

CITY OF ALBUQUERQUE

Planning Department
Alan Varela, Director



Mayor Timothy M. Keller

August 19, 2022

David McEachern, RA
RBA Architecture, PC
1104 Park Ave. SW
Albuquerque, NM 87102

Re: McMahon Shopping Center
10550 Unser Blvd. NW
Traffic Circulation Layout
Architect's Stamp 07-20-2021 (A11-D017)

Dear Mr. McEachern,

The TCL submittal received 07-18-2022 is approved for Building Permit with. A copy of the stamped and signed plan will be needed for each of the building permit plans. Please keep the original to be used for certification of the site for final C.O. for Transportation.

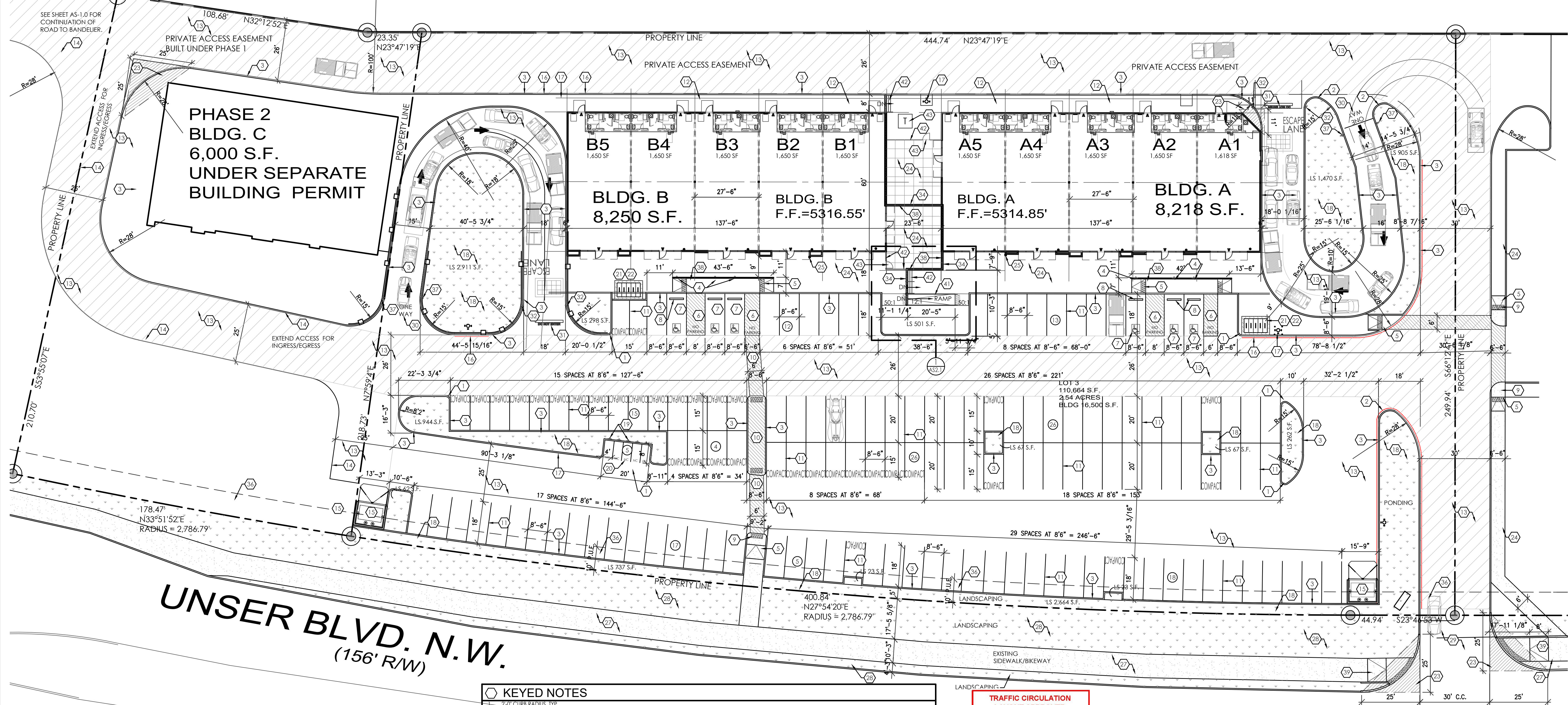
When the site construction is completed and an inspection for Certificate of Occupancy (C.O.) is requested, use the original City stamped approved TCL for certification. Redline any minor changes and adjustments that were made in the field. A NM registered architect or engineer must stamp, sign, and date the certification TCL along with indicating that the development was built in "substantial compliance" with the TCL. Submit this certification, the TCL, and a completed Drainage and Transportation Information Sheet to front counter personnel for log in and evaluation by Transportation.

Once verification of certification is completed and approved, notification will be made to Building Safety to issue Final C.O. To confirm that a final C.O. has been issued, call Building Safety at 924-3690.

Sincerely,

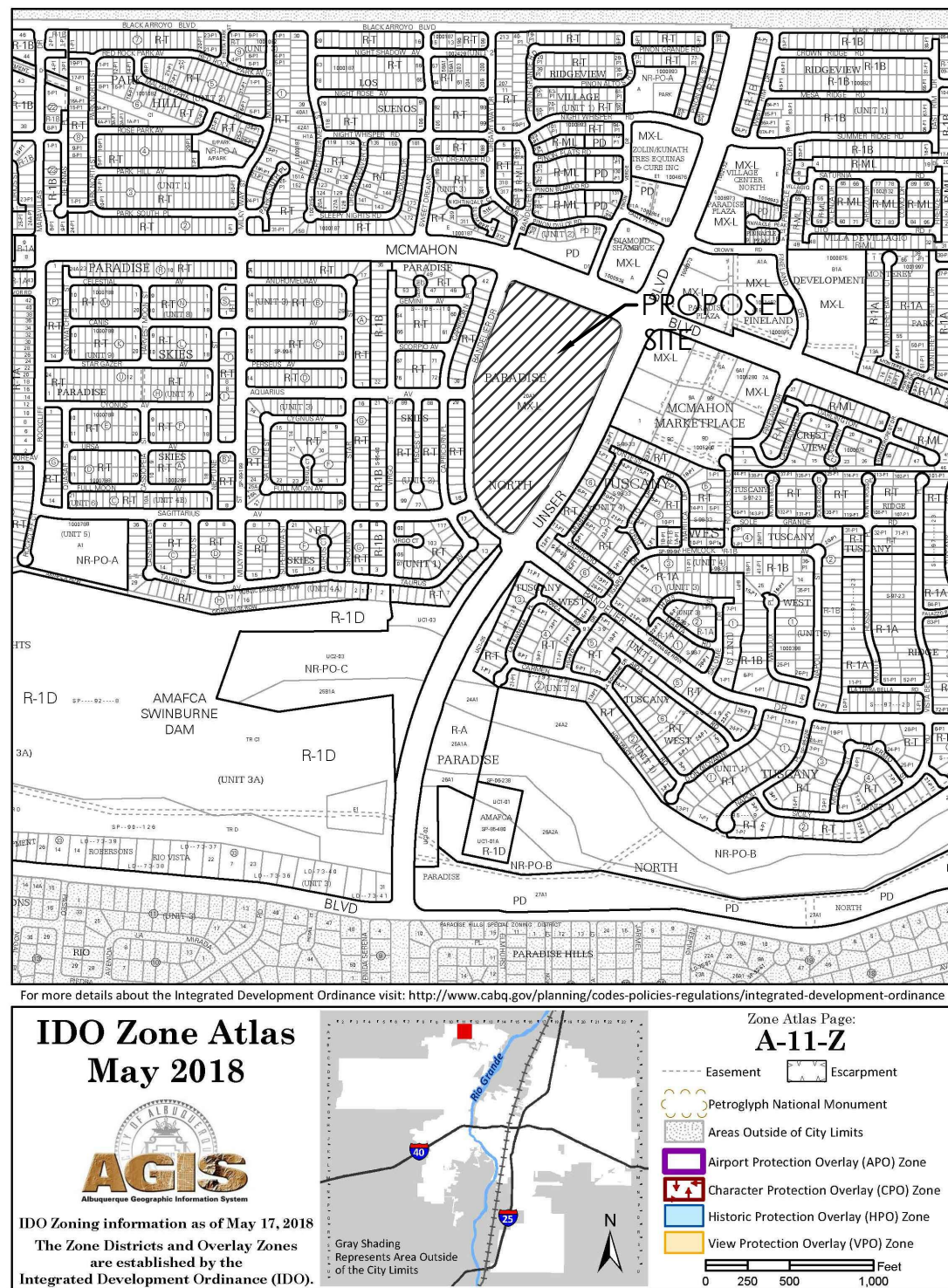
Ernest Armijo, P.E.
Principal Engineer, Planning Dept.
Development Review Services

C: CO Clerk, File



UNSER CROSSING
ENLARGED SITE PLAN
10550 UNSER BLVD NW
ALBUQUERQUE, NM 87114
PROJECT #2063

UNSER BLVD. N.W.
(156' R/W)



