 - Recording fee (checks payable to the County Clerk). RECORDED DATE: _____
 - Tax printout from the County Assessor.
 - County Treasurer's signature must be obtained prior to the recording of the plat with County Clerk.

- Property Management's signature must be obtained prior to Planning Department's signature.
- AGIS DXF File approval required.
- Copy of recorded plat for Planning.

ALL SITE PLANS:

- 3 copies of the approved site plan. Include all pages.

City of Albuquerque Planning Department

DEVELOPMENT AND BUILDING SERVICES

STANDARD APPLICATION, Paper Plans Required

12/17/2012

DEVELOPMENT REVIEW BOARD

12/17/2012 Issued By: BLDAVM 174345

Category Code **910**
2012 070 386

Application Number: 12DRB-70386, Minor - Preliminary/ Final Plat Approval

Address:

Location Description: ADAMS BETWEEN COAL AND ZUNI

Project Number: 1009537

Applicant

RUBEN RAMIREZ

316 ADAMS SE
ALBUQUERQUE NM 87108

Agent / Contact

CARTESIAN SURVEYS INC
AMBER PALMER
P.O. BOX 44414
ALBUQUERQUE NM 87174

Application Fees

APN Fee

Conflict Mgmt Fee **\$20.00**

DRB Actions **\$215.00**

TOTAL: \$235.00

City of Albuquerque Treasury
Date: 12/17/2012 Office: ANNEX
Stat ID: W8000008 Cashier: TRSASR
Batch: 1154 Trans #: 5
Permit: 2012070386
Receipt Num: 00080373
Payment Total: \$235.00
0901 Conflict Mgmt Fee \$20.00
0903 DRB Actions \$215.00
Check Tendered: \$235.00

9537

DXF Electronic Approval Form

DRB Project Case #: 1009537

Subdivision Name: VALLEY VIEW ADDITION / LOT 32A BLK 11

Surveyor: WILL PLOTNER

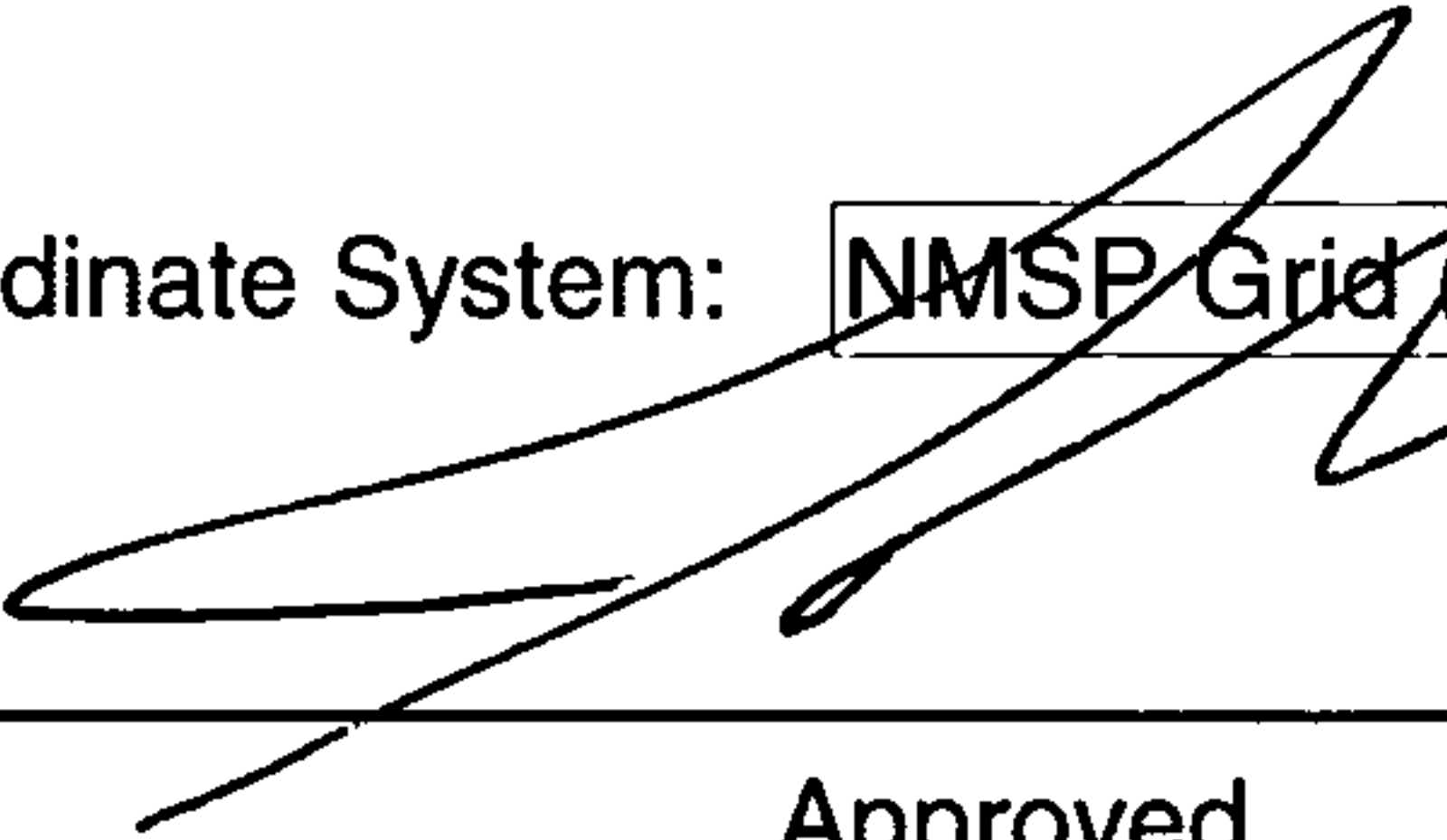
Contact Person: AMBER PALMER

Contact Information: 5058963050

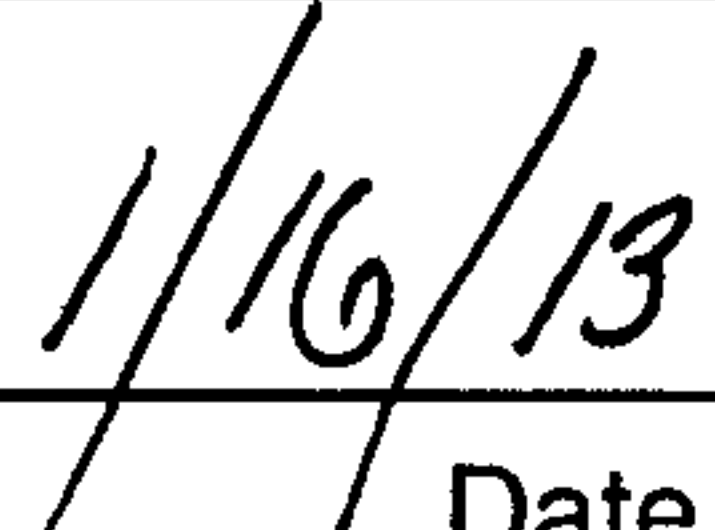
DXF Received: 1/16/2013

Hard Copy Received: 1/16/2013

Coordinate System: NMSP Grid (NAD 83)



Approved



Date

* The DXF file cannot be accepted (at this time) for the following reason(s):

AGIS Use Only

Copied fc **9537** to agiscov on **1/16/2013** Contact person notified on **1/16/2013**



Supplemental Form (SF)

SUBDIVISION

- Major subdivision action
- Minor subdivision action
- Vacation
- Variance (Non-Zoning)

SITE DEVELOPMENT PLAN

- for Subdivision
- for Building Permit
- Administrative Amendment/Approval (AA)
- IP Master Development Plan
- Cert. of Appropriateness (LUCC)

STORM DRAINAGE (Form D)

- Storm Drainage Cost Allocation Plan

S Z ZONING & PLANNING

- Annexation
- Zone Map Amendment (Establish or Change Zoning, includes Zoning within Sector Development Plans)
- Adoption of Rank 2 or 3 Plan or similar
- Text Amendment to Adopted Rank 1, 2 or 3 Plan(s), Zoning Code, or Subd Regulations
- Street Name Change (Local & Collector)
- L A APPEAL / PROTEST of...**
 - Decision by: DRB, EPC, LUCC, Planning Director, ZEO, ZHE, Board of Appeals, other

PRINT OR TYPE IN BLACK INK ONLY. The applicant or agent must submit the completed application in person to the Planning Department Development Services Center, 600 2nd Street NW, Albuquerque, NM 87102. Fees must be paid at the time of application. Refer to supplemental forms for submittal requirements.

APPLICATION INFORMATION:

Professional/Agent (if any): Cartesian Surveys Inc. PHONE: 8910-3050
 ADDRESS: PO Box 44414 FAX: 891-0244
 CITY: Rio Rancho STATE NM ZIP 87174 E-MAIL: cartesianamber@aol.com

APPLICANT: Ruben Ramirez PHONE: _____
 ADDRESS: 3110 Adams SE FAX: _____
 CITY: Albuquerque STATE NM ZIP 87108 E-MAIL: _____
 Proprietary interest in site: _____ List all owners: _____

DESCRIPTION OF REQUEST:

Is the applicant seeking incentives pursuant to the Family Housing Development Program? Yes. No.

SITE INFORMATION: ACCURACY OF THE EXISTING LEGAL DESCRIPTION IS CRUCIAL! ATTACH A SEPARATE SHEET IF NECESSARY.

Lot or Tract No. Lot 32 + 33 Block. 11 Unit _____
 Subdiv/Addn/TBKA. Valley View Addition
 Existing Zoning. OR-2 Proposed zoning: OR-2 MRGCD Map No _____
 Zone Atlas page(s): K17 UPC Code: lot 32 - 101705731008840914
lot 33 - 101705731009240909

CASE HISTORY:

List any current or prior case number that may be relevant to your application (Proj., App., DRB, AX, Z, V, S, etc.). _____

CASE INFORMATION:

Within city limits? Yes Within 1000FT of a landfill? No
 No. of existing lots: 2 No. of proposed lots: 1 Total site area (acres): 0.1435 Acres
 LOCATION OF PROPERTY BY STREETS. On or Near. Adams St SE
 Between: Coal Ave SE and Zuni Rd SE

Check if project was previously reviewed by. Sketch Plat/Plan or Pre-application Review Team(PRT) Review Date: _____

SIGNATURE Amber Palmer DATE 12/17/12
 (Print Name) Amber Palmer Applicant Agent

FOR OFFICIAL USE ONLY

Revised: 4/2012

INTERNAL ROUTING	Application case numbers	Action	S.F.	Fees
<input checked="" type="checkbox"/> All checklists are complete	<u>120RB-70380</u>	<u>RF</u>	_____	<u>\$ 215.00</u>
<input checked="" type="checkbox"/> All fees have been collected	_____	<u>CMF</u>	_____	<u>\$ 20.00</u>
<input checked="" type="checkbox"/> All case #s are assigned	_____	_____	_____	\$ _____
<input type="checkbox"/> AGIS copy has been sent	_____	_____	_____	\$ _____
<input type="checkbox"/> Case history #s are listed	_____	_____	_____	\$ _____
<input type="checkbox"/> Site is within 1000ft of a landfill	_____	_____	_____	\$ _____
<input type="checkbox"/> F.H.D.P. density bonus	_____	_____	_____	Total
<input type="checkbox"/> F.H.D.P. fee rebate	_____	_____	_____	<u>\$ 235.00</u>

Hearing date Jan. 2, 2012
[Signature] 12-17-12 Staff signature & Date
 Project # 1009537

FORM S(3): SUBDIVISION - D.R.B. MEETING (UNADVERTISED) OR INTERNAL ROUTING

A Bulk Land Variance requires application on FORM-V in addition to application for subdivision on FORM-S.

SKETCH PLAT REVIEW AND COMMENT (DRB22) **Your attendance is required.**

- Scale drawing of the proposed subdivision plat (folded to fit into an 8.5" by 14" pocket) **6 copies**
- Site sketch with measurements showing structures, parking, Bldg. setbacks, adjacent rights-of-way and street improvements, if there is any existing land use (folded to fit into an 8.5" by 14" pocket) **6 copies**
- Zone Atlas map with the entire property(ies) clearly outlined
- Letter briefly describing, explaining, and justifying the request
- List any original and/or related file numbers on the cover application

EXTENSION OF MAJOR PRELIMINARY PLAT (DRB08) **Your attendance is required.**

- Preliminary Plat reduced to 8 5" x 11"
 - Zone Atlas map with the entire property(ies) clearly outlined
 - Letter briefly describing, explaining, and justifying the request
 - Copy of DRB approved infrastructure list
 - Copy of the LATEST Official DRB Notice of approval for Preliminary Plat Extension request
 - List any original and/or related file numbers on the cover application
- Extension of preliminary plat approval expires after one year.**

MAJOR SUBDIVISION FINAL PLAT APPROVAL (DRB12) **Your attendance is required.**

- Proposed Final Plat (folded to fit into an 8.5" by 14" pocket) **6 copies**
- Signed & recorded Final Pre-Development Facilities Fee Agreement for Residential development only
- Design elevations & cross sections of perimeter walls **3 copies**
- Zone Atlas map with the entire property(ies) clearly outlined
- Bring original Mylar of plat to meeting, ensure property owner's and City Surveyor's signatures are on the plat
- Copy of recorded SIA
- Landfill disclosure and EHD signature line on the Mylar if property is within a landfill buffer
- List any original and/or related file numbers on the cover application
- DXF file and hard copy of final plat data for AGIS is required

MINOR SUBDIVISION PRELIMINARY/FINAL PLAT APPROVAL (DRB16) **Your attendance is required.**

- ~~NA~~ 5 Acres or more: Certificate of No Effect or Approval
- ~~C~~ Proposed Preliminary / Final Plat (folded to fit into an 8.5" by 14" pocket) **6 copies** for unadvertised meetings ensure property owner's and City Surveyor's signatures are on the plat prior to submittal
- ~~NA~~ Signed & recorded Final Pre-Development Facilities Fee Agreement for Residential development only
- ~~NA~~ Design elevations and cross sections of perimeter walls (11" by 17" maximum) **3 copies**
- ~~C~~ Site sketch with measurements showing structures, parking, Bldg. setbacks, adjacent rights-of-way and street improvements, if there is any existing land use (folded to fit into an 8.5" by 14" pocket) **6 copies**
- ~~X~~ Zone Atlas map with the entire property(ies) clearly outlined
- ~~X~~ Letter briefly describing, explaining, and justifying the request
- ~~X~~ Bring original Mylar of plat to meeting, ensure property owner's and City Surveyor's signatures are on the plat
- ~~NA~~ Landfill disclosure and EHD signature line on the Mylar if property is within a landfill buffer
- ~~NA~~ Fee (see schedule)
- ~~NA~~ List any original and/or related file numbers on the cover application
- ~~NA~~ Infrastructure list if required (**verify with DRB Engineer**)
- ~~X~~ DXF file and hard copy of final plat data for AGIS is required.