KEYED NOTES

- 2'-0" CURB RADIUS, TYP.
- 5'-0" CURB RADIUS.
- CONSTRUCT NEW RAISED CONCRETE CURB AND GUTTER PER CABQ STANDARDS 2415A, REF: DET. A8/AS2.0.
- ACCESSIBLE PARKING SIGNAGE PER CABQ STANDARDS, REF: DETAIL A6/AS-2.0.
- ACCESSIBLE CURB RAMP PER CITY OF ALBUQUERQUE (CABQ) STANDARDS 2443, REF: A6/AS-2.0.
- PAINTED STRIPE HANDICAP ACCESSIBLE AISLE WITH TWO PARKING IN CAPITAL LETTERS, 12" HIGH X 2" WIDE, LOCATE SIGN (66-1.4.1.3 NMMSA-1978), REF: DETAIL A4/AS-2.0.
- HANDICAP SYMBOL PER CABQ STANDARDS, TYPICAL (6) PLACE REF: DETAIL A9/AS-2.0.
- CONCRETE PARKING BUMPER, TYP. REF: DETAIL A15/AS-2.0.
- 24" TRUNCATED DOMES, TYP.
- 6 FOOT WIDE ACCESSIBLE PEDESTRIAN PATH, TYP. REF: DETAIL A7/AS-2.0.
- 4" WIDE PAINTED STRIPE PER C.O.A. STANDARDS, REF: DETAIL A4/AS-2.0, TYP.
- CONSTRUCT NEW CONCRETE SIDEWALK PER CABQ STANDARD DWG. 2430, REF: A11-A12/AS-2.0. REF: PLAN FOR SIDEWALK WIDTH. TIE INTO EXISTING SIDEWALKS AS NEEDED.
- ASPHALT PAVING OVER BASE COURSE, REF: GEOTECH REPORT.
- EDGE OF ASPHALT.
- DUMPSTER ENCLOSURE PER CABQ, REF: DETAIL A1/AS-2.0.
- FIRE LANE, PAINT CONC. CURB RED AND ADD SIGNAGE TO CURBS 5' HIGH WHITE LETTER "NO PARKING, FIRE LANE", TYP. EVERY 15' OVER 6' WIDE RED STRIPE, REF: FIRE ORD. 503.3.1.
- NEW FIRE HYDRANT LOCATION.
- LANDSCAPING AREA, REF: LANDSCAPING PLAN.
- MOTORCYCLE PARKING SIGNAGE PER CABQ STANDARDS, TYP.
- PAINTED "MC" IN CAPITAL LETTERS, 12" HIGH X 2" WIDE, AT MOTORCYCLE PARKING - WHITE ON PAVEMENT PER CABQ STANDARDS.
- BIKE RACK FOR (5) BICYCLES, REF DETAIL A13/AS-2.0.
 - 30" TALL X 18" WIDE.
 - BICYCLE FRAME SHALL BE SUPPORTED HORIZONTALLY AT TWO OR MORE PLACES. COMB/TOASTER RACKS ARE NOTE ALLOWED.
 - C. THE RACK SHALL BE DESIGNED TO SUPPORT THE BICYCLE IN AN UPRIGHT POSITION. SEE THE IDO FOR ADDITIONAL INFORMATION.
 - D. THE RACK ALLOWS VARYING BICYCLE FRAME SIZES AND STYLES TO BE ATTACHED.
 - E. THE USER IS NOT REQUIRED TO LIFT THE BICYCLE ONTO THE BICYCLE RACK.
 - F. EACH BICYCLE PARKING SPACE IS ACCESSIBLE WITHOUT MOVING ANOTHER BICYCLE.
 - G. THE RACKS SHOULD BE STURDY AND ANCHORED TO A CONCRETE PAD.
- BIKE PARKING SPACES SHALL BE 6'-0" LONG X 2' WIDE FOR EACH BIKE. NOTE: A 1'-0" CLEAR ZONE AROUND THE BIKE PARKING SPACE.
- CLEAR SIGHT TRIANGLE, LANDSCAPING AND SIGNAGE WILL NOT INTERFERE WITH THE CLEAR SIGHT REQUIREMENTS. ALL SIGNS, WALLS, TREES AND SHRUBBERY BETWEEN 3 FEET AND 8 FEET TALL (AS MEASURED FROM THE GROUND) WILL NOT BE ACCEPTABLE IN THE CLEAR SIGHT TRIANGLE.
- CONCRETE PATIO.
- G.C. TO PROVIDE AND INSTALL RECESSED KNOX BOX WITH KEY FOR FIRE DEPARTMENT ACCESS, MOUNT BOX 4'-0" - 6'-0" HIGH A.F.F., TYP.
- ELECTRICAL TRANSFORMER LOCATION, COORDINATE LOCATION WITH PNM.
- EXISTING 10' WIDE ASPHALT SIDEWALK/ BIKE PATH.
- EXISTING OFF SITE LANDSCAPING.
- CONSTRUCT NEW DRIVE PAD PER C.O.A. STD. DWG. 2426 & 2420, REF: CIVIL DRAWINGS.
- PAINTED "ONEWAY" - WHITE ON PAVEMENT PER CABQ STANDARDS, REF: DETAIL A18/AS-2.0.
- PAINTED "DO NOT ENTER" - WHITE ON PAVEMENT PER CABQ STANDARDS REF: DETAIL A19/AS-2.0.
- DO NOT ENTER SIGN PER CABQ STANDARDS #2600-603, REF: DETAIL A16/AS-2.0.
- ALL BROKEN OR CRACKED SIDEWALK MUST BE REPLACED WITH SIDEWALK AND CURB AND GUTTER PER C.O.A. STANDARD DRAWINGS 2415A.
- RETAINING WALL, REF: FOUNDATION PLAN AND DETAILS.
- PAINTED "COMPACT" - WHITE ON PAVEMENT PER CABQ STANDARDS.
- 10' PUBLIC UTILITY EASEMENT.
- "ONE WAY" SIGN PER CABQ STANDARD 2600-603, REF: DETAIL A17/AS-2.0.
- 42" HIGH 1 1/4" DIA. PAINTED STEEL GUARDRAIL, REF: DETAILS ON SHEET S-20.
- CURB RAMP PER CABQ STANDARD DWG. 2446, REF: CIVIL DRAWINGS.
- CURB RAMP PER CABQ STANDARD DWG. 2441, REF: CIVIL DRAWINGS.
- ACCESSIBLE CONC. RAMP, REF: FOUNDATION PLAN AND DETAILS.
- CONC. STAIRS, REF: GRADING AND DRAINAGE PLAN AND FOUNDATION PLAN AND DETAIL.
- TRANSFORMER LOCATION, REF: ELECTRICAL PLANS.
- 42" HIGH 1 1/4" DIA. PAINTED STEEL FENCE, REF: FOUNDATION PLAN AND FOUNDATION DETAILS.
- 42" HIGH X 36" WIDE 1 1/4" DIA. PAINTED STEEL GATE WITH EGRESS LATCH, TYP.

TRAFFIC CIRCULATION LAYOUT APPROVED

Ernest Armijo
Signed Date
8/19/2022

LANDSCAPE REQUIREMENTS:

GROSS LOT AREA: 110,664 S.F. (2.54 ACRES)
BUILDING AREA: - 16,500 S.F. (2 BLDGS)
NET LOT AREA: 94,164 S.F.
REQUIRED LS: 14,125 S.F.
PROVIDED LS ONSITE: 9,758 S.F.
PROVIDED LS OFFSITE: 7,234 S.F.

PARKING REQUIREMENTS:

BUILDING A
REQUIRED: TOTAL BUILDING SQ. FT. = 8,250 S.F. = 4,125 S.F. RESTAURANT, 4,125 S.F. RETAIL
RESTAURANT 8 SPACES/1,000 S.F. (125) = 4,125/125 = 33 SPACES REQUIRED
RETAIL 4 SPACES/1,000 S.F. (250) = 4,125/250 = 17 SPACES
TOTAL BUILDING 1 SPACES = 50 SPACES
NMBC TABLE 1106.1 36-50 = 3 H.C. SPACES
2018 IDO TABLE 5-5-4 MOTORCYCLE = 26-50 = 2 SPACES

BUILDING B
REQUIRED: TOTAL BUILDING SQ. FT. = 8,250 S.F. = 4,125 S.F. RESTAURANT, 4,125 S.F. RETAIL
RESTAURANT 8 SPACES/1,000 S.F. (125) = 4,125/125 = 33 SPACES REQUIRED
RETAIL 4 SPACES/1,000 S.F. (250) = 4,125/250 = 17 SPACES
TOTAL BUILDING 1 SPACES = 50 SPACES
NMBC TABLE 1106.1 36-50 = 3 H.C. SPACES
2018 IDO TABLE 5-5-4 MOTORCYCLE = 26-50 = 2 SPACES

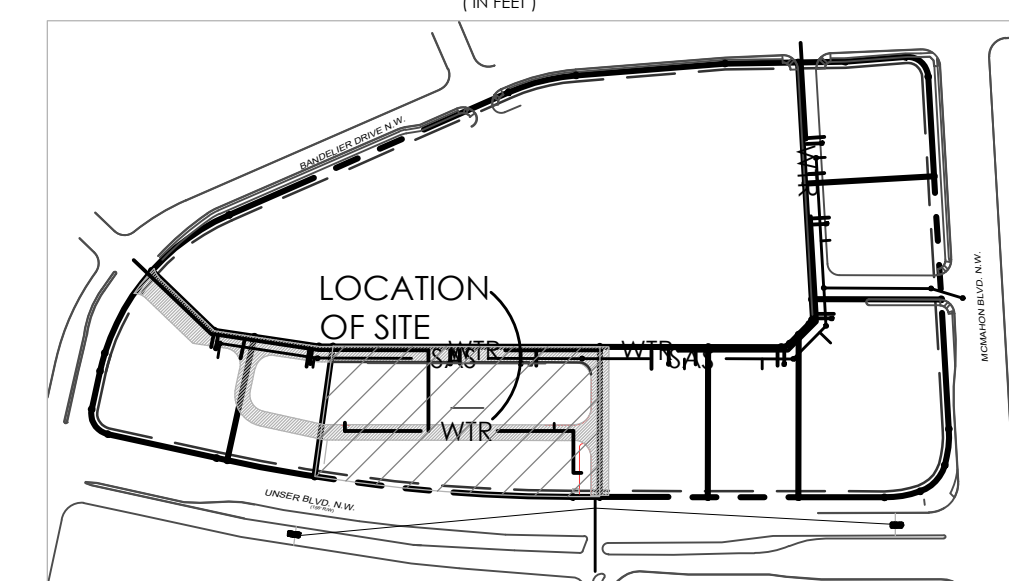
TOTAL PARKING REQUIRED 2 BUILDINGS = 100 SPACES
TOTAL PARKING PROVIDED = 144 SPACES PROVIDED (INCLUDING 6 HC SPACES)
37 SMALL CARS (LESS THAN 30% ALLOWED, 44 MAX)
5 MOTORCYCLE SPACES
= 10% OF REQUIRED OFF STREET PARKING = 10 BIKE SPACES

BICYCLE SPACES NON-RESIDENTIAL

SEE ENLARGED SITE PLAN FOR FULL RIGHT OF WAY OF UNSER.

ENLARGED SITE PLAN

1"=20'-0"
BAR SCALE
(IN FEET)



KEY LOT PLAN

N.T.S.

REVISION DATE



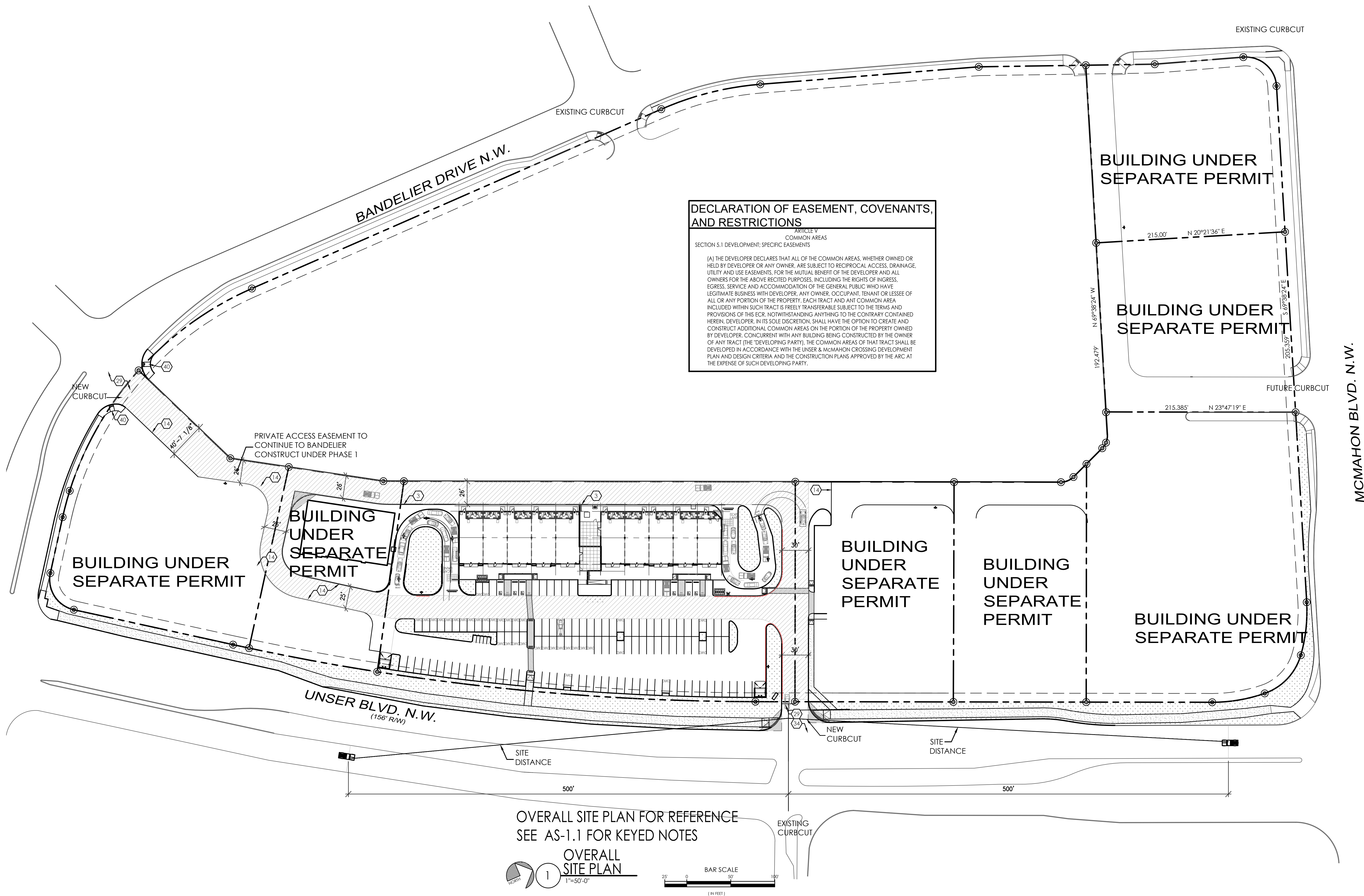
RBA
ARCHITECTURE, PC
PLANNING
DESIGN
10550 UNSER BLVD NW
ALBUQUERQUE, NM 87114
WWW.RBACON.COM

DATE

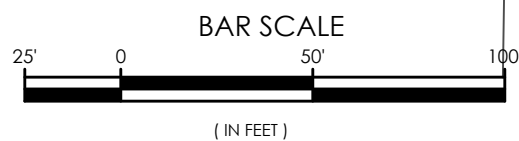
03-30-2021

SHEET NUMBER

AS-1.1



OVERALL SITE PLAN FOR REFERENCE
SEE AS-1.1 FOR KEYED NOTES



UNSER CROSSING
OVERALL SITE PLAN
10550 UNSER BLVD NW
ALBUQUERQUE, NM 87114
PROJECT #2063

REVISION DATE	
RBA ARCHITECTURE, PC ARCHITECTURE PLANNING DESIGN 10550 Unser Blvd. NW Albuquerque, NM 87120 www.rba3.com	
DATE	07-20-2021
SHEET NUMBER	AS-1.0

DECLARATION OF EASEMENTS, COVENANTS AND RESTRICTIONS

FOR

UNSER & MCMAHON CROSSING

THIS DECLARATION OF EASEMENTS, COVENANTS AND RESTRICTIONS FOR UNSER & MCMAHON CROSSING ("ECR") is made effective April 12, 2022, by Holly Partners, LLC, a New Mexico limited liability company ("Developer"), which declares that the real property comprised of all of the lots, parcels, and sites, platted or unplatted, legally described in attached Exhibit A and as shown on attached Exhibit "B" ("Property") and incorporated herein by reference, to be known in the aggregate as "Unser & McMahon Crossing", which is currently owned by the Developer, is and shall be held, transferred, sold, conveyed, leased and occupied subject to the covenants, restrictions, easements, charges and liens hereinafter set forth.

**ARTICLE I
PURPOSE**

The purpose of this ECR is to control the proper use and most appropriate development of the Property through the imposition of uniform standards and to create easements and common areas for the mutual benefit of the owners of the Property. It is the intent of this ECR to provide conditions, covenants, restrictions and easements that ensure Unser & McMahon Crossing will always be maintained as an attractive, quality-oriented, uncongested business environment.

**ARTICLE II
DEFINITIONS**

The following words, when used in this ECR, shall have the following meanings:

Section 2.1 **"Architectural Review Committee"** ("ARC"), shall be the Developer and shall have the powers and duties as set forth herein. The Developer shall have the right to transfer responsibility and designate other members of the ARC in its sole discretion.

Section 2.2 **"Association"** shall mean the Unser & McMahon Crossing Property Owners Association, a New Mexico nonprofit corporation, its successors or assigns.

Section 2.3 **"Building"** shall mean any constructed improvement as may be allowed within the Building Site which contains space, either enclosed or open to the air, for which the conduct of office, retail, service or other occupancy is created, including walls, facades, porticos, porches and appurtenances, but not including exterior landscaping, sidewalks, drives and exterior areas.

Section 2.4 **"Building Site"** shall mean and refer to the portion of each Tract within which a Building(s) may be constructed. Said Building Site is the subject of all structural, occupancy and use limitations and allowances as provided for herein and as may be further regulated by the City of Albuquerque or

other governmental agencies having jurisdiction. Any Building Site, whether comprised of one or more Tracts, may be further divided by leasehold, condominium, rental, or other interests not constituting a subdivision of the real property.

Section 2.5 **"Common Area"** shall mean and refer to those portions of the "Property" excluding the Buildings and Building Sites but specifically including all common utilities, entry features, common signage, drainage, bicycle paths, sidewalks, roads, drive aisles, rights-of-way, parking, or any other use designated by the Developer for the mutual benefit of Developer, Owners, Occupants or lessees of all or a portion of the Property. The Developer declares that all of the Common Areas, whether owned or held by Developer or any Owner, are subject to a reciprocal access and use easement, as provided for in Article V herein, for the mutual benefit of the Developer and all Owners for the above recited purposes, including the rights of ingress, egress, service and accommodation of the general public who have legitimate business with Developer, any Owner, Occupant, tenant or lessee of all or any portion of the Property. Each Owner, at its cost and expense, is responsible for the construction, repair and maintenance of any Common Area located within the Tract belonging to such Owner.

Section 2.6 **"Unser & McMahon Crossing Development Plan and Design Criteria"** shall mean and refer to the development plan package as approved by the ARC and the standards and guidelines for controlling the quality and character of the Improvements to be constructed on the Property which have been adopted by the ARC on or after the date of this ECR and which may be reasonably amended from time to time by the ARC. The Unser & McMahon Crossing Development Plan and Design Criteria shall be binding upon all Owners and Occupants of the Property.

Section 2.7 **"Developer"** shall mean and refer to Holly Partners, a New Mexico limited liability company, its successors and assigns of any or all of its rights under this ECR.

Section 2.8 **"Floor Area"** shall mean and refer to the total number of square feet of floor space in a Building. 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 non-structural components.

Section 2.9 **"Improvements"** shall mean and refer to any man-made changes in the natural condition of the Property including, but not limited to, structures and construction of any kind, whether above or below the property surface, such as any building, fence, wall, sign, addition, alteration, screen enclosure, sewer, drain, disposal, lake, waterway, road, paving, utilities, grading, landscaping and exterior illumination, and shall not be limited to any changes in any exterior color or shape and any new exterior construction or exterior improvement.

Section 2.10 **"Occupant"** shall mean and refer to any person or organization which has occupied, purchased, leased, rented or is otherwise licensed or legally entitled to occupy and/or use any Tract or Improvement or any portion thereof (whether or not such right is exercised), as well as their heirs, personal representatives, assigns and successors in interest.

Section 2.11 **Reserved.**

Section 2.12 **"Owner"** shall mean and refer to the record owner, whether one or more partners, persons, trusts, corporations, or other entities, of the fee simple interest in a Tract, including contract purchasers (but not contract sellers), their heirs, personal representatives, successors or assigns. An Owner may, upon written notice to the Developer, assign all or part of its rights, but not its duties hereunder, to Owner's Occupant. Notwithstanding the foregoing, it is the sole responsibility of Owner to ensure complete compliance of this ECR by any Occupant of the Owner's unit.

Section 2.13 **"Property"** shall refer to the Property, any portion thereof, and any and all Improvements thereon and additions thereto, as are subject to this ECR.

Section 2.14 **"Shared Drives"** shall mean the area designated as a New Easement for public access, public water, public sewer and public drainage on the Site Plan, including the pavement, curb and gutter, pavement marking, signage, lighting, and all other Improvements in that area. Generally, the area encompasses the location of access roads within the Property including an access road along the side of each Tract 2 through 9 where those Tracts adjoin Tract 1 and an access road along the adjoining sides of Tracts 4 and 5 and an access road along the side of Tract 8 where it adjoins Tract 7.

Section 2.15 **"Site Development Plan"** shall mean any submittals, drawings and conditions of approval as may be approved and granted administratively by the City of Albuquerque and the ARC in conjunction with developing all or a portion of any Tract.

Section 2.16 **"Tract"** shall mean and refer to any parcel of the Property, together with any and all Improvements thereon, created and existing by a plat recorded with or after the date of this ECR in the public records of Bernalillo County, New Mexico, on which any Improvement could be constructed, whether or not it has been constructed. On the Site Plan (Exhibit B), the Tract parcels are designated as "Lots" and the Lot number on the Site Plan corresponds to the Tract number.

ARTICLE III ARCHITECTURAL REVIEW COMMITTEE

Section 3.1 **Necessity of Architectural Review and Approvals.** No Improvement of any kind shall be commenced, constructed, erected, placed, altered or maintained upon any Tract, nor shall any addition, change or alteration thereon or thereof be made, nor shall any subdivision platting or replatting of any Tract be made, until plans and specifications with respect thereto have been approved by the ARC ("Plans and Specifications"). The Plans and Specifications shall include any and all information as required by the ARC and as outlined in the ARC Procedures.

Section 3.2 **Architectural Review Committee Review and Approval Process.** Approval of the Plans and Specifications shall be based upon, among other things, the conformity thereof with the Unser & McMahon Crossing Development Plan and Design Criteria. All submittals and approvals shall be made in accordance with the ARC Procedures. The ARC shall not arbitrarily or unreasonably withhold its approval of the Plans and Specifications. ARC approval does not constitute

governing body approval, technical approval or compliance with governmental codes.

Section 3.3 Powers and Duties. The ARC shall have the following powers and duties:

(A) To reasonably modify or amend the Design Criteria.

(B) To require submittals by Owners related to all Improvements.

(C) To approve or disapprove any Improvement or change or modification thereto, the construction, erection, performance or placement of which is proposed upon the Property and to approve or disapprove any exterior additions, changes, modifications or alterations therein, thereon or thereto. All decisions of the ARC shall in all events be final and dispositive upon all parties.

(D) If any Improvement is changed, modified or altered without prior approval of the ARC, then the Owner shall upon demand cause the Improvement to be restored to comply with the Plans and Specifications originally approved by the ARC and said Owner shall bear all costs and expenses of such restoration, including the costs and reasonable attorney's fees of the ARC.

(E) To institute, revise or waive the ARC Review Fee.

(F) To waive an Owner's or Occupant's obligation to comply with (i) any condition of this ECR that requires such Owner or Occupant to obtain ARC approval, or (ii) any condition set forth in the Unser & McMahon Crossing Development Plan and Design Criteria; provided, however, that no such waiver shall be enforceable unless expressly set forth in a signed, written instrument.

(G) To perform such incidental acts as may be necessary in the exercise of its powers.

Section 3.4 Liability. Neither the ARC, its individual members, the Developer nor their respective heirs, successors or assigns shall be liable in damages to anyone submitting Plans and Specifications to them for approval, or to any Owner or Occupant affected by this ECR, by reason of mistakes in judgment, negligence or nonfeasance arising out of or in connection with the approval, disapproval or failure to approve any such Plans and Specifications. Every person who submits Plans and Specifications to the ARC for approval agrees, by submission of such Plans and Specifications, and every Owner or Occupant of any Tract agrees, by acquiring title thereto or an interest therein, that said Owner or Occupant will not bring any action or suit against the ARC, its members or Developer to recover any such damages.

Section 3.5 Limitation of Action. Notwithstanding anything to the contrary herein contained, after the expiration of one (1) year from the date of the issuance of a certificate of occupancy by the appropriate governmental authority for any Improvement or substantial completion thereof if no certificate of occupancy is required, said Improvement shall, in favor of purchasers, tenants and encumbrancers, in good faith and for value, be deemed to be in compliance with all provisions of this Article, unless: (i) the ARC has filed of record a notice of noncompliance or noncompletion in the public records of Bernalillo County, New Mexico; or (ii) legal proceedings shall have been instituted to enforce compliance or completion.

**ARTICLE IV
REGULATION OF IMPROVEMENTS**

Section 4.1 **General.** No Improvement shall be commenced, erected, constructed or maintained upon any Tract, nor shall any change or alteration thereon or thereof be made, nor any subdivision, plat or replat be made unless and until the Plans and Specifications shall have been submitted to and approved in writing by the ARC as more fully set forth in Article III of this ECR.