AMENDMENT TO PRELIMINARY PLAT (with minor changes) (DRB03) **Your attendance is required.**

- PLEASE NOTE: There are no clear distinctions between significant and minor changes with regard to subdivision amendments. Significant changes are those deemed by the DRB to require public notice and public hearing.
- Proposed Amended Preliminary Plat, Infrastructure List, and/or Grading Plan (folded to fit into an 8.5" by 14" pocket) **6 copies**
 - Original Preliminary Plat, Infrastructure List, and/or Grading Plan (folded to fit into an 8.5" by 14" pocket) **6 copies**
 - Zone Atlas map with the entire property(ies) clearly outlined
 - Letter briefly describing, explaining, and justifying the request
 - Bring original Mylar of plat to meeting, ensure property owner's and City Surveyor's signatures are on the plat
 - List any original and/or related file numbers on the cover application
- Amended preliminary plat approval expires after one year**

I, the applicant, acknowledge that any information required but not submitted with this application will likely result in deferral of actions.

Amber Palmer
Applicant name (print)
Amber Palmer 12/17/12
Applicant signature / date

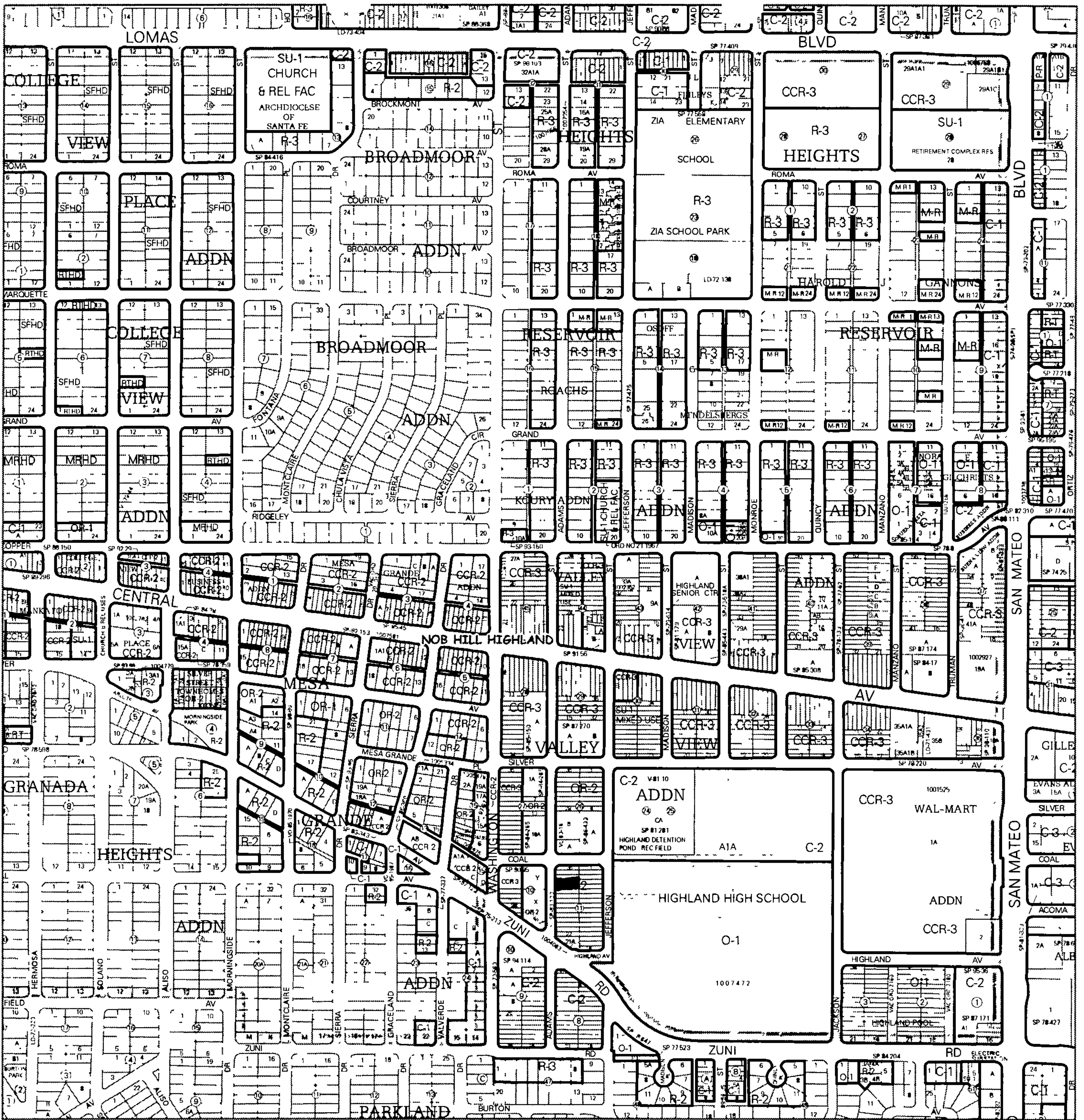


Form revised October 2007

- Checklists complete
- Fees collected
- Case #s assigned
- Related #s listed

Application case numbers
12-DRB-70386

[Signature] 12-17-12
Planner signature / date
Project # 1009537



For more current information and more details visit: <http://www.cabq.gov/gis>

Albuquerque Geographic Information System

Map amended through: 1/24/2011

Note: Grey Shading Represents Area Outside of the City Limits

Zone Atlas Page:
K-17-Z

Selected Symbols

	SECTOR PLANS		Escarpment
	Design Overlay Zones		2 Mile Airport Zone
	City Historic Zones		Airport Noise Contours
	H-1 Buffer Zone		Wall Overlay Zone
	Petroglyph Mon.		

0 750 1,500 Feet

Cartesian Surveys Inc.
PO Box 44414, Rio Rancho, NM 87174
896-3050 Fax 891-0244

December 17, 2012

Development Review Board
City of Albuquerque

Re: Proposed Tract 32-A, Block 11, Valley View Addition

Members of the Board:

Cartesian Surveys is acting as an agent for the owner and requests to subdivide the existing 2 lots into one proposed lot.

Thank you for your time and consideration.

Will Plotner Jr., NMLS 14271

JANUARY 2nd 2012

**DECLARATION OF EASEMENTS WITH COVENANTS
AND RESTRICTIONS AFFECTING LAND
FOR THE HIGHLAND LOFTS ("ECR")**

WHEREAS, WADE & SANCHEZ ENTERPRISES, LLC, a New Mexico limited liability company ("Declarant") are the owners of the following described real property located in the County of Bernalillo, State of New Mexico, and more particularly described as follows:

Lots numbered Nineteen (19) through Twenty-one (21) and Twenty-four (24) through Thirty-three (33), Block 11, of the VALLEY VIEW ADDITION to the City of Albuquerque, New Mexico, as the same are shown and designated on the map of said Addition filed in the office of the County Clerk of Bernalillo County, New Mexico on September 2, 1911, excepting therefrom the Southwesterly portions of Lots 19, 20 and 21, conveyed to the City of Albuquerque, New Mexico, by Warranty Deed dated February 4, 1961, recorded in Book D 586, page 610, records of Bernalillo County, New Mexico.

(individually designated by lot number and collectively "Lot(s)"); and

WHEREAS, Declarant deeded to Leona G. Calderwood, as Trustee of the Leona G. Calderwood Trust, under Trust Agreement dated October 27, 1993 ("Calderwood") the following described real property prior to the recording of this Declaration, to wit:

Lots numbered Twenty-two (22) and Twenty-three (23), Block 11, of the VALLEY VIEW ADDITION to the City of Albuquerque, New Mexico, as the same are shown and designated on the map of said Addition filed in the office of the County Clerk of Bernalillo County, New Mexico on September 2, 1911, excepting therefrom the Southwesterly portions of Lots 19, 20 and 21, conveyed to the City of Albuquerque, New Mexico, by Warranty Deed dated February 4, 1961, recorded in Book D 586, page 610, records of Bernalillo County, New Mexico.

(individually designated by lot number and collectively included in the definition "Lot(s)"); and

WHEREAS, Declarant and Calderwood desire to have the Lots developed in conjunction with each other pursuant to a general plan of improvement to form a business and living environment ("The Highland Lofts"), and further desire to make all of the Lots subject to the easements, covenants, conditions and restrictions hereinafter set forth.

NOW, THEREFORE, for and in consideration of the premises, and intending that the following easements, covenants, conditions and restrictions shall be binding upon the parties hereto and their respective successors and assigns and shall attach to and run with the land which is the subject of this ECR, and shall be for the benefit of and shall be limitations upon all future owners of the Lots, and that all easements, restrictions and other covenants herein set forth shall

be appurtenant to the dominant estates and obligations on the servient estates, and in consideration of the promises, covenants, conditions, restrictions, easements and encumbrances contained herein, the sufficiency of which are hereby acknowledged, Declarant and Calderwood, for themselves and their successors and assigns, do hereby agree as follows:

1. **Definitions.** The following terms shall have the meanings set forth below:
 - a. **"Association"**: means a non-profit corporation consisting of the Owners of the Lots.
 - b. **"Building"**: means the building constructed by Declarant on Lots 22 through 33.
 - c. **"Building Area"**: means all those areas on each Lot which are from time to time covered by the building.
 - d. **"Commercial Lots"**: means Lots 22-24, 27, 28 and 31-33.
 - e. **"Commercial Uses"**: means those uses provided for on Exhibit "A" which is attached hereto and incorporated herein by reference, and accessory uses permitted herein.
 - f. **"Common Areas"**: means all of Lots 19, 20 and 21, together with those areas on each of the other Lots which are not Building Area or which cannot under the terms of this ECR be used for buildings or other commercial structures. Canopies which extend over the Common Areas, together with any columns or posts supporting same, shall be deemed to be a part of the Building or commercial structure to which they are attached and not a part of the Common Areas.
 - g. **"Floor Area"**: means the total number of square feet of floor space in the Building whether or not actually occupied (excluding balconies and decks). Floor Area shall be measured from the exterior line of the exterior walls and the center line of any party or common interior walls without deduction for columns, walls or other structural or nonstructural components.
 - h. **"Owner"**: means the person owning the fee simple interest in a Lot and shall include the contract purchaser on a real estate contract for the sale and purchase of a Lot, but not the contract seller.
 - i. **"Party Wall"**: means the structural walls between Lots.
 - j. **"Percentage Interest(s)"**: means the percentage of the annual and other assessments owed to the Association attributable to each of Lots 22 through 33. The specific



Maru Herrera

Bern. Co. DEC

R 51.00

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8462345

Page: 2 of 22

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Percentage Interests of each of said Lots is shown on Exhibit "B" which is attached hereto and incorporated herein by reference.

k. **"Person"**: means individuals, partnerships, firms, associations, corporations, limited liability companies, trusts, governmental agencies, administrative tribunals or any other form of business or legal entity.

l. **"Residential/Commercial Lots"**: means Lots 25, 26, 29 and 30.

m. **"Residential Uses"**: means a single housekeeping unit, operating on a non-profit, non-commercial basis between its occupants, cooking and eating with a common kitchen and dining area, and accessory uses as permitted herein.

n. **"Voting Interests"**: means the number of votes the members have in the Association per Lot as shown on Exhibit "B" for the Class I members and as provided for in Paragraph 5a(vii) for the Class II member.

2. **Use.** Subject to the requirements of governmental authorities, all Lots may be used for Commercial Uses. In addition, the Residential/Commercial Lots may be used for Residential Uses.

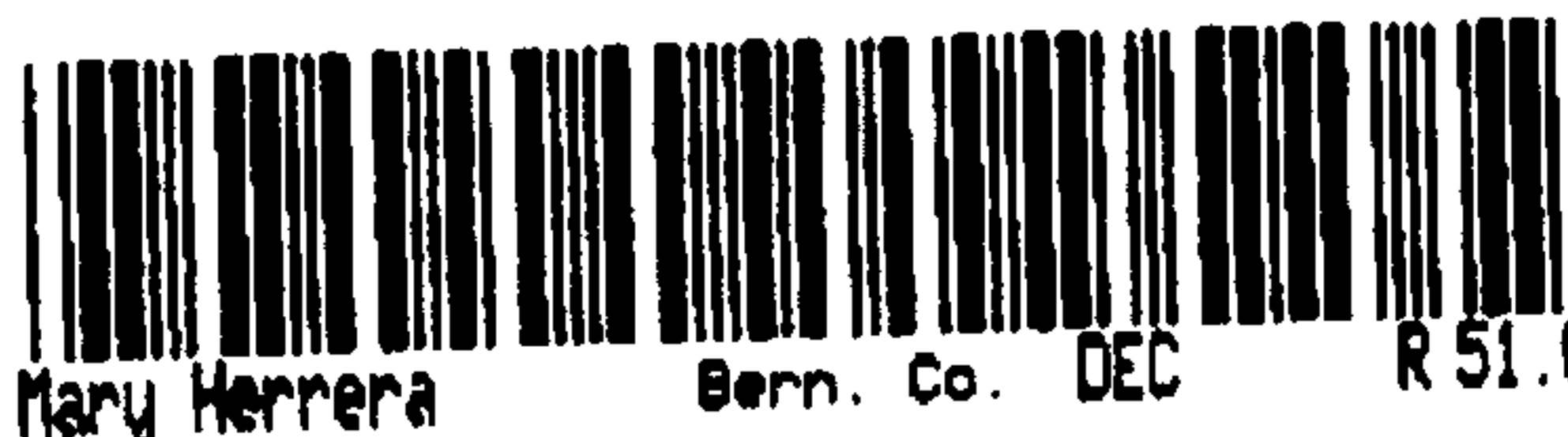
3. **Building; Subdivision; Conversion of Residential/Commercial Lots.** The Building is being constructed by Declarant and shall not be modified as to color or exterior surfaces without the written consent of the Association. The Building may not be extended beyond the Building Area constructed by the Declarant without the approval of the Association. The Association shall maintain the exterior facades of the Building. Declarant and Calderwood hereby declare that each Lot is subject to an easement for any portion of the Building or any structure which may encroach into or over said Lot from the adjoining Lot(s). Adjoining Lots may be combined into one (1) Lot, however, no Lot may be subdivided into multiple parcels (except to undo a previous combining of two (2) or more Lots). The combining of Lots shall result in the new Lot having the Percentage Interests and Voting Interests of the previous Lots. The Owners of the Residential/Commercial Lots shall have the right to convert the first floor garages into heated commercial space and garage doors to commercial store fronts; provided however all such conversions shall be approved in writing by Declarant and the Association and the exterior of any such Lots or improvements on said Lots shall conform to the architecture and color scheme of the remaining portion of the Building. In the event any such Residential/Commercial Lot is so converted, the Association shall measure the additional heated space and reallocate the percentage interest and votes in the Association.