Section 4.2 **Architectural Theme.** The architectural theme of Unser & McMahon Crossing shall be dictated by the Unser & McMahon Crossing Development Plan and Design Criteria as set forth by the ARC.

Section 4.3 **Minimum Setback Lines.** No Building of any kind and no part thereof shall be placed on any Tract closer to a Tract line or right-of-way line than as listed in the approved Unser & McMahon Crossing Development Plan and Design Criteria and as specifically approved by the ARC.

Section 4.4 **Height Restrictions.** No Building or appurtenance, including but not limited to water towers, standpipes, penthouses, elevators or elevator equipment, stairways, ventilating fans, or similar equipment required to operate and maintain any Building fire or parapet walls, skylights, tanks, cooling or other towers, wireless radio or television masts, or flagpoles shall exceed any height restrictions imposed by the City of Albuquerque, the Unser & McMahon Crossing Development Plan and Design Criteria, and the ARC.

Section 4.5 **Outdoor Satellite Dishes and Antennae.** The placement and screening of all outdoor satellite dishes and antennae on Tracts shall be approved in advance by the ARC; provided, further, that in no event shall a satellite dish or antenna protrude above the highest point of the roofline of the Buildings on said Tract.

Section 4.6 **Landscaping.**

(A) All Tracts shall be landscaped only in accordance with the Unser & McMahon Crossing Development Plan and Design Criteria and shall be approved in writing by the ARC prior to any development of the Tract. All landscaping shall be undertaken, completed and maintained in accordance with such approved plan and said plan may not be altered, amended or revised without obtaining the prior written approval by the ARC.

(B) All landscaping required hereunder or otherwise to be provided on any Tract shall be completed within thirty (30) days after the earlier of the substantial completion of construction of the Building(s) on said Tract or receipt of the certificate of occupancy for said Building(s); provided, however, that if weather conditions do not permit, then such landscaping shall be completed as soon thereafter as weather conditions permit. If any Owner fails to undertake and complete landscaping within the time limits set forth herein, the Developer may, after giving the Owner thirty (30) days written notice, undertake and complete the landscaping of the Tract in accordance with the landscaping plan. If the Developer undertakes and completes such landscaping because of the failure of the Owner to complete the same, the costs of such landscaping, plus an additional twenty-five percent (25%) of such costs, shall be assessed against the Owner, and if said assessment is not paid within thirty (30) days after written

notice of such assessment from the Developer, said assessment will constitute a lien on said Owner's Tract and may be enforced as set forth in Article IX hereof.

Section 4.7 Drainage and Water Retention. The development of every Tract must conform to the drainage requirements of the Unser & McMahon Crossing Development Plan and Design Criteria. Specific drainage plans for each Tract must be submitted to the City of Albuquerque for approval.

Section 4.8 Excavation and Site Grading. No excavation of a Tract shall be made except in connection with the construction of an Improvement, and upon completion thereof, exposed openings shall be backfilled, graded, compacted and leveled in accordance with ARC standards. Site grading shall be subject to the approval of the ARC and shall be in conformance with the Unser & McMahon Crossing Development Plan and Design Criteria. Prior to any excavation and/or site grading, the ARC must receive a copy of the Stormwater Pollution Prevention Plan and proof of proper notification to all applicable governing authorities.

Section 4.9 Loading, Service and Outside Storage. Each Tract shall provide sufficient onsite loading, service and outdoor storage areas to accommodate Tract activities. All loading movement, including turnarounds, shall be made off of public rights-of-way within Unser & McMahon Crossing. Loading, service and outdoor storage areas shall be located and screened so as to minimize their visibility from any street and in conformance with the Unser & McMahon Crossing Development Plan and Design Criteria and must be approved by the ARC. Rubbish and garbage facilities shall be screened and located in conformance with the Unser & McMahon Crossing Development Plan and Design Criteria and must be approved by the ARC. Cardboard shall be bailed, broken down and flattened, if not placed in trash receptacles. Rubbish and garbage facilities for restaurants and other "wet" disposals shall include compactors, grease receptacles and other systems to prevent nuisances from odors, insects and pests. All refuse enclosures shall be constructed in conformance with the Unser & McMahon Crossing Development Plan and Design Criteria and must be approved by the ARC. Refuse enclosures utilized for "wet" disposals shall include a drain to prevent grease and other liquid pollutants from running off into areas outside of the enclosure. The drain shall tie into the grease waste line from the building prior to the line entering the grease interceptor or the line shall utilize an approved oil-water separator before tying into the sanitary sewer line.

Section 4.10 Irrigation. Automatic irrigation systems shall be required for all landscaping within Unser & McMahon Crossing.

Section 4.11 Parking Areas. No parking shall be permitted on any street, lawn, median strip, public walkway, swale, berm or other unpaved area or at any place other than on the paved parking spaces provided. Each Owner and Occupant shall be responsible for compliance with the foregoing by its employees, customers and visitors on said Owner's and Occupant's Tract. Unless otherwise approved by the ARC, sufficient parking shall be provided by each Owner and Occupant for employees, customers and visitors on said Owner's and Occupant's Tract. The location, number and size of parking spaces shall be in accordance with the Unser & McMahon Crossing Development Plan and Design Criteria and are subject to approval by the ARC, pursuant to Article III hereof. No reserved parking on any Tract shall be permitted without the written approval of the ARC. Parking designated as "take-out" shall be allowed. Overnight parking of campers, mobile homes, boats, trailers, semi-trucks, vans or motor homes is prohibited unless prior written approval is obtained from the Developer. Any changes in ARC

approved parking areas due to reconfiguration other than re-striping must be reapproved in advance by the ARC.

Section 4.12 Signs. All signs which shall be erected on any Tract shall have the prior written approval of the ARC as to size, color, materials, location and content and shall be in conformance with the Unser & McMahon Crossing Development Plan and Design Criteria and applicable codes.

Section 4.13 Exterior Lighting. All exterior lighting within Unser & McMahon Crossing must be approved by the ARC. All parking lot lighting fixtures shall be in conformance with the Unser & McMahon Crossing Development Plan and Design Criteria.

Section 4.14 Construction and Maintenance. All work performed in the construction, maintenance, repair, replacement, alteration or expansion of any Building or other improvement shall be effected as expeditiously as possible, while maintaining and complying with all applicable safety standards, and in such a manner as not to unreasonably interfere, obstruct or delay (i) access to or from Unser & McMahon Crossing, or any part thereof, to or from any public right-of-way, (ii) customer vehicular parking located in front of any Building, or (iii) the receiving of merchandise by any business in Unser & McMahon Crossing. Staging for the construction, replacement, alteration or expansion of any Improvements including, without limitation, the location of any temporary buildings or construction sheds, the storage of building materials, and the parking of construction vehicles and equipment shall be limited to that portion of Unser & McMahon Crossing approved in writing by the ARC. The parties acknowledge and agree that incidental encroachments upon the Tracts may occur as a result of the use of ladders, scaffolds, store front barricades and similar facilities in connection with the construction, maintenance, repair, replacement, alteration or expansion of Improvements, all of which are permitted hereunder so long as all activities requiring the use of such facilities are expeditiously pursued to completion and are performed in such a manner as to minimize any interference with use of the Tract or with the normal operation of any business in Unser & McMahon Crossing.

Section 4.15 Fire Protection. Every Building shall be either equipped with automatic sprinkler systems or shall be constructed in such a manner as not to adversely affect the fire rating of any other Building built upon any other Tract. The purpose of this Section is to allow Buildings built on each Tract to be fire rated as separate and distinct units without deficiency charge.

ARTICLE V COMMON AREAS

Section 5.1 Development; Specific Easements.

(A) The Developer declares that all of the Common Areas, whether owned or held by Developer or any Owner, are subject to reciprocal access, drainage, utility and use easements, for the mutual benefit of the Developer and all Owners for the above recited purposes, including the rights of ingress, egress, service and accommodation of the general public who have legitimate business with Developer, any Owner, Occupant, tenant or lessee of all or any portion of the Property. Each Tract and any Common Area included within such Tract is freely transferable subject to the terms and provisions of this ECR. Notwithstanding anything to the contrary contained herein, Developer, in its sole discretion,

shall have the option to create and construct additional Common Areas on the portion of the Property owned by Developer. Concurrent with any Building being constructed by the Owner of any Tract (the "Developing Party"), the Common Areas of that Tract shall be developed in accordance with the Unser & McMahon Crossing Development Plan and Design Criteria and the construction plans approved by the ARC at the expense of such Developing Party.

(B) A non-exclusive underground utility easement is granted within the Common Areas to the City of Albuquerque and other public and private utility companies for the purpose of placing and maintaining gas lines, electric, cable, drainage lines, water, sanitary sewer and pipe conduits.

(C) A non-exclusive surface easement is granted over and across the Common Areas for meters, pedestals, and transformers and a non-exclusive underground easement for the purpose of placing and maintaining electric power, telephone, television and security communications is granted within the Common Areas to the public and private utility companies.

(D) A non-exclusive access easement for vehicles, bicycles and pedestrians is granted within the parking areas, drive aisles, and sidewalks of the Common Areas to Owners, Occupants, the Developer and their agents, customers and invitees.

Section 5.2 **Limitations on Use.**

(A) The Common Areas are hereby reserved for the sole and exclusive use of the Owners, their Occupants, contractors, employees, agents, customers, licensees and invitees and the subtenants, contractors, employees, agents, customers, licensees and invitees of such Occupants. The Common Areas may be used for the purposes set forth herein and for no other purpose unless otherwise specifically agreed to by the Developer. All Improvements placed or constructed in the Common Areas shall be approved by the ARC and shall be in accordance with the Unser & McMahon Crossing Development Plan. The Common Areas shall be kept and maintained as provided for in Article VI. All portions of a Building Site which are not used for Buildings shall be developed by the Owner of the Tract, at that Owner's sole cost and expense, in accordance with the construction plans approved by the ARC and shall be maintained as improved Common Areas. No changes to the Common Areas Improvements, including, without limitation, service drives and parking areas, striping, walls, fences and landscaped areas may be made without the prior written approval of the ARC.

(B) No portion of the Common Areas shall be used for the sale or display of merchandise unless otherwise specifically agreed to by the Developer.

(C) Customers and invitees of businesses in Unser & McMahon Crossing shall not be permitted to park on the Common Areas except while shopping or transacting business in Unser & McMahon Crossing.

(D) The alteration in the natural water flow which may occur on a Tract as a natural consequence of normal construction activities and the existence of the Improvements substantially as shown on the Unser & McMahon Crossing Development Plan (including, without limitation, Buildings and Building expansions, curbs, drives and paving) shall be permitted, provided that such diversion of water flows does not interfere with the use and beneficial enjoyment of any of the other Tracts.

(E) 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 Tracts; provided however, reasonable traffic controls approved in advance by the ARC 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 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) Developer 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 Unser & McMahon Crossing except along the common boundary line of any Tract with any other Tract.

Section 5.3 Insurance. Each Owner shall be responsible for providing and maintaining commercial general liability insurance with broad form coverage endorsement (including broad form property damage endorsement) insuring the itself against claims for personal injury, bodily injury or death, and property damage or destruction, occurring in, on or about the Common Areas on the Owner's respective Tracts. Such insurance shall be written with an insurer licensed to do business in New Mexico and all present and future Owners including Developer shall be named on the policy as additional insured. The limits of liability of all such insurance shall be not less than \$2,000,000.00 for personal injury or bodily injury or death of any one person, \$2,000,000.00 for personal injury or bodily injury or death of more than one person in one occurrence and \$2,000,000.00 with respect to damage to or destruction of property; or, in lieu of such coverage, a combined single limit (covering personal injury, bodily injury or death and property damage or destruction) with a limit of not less than \$2,000,000.00 per occurrence. The Developer may increase the limits of such insurance as reasonably necessary to reflect then appropriate limits for such insurance, taking into consideration such things as changes in the Consumer Price Index, or similar index provided Developer shall not increase limits more often and every 5 years, and without a two-thirds vote of owners, insurance limits shall not exceed \$5,000,000 in the first ten years. The Owners shall furnish the Developer, upon request, with certificates evidencing such insurance. The policies of such insurance shall provide that the insurance represented by such certificates shall not be canceled, materially changed or nonrenewed without the giving of thirty (30) days' prior written notice to the holders of such insurance and the holders of such certificates. Provided an Owner, either independently or in combination with its corporate parent, has a net worth of at least One Hundred Million Dollars (\$100,000,000.00) (as determined by generally accepted accounting principles, consistently applied), Owner, at Owner's election, may (i) self-insure to provide any coverage(s) Owner is required to carry under this Section 5.3 or (ii) retain the financial risk for any claim that would otherwise fall under the coverage(s) Owner is required to carry under this Section 5.3.