4. **Common Area.**

a. **Grant of Easements.**

(1) **Reciprocal Ingress and Egress.** Subject to the limitations provided for elsewhere in this Paragraph 4, Declarant and Calderwood hereby declare that each Lot is

C:\D



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Page: 3 of 22
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TheHighlandLoftsECR11.doc\blk

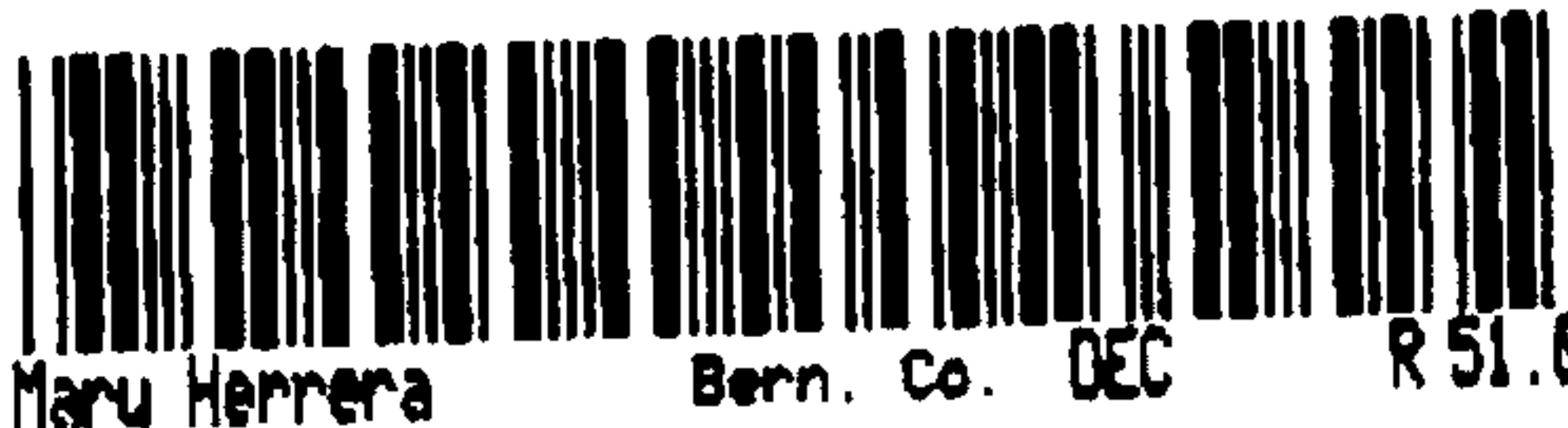
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subject to: a nonexclusive perpetual easement for ingress and egress by vehicular and pedestrian traffic and vehicular parking upon, over and across that portion of the Common Areas located on said Lot, which easement is for the benefit of every other Lot and the Owners, and their tenants, contractors, employees, agents, licensees and invitees.

(2) **Utilities and Drainage.** Declarant and Calderwood hereby declare that each Lot is subject to a nonexclusive perpetual easement under, through and across the Common Areas of said Lot for the installation, operation, maintenance, repair and replacement of water drainage systems or structures, water mains, sewers, water sprinkler system lines, telephones, electrical conduits or systems, gas mains and other public or private utilities for the benefit of every other Lot and the Owners. All such systems, structures, mains, sewers, conduits, lines and other utilities shall be installed and maintained below the ground level or surface of such easements except for ground mounted electrical transformers and such other facilities as are required to be above ground by the utility providing such service. The installation, operation, maintenance, repair and replacement of such easement facilities shall not unreasonably interfere with the use of the improved Common Areas or with the normal use and operation of any of the Lots. The Owner of the dominant Lot utilizing the easement shall bear all costs related to the installation, operation, maintenance, repair and replacement of such easement facilities, shall repair to the original specifications any damage to the Common Areas resulting from such use and shall provide as-built plans for all such easement facilities to the Owner of the servient Lot within thirty (30) days after the date of completion of construction of same. At any time and from time to time the Owner of the servient Lot shall have the right to relocate any utility line or facility installed on its Lot pursuant to the foregoing grant of easement, provided that any such relocation (i) shall be performed only after sixty (60) days' notice of the intention to undertake the relocation shall have been given to the Owner of the dominant Lot, (ii) shall not unreasonably interfere with or diminish utility service to the dominant Lot(s) served by the utility line or facility, (iii) shall not reduce or unreasonably impair the usefulness or function of the utility line or facility, (iv) shall be performed without cost or expense to the Owner of the dominant Lot, and (v) shall provide for the original and relocated area to be restored to the original specifications. The Owner of the servient Lot shall provide as-built plans for all such relocated utility lines and facilities to the Owner of the dominant Lot within thirty (30) days after the date of completion of such relocation. The Owners of each Lot shall execute such additional easements as are reasonably required by any public or private utility for the purpose of providing the utilities described herein provided such easements are not otherwise inconsistent with the provisions of this ECR.

(3) **Signs.** Declarant and Calderwood hereby declare that the only signage for each Lot shall be on the front façade of the Building on each Lot facing Adams Street and on the side facade of Lot 22 facing Zuni Avenue; provided however, and subject to governmental approval, signage may be placed on the north and south facing garage facades, as applicable, on Lots 25, 26, 29 and 30. To the extent permitted by governmental authorities, Declarant shall place monument signage on Lots 19, 20 and 21, or any one of them which shall be shared equally by the Owners of all of Lots 22 through 33. All signage shall be approved by Declarant and comply with the requirements of Exhibit "C" attached hereto and incorporated herein by reference ("Sign Criteria"). Owners may temporarily place typical "For Lease" or "For

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Sale" signs within a front window of the portion of the Building on their Lot, provided the sum of the length and the width does not exceed sixty (60) inches. Owners may also place signage for the sale or lease of a Lot on the portion of the monument sign used by said Owner. Without regards to the above, Declarant shall be permitted to display signs for the sale or lease of Lots within the Lots, including the Common Areas so long as Declarant owns one (1) Lot.

b. **Limitations on Use.**

(1) **General.** The Common Areas are hereby reserved for the sole and exclusive use of the Owners, their tenants, contractors, employees, agents, customers, licensees and invitees and the subtenants, contractors, employees, agents, customers, licensees and invitees of such tenants. The Common Areas may be used for vehicular driving, parking, pedestrian traffic, directional signs, sidewalks, walkways, landscaping, parking lighting and utilities and for no other purpose unless otherwise specifically agreed by Declarant or the Association. All improvements placed or constructed in the Common Areas shall be approved by Declarant and after Declarant turns over control of The Highland Lofts to the Association, by the Association. The Common Areas shall be kept and maintained as provided for in Paragraph 5.c. No changes to the Common Areas improvements, including, without limitation, service drives and parking areas, striping, traffic directional arrows and signs, concrete bumpers, parking lighting, and landscaped areas, together with necessary plantings, may be made without the prior written approval of Declarant or the Association.

(2) **Parking.** Declarant shall designate two (2) parking spaces for each Lot within the Common Areas which two (2) spaces shall be for the benefit of each Owner, its employees, tenants, agents, customers and invitees. Each Owner shall have the right to place signage which is approved by Declarant on said Owner's two (2) designated parking spaces. The remaining parking spaces shall be for the benefit of all Owners, their tenants, employees, customers and invitees on a first come first serve basis. The Association shall have the right to implement reasonable rules and regulations related to parking so long as said rules and regulations apply equitably to all Owners. The designated parking spaces may be reallocated or additional spaces designated for exclusive use with the consent of the Declarant or a majority of the Voting Interests in the Association.

c. **No Barriers.** No walls, fences or barriers of any kind shall be constructed or maintained on the Common Areas, or any portion thereof, which shall prevent or impair the use or exercise of any of the easements granted herein, or the free access and movement, including, without limitation, of pedestrians and vehicular traffic between the various Lots; provided however, reasonable traffic controls approved in advance by Declarant or the Association as may be necessary to guide and control the orderly flow of traffic may be installed so long as access driveways to the parking areas in the Common Areas are not closed or blocked. The only exceptions to this provision shall be (1) for changes to the Building Area and Common Areas permitted by this ECR, (2) for incidental encroachments upon the Common Areas which may occur as a result of the use of the ladders, scaffolding, storefront barricades and similar facilities resulting in temporary obstruction of the Common Areas, all of which are permitted hereunder so long as their use is kept within reasonable requirements of construction work being



expeditiously pursued, (3) for temporary blockage of certain areas deemed necessary by the parties to prevent a public dedication of an easement or access right, and (4) Declarant or the Association shall have the right to take such steps as it deems necessary to prevent those Persons not authorized to use the Common Areas from using the Common Areas for ingress, egress and parking. Such steps shall include, without limitation, the construction of fences, walls or barricades along the boundary lines of any portion of The Highland Lofts except along the common boundary line of any Lot with any other Lot.

5. **The Highland Lofts Association.**

a. **Association**

(i) The Association shall be organized to own Lots 19, 20 and 21; to manage and maintain the Common Areas and exterior of the Building; and to enforce the provisions of this ECR. The Association shall be organized as a non-profit corporation under the laws of the State of New Mexico. The Association's affairs shall be governed by this ECR, and the Association's articles of incorporation and bylaws.

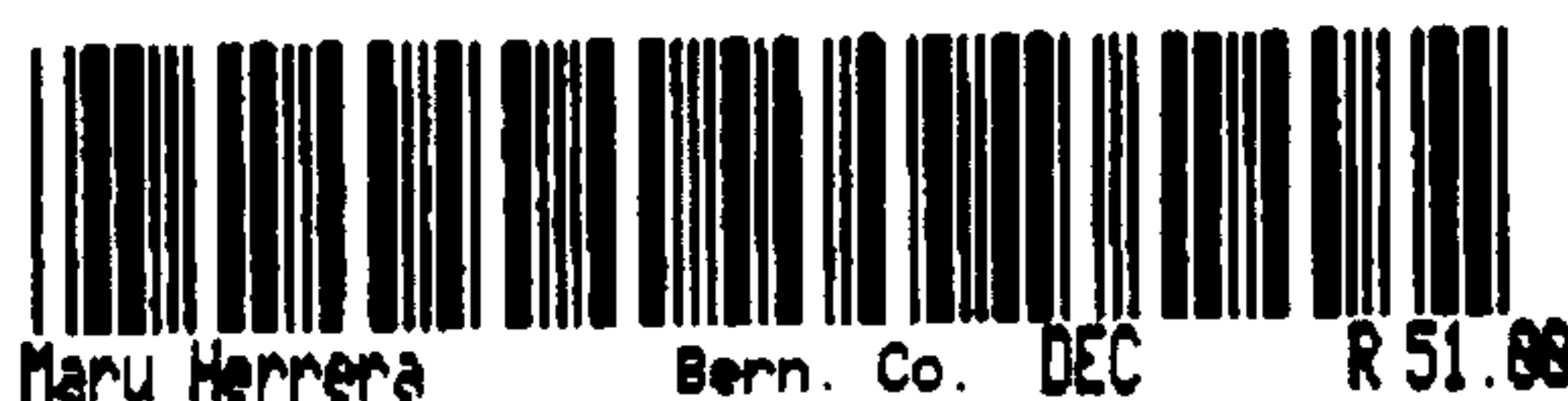
(ii) **Board of Directors.** The Association shall be managed by an elected board of directors ("Board"), which shall exercise all the rights and powers and perform all the duties and responsibilities set out in this ECR and the articles of incorporation and bylaws of the Association.

(iii) **Membership.** Each Owner of Lots 22 through 33 shall be a member of the Association for so long as ownership of a Lot continues. Rights, duties, privileges and obligations of an Owner as a member of the Association shall be those set forth in, and shall be exercised and imposed in accordance with, the provisions of this ECR, and the articles of incorporation and bylaws of the Association. The rights and obligations of an Owner and membership in the Association shall not be assigned, transferred, pledged, conveyed or alienated in any way except upon transfer of ownership to the Owner's Lot and then only to the transferee of ownership of such Lot, or by intestate succession, testamentary disposition, foreclosure of a mortgage of record, or other legal process now in effect or as may hereafter be established. Any attempt to make a prohibited transfer is void and shall not be recognized by the Association.

(iv) **Manager.** The Association may employ the services of a manager to manage and carry out the affairs of the Association.

(v) **Insurance.** The Association shall obtain and maintain in force such policies of insurance, including casualty insurance for the structural improvements within The Highland Lofts, liability insurance for the Common Areas, board of director's liability insurance and other insurance as may be deemed necessary or advisable by the board of directors.

(vi) **Rules and Regulations.** The Association may, from time to time, subject to the provisions of this declaration, adopt, declare, amend, modify and repeal rules and regulations, by a majority vote of the members of the Association. Said rules may relate to any



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matter or thing involving the Association, the Board, any committee thereof, the Common Areas, any property managed or maintained by the Association, the articles of incorporation and bylaws of the Association or this ECR. Said rules shall become effective when passed upon by the members.

(vii) Classes of Member. The Association shall have two (2) classes of voting memberships:

(1) Class I. The Class I members shall be all Owners with the exception of the Declarant and each shall have the Voting Interests provided for herein.

(2) Class II. The Class II members shall be the Declarant who shall be entitled to six (6) votes for each membership, notwithstanding the Voting Interests provided for on Exhibit "B".

The Class II membership shall terminate upon the sale by Declarant of the tenth (10th) Lot to a third party.

b. Assessments.

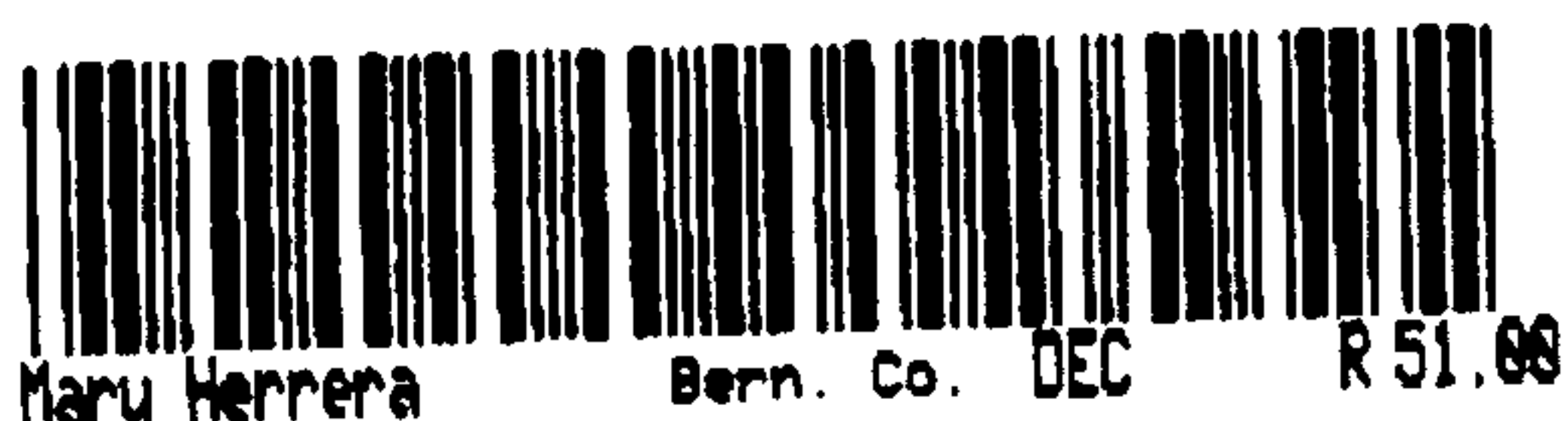
(i) Declarant, for each of Lots 22 through 33 hereby agrees to pay, and each Owner by the acceptance of a deed or contract of sale for said Owner's Lot, whether or not so expressly provided in any such deed or contract or other conveyance, is deemed to agree to pay to the Association assessments:

- (a) for maintenance of the Common Areas and exterior of the Building;
- (b) utilities for the Common Areas;
- (c) capital improvements to the Common Areas and exterior of the Building;
- (d) insurance;
- (e) operational expenses for the Association and
- (f) all other fees or other monies due to the Association from such Owner.

(collectively sometimes "Common Expenses").

The assessments, plus interest, late charges, costs and attorney's fees, shall be a charge against each of Lots 22 through 33 and shall be a continuing lien upon each such Lot against which each such assessment is made, and shall also be the personal obligation of the Owner or Owners of such Lot on the assessment date. The personal obligation to pay assessments shall not pass to successors in title unless expressly assumed by them.

(ii) Annual Assessments.



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(a) Within thirty (30) days prior to the commencement of each calendar year the Association shall budget for the costs and expenses to be incurred by the Association for Common Expenses and a reasonable provision for contingencies, and reserves for major repairs and replacements. Said amount shall be assessed against the Owners as an annual assessment. The amount of each Lot's share of the annual assessment shall be determined as follows:

Total annual assessments, times the Percentage Interest of each of Lots 22 through 33.

(b) If, at any time and from time to time, during any calendar year, the annual assessments prove or appear likely to be inadequate for any reason, including non-payment of any Owner's share thereof, the Association may levy a further assessment in the amount of such actual or estimated inadequacy, which shall be assessed to all Owners and apportioned as provided in subsection (i).

(c) Annual assessments shall be due and payable to the Association when levied or in such installments during the year, and on such due dates as the Board shall designate. Initially the annual assessments shall be due monthly on the first day of each month.

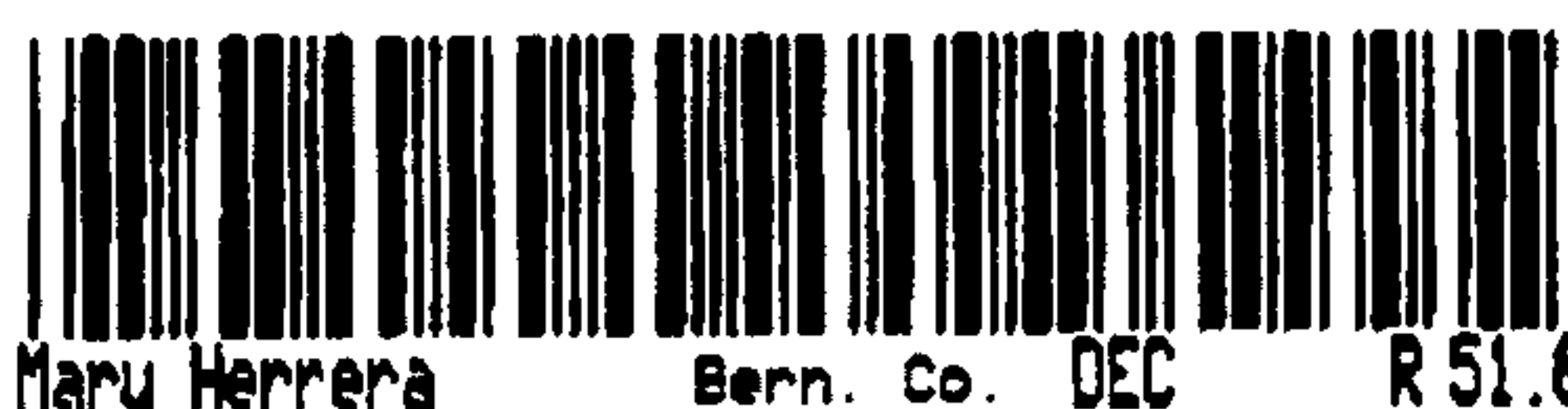
(iii) Capital Assessments.

(a) The Association may also levy in any year an assessment for paying or returning, in whole or in part, the cost or proposed cost of acquisition and construction of a described capital improvement (whether the improvements constitute real or personal property), in an amount greater than can be included in the annual assessments, provided it has been approved by a majority of the Voting Interests in the Association, which assessment shall be assessed to Owners in the same manner as provided for in Paragraph 5b(ii)(c).

(b) Initially, on the closing of the sale of each Lot by Declarant, Declarant shall collect from each purchaser a capital assessment equal to one (1) month's annual assessment ("Initial Capital Assessment") and pay said amount over to the Association to help capitalize the Association. If Declarant has not sold all Lots within one (1) year of the filing of this ECR, Declarant shall pay an Initial Capital Assessment for each Lot owned by Declarant.

(iv) Payment Obligations; Liens.

(a) Each assessment under this Paragraph 5 shall be the separate, distinct and personal debt and obligation of the Owner against whom it is assessed. Any assessment provided for in this Paragraph, which is not paid when due, shall be delinquent. With respect to each assessment not paid within fifteen (15) days after its due date, the Association may, at its election, require the Owner to pay a late charge of 10% of the delinquent amount, interest at eighteen percent (18%) per annum, plus the reasonable costs of collection,



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including attorney's fees. Such charges shall be considered an additional assessment and collectible with the assessment for which it was charged. If any such assessment is not paid within thirty (30) days after its due date, the Association may, at its option, file in the real property records of Bernalillo County, New Mexico, a notice of delinquent assessment specifying the particulars thereof, including (i) name of Owner, (ii) date and amount of assessment and (iii) the description of each Lot as to which the assessment is delinquent, and bring an action at law against the Owner or Owners personally obligated to pay the same, and upon compliance with the provisions of this subparagraph to foreclose the lien against the Lot, and there shall be added to the amount of such assessment the late charge, the costs of preparing and filing the lien and complaint in such action, and in the event a judgment is obtained, such judgment shall include interest at the rate provided for herein and a reasonable attorney's fee, together with the costs of the action. Each Owner vests in the Association, or its assigns, the right and power to bring all actions at law or lien foreclosure against such Owner or Owners for the collection of such delinquent assessments.

(b) No action shall be brought to foreclose an assessment lien less than thirty (30) days after the date a notice of claim is deposited in the United States Mail, certified or registered, postage prepaid, to the Owner of said Lot, and a copy thereof is recorded by the Association in the office of the Bernalillo County Clerk; said notice of claim must recite a good and sufficient legal description of the Lot, the record Owner or reputed Owner thereof, the amount claimed (which shall include the interest and late charges, costs and attorney's fees recoverable by an action at law) and the name and address of the Association.

(c) Any such sale provided for above is to be conducted in accordance with the customary practice of the courts of the State of New Mexico, applicable to the foreclosure of mortgages, or in any other manner permitted or provided by law. The Association, through its duly authorized agents, shall have the power to bid on the Lot at the foreclosure sale, and to acquire and hold, lease, mortgage, and convey the same.

(d) Upon the timely curing of any default for which a notice of claim of lien was filed by the Association, the officers of the Association are hereby authorized to file for record, as the case may be, an appropriate release of such notice, upon payment by the defaulting Owner of a fee, to be determined by the Association, in an amount sufficient to cover the actual costs of preparing and filing or recording such release, together with the payment of such other costs, interest or fees as shall have been incurred.

(e) The assessment lien and the rights to foreclosure and sale thereunder shall be in addition to and not in substitution for all other rights and remedies which the Association and its assigns may have hereunder and by law, including a suit to recover a money judgment for unpaid assessments, as above provided.

(f) The Association shall, upon demand, furnish to any Owner liable for assessments, a certificate in writing signed by an officer of the Association, setting forth whether the assessments on a specified Lot have been paid, and the amount of the delinquency, if any. A reasonable charge may be made by the Board for the issuance of these



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certificates. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

(g) The assessments provided for in this Paragraph 5 shall commence on the effective date of closing on the sale, transfer or other conveyance of a Lot from Declarant to a third party and as to Lots 22 and 23 on the date of the recording of this Declaration.

(h) The lien for assessments shall be subordinate to the lien of any first mortgage placed upon a Lot in good faith and for value; however, such subordination applies only to the assessments before the sale or transfer of the Lot pursuant to a decree of foreclosure, or any transfer in lieu of foreclosure. The sale or transfer does not release the Lot from the liability or lien for assessments thereafter becoming due.

c. **Maintenance.**

(1) **By Association.** The Association shall maintain or cause to be maintained the Common Areas and exterior of the Building at all times in good and clean condition and repair, said maintenance to include, without limitation, the following:

(a) Maintaining, repairing and replacing the exterior facades and structural portions of the Building, except signage;

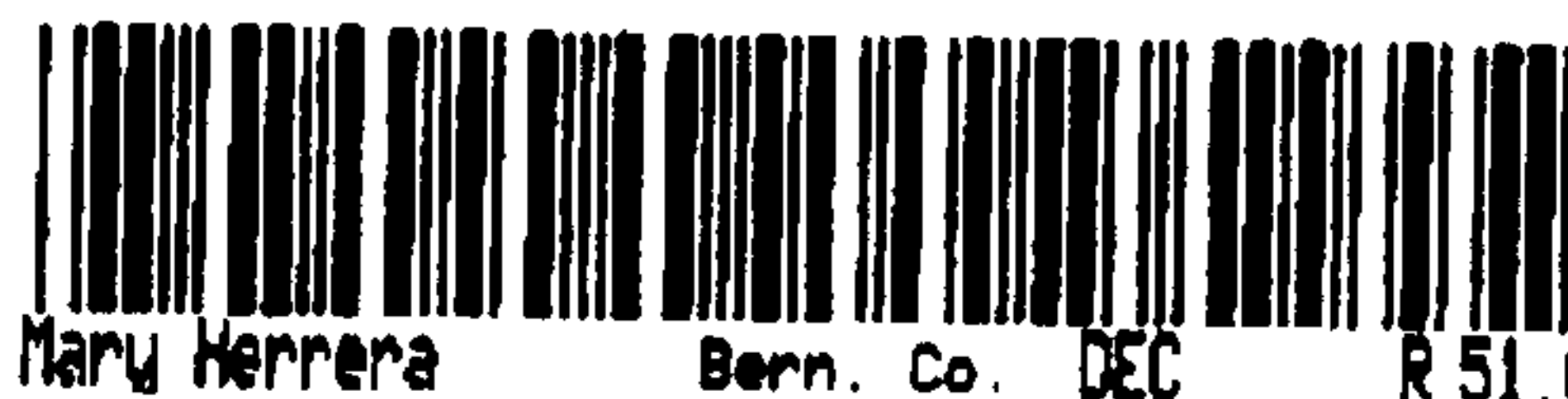
(b) Maintaining, repairing, replacing and resurfacing, when necessary, all paved surfaces in a level, smooth and evenly covered condition with the type of surfacing material originally installed or such substitute as shall in all respects be equal or superior in quality, use and durability; and restriping, when necessary;

(c) Removing all snow, papers, debris, filth and refuse and thoroughly sweeping the area to the extent reasonably necessary to keep the area in a clean and orderly condition;

(d) Maintaining, repairing and replacing, when necessary, all traffic directional signs, markers and lines;

(e) Operating, maintaining, repairing and replacing, when necessary, such artificial lighting facilities as shall be reasonably required;

(f) Maintaining all landscaped areas (including, without limitation, those on the perimeter of The Highland Lofts); maintaining, repairing and replacing, when necessary, automatic sprinkler systems and water lines; and replacing shrubs and other landscaping as is necessary;



(g) Maintaining, repairing and replacing, when necessary, all storm drains, sewers and other utility lines and facilities not dedicated to the public or conveyed to any public or private utility which are necessary for the operation of the buildings and improvements located in The Highland Lofts;

(h) Operating, maintaining, repairing and replacing, when necessary, signage in the Common Areas (except for the sign fascia and cans which shall be supplied and maintained by the businesses designated thereon); and

(i) Performing itself or contracting with a third party or parties to perform any of the services described herein.

(2) **By the Owners.** The Owners shall maintain or cause to be maintained the exterior signage for said Owner's Lot and all non-structural portions of the Building on said Owner's Lot which are not the responsibility of the Association. The Owner of each Lot shall not commit waste or damage to any portion of the Common Areas or the exterior of the Building on said Owner's Lot or any other Lot.

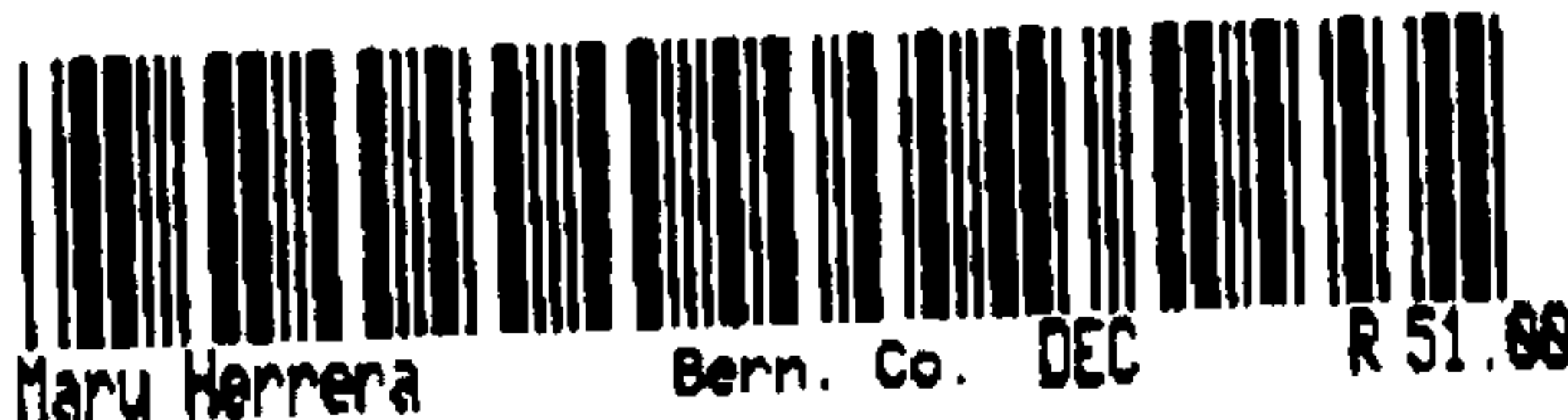
(3) **Good Condition.** The Association and the Owners shall maintain The Highland Lofts, as to their respective responsibilities, in good and clean condition at all times commensurate with a comparable first class project in Albuquerque, New Mexico.

6. **Indemnification/Insurance/Waiver of Subrogation.**

a. **Indemnification.** Each Owner hereby agrees to indemnify and save the other Owners harmless from any and all liability, damage, expense, causes of action, suits, claims or judgments of third parties arising from personal injury, death or property damage and occurring on or from its Lot, including the Common Areas, except to the extent proximately caused, in whole or in part, by the act or omission of the party claiming indemnification hereunder.

b. **Insurance.**

(1) The Association shall maintain casualty insurance on the Building and structural components thereof and improvements within the Common Areas in amounts and coverages as determined by the Board of Directors of the Association and as provided for in the Bylaws of the Association. The Association shall also maintain general liability insurance with broad form coverage endorsement (including broad form property damage endorsement) covering claims for personal injury, bodily injury or death, and property damage or destruction within the Common Areas. Initially, the amount of said general liability insurance shall not be less than \$1,000,000.00 for personal injury, death or property damage in the aggregate. The Association shall not be required to insure the contents of the Building. The Association shall also carry insurance on the Board of Directors and fidelity insurance as deemed appropriate by the Board of Directors. The cost of insurance shall be apportioned among the Owners of the Lots based upon the Percentage Interests.