Section 5.4 **Lighting.** The artificial lighting for the Common Areas shall remain on while a majority of the businesses in Unser & McMahon Crossing are open for business.

Section 5.5. **Operation and Use.** Each Owner shall be responsible for the construction, operation and continued maintenance, including repair and replacements, of Improvements on the Common Areas on their respective Tracts.

ARTICLE VI MAINTENANCE/TAXES

Section 6.1 **Maintenance of Common Areas.** Each Owner shall be responsible for constructing, maintaining, repairing and replacing the Common Areas and Improvements on their respective Tracts except the Shared Drives. Notwithstanding any other requirements of this section, the responsibility for maintaining, repairing, and replacing the Common Areas and Improvements begins when a Building on the Tract reaches substantial completion.

Section 6.2 **Additional Maintenance Responsibilities of Owners and Occupants.** In addition to the Common Area maintenance, Owners shall have the duty and responsibility, at their sole cost and expense, to keep that part of their respective Tracts, including the Building Site before the construction of Improvements thereon, in a well maintained, safe, clean and attractive condition at all times.

Section 6.3 **Enforcement.** If, in the opinion of the Developer, any Owner or Occupant has failed in any of the foregoing duties or responsibilities, then the Developer may give such person written notice of such failure and such person must within twenty (20) days after receiving such notice, perform the care and maintenance required. Should any such person fail to fulfill this duty and responsibility within such period, then the Developer, through its authorized agents, shall have the right and power to enter onto the Tract of the offending Owner or Occupant and perform such care and maintenance without any liability for damages for wrongful entry, trespass or otherwise to any person or entity. The Owners and Occupants for which such work is performed shall, jointly and severally, be liable for the cost of such work, plus an additional ten percent (10%) of such costs and shall promptly reimburse the Developer, as applicable, therefor. If such Owner or Occupant shall fail to reimburse the Developer within thirty (30) days after receipt of a statement for such work from the Developer, then said indebtedness shall be a debt of all of said Owners and Occupants, jointly and severally, and shall constitute a lien against the Tract on which said work was performed with Developer having the right to pursue foreclosure of the lien.

Section 6.4 **Developer's Responsibility to Maintain Shared Drives.** Until such responsibilities are assigned to the Association. the Developer shall maintain and repair all Shared Drives in first-class manner. The Developer shall recover its costs and expense of such maintenance from the Owners through assessments pursuant to this Article VI. Such maintenance and repair may include:

(A) The maintenance and replacement of the curb and gutter and the pavement, including pavement seal-coat and pavement markings;

(B) Cleaning, maintenance, and relamping of any external lighting fixtures, except such fixtures which are the property of any utility or governmental body;

(C) Performance of necessary maintenance of landscaping as required within the Shared Drives including the trimming, watering, and fertilization of all grass, groundcover, shrubs and trees, removal of dead or waste material, and replacement of any dead or diseased grass, groundcover, shrubs, or trees;

(D) Removal of trash and rubbish within the Shared Drives;

(E) The regular, periodic cleaning of the Shared Drives to minimize pollutant runoff.

No lighting or plantings shall be constructed within or otherwise made part of the Shared Drives.

Section 6.5 Assessment of Shared Drive Maintenance Costs. The cost of maintaining the Shared Drives, costs of administering the Association, and other costs as are necessarily incurred by the Developer or the Association to perform its responsibilities hereunder (hereinafter referred to as "Maintenance Assessments") shall be allocated pro rata based upon gross Tract square footage among all the Owners of Tracts 2 through 9 (See Exhibit E) unless Tract 1 is included as described below. Each Tract shall bear its prop rata share of all such Maintenance Assessments, which shall be set at a level which is reasonably expected to produce income for the Association equal to the budgeted expenses. The budget and proposed Maintenance Assessment may be adopted by the Board (defined below) without a vote of the Owners.

If any portion of Tract 1 has direct access to the Shared Drives, such as by constructing a curb cut interrupting the curb on Tract 1's side of the roadway in the Shared Drive, then beginning at the time construction of such access is commenced, the Maintenance Assessment shall be allocated pro rata based upon gross Tract square footage among all the Owners of Tracts 1 through 9 and Exhibit E shall be revised to show pro rata percentages including Tracts 1 through 9.

The Maintenance Assessments shall be assessed in advance by the Developer and invoiced annually. Such assessments shall be due within thirty (30) days after receipt of written invoice from Developer, then said indebtedness shall be a debt and shall constitute a lien against the Tract on which the assessment was assessed.

Section 6.6 Taxes and Assessments. The Owners shall pay prior to delinquency all taxes and assessments levied or assessed against their respective Tracts. The Owners shall each have the right to contest the amount or validity of all or any part of the taxes and assessments which said Owners are required to pay.

Section 6.7 Repair Assessment. If, in the process of construction upon any Tract or other portion of the Property, or in making any Improvement, or through negligence or intentional misconduct, the Owner or Occupant, their employees, agents or independent contractors cause damage to any other Tract, Improvement, Common Areas, Common Areas, public rights-of-way or to any other property owned by someone else within Unser & McMahon Crossing, the Owner shall be responsible for such damage. If the Developer, either voluntarily or involuntarily, makes repairs or otherwise cures the damage caused by the Owner, its employees, agents or independent contractors, the Owner shall be obligated to reimburse the Developer for all reasonable expenses the Developer incurred in curing the damage. Such amount shall be treated as a special assessment and the Developer shall have all rights and powers as provided in this Article. Repair

Assessments shall be due within thirty (30) days after receipt of written notice from Developer setting forth the nature of the work necessitating the Repair Assessment and the amount of the Repair Assessment.

Section 6.8 Effect of Non-Payment of Assessment - the Lien, the Personal Obligation, Remedies of the Developer. Developer, in its capacity as owner of the Property hereby covenants and agrees to pay, and each subsequent Owner of a Tract, by accepting title thereto, whether or not it shall be expressed in any conveyance of said Tract, is deemed to covenant and agree to pay all Assessments against such Owner's Tract as set forth in this ECR. Such Assessments, together with interest and the cost of collection thereof, shall be a charge on the land and shall be a continuing lien upon each Tract against which each such Assessment is made.

The lien of the Developer upon a Tract for assessments shall be effective from and after recording, in the public records of Bernalillo County, New Mexico, a claim of lien stating the description of the Tract encumbered thereby, the name of the Owner and the amount and date when due. Such claim of lien shall include not only assessments which are due and payable when the claim of lien is recorded, plus interest, costs, attorney's fees, advances to pay prior encumbrances and interest thereon, but such claim of lien shall also include such additional assessments which accrue from the first non-payment to which the claim of lien relates to the entry of a judgment in favor of the Developer with respect to such lien. Such claims of lien shall be signed and verified by an officer or agent of the Developer. Upon full payment of all sums accrued by such claim of lien, the same shall be satisfied of record. If the assessment is not paid within fifteen (15) days after the delinquency date, which shall be set by the Developer, the assessment shall bear a late charge to be fixed by the Developer and thirty (30) days following the delinquency date the delinquent assessment shall bear interest from the date due at the rate of fifteen percent (15%) per annum. Any time an assessment remains delinquent for thirty (30) or more days, the Developer may bring an action to foreclose the lien against the Tract(s) in like manner as a foreclosure of a mortgage on real property, and/or a suit on the personal obligation against the Owner(s), and there shall be added to the amount of such assessment the cost of preparing and filing the complaint in such action including reasonable attorney's fees, and, in the event a judgment is obtained, such judgment shall include late charges and interest on the assessment as above provided and reasonable attorney's fees to be fixed by the Court, together with the cost of the action.

Section 6.9 Subordination to Lien of Mortgages. The lien for the assessments for which provision is herein made, as well as in any other Article of this ECR, shall be subordinate to the lien of any first mortgage to a federal or state-chartered bank or credit union, life insurance company, federal or state savings and loan association, real estate investment trust, retirement fund or institutional mortgage company. Such subordination shall apply only to the assessments which have become due and payable prior to a sale or transfer of such Tract pursuant to a decree of foreclosure of such mortgage or a deed or other transfer in lieu of foreclosure. No sale or transfer shall relieve any Tract from liability for any assessment thereafter becoming due or from the lien of any such subsequent assessment.

ARTICLE VII PROPERTY RIGHTS

Section 7.1 Owners' Easements of Enjoyment. Every Owner shall have a reciprocal right of easement of enjoyment in and to the Common Areas which shall be appurtenant to and shall pass with the title of all portions of the Property, subject to the following:

(A) All provisions of this ECR and the plats of all or any part of the Property.

(B) Restrictions filed separately in the records of Bernalillo County, New Mexico with respect to all or any part of the Property.

Section 7.2 Allowed Operations and Uses.

(A) All of the Tracts are intended to be used for a coordinated shopping center designed and maintained so as to attract customers from throughout the region, including accessory or related services, in compliance with all ordinances of the City of Albuquerque and the Unser & McMahon Crossing Development Plan and Design Criteria. Any other uses must be approved by Developer and be in compliance with all ordinances of the City of Albuquerque, title matters of record, and the Unser & McMahon Crossing Development Plan and Design Criteria.

(B) Unless otherwise specifically prohibited by the City of Albuquerque, title matters of record, the Unser & McMahon Crossing Development Plan and Design Criteria or this ECR, any operation and use will be permitted if it is performed or carried out entirely within a Building that is so designed and constructed that the enclosed operations and uses do not cause or produce a nuisance to adjacent Tracts such as, but not limited to, vibration, sound, electro-mechanical disturbance, radiation, discharge of waste materials, electromagnetic disturbance, air or water pollution, dust pollution or the emission of odorous, toxic or non-toxic matter. Further, no noxious or offensive trade, service or activity such as strip clubs shall be permitted within Unser & McMahon Crossing.

(C) No part of the Property shall be permitted as a business or facility used in growing, delivering, transferring, supplying, dispensing, dispersing, distributing or selling marijuana, whether by prescription, medical recommendation or otherwise, and whether consisting of live plants, seeds, seedlings or processed or harvested portions of the marijuana plant or a membership warehouse club.

(D) No part of the Property shall be permitted for uses that have been identified as an Exclusive Use (defined below) except for the Tract of the Occupant who has been granted that Exclusive Use. "Exclusive Use" means a use for which an Occupant has negotiated and obtained an agreement that no other Tract within the Property will be allowed to conduct that use. Particular Exclusive Uses are identified in Exhibit C. Developer reserves the right to amend the Exclusive Uses, as to the whole of the Property, without the consent of any other Owner or Occupant, as long as such amendment does not conflict with a currently existing Exclusive Use.

(E) **Prohibited Uses.** No part of the Property shall be permitted for uses that have been identified as Prohibited Uses. Prohibited Uses are identified in Exhibit D.

Section 7.3 Delegation of Use. Subject to such limitations as may be

imposed by this ECR, each Owner may delegate the right of enjoyment in and to the Common Areas to its Occupants and invitees.