(2) Each Owner shall provide and maintain general liability insurance for claims arising within the portion of the Building on said Owner's Lot, unless otherwise covered by the insurance maintained by the Association and shall maintain insurance on the contents of the portion of the Building on said Owner's Lot, together with all other improvements thereto which are not insured by the Association.

c. **Waiver of Subrogation.** Neither Declarant, the Association nor the other Owners, their successors and assigns shall be liable to the other or to any insurance company (by way of subrogation or otherwise) insuring the other party for any loss or damage to any building, structure or other tangible property, or any resulting loss of income and benefits, even though such loss or damage might have been occasioned by the negligence of such party, its agents or employees if any such loss or damage is covered by insurance benefitting the party suffering such loss or damage or was required to be covered by insurance pursuant to this ECR. Declarant and the other Owners, their successors and assigns shall require their respective insurance companies to include a standard waiver of subrogation provision in their respective policies.

7. **Eminent Domain.**

a. **Owner's Right to Award.** Nothing herein shall be construed to give any Owner any interest in any award or payment made to any other Owner in connection with any exercise of eminent domain, condemnation or transfer in lieu thereof. In the event of any exercise of eminent domain, condemnation or transfer in lieu thereof of any part of the Common Areas, the award attributable to the land and improvements of such portion of the Common Areas shall be payable only to the Owner thereof, and no claim thereon shall be made by the Owners of any other portion of the Common Areas.

b. **Collateral Claims.** All Owners may file collateral claims with the condemning authority for their losses which are separate and apart from the value of the land area and improvements taken from another Owner as it relates to the Common Areas taken, including, but not limited to access and parking.

8. **Restoration of The Highland Lofts - Casualty or Eminent Domain.** In the event all or any portion of the Building or the other improvements in The Highland Lofts are damaged or destroyed by fire or other insured casualty, or are taken or damaged as a result of the exercise of the power of eminent domain, condemnation or any transfer in lieu thereof, the Association shall promptly restore or cause to be restored the remaining portion of the Building and improvements as nearly as practicable to the condition of the same immediately prior to such casualty or eminent domain, condemnation or transfer in lieu thereof. The Owners of each Lot hereby assign any proceeds of insurance or eminent domain to the Association which relate to the portion of the Building and Common Areas so damaged or taken for the purpose of rebuilding same.

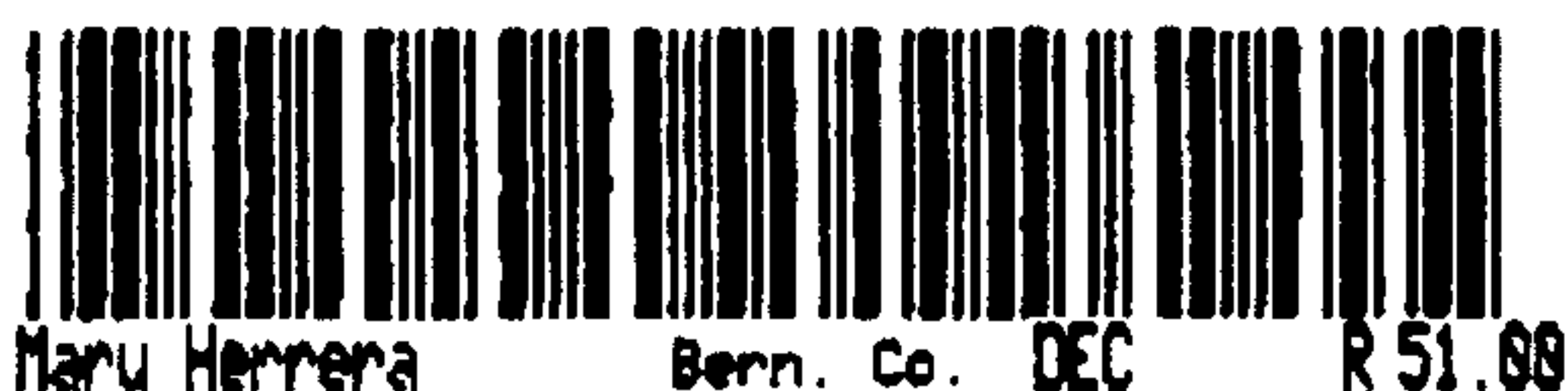


9. **Obligation of and Conditions to Release from Liability as to Successors and Assigns.** Declarant and all Owners, their tenants, occupants, successors and assigns shall be bound by this ECR, but only during the period such Persons own a fee or leasehold interest in such Lot or portion of the Lot, except as to obligations, liabilities or responsibilities that accrue during said period.

10. **Breach.** In the event of a breach or threatened breach of this ECR, only the Declarant, the Association or all record Owners of each Lot as a group shall be entitled to give written notice of the alleged default and to institute proceedings for full and adequate relief from the consequences of said breach or threatened breach. The unsuccessful party in any such action shall pay to the prevailing party all costs of enforcement and/or recovery of damages, including reasonable attorneys' fees. The failure of the Declarant, the Association or the Owners of any of the Lots to insist in any one or more cases upon the strict performance of any of the promises, covenants, conditions, restrictions or agreements herein, shall not be construed as a waiver or relinquishment of any future breach of the same or other provisions hereof.

11. **Remedies for Default; Claim of Lien; Waiver.** If the Owner of any Lot shall default in the full, faithful and punctual performance of any obligation hereunder and if at the end of thirty (30) days after receipt of written notice from the Declarant, the Association, an Owner or group of Owners authorized under Paragraph 10 to give notice of default, stating that: (i) the defaulting Owner has failed to cure a monetary default ("Monetary Claims"), the amount due shall bear interest at eighteen percent (18%) per annum; or (ii) the defaulting Owner has failed to cure a non-monetary default, or diligently commence a cure, then the Declarant, the Association or an Owner or group of Owners who gave the written notice of default shall, in addition to all other remedies available at law or in equity, have the right to perform such obligation of this ECR on behalf of such defaulting Owner and be reimbursed by such defaulting Owner for the cost thereof ("Reimbursement for Non-Monetary Claims") and the amount due shall bear interest at the rate of eighteen percent (18%) per annum. Any Monetary Claims or Reimbursement for Non-Monetary Claims, together with interest as aforesaid, shall be a secured claim and a lien shall attach and take effect upon recordation of a claim of lien by the claimant in the office of the Bernalillo County Clerk. The claim of lien shall include the following: (1) the name of the claimant or group of claimants, as the case may be; (2) a statement concerning the basis of the claim of lien; (3) the last known name and address of the Owner or reputed Owner of the Lot against which the lien is claimed; (4) a description of the Lot against which the lien is claimed; (5) a description of the monetary amount or work performed and reimbursement sought which has given rise to the claim of lien hereunder and a statement itemizing the amount thereof; and (6) a statement that the lien is claimed pursuant to the provisions of this ECR. The claim of lien shall be duly verified, acknowledged and contain a certificate that a copy thereof has been served upon the party against whom the lien is claimed, either by personal service or by mailing (first class, certified, or return receipt requested) to the defaulting Lot Owner, at the address for mailing of tax statements with respect to the property against which the lien is claimed. The lien so claimed shall attach from the date of recordation in the amount claimed thereby and it may be enforced in any manner allowed by law for the foreclosure of liens in New Mexico. Notwithstanding the foregoing, such claims of lien Monetary Claims and Reimbursement for Non-Monetary Claims shall be subordinate to any

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first mortgage or deed of trust given in good faith and for value now or hereafter encumbering The Highland Lofts or any portion thereof, and any purchaser at any foreclosure or trustee's sale (as well as any grantee by deed in lieu of foreclosure or trustee's sale) under any first mortgage or deed of trust shall take free and clear from such then existing lien but otherwise subject to the provisions of this ECR. The failure of the Declarant, the Association or Owners of any of the Lots insist in any one or more cases upon the strict performance of any of the promises, covenants, conditions, restrictions or agreements herein, shall not be construed as a waiver or relinquishment of any future breach of the same or other provisions hereof.

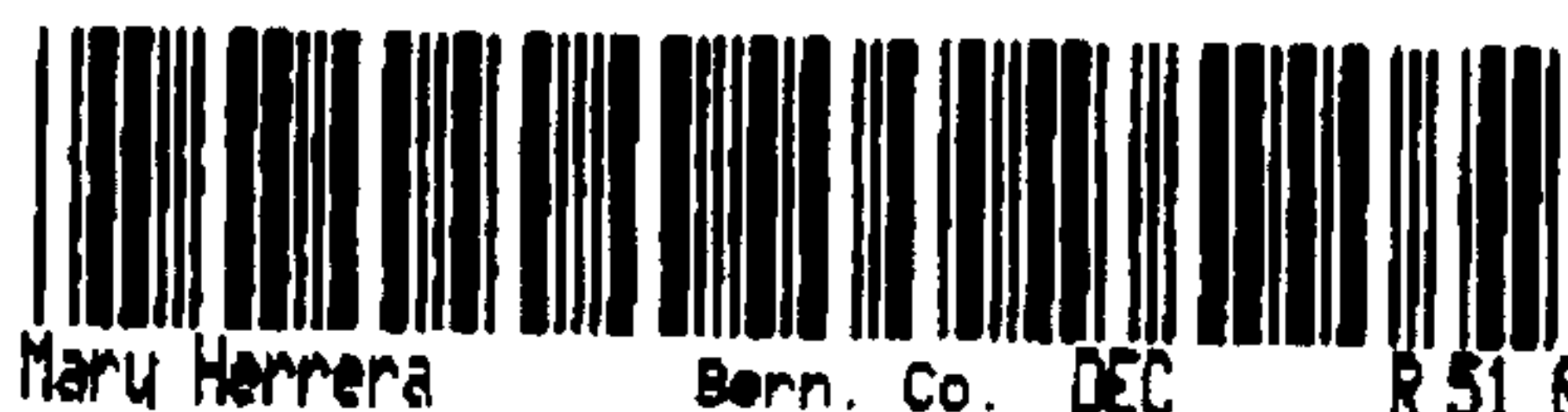
12. **Assignment of Declarant's Right.** All of Declarant's rights provided for herein shall automatically pass to the Association at the earlier of:

- (a) the date Declarant sells the last Lot to a third party;
- (b) the date Declarant formally assigns all of Declarant's right by a recorded document to the Association recorded in the real estate records of Bernalillo County, New Mexico; or
- (c) three (3) years after the date of the recording of this ECR in the real estate records of Bernalillo County, New Mexico.
- (d) Declarant may partially assign any rights of Declarant to the Association at any time.

13. **Rights of Successors.** The easements, restrictions, benefits and obligations hereunder shall create mutual benefits and servitudes running with the land. This ECR shall bind and inure to the benefit of the parties hereto, their respective successors and assigns.

14. **Document Execution, Modification and Termination.** This ECR may be executed in multiple counterparts, each of which shall constitute a duplicate original, but all of which together shall constitute one and the same agreement. If this ECR is executed in multiple counterparts, the parties shall each execute and acknowledge said execution on counterpart signature pages and a manually executed counterpart signature page for each party shall be attached to a counterpart of this ECR and that counterpart, and only that counterpart to which are attached all of the manually executed counterpart signature pages, shall be filed of record with the County Clerk of Bernalillo County, New Mexico. This ECR (including exhibits) may be modified or terminated in whole or in part at any time seventy-five percent (75%) or more of the Voting Interests in the Association by written instrument, duly executed by the President and Secretary of the Association, and recorded, either modifying or terminating this ECR.

15. **Duration.** The provisions, conditions, covenants and restrictions in this ECR shall run with the land and continue in full force and effect for a period of thirty (30) years from the date of the filing of this ECR in the office of the County Clerk of Bernalillo County, New Mexico, at which time they shall be automatically extended for a period of ten (10) years and thereafter for successive ten (10) year periods, unless, before the commencement of any



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extension period by the President and Secretary of the Association, seventy-five percent (75%) or more of the Voting Interests in the Association by written instrument, duly executed and recorded, shall declare a termination of this ECR. Any such termination shall become effective upon the date the automatic extension would otherwise have taken effect.

16. **Limitation on Indemnities.** No indemnities contained herein shall extend to those matters for which indemnification is prohibited pursuant to Section 56-7-1 N.M.S.A. 1978, as amended.

17. **Not a Public Dedication.** Nothing herein contained shall be deemed to be a gift or dedication of any portion of the Common Areas to the general public or for the general public or for any public purpose whatsoever, it being the intention of the parties hereto that this ECR shall be strictly limited to and for the purposes herein expressed. The right of the public or any Person to make any use whatsoever of the Common Areas of a Lot, or any portion thereof (other than any use expressly allowed by a written or recorded map, agreement, deed or dedication) is by permission, and subject to the control of the Owner. Notwithstanding any other provisions herein to the contrary, the Owners of the Lot affected hereby may periodically restrict ingress and egress to and from the Common Areas in order to prevent a prescriptive easement from arising by reason of continued public use. Any restriction on ingress and egress shall be limited to the minimum period necessary to prevent the creation of a prescriptive easement and shall occur at such a time as to have a minimum effect on the parties in occupancy within The Highland Lofts, and shall be approved by Declarant or the Association.

18. **Headings/Singular/Plural.** The headings herein are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope or intent of this document nor in any way affect the terms and provisions hereof. The singular number includes the plural and vice versa. The use of either masculine, feminine or neuter includes the other two.

IN WITNESS WHEREOF, the parties have executed this ECR the day and year first written above.


Mary Herrera Bern. Co. DEC R 51.00 2006074783
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SIGNATURE PAGE NO. 1 TO ECR

WADE & SANCHEZ ENTERPRISES, LLC,
a New Mexico limited liability company


By: 
Joseph Sanchez, Member


By: 
Katherine Wade, Member

STATE OF NEW MEXICO)
)
COUNTY OF BERNALILLO)

This instrument was acknowledged before me on May 19, 2006, by JOSEPH SANCHEZ and KATHERINE WADE, Members of WADE & SANCHEZ ENTERPRISES, L.L.C., a New Mexico limited liability company.

MY COMMISSION EXPIRES:
12/14/06

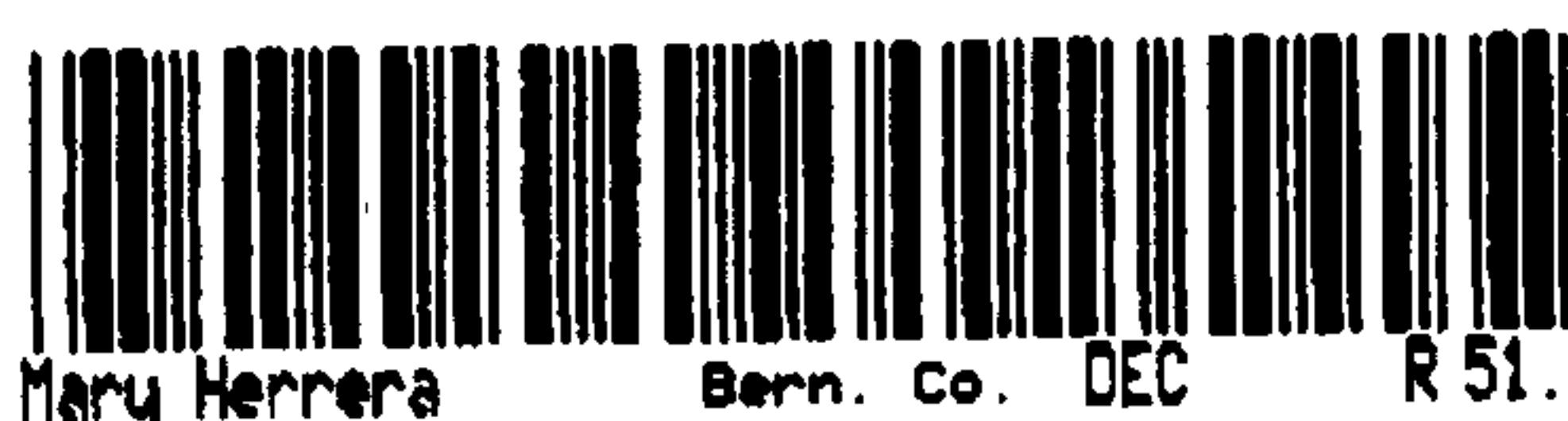

NOTARY PUBLIC
CAROL LEA RODGERS
NOTARY PUBLIC STATE OF NEW MEXICO
My commission expires: _____


Mary Herrera Bern. Co. DEC R 51.00 2006074783
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“EXHIBIT A”

Commercial Uses

Antique Sales and Repair
Architect, Engineer
Art Gallery
Art Supply Store
Bakery/Confectionary Shop – Retail Only
Barber shop
Beauty Shop
C.B. Sales and Service
Chiropractor
Medical clinic – doctor/dental office
Coin Shop
Doctor’s Office
Dog Obedience School – inside only; no boarding
Dressmaking/Tailor
Dry Goods Store
Employment Agency
Engineer
Florist Shop
Furniture Store (boutique, retail)
Delicatessen
Hardware Store
Health Facilities such as yoga/pilates studio; low volume fitness gym such as “Curves”
Hypnotherapy
Income Tax Service
Insurance Agency
Interior decorating Shop
Jewelry Manufacturing – boutique, custom
Jewelry Store
Lawyer
Locksmith
Massage
Maternity Clinic
Medical/Dental lab
Moped Sales – Inside showroom only; no exterior demo or show lot
Mortgage Broker
Musical Instrument shop
Newsstand
Office – general, professional, counseling, consulting



Office Machines Sales and Repair
Palm Reader
Pet Grooming
Pet Shop
Pharmacy
Photo Equipment Shop
Photo Studio
Photography Study
Physiotherapy Office
Picture Framing Shop
Plumber- retail
Prosthetic or Corrective Devices Shop
Printing, publishing, lithography
Real Estate Broker
Record Shop
Religious Articles Supply Store
Restaurant - Café – no drive-in, no liquor or beer/wine, limited evening hours
Retail
Sales and Display for wholesalers
Saving and Loan Assn; no "Pay-Day" or cash outlets
Shoe Store – boutique
Shoeshine and repair
Smokers Shop
Spa – day only
Sporting Goods shop
Studio for instruction in music and dance
Title Company
Upholstery shop
Wholesaler of jewelry

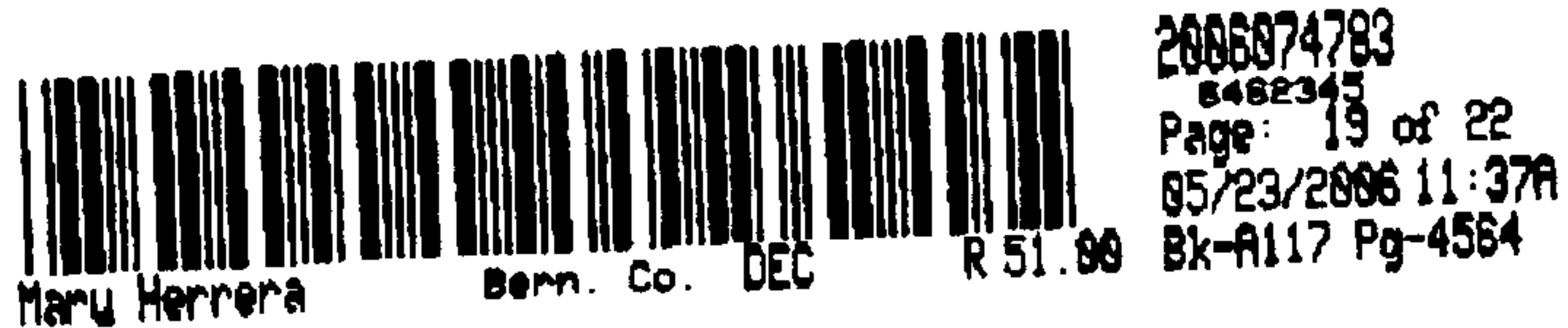


EXHIBIT "B"

Percentage Interest(s) & Voting

<u>Lot Number</u>	<u>Percentage Interest(s)</u>	<u>Class I Voting Interest in Association</u>
22	7%	1
23	7%	1
24	7%	1
25	11%	1½
26	11%	1½
27	7%	1
28	7%	1
29	11%	1½
30	11%	1½
31	7%	1
32	7%	1
33	7%	1



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Mary Herrera Bern. Co. DEC R 51.00 Bk-A117 Pg-4564

EXHIBIT "C" Signage Proposal

SignArt of New Mexico, Inc.
117 Veranda Rd. NW
P.O. Box 6391
ALBUQUERQUE, NEW MEXICO 87107
(505) 344-0871 FAX (505) 345-3908
License: #029553

To: **The Highland Lofts**
312 Adams S.E.
Albuquerque, N.M. 87108

CLIENT: Joe Sanchez -Kay Ward	
ADDRESS:	
PHONE: 292-2021	FAX:
e-mail: jpsan@sandta.net	

Description:
Manufacture and install (12) 3'-0" x 7'-0" single faced interior illuminated signs. Price per sign is \$1,200.00 + Tax 81.00 = \$1,281.00
* It is the customer's responsibility to bring power to the signs location. * Price does not include permits.
WE PROPOSE hereby to furnish signage - complete in accordance with the above specifications, for the sum of \$ 0.00 Tax 0.00 dollars (\$ total) 0.00
Payment to be as follows: 50% down = \$ 0.00 to start, with the balance due upon completion.

Terms & Conditions

SKETCH DEPOSIT: The sketch deposit covers minimal costs involved in developing property of the designer.

PRICE QUOTATION GOOD FOR 30 DAYS

PRICES as indicated above, are preliminary estimates for set sign work only. Phonemes, typography, photographs, overruns, changes and/or time additions, delays caused by the client, special consultations and all other work expenses that cannot be estimated accurately in advance will be billed extra unless otherwise specified herein.

FINISHED art, mechanicals, and signs will be released for use by the client only. Mechanicals, original art, sketches and materials other than signs originated by the designer are the property of the designer, and will be held for the client, unless otherwise shown.

SPECIAL conditions on client's purchase orders in no way negate the above Conditions of Sale. In ordering the work described above, the client accepts all of these conditions whether noted on his purchase order or not.

IF UNUSUAL STOPPING conditions (i.e., logs, water, etc.) are encountered in ground installation, this contract is binding; however, an additional cost based on our labor, plus 10% on sub-contract labor and materials, will be added to the above price.

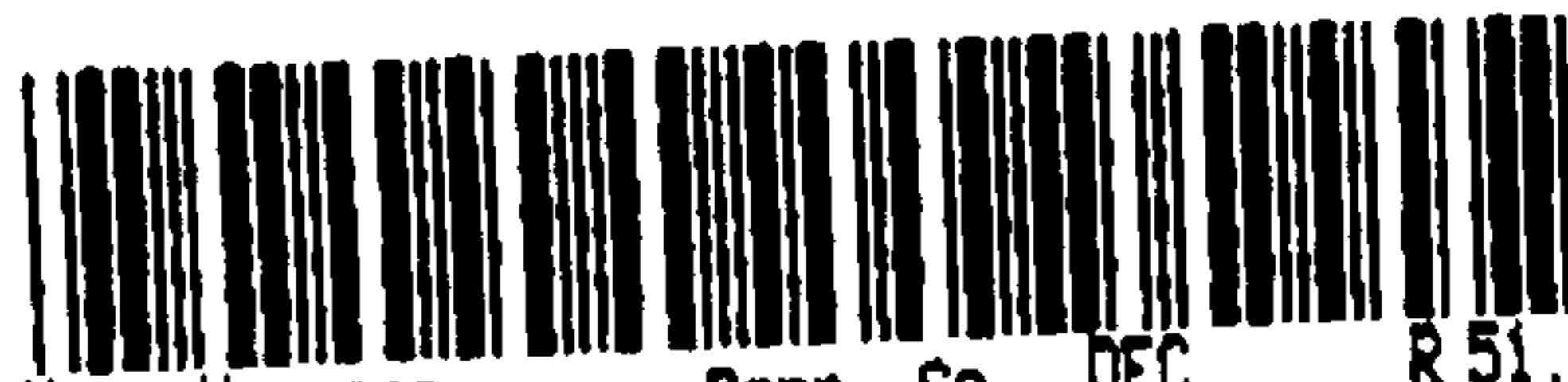
THE CLIENT agrees to pay all costs of collection in the event of default of payment by the client, including a reasonable attorney's fee. In the event of delinquent payments, the client will be charged a rate of 1.7% interest for every month after the first 30 days.

Quoted By: Dan Jones Date: 2/25/06

Acceptance of Proposal

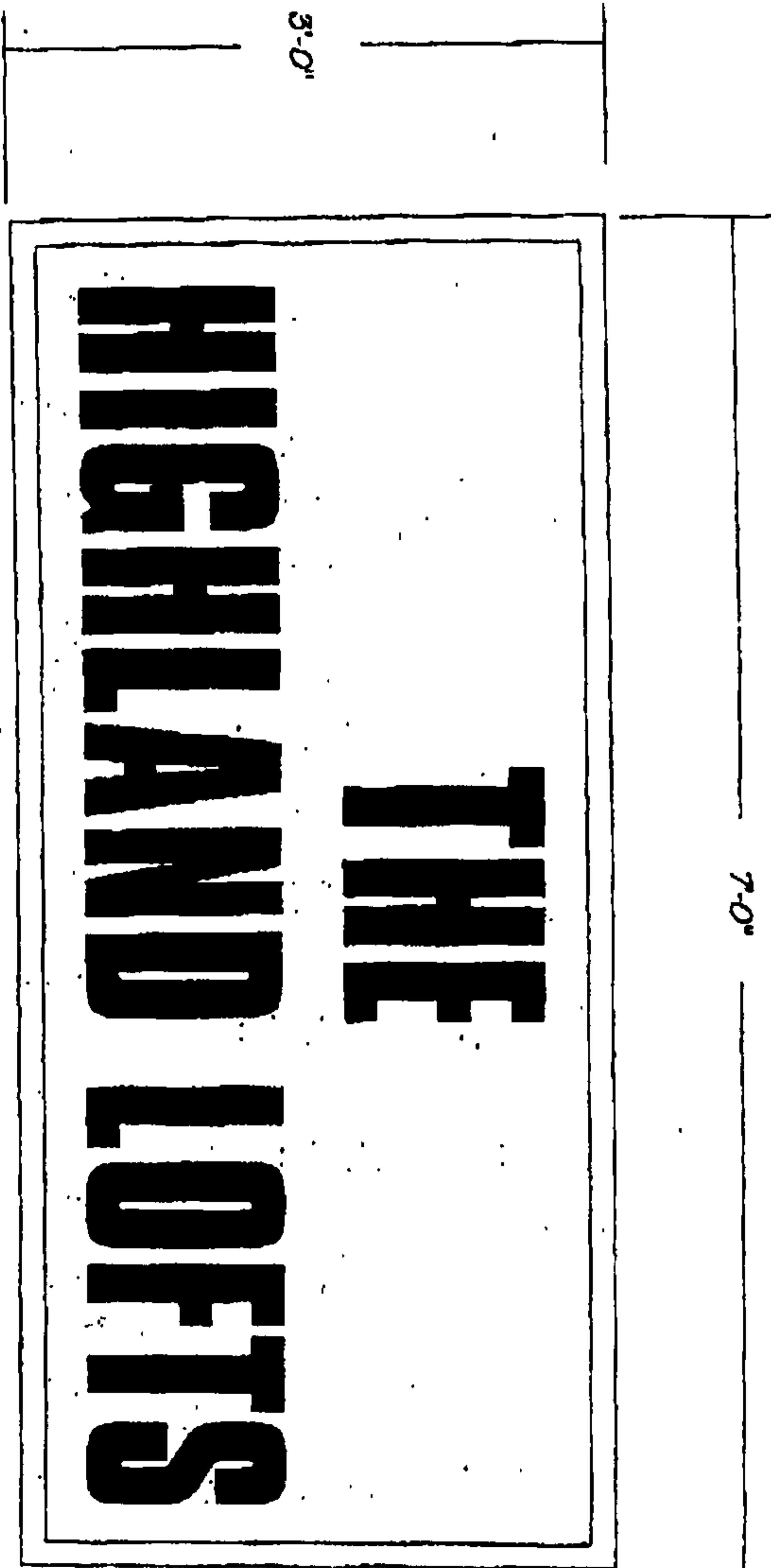
The above prices, specifications, and conditions are satisfactory and are hereby accepted. You are authorized to do the work above as specified. Payment will be made as outlined above.

Signature _____ Date _____



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COLORS SHOWN ARE REPRESENTATIONAL ONLY. SEE MATERIAL SAMPLES FOR ACTUAL COLORS.
COURTESY OF THE MANUFACTURER. ALL RIGHTS RESERVED. THIS DOCUMENT IS THE PROPERTY OF SIGNART AND IS TO BE USED ONLY FOR THE PROJECT SPECIFICALLY IDENTIFIED IN THE PROJECT NAME. ANY REUSE OR MODIFICATION OF THIS DOCUMENT WITHOUT THE WRITTEN PERMISSION OF SIGNART IS STRICTLY PROHIBITED.