Section 7.4 Further Subdivision. No further subdivision or vacation of a subdivision of the Property shall be allowed unless approved by the ARC and the City of Albuquerque.

Section 7.5 Right of Entry Easement. The Developer, through their duly authorized employees and contractors, shall have the right and easement, after reasonable notice to the Owner of each Tract, to enter said Tract, including Improvements (except any building or other enclosure), at any reasonable time to perform such inspection and/or maintenance as may be authorized in this ECR.

Section 7.6 No Partition. There shall be no judicial partition of the Common Areas, nor shall Developer, any Owner and any other person acquiring any interest in the Property or any part thereof, seek judicial partition thereof.

ARTICLE VIII INDEMNIFICATION/INSURANCE/WAIVER OF SUBROGATION

Section 8.1 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 Tract, except to the extent proximately caused, in whole or in part, by the act or omission of the party claiming indemnification hereunder.

Section 8.2 Insurance.

(A) At all times during the term of this ECR, each Owner shall keep Improvements on its Tract insured against loss or damage by fire and other perils and events as may be insured against under the broad form of Uniform Extended Coverage Clause in effect from time to time in New Mexico, with such insurance to be for the full replacement value of the insured Improvements.

(B) Provided an Owner, either independently or in combination with its corporate parent, has a net worth of at least One Hundred Million Dollars (\$100,000,000.00) (as determined by generally accepted accounting principles, consistently applied), Owner, at Owner's election, may (i) self-insure to provide any coverage(s) Owner is required to carry under this Section 8.2 or (ii) retain the financial risk for any claim that would otherwise fall under the coverage(s) Owner is required to carry under this Section 8.2. Any Owner providing self-insurance shall, upon request of any other Owners, but not more than once annually, provide the other Owners with a letter describing such self-insurance program and confirming that the Owner meets the net worth requirement and, if applicable, evidence of any partial insurance coverage which may be supplementing any plan of partial self-insurance. Any deductible under any policy of insurance in excess of Five Thousand Dollars (\$5,000.00) shall be deemed self-insurance.

Section 8.3 Waiver of Subrogation. Neither the Developer 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 Improvement 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. The Developer 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.

Section 8.4 Limitation on Indemnities. To the extent, if at all, §56-7-1 N.M.S.A. 1978 is applicable to this ECR, no indemnity obligation provided in this ECR will extend to any liability, claims, damages, losses or expenses, including attorney's fees relating to the construction, installation, alteration, modification, repair, maintenance, servicing, demolition, excavation, drilling, reworking, grading, paving, clearing, site preparation or development of any real property or of any improvement on, above or under real property and arising out of (i) the preparation or approval of maps, drawings, opinions, reports, surveys, change orders, designs, or specifications by the indemnitee, or the agents or employees of the indemnitee, or (ii) the giving or the failure to give directions or instructions by the indemnitee, or the agents or the employees of the indemnitee where the giving or failure to give directions or instructions is the primary cause of bodily injury to Persons or damage to property.

ARTICLE IX EMINENT DOMAIN

Section 9.1 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 affecting said other Tract Owner's Tract or giving the public or any government any rights in said Tract. 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 Property 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.

Section 9.2 Collateral Claims. All Owners other than the Owner of the Tract taken by the exercise of eminent domain, condemnation or transfer in lieu thereof may file collateral claims with the condemning authority for their losses which are separate and apart from the value of the Property and Improvements taken from the Owner of said Tract.

ARTICLE X RESTORATION OF UNSER & MCMAHON CROSSING - CASUALTY OR EMINENT DOMAIN

In the event all or any portion of any Building or the Improvements in Unser & McMahon Crossing is damaged or destroyed by fire or other casualty, or is taken or damaged as a result of the exercise of the power of eminent domain, condemnation or any transfer in lieu thereof, the Tract Owner or Occupant shall: (A) promptly restore or cause to be restored (i) the remaining portion of the 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, and (ii) the remaining portion of such Building; or (B) in lieu thereof, shall remove or cause to be removed the damaged portion of such Building and/or such Improvements together with all rubble and debris related thereto. All

Building Sites on which Buildings are not reconstructed following a casualty or eminent domain, condemnation or transfer in lieu thereof shall be graded or caused to be graded by the Owner of said Tract through the Developer to the level of the adjoining property and in such a manner as not to adversely affect the drainage of Unser & McMahon Crossing or any portion thereof shall be covered by a one inch asphalt dust cap, crushed granite, neatly maintained lawn, or other means of dust/weed control as agreed to by the ARC.

ARTICLE XI DEVELOPER'S RESERVED RIGHTS TO PROPERTY

Section 11.1 **Extension of ECR to Include Additional Property.** The Developer may at any time make other properties now or hereafter owned by Developer subject to this ECR by executing an instrument in writing applying this ECR to such other properties and by recording the instrument in the public records of Bernalillo County, New Mexico.

Section 11.2 **Withdrawal of Property.** Developer may, but shall have no obligation to, withdraw at any time or from time to time portions of the Property owned by the Developer, provided only that the withdrawal of said portions shall not, materially increase the pro rata share of expenses payable by the Owners remaining subject hereto after such withdrawal or adversely affect access to the remainder of the Property. The withdrawal of said portions of the Property as aforesaid shall be made and evidenced, by filing in the public records of Bernalillo County, New Mexico, a supplementary ECR executed by the Developer alone, with respect to the portions of the Property to be withdrawn.

Section 11.3 **Platting and Subdivision Restrictions.** The Developer shall be entitled at any time and from time to time to plat, vacate and/or replat all or any part of the Property and to file subdivision restrictions and/or amendments thereto with respect to any undeveloped portion or portions of the Property, without the consent of the ARC or the Owners or any mortgagee of the Property. If required, the Owners or any mortgagee of the Property shall execute such approvals as are required by the municipality governing such platting and subdivision.

Section 11.4 **Public Roads - Easements.** The Developer reserves the right from time to time hereafter to delineate, plat, grant or reserve within portions of the Property not previously conveyed or hereby granted, such public streets, roads, sidewalks, ways and appurtenances thereto, and such easements for drainage and public utilities, as it may deem necessary or desirable for the development of Unser & McMahon Crossing (and from time to time to change the location of the same) free and clear of this ECR and to dedicate the same to public use or to grant the same to any governing municipal or regulatory authority, including any appropriate public utility corporations.

ARTICLE XII UNSER & MCMAHON CROSSING COMMERCIAL PROPERTY OWNERS ASSOCIATION

Section 12.1 **Function of Association.** The Association shall succeed to all of the rights and responsibilities of the Developer under this ECR at such time as Developer no longer owns any Tract, portion of, or interest in the Property, or at any earlier time if Developer delegates such rights or responsibilities in a written instrument. Such delegation shall entitle the

Association, among other things, to assess each Owner for expenses incurred or anticipated to be incurred by the Association in performing its responsibilities and exercising its rights and powers under this ECR and to enforce this ECR.

The Association shall perform its functions in accordance with this ECR, the By-Laws, the Articles of Incorporation and the laws of the State of New Mexico. The Developer shall be responsible for preparing the Articles of Incorporation and By-Laws (the "Association Documents"). The Association Documents shall be deemed approved only by the written consent of the Owners of sixty-six and two-thirds percent ($66 \frac{2}{3}\%$) of the acreage of the Tracts subject to this ECR provided, however, that so long as Developer owns at least one Tract, no such approval shall be effective without the written approval of Developer thereto.

The affairs of the Association shall be governed by a Board of Directors ("Board"), which Board shall have such powers and authority as is more specifically set forth in the By-Laws. Membership and voting rights in the Association shall be subject to the provisions of the By-Laws regarding the same.

ARTICLE XIII MISCELLANEOUS

Section 13.1 Term. This ECR, every provision hereof, and every covenant, condition, restriction and reservation contained herein shall continue in full force and effect for a period of thirty (30) years from the recording hereof in the public records of Bernalillo County, New Mexico, and shall thereafter be renewed automatically for successive ten (10) year periods unless and until terminated as provided in Section 12.2.

Section 13.2 Termination and Modification. The provisions hereof, or covenants, conditions or standards contained in Article III- Architectural Review Committee, Article IV- Regulation of Improvements, and Section 7.2- Allowed Operations and Uses herein, may be terminated, extended, modified or amended, as to the whole of the Property or any portion thereof, with the written consent of the Owners of sixty-six and two-thirds percent ($66 \frac{2}{3}\%$) of the acreage of the Tracts subject to this ECR provided, however, that so long as Developer owns at least one Tract, no such termination, extension, modification or amendment shall be effective without the written approval of Developer thereto. No such termination, extension, modification or amendment shall be effective until a proper instrument in writing has been executed and acknowledged and recorded in the public records of Bernalillo County, New Mexico. No such termination, extension, modification or amendment shall affect any Plans and Specifications or uses of the Property theretofore approved by Developer or the ARC under Article III hereof or any Improvements theretofore or thereafter made pursuant to such approval unless such termination, extension, modification or amendment is approved by the Owner(s) of the Tract(s) so affected.

Section 13.3 Assignment of Developer's Rights and Duties. Any and all of the rights, powers and reservations of the Developer herein contained may be assigned to any person or entity, which person or entity will assume the duties of the Developer pertaining to the particular rights, powers and reservations assigned, and upon any such person or entity evidencing its consent in writing to accept such assignment and assume such duties, it shall, to the extent of such assignment, have the same rights and powers and be subject to the same obligations and duties as are given to and assumed by Developer herein. If at any time the Developer ceases to exist and has not made such an assignment, the Owners shall assume the rights, powers and reservations of the Developer. The

Developer may from time to time delegate any or all of its rights, powers, discretion and duties hereunder to such agents as it may nominate. The Developer may also permanently assign any or all of its powers and duties (including discretionary powers and duties), obligations, rights, title, easements and estates reserved to it by this ECR to any one or more persons or entities, that will accept the same. Any such assignment shall be in writing and recorded in the public records of Bernalillo County, New Mexico and the assignee shall join therein for the purpose of evidencing its acceptance of the same. Such assignee shall thereupon have the same rights, title, powers, obligations, discretion and duties as are herein reserved to the Developer and the Developer shall automatically be released from such responsibility.

Section 13.4 **Mutuality and Reciprocity - Runs With Land.** All covenants, restrictions, conditions and agreements contained herein are made for the direct, mutual and reciprocal benefit of each and every Tract and other Property in favor of every other Tract and other Property, shall create reciprocal rights and obligations between all grantees of each Tract and other Property, their heirs, successors, personal representatives and assigns, and shall, as to said grantees, their heirs, successors, personal representatives and assigns, operate as covenants running with the land for the benefit of all other Tracts and other Property.

Section 13.5 **Benefits and Burdens.** The terms and provisions contained in this ECR shall bind and inure to the benefit of the Developer, the Owners of all Tracts, the grantees of the other Property, and the grantees of additional land made subject to this ECR and their respective heirs, successors, personal representatives and assigns.

Section 13.6 **Not a Public Dedication.** Nothing herein contained shall be deemed to be a gift or dedication of any portion of the Property 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 Tract, 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 and the Developer. Notwithstanding any other provisions herein to the contrary, Developer or the Owner(s) of the Tract(s) 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 Owners and Occupants, and to the extent it is done by Owners shall be approved by the ARC.

Section 13.7 **Occupant Designee.** An Owner may designate, by written notice delivered to the other Owners, the Developer and Property Manager (if any) containing such designee's name and address, an Occupant with respect to an entire Tract to act as such Owner's designated agent for all purposes under this ECR and to exercise all rights and perform all obligations of such Owner under this ECR. Upon delivery of such written designation to the other Owners, the Developer and the Property Manager, the designated Occupant shall be recognized as the party responsible for, and with authority regarding, all matters under this ECR respecting the Tract owned by such Owner, except as otherwise expressly set forth below. Such designation shall remain in full force and effect until

delivery to the other Owners, the Developer and the Property Manager of a written revocation of the designation by the Owner (or the Owner's successors or assigns). Notwithstanding the foregoing, the Owner shall at all times remain primarily responsible and liable for the obligations of such Owner under this ECR. Notwithstanding the foregoing, the designated Occupant of an Owner shall have no power or authority to agree or consent to the amendment, modification or termination of this ECR.