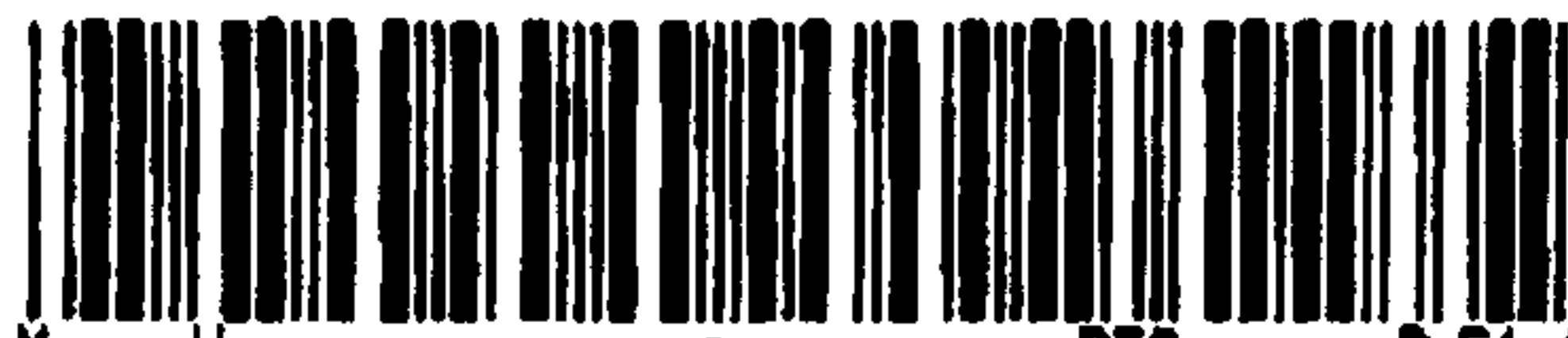


S/F DISPLAY - INTERIOR ILLUM.
WHITE LEXAN FACE WITH VINYL OVERLAY
USE CALONOS INDRY, 49 BURGUNDY

SignArt
OF NEW MEXICO INC.
CORP. 224 W. 19TH ST.
ALBUQUERQUE, NM 87102

SCALE: 1"=1'
SKETCH NO: 12524 02/11/06
SALES: D. JONES

REVISIONS:
02/16/06



Maru Herrera Bern. Co. DEC R 51.00

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LMS
4-24-06 (2)

COMMON ACCESS EASEMENT GRANT AND MAINTENANCE AGREEMENT

THIS COMMON ACCESS EASEMENT GRANT AND MAINTENANCE AGREEMENT (hereinafter referred to as Agreement) is made and executed this 15th day of September 2005, by Sanchez and Wade Enterprises, LLC (hereinafter referred to as "Owner").

WHEREAS, Owner owns that certain real property located in Bernalillo County, New Mexico, more particularly described as follows:

Lots numbered Nineteen (19) through Thirty-three (33), Block 11, of the VALLEY VIEW ADDITION to the City of Albuquerque, New Mexico, as the same is shown and designated on the map of said Addition filed in the Office of the County Clerk of Bernalillo County, New Mexico on September 2, 1911, excepting therefrom the Southwesterly portions of Lots 19, 20, and 21, conveyed to the City of Albuquerque, New Mexico, by Warranty Deed dated February 4, 1961, recorded in Book D 586, page 610, records of Bernalillo County, New Mexico, hereinafter referred to as "Property."

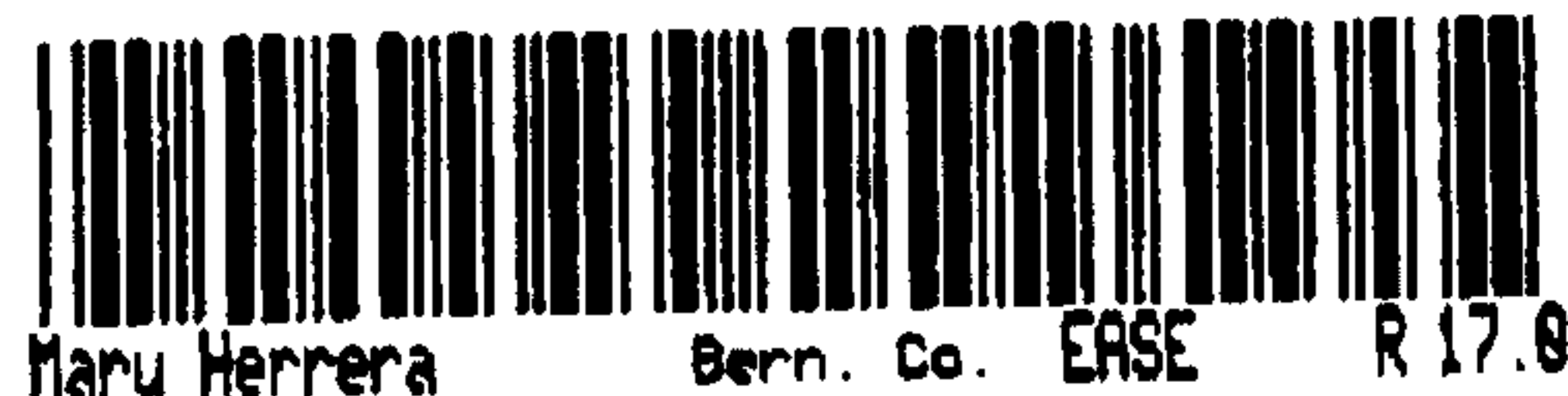
WHEREAS, Owner constructed driveways for access to and from the street abutting the Property.

WHEREAS, Owner, by this instrument, grants Common Access Easement to the Property.

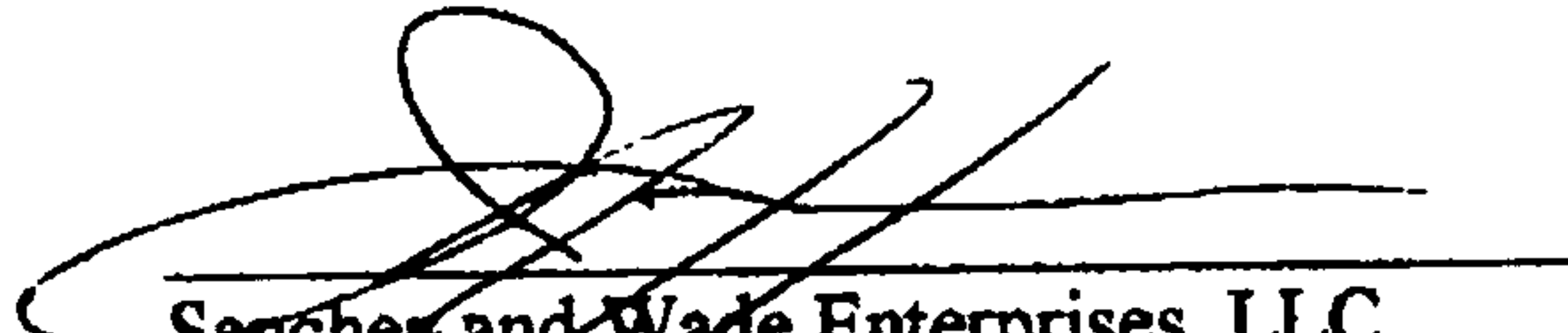
WHEREAS, Owner executes this agreement as a means of setting forth his understanding of the use, repair, and maintenance of the Common Access Easement;

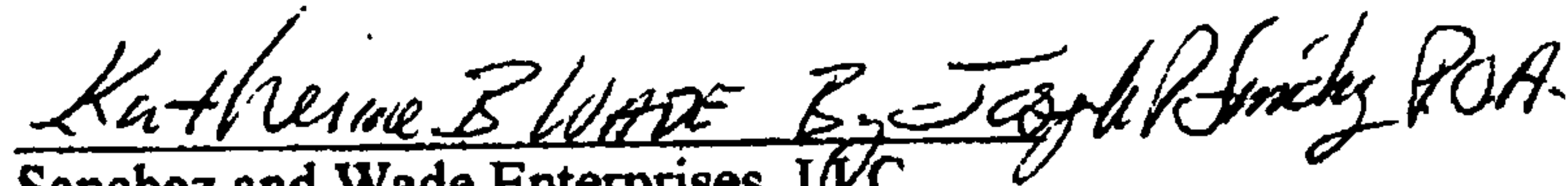
NOW THEREFORE, Owner agrees as follows:

1. Owner grants Common Access Easement of Lots 19 through 33 (Property) for the purpose of providing access for the Property residents, their guests and clients, fire fighting and emergency entities to the Property from Adams Road S.E.
2. Repairs and maintenance of the Common Access Easement shall be the responsibility of Owner, or upon sale of the Property, the lot owners, or the homeowners association, if applicable.
3. This Agreement pertaining to Lots 19 through 33 (Property), the Common Access Easement, and the obligations created hereby, shall be perpetual and binding upon the lot owners, their heirs, personal representatives, and assigns in all respects, or a homeowners association, if applicable, and shall be deemed to run with the land forever.



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Sanchez and Wade Enterprises, LLC
By: Joseph P. Sanchez


Sanchez and Wade Enterprises, LLC
By: Katherine B. Wade
By Joseph P. Sanchez, Power of Attorney

ACKNOWLEDGEMENT

STATE OF NEW MEXICO)s
COUNTY OF BERNALILLO)s

This instrument was acknowledged before me on September 15, 2005
by Joseph P. Sanchez.

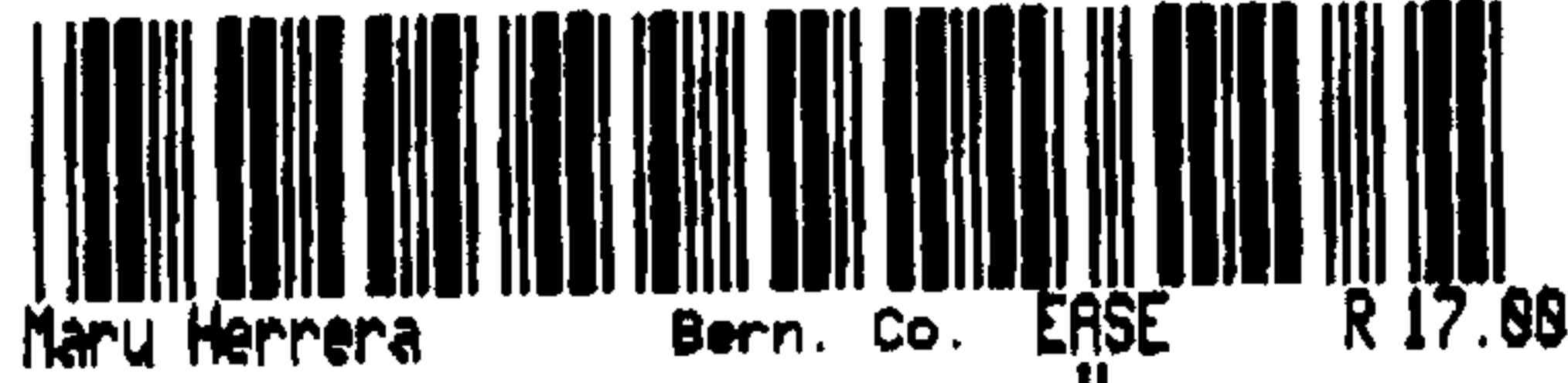
Notary Public 

My commission expires: 08/14/05



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WARRANTY DEED



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WADE PROPERTIES LLC, a New Mexico Limited Liability Company, for consideration paid, grants to SANCHEZ AND WADE ENTERPRISES, L.L.C., a New Mexico Limited Liability Company, whose address is 916 Parkland Circle, S.E., Albuquerque, New Mexico 87108, the following described real estate in Bernalillo County, New Mexico:

Lots numbered Nineteen (19) through Thirty-three (33), Block 11, of the VALLEY VIEW ADDITION to the City of Albuquerque, New Mexico, as the same are shown and designated on the map of said Addition filed in the office of the County Clerk of Bernalillo County, New Mexico on September 2, 1911, excepting therefrom the Southwesterly portions of Lots 19, 20 and 21, conveyed to the City of Albuquerque, New Mexico, by Warranty Deed dated February 4, 1961, recorded in Book D 586, page 610, records of Bernalillo County, New Mexico.

Subject to patent reservations, restrictions and easements of record and to taxes for the year 2005 and years thereafter and all other matters of record.

with warranty covenants.

WITNESS its hand and seal on March 30, 2005.

WADE PROPERTIES LLC, a
New Mexico Limited Liability Company

By: [Signature]
KATHERINE B. WADE,
Managing Member

ACKNOWLEDGMENT

STATE OF NEW MEXICO)
)
COUNTY OF BERNALILLO)

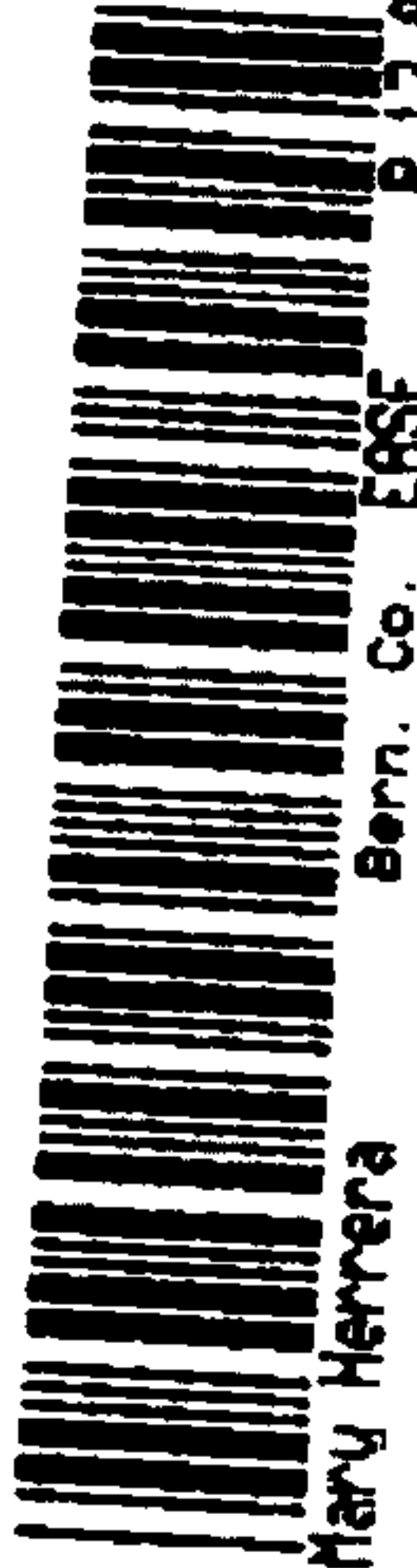
This instrument was acknowledged before me on March 30, 2005, by KATHERINE B. WADE, Managing Member of WADE PROPERTIES LLC, a New Mexico Limited Liability Company.

MY COMMISSION EXPIRES:
9-27-06

[Signature]
NOTARY PUBLIC



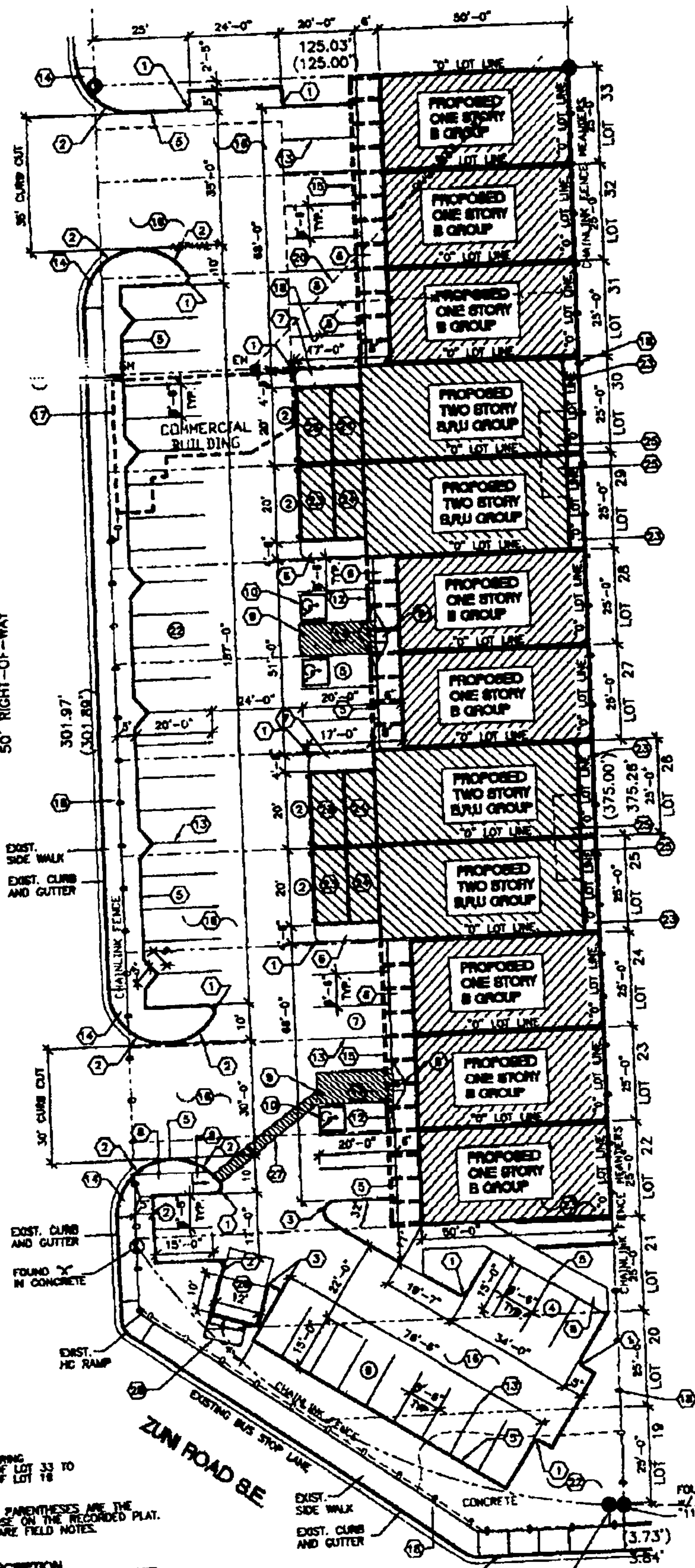
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 Page: 4 of 5
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Bern. Co. EASE
 Mary Herrera

ADAMS STREET SE
 50' RIGHT-OF-WAY



NOTE:
 BASIS OF BEARING
 NE CORNER OF LOT 33 TO
 SW CORNER OF LOT 19

NOTE:
 DISTANCES IN PARENTHESES ARE THE
 SAME AS THOSE ON THE RECORDED PLAT.
 ALL OTHERS ARE FIELD NOTES.

LEGAL DESCRIPTION
 312 ADAMS STREET S.E.
 LOTS 19-33
 BLOCK 11
 VALLEY VIEW ADDITION
 AC=1.01184
 ALBUQUERQUE, NEW MEXICO

1 SITE PLAN
 20"=1'

129.03' (125.00')

LOT 34

LOT 3

LEGEND

- EM ■ ELECTRIC METER
- GM ○ GAS METER
- PC ○ FOUND CAP. PLS 11463
- PM ○ FOUND P/1 FOUND

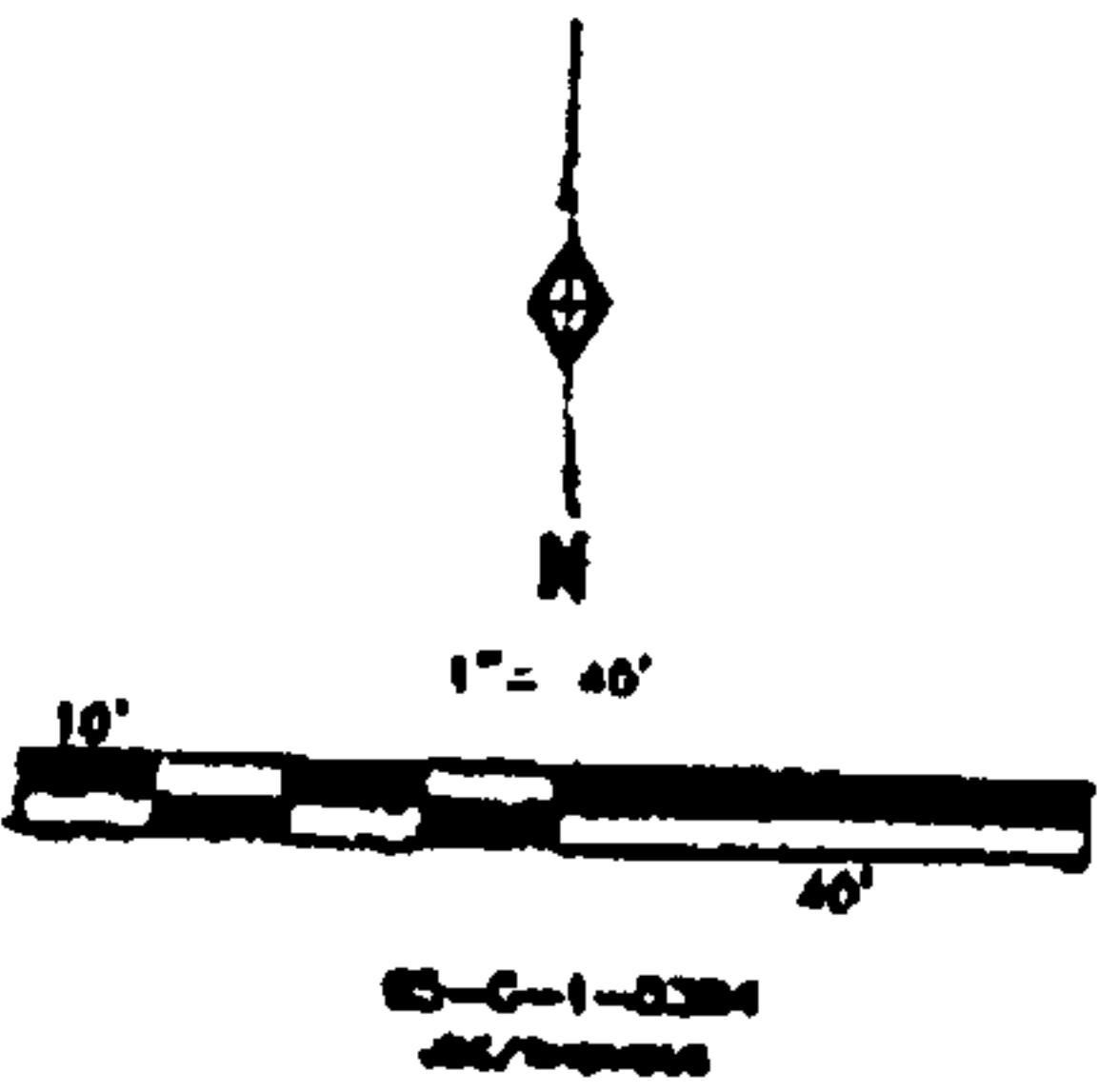
312 ADAMS STREET S.E.
LOTS 19-33
BLOCK 31
VALLEY VIEW ADDITION
AC-1.07184

ADAMS STREET S.E.
50' ROAD-OF-WAY

301.97' (301.99')

MICROFILM GOLF COURSE

375.00' (375.28')



NOTE:
BEARINGS PROVIDED BY RECORDED PLAT.
NOTE:
SOURCE OF BEARINGS BE EASements OF LOT 33 TO BE CORNER OF LOT 18
NOTE:
DISTANCES IN PARALLELS ARE THE SAME AS THOSE ON THE RECORDED PLAT. ALL OTHERS ARE FIELD MEAS.

ZUNI ROAD S.E.

33

LOT 4

32

LOT 5

31

LOT 6

30

LOT 7

29

LOT 8

28

LOT 9

27

LOT 10

26

LOT 11

25

LOT 12

24

LOT 13

23

LOT 14

22

LOT 15

21

LOT 16

20

LOT 17

19

LOT 18


JOHN L. MIERS
NMPLS #12447

03-22-09
DATE



17

22



PROJECT

1009046

App #

Action

Date

13-70403

SW

1-16-13

13-70404

APP

1-16-13



CANNADY
ARCHITECT STUDIO
studio@cannadystudio.com
www.cannadystudio.com

January 8, 2013

Jack Cloud, Chairman
City of Albuquerque Planning Department
600 Second St. NW
Albuquerque, NM 87102

Project #: 1009537
Application #: 12-70386

Re: Lots 32 & 33, Block 11, Valley View Addition

This letter is being written to clarify existing conditions of the Highland Lofts Development located at the above stated legal address. The Highland Lofts development is comprised of 12 independent fee simple parcels of land with independently owned buildings configured as a shared wall (or townhouse style) development. The project was permitted in 2005 and constructed in 2006. Due to the shared walls being located on property lines, the building was constructed utilizing the design of (2) 1-hr. wall partitions back-to-back, generating a 2-hr. fire wall between units. The fire wall is continuous from building slab to 30" above roof level in accordance with IBC regulations.

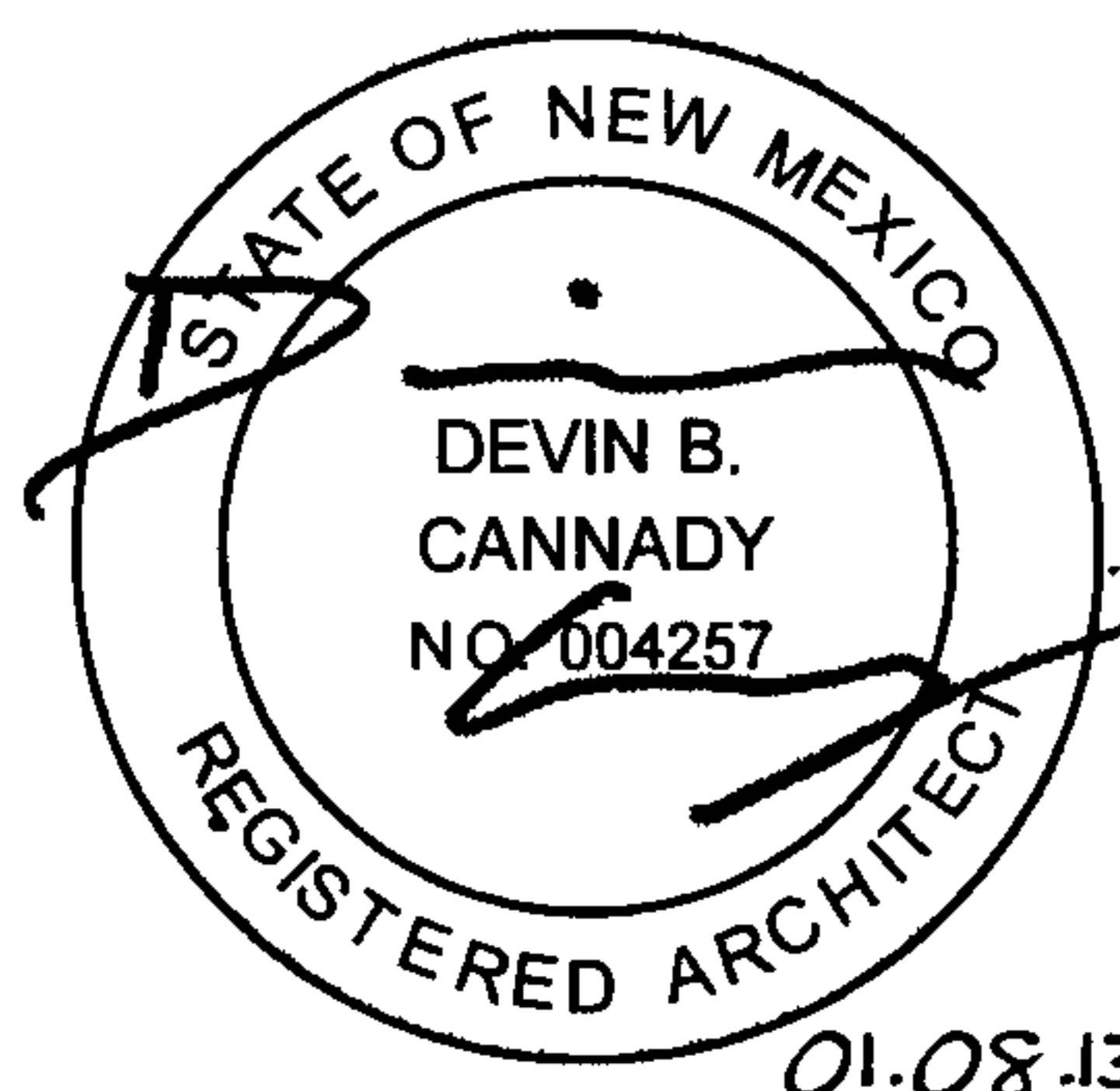
The Owner of Lots 32 & 33 is seeking to eliminate the property line between the 2 units to allow the 2 buildings to be combined into a single unit by means of connections through the shared wall. The elimination of the property line is the first step in the process, the Owner is aware of the requirement to submit plans for the alterations to the building department for review and approval prior to commencing work on the combination of the units. The elimination of the property line will eliminate the requirement of the 2-hr. fire partition, thus allowing the Owner to combine the units into a single unit.

The development currently hosts the 2-hr. fire partition at every property line and shared unit wall location. The scope of this re-plat and building integration is to eliminate only the property line between lots 32 & 33 (both owned by the applicant) in order to combine only these 2 units. Property lines and 2-hr. fire partitions are to remain in tact at the north and south extents of the proposed units.

The re-plat is the initial step required prior to submittal of construction plans for the combining of the 2 units. Once the re-plat has been approved, plans will be submitted coordinating permit approvals through the Building Safety Division.

Sincerely,

Devin Cannady, Architect
Principal – Cannady Architect Studio



(
**CITY OF ALBUQUERQUE
PLANNING DEPARTMENT
January 2, 2013
DRB Comments**

ITEM # 6

PROJECT # 1009537 APPLICATION # 12-70386

RE: Lots 32 & 33, Block 11, Valley View Addition

Certification by a licensed architect or engineer is required to confirm compliance with the Building Code for the common wall along the north and south property lines.

Please provide copies of the easements referenced on the plat.

Utility companies must acknowledge approval of the plat via signature or email prior to final sign-off.

AGIS must accept the .dxf file prior to final sign-off.

Jack Cloud, DRB Chairman
924-3880/ jcloud@cabq.gov

PROJECT

1009537

App #

Action

Date

12-70386

P&F

1-2-13