Section 13.8 **Notices.** Any notice required or permitted herein shall be in writing and mailed, postage prepaid by registered or certified mail, return receipt requested, and shall be directed as follows: If intended for an Owner: (A) if the tract is improved, to the address set forth in the tax rolls; (B) if the Tract is not improved, to the address set forth in the deed; or (C) if none of the foregoing, to the last known address of the Owner; and if intended for Developer, to the following address:

Holly Partners, LLC
Attn: Developer
904 Copperhead Court NE
Albuquerque, New Mexico 87113
Telephone: (505)710-0307

The address of the Developer may be changed from time to time by recording a change of address in the county land records specifically referencing this recorded ECR by book and page.

Section 13.9 **Singular and Plural.** Words used herein, regardless of the number and gender specifically used, shall be deemed and construed to include any other number, singular or plural, and any other gender, masculine or feminine, as the context requires.

Section 13.10 **Failure to Enforce Not a Waiver of Rights.** Any waiver or failure to enforce any provision of this ECR in a particular situation shall not be deemed a waiver or abandonment of such provision as it may apply in any other situation or to the same or a similar situation at any other location in Unser & McMahon Crossing or of any other provision of this ECR. The failure of Developer or any Owner to enforce any provision of the ECR shall in no event be deemed to be a waiver of the right to do so thereafter or of the right to enforce any other provision of the ECR.

Section 13.11 **Condominium.** This ECR shall not be construed to limit or prevent a Tract or other Property and the Improvements thereon from being submitted to a plan of condominium ownership, and particularly the recordation of a plan of condominium ownership for any Tract or other Property shall not be construed as constituting a subdivision of the Tract or other Property.

Section 13.12 **Constructive Notice and Acceptance.** Every person who now or hereafter owns or acquires any right, title or interest in or to any portion of the Property has and shall be conclusively deemed to have consented and agreed to every covenant, condition and restriction contained herein.

Section 13.13 **Severability.** All of the conditions, covenants, restrictions and reservations contained in this ECR shall be construed together, but if it shall at any time be held that any one of said conditions, covenants, restrictions or reservations, or any part thereof, is invalid, or for any reason

becomes unenforceable, no other conditions, covenants, restrictions and reservations nor any part thereof shall be thereby affected or impaired.

Section 13.14 **Captions.** The captions, section numbers and article numbers appearing in this ECR are inserted only as a matter of convenience and in no way define, limit, construe or describe the scope or intent of such sections or articles of the ECR nor in any way modify or affect this ECR.

IN WITNESS WHEREOF, the Developer has executed this ECR effective the date first hereinabove set forth.

Holly Partners, LLC, a
New Mexico limited liability company

By: Vatet

Its: Member

STATE OF NEW MEXICO)

COUNTY OF BERNALILLO)

This instrument was acknowledged before me on April 12, 2022, by Varesh Patel, the Member of Holly Partners, LLC, a New Mexico limited liability company.

MY COMMISSION EXPIRES:

8/20/22

Cynthia Arellano
NOTARY PUBLIC

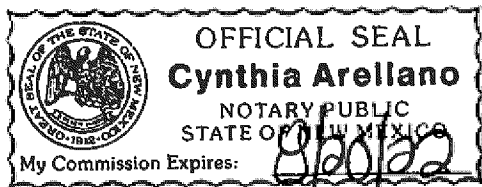


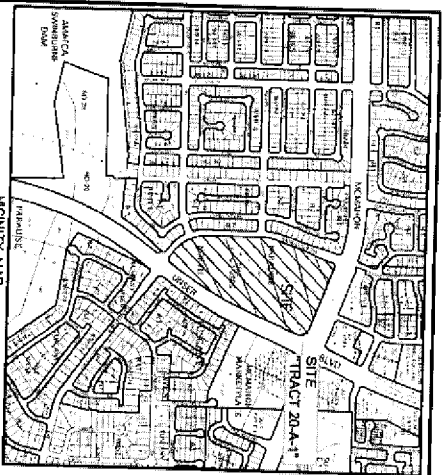
EXHIBIT "A"

Legal Description

Tract numbered Twenty-A-One (20-A1) of Vacation and Amended Plat and Replat of PARADISE NORTH, situate within the Town of Alameda Grant, Bernalillo County, New Mexico as the same is shown and designated on the said Amended Plat and Replat filed in the office of the County Clerk of Bernalillo County, New Mexico on August 8, 1990.

EXHIBIT "B"

Site Plan



FROM ZONE ALAS PAGE A-11-Z
N.T.S.



DESCRIPTION
TRACT NUMBERED 20A-1, OF VACATION AMENDED PLAT AND REPEAT OF PARADE NORTH, SITUATE WITHIN THE TOWN OF ALAMEDA GRANT, CITY OF ALBUQUERQUE, BERNALILLO COUNTY, NEW MEXICO, AS THE REPEAT OF PARADE NORTH, SITUATE WITHIN THE TOWN OF ALAMEDA GRANT, CITY OF ALBUQUERQUE, BERNALILLO COUNTY, NEW MEXICO, AS THE REPEAT OF PARADE NORTH, SITUATE WITHIN THE TOWN OF ALAMEDA GRANT, CITY OF ALBUQUERQUE, BERNALILLO COUNTY, NEW MEXICO, ON AUGUST 8, 1990, IN PLAT BOOK 900, FOLD 102.

**PLAT OF
UNSER AND MCMAHON CENTER SUBDIVISION
WITHIN THE TOWN OF ALAMEDA GRANT
PROJECTED SECTION 2, TOWNSHIP 11 NORTH, RANGE 2 EAST, N.M.P.M.
CITY OF ALBUQUERQUE
BERNALILLO COUNTY, NEW MEXICO
FEBRUARY 2021**

SUBDIVISION DATA

1. DIB NO. _____
2. ZONE ALAS MAP NO. A-11; ZONING: SU-1.
3. GROSS SUBDIVISION ACREAGE: 19.088 ACRES.
4. TOTAL NUMBER OF LOTS/TRACTS CREATED: NINE (9) LOTS.
5. DATE OF SURVEY: JULY 2020
6. PLAT IS LOCATED WITHIN CITY OF ALBUQUERQUE, BERNALILLO COUNTY, NEW MEXICO.
7. THIS PLAT SHOWS ALL PLOTTABLE EASEMENTS OF RECORD.

PURPOSE OF PLAT

THE PURPOSE OF THIS PLAT IS TO REPEAT ONE EXISTING TRACT (TRACTS 20A-1) AS DESCRIBED IN THAT PLAT OF PARADE NORTH, SITUATE WITHIN THE TOWN OF ALAMEDA GRANT, CITY OF ALBUQUERQUE, BERNALILLO COUNTY, NEW MEXICO, ON AUGUST 08, 1990, BOOK 900, PAGE 182 INTO NINE NEW LOTS.

NOTES

1. BEARINGS SHOWN ON THIS PLAT ARE NEW MEXICO STATE PLANE GRID BEARINGS, CENTRAL ZONE, NAD 1983.
2. DISTANCES ARE GROUND DISTANCES (U.S. SURVEY FOOT).
3. THIS SURVEY IS BASED UPON THE PLAT OF PARADE NORTH, BERNALILLO COUNTY, NEW MEXICO, ON AUGUST 08, 1990, BOOK 900, PAGE 182, RECORD BEARING AND DISTANCES ARE SHOWN ON THIS PLAT.
4. SOLAR NOTE - PURSUANT TO SECTION 14-1-4-4-7 OF THE CITY OF ALBUQUERQUE CODE OF ORDINANCE, "NO PROPERTY WITHIN THE AREA OF THIS PLAT SHALL AT ANY TIME BE SUBJECT TO A PROHIBITIVE ORDER OR INJUNCTION FROM THE CITY OF ALBUQUERQUE PROHIBITING SOLAR COLLECTORS FROM BEING INSTALLED ON BUILDINGS OR ERECTED ON THE LOTS OR TRACTS WITHIN THE AREA OF PROPOSED PLAT.
5. GROUND TO GROUND SCALE FACTOR USED IS 0.999670857 AS PUBLISHED BY ACS MONUMENT "9-A11".
6. DATA IN PARENTHESES IS RECORD OBTAINED FROM THE PLAT OF PARADE NORTH, RECORDED AUGUST 08, 1990, IN DOCUMENT NO. 1990081878.

EXISTING EASEMENTS

1. 10-FOOT PUBLIC UTILITY EASEMENT FILED AUGUST 08, 1990, IN BOOK 900, PAGE 182.

NEW EASEMENTS

1. EASEMENT FOR PUBLIC ACCESS, PUBLIC WATER, PUBLIC SEWER AND PUBLIC DRAINAGE TO BE GRANTED BY THE FILING OF THIS PLAT.

FREE CONSENT

SURVEYED AND SUB-DIVIDED AND NOW COMPRISING, PLAT OF UNSER AND MCMAHON CENTER, WITH THE FREE CONSENT OF AND IN ACCORDANCE WITH THE WISHES AND DESIRES OF THE UNDERSTOOD OWNERS(S) AND PROPRIETORS(S), THE EXECUTION OF THIS PLAT IS THEIR FREE ACT AND DEED.

SOLD OWNERS(S) AND PROPRIETORS(S) DO HEREBY WARRANT THAT THEY TO THE LAND SUB-DIVIDED.

SOLD OWNERS(S) DO HEREBY GRANT EASEMENTS AS SHOWN HEREON, SAID OWNERS(S) AND PROPRIETORS(S) DO HEREBY CONSENT TO ALL OF THE FOREGOING AND DO HEREBY REPRESENT THAT THEY ARE SO AUTHORIZED TO ACT.

APPROVALS

A.B.C.W.U.A. _____ DATE _____

PUBLIC SERVICE COMPANY OF NEW MEXICO _____ DATE _____

NEW MEXICO GAS COMPANY _____ DATE _____

CONCAST

CONCAST CORPORATION D/B/A/ CENTURILINK QC _____ DATE _____

CITY SURVEYOR _____ DATE _____

A.M.A.F.C.A.

BERNALILLO COUNTY APPROVALS _____ DATE _____

BERNALILLO COUNTY PUBLIC WORKS DIVISION _____ DATE _____

BERNALILLO COUNTY NATURAL RESOURCES SERVICES _____ DATE _____

BERNALILLO COUNTY ZONING DEPARTMENT _____ DATE _____

BERNALILLO COUNTY FIRE MARSHALL _____ DATE _____

BERNALILLO COUNTY DEVELOPMENT REVIEW AUTHORITY, CHAIR _____ DATE _____

M.R.C.D. _____ DATE _____

TREASURER'S OFFICE CERTIFICATION _____ DATE _____

PAID ON U.P.C. # _____

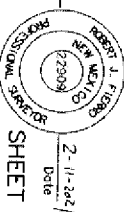
PROPERTY OWNER OF RECORD _____

BERNALILLO COUNTY TREASURER'S OFFICE _____ DATE _____

SURVEYOR'S CERTIFICATION

ROBERT J. FIERRO, NEW MEXICO PROFESSIONAL SURVEYOR NO. 22809, DO HEREBY CERTIFY THAT THIS PLAT OF SURVEY WAS PREPARED FROM FIELD NOTES OF AN ACTUAL SURVEY CONDUCTED BY ME OR UNDER MY SUPERVISION, THAT IT ACCURATELY MEETS THE STANDARDS FOR THE CITY OF ALBUQUERQUE, NEW MEXICO, AND THE NEW MEXICO STATE BOARD OF REGISTRATION FOR PROFESSIONAL SURVEYORS AND PROFESSIONAL SURVEYORS, MEETS THE MINIMUM REQUIREMENTS FOR THE CITY OF ALBUQUERQUE, NEW MEXICO, AND IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF.

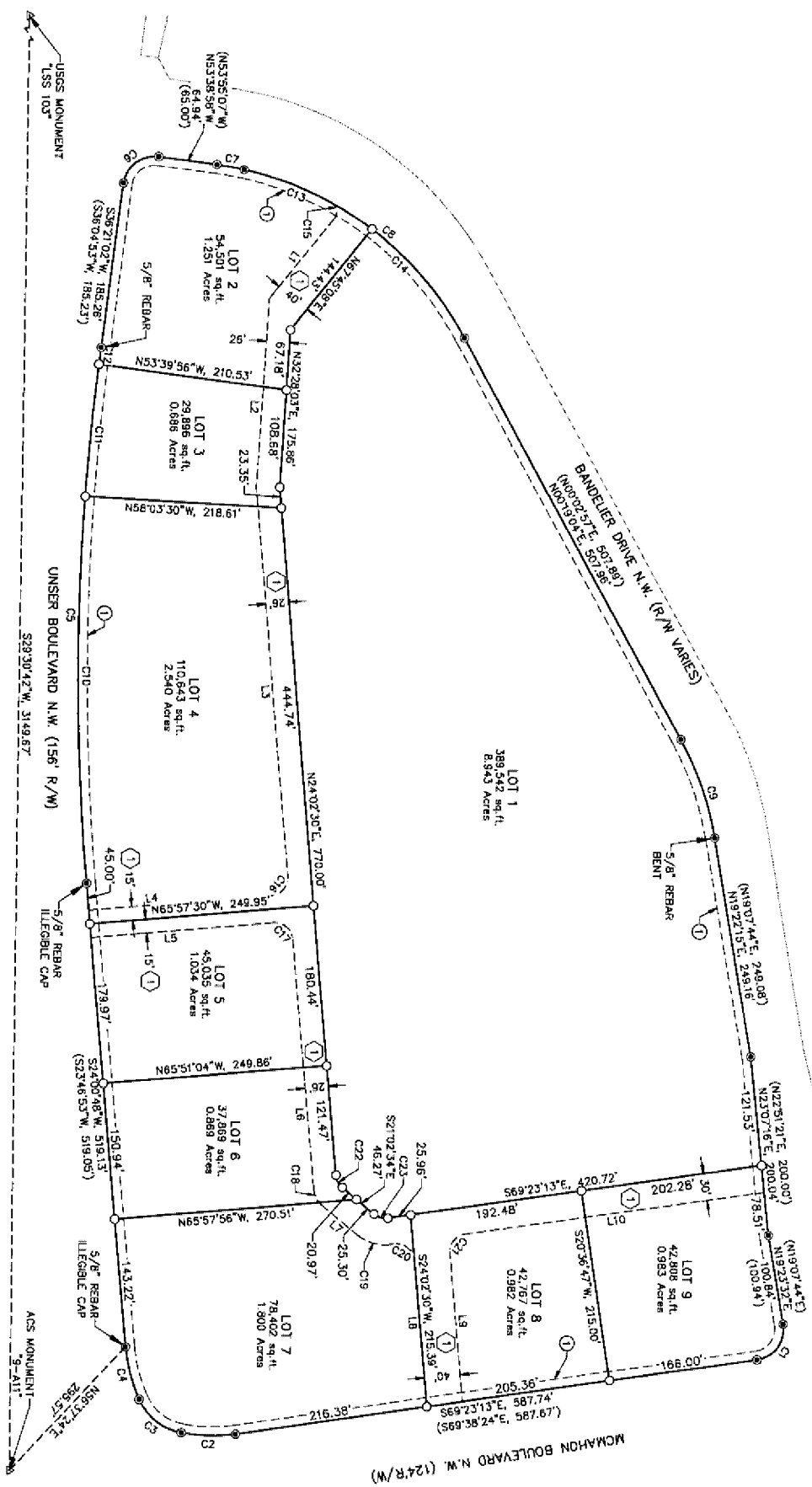
ROBERT J. FIERRO, N.M.P.S. No. 22809



Fierro & Company

ENGINEERING | SURVEYING
6300 MONTANO ROAD, NW, SUITE C
ALBUQUERQUE, NM 87120
PH 505.352.8930
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FEBRUARY, 2021

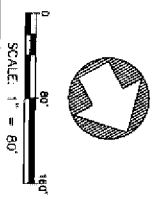


USGS MONUMENT TSS 103
NW STATE PLANE COORDINATES (CENTRAL ZONE)
PUBLISHED DATA IN NAVD 1983
Y=130466.034 U.S. SURVEY FEET
X=1508019.999 U.S. SURVEY FEET
DELTA ALPHA= -075.40.72"
GROUND TO GRID FACTOR= 0.999671840
PUBLISHED DATA IN NAVD 1983
ELEVATION= 5295.137 U.S. SURVEY FEET

ACS MONUMENT "9-A11"
NW STATE PLANE COORDINATES (CENTRAL ZONE)
PUBLISHED DATA IN NAVD 1983
Y=1333206.142 U.S. SURVEY FEET
X=1508271.019 U.S. SURVEY FEET
DELTA ALPHA= -075.30.20"
GROUND TO GRID FACTOR= 0.999671840
PUBLISHED DATA IN NAVD 1983
ELEVATION= 5201.647 U.S. SURVEY FEET

PROPERTY CORNERS

- = FOUND 1/2" REBAR WITH PS 8868 CAP
- ▲ = FOUND 1/2" REBAR WITH PS 22909 CAP
- = SET 1/2" REBAR WITH PS 22909 CAP



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BERNALILLO COUNTY, NEW MEXICO
FEBRUARY, 2021

CURVE TABLE

CURVE #	ARC LENGTH	RADIUS	DELTA ANGLE	CHORD BEARING	CHORD LENGTH
C1	55.72	35.00	91°13'15"	S65°00'08"W	50.02
C2	60.76	180.00	192°0'53"	N59°42'23"W	60.50
C3	62.02	65.00	54°40'17"	N22°36'11"W	58.70
C4	60.74	180.00	192°0'07"	N14°27'40"E	60.46
C5	598.21	2786.79	12°17'56"	N30°12'15"E	597.06
C6	54.98	35.00	90°00'00"	N81°10'12"E	49.50
C7	31.01	337.00	5°16'22"	S31°03'11"E	31.00
C8	318.92	375.25	48°41'39"	S24°02'20"E	309.40
C9	116.39	350.00	19°03'11"	S08°50'39"W	115.85
C10	431.52	2786.79	8°52'19"	N28°29'27"E	431.09
C11	146.09	2786.79	3°02'41"	N34°26'57"E	146.07
C12	16.59	2786.79	0°22'56"	N36°09'46"E	16.59
C13	156.76	375.25	24°14'29"	S36°15'56"E	157.58
C14	160.15	375.25	24°27'11"	S11°55'08"E	158.94
C15	20.89	12.00	100°12'55"	N17°38'40"E	16.41
C16	31.42	20.00	90°00'00"	N69°02'30"E	28.28
C17	31.42	20.00	90°00'00"	N20°57'30"W	28.28
C18	23.61	30.00	45°05'03"	N01°28'58"E	23.00
C19	42.19	50.00	48°20'39"	N45°12'54"W	40.85
C20	32.61	20.00	93°25'45"	N22°40'22"W	29.12
C21	30.22	20.00	86°34'17"	S67°19'38"W	27.43
C22	15.74	20.00	45°05'03"	S01°28'58"W	15.33
C23	16.88	20.00	48°20'39"	S45°12'54"E	16.38

RECORD CURVE TABLE

CURVE #	ARC LENGTH	RADIUS	DELTA ANGLE	CHORD BEARING	CHORD LENGTH
C1	54.73	35.00	91°13'50"	S64°44'40"W	50.03
C2	60.81	180.00	192°1'21"	N59°57'43"W	60.52
C3	62.07	65.00	54°42'35"	N22°55'58"W	59.74
C4	60.61	180.00	192°1'21"	N14°06'12"E	60.52
C5	598.26	2786.79	12°18'00"	N29°55'53"E	597.11
C6	54.98	35.00	90°00'00"	N81°04'53"E	49.50
C7	31.04	337.00	5°16'38"	S31°16'48"E	31.03
C8	318.89	375.25	48°41'28"	S24°17'46"E	309.38
C9	116.55	350.00	19°04'47"	S09°35'21"W	116.01

LINE TABLE

LINE #	BEARING	DISTANCE
L1	N67°45'08"E	115.37
L2	N22°28'03"E	210.28
L3	N24°02'30"E	435.01
L4	S65°57'30"E	203.95
L5	N65°57'30"W	203.94
L6	N24°02'30"E	279.20
L7	N21°02'34"W	48.92
L8	S24°02'30"W	164.10
L9	S24°02'30"W	166.49
L10	N69°23'13"W	336.33



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EXHIBIT "C"

Exclusive Uses

Except for Tract 5, no part of the Property shall be used for: (i) operating a convenience store; (ii) operating a motor fuel facility, (iii) selling cigarettes and tobacco products, including e-cigarettes and vape products, or (iv) selling beer/wine for off-premises consumption (the foregoing shall exclude premises over 8,000 square feet)

Except for Tract 2, no part of the Property shall be used for operating: (i) any bank, savings bank, saving and loan association, thrift institution, credit union, or other lending institution or a branch of such institution, (ii) any title loan or payday lending office (iii) any trust company, mortgage brokerage, security brokerage, insurance agency or insurance brokerage, asset management service, or other financial planning business, (iii) any check cashing service or automated teller machine or (iv) any or such other use offering the same or similar financial services described herein.

EXHIBIT "D"

Prohibited Uses

The following uses are prohibited on the Property:

- No auditorium or place of general assembly;
- No indoor flea market;
- No secondhand store, thrift store, swap shop, liquidation outlet or used clothing store (including merchandise referred to as "odd-lot", "cancellation", "second", "factory reject" etc.);
- No massage parlor;
- No cemetery/crematorium;
- No facility for the sale or rental of drug paraphernalia such as roach clips, bongs, water pipes, coke spoons, cigarette wrapping papers, pipes, or syringes;
- No cannabis production, manufacturing, retail sales, or other business related to cannabis;
- No facility for sale, rental, display of pornographic, lewd, sexually explicit material;
- No off track betting parlor, bowling alley, billiard parlor, pool room, game room, amusement arcade or gaming hall;
- No automobile body shop, truck stop, junk yard or motor vehicle dismantling operation;
- No recycling facility (except as required pursuant to governmental restrictions;
- No stock yard;
- No traveling carnival, circus, or fair;
- No coin operated laundry or dry cleaner;
- No sale, rental or storage of vehicles;
- No shows;
- No booths for the sale of fireworks;
- No churches, temples or other houses of religious worship;
- No establishment conducting games of chance;
- No pawn shop;
- No bingo hall;
- No rehabilitation center for mental or substance abuse rehabilitation;
- No funeral home or funeral parlor;
- No business which creates strong, unusual or offensive odors, fumes, dusts or vapors, or emits noise or sounds which are objectionable due to intermittence, beat or loudness;
- No dumping or disposing of garbage or refuse;
- No production, manufacturing, industrial or storage use of any kind or nature;
- No conduct of any auction, loss of lease, fire, bankruptcy or

going out of business sale;
No tattoo parlor or piercing parlor;
No outdoor housing of animals or outdoor bulk storage;
No cocktail lounge or nightclubs;
No restaurant or other food service operation without the prior
written consent of the Developer under this ECR;
No business that operates on a part-time basis for only a
portion of a week or month;
No check cashing services, except for a credit union or bank
branch;
No automatic teller machine, except for a credit union or bank
branch;
No voting centers;
No blood or plasma center, including any mobile service for the
collection of blood or plasma.

EXHIBIT "E"

Allocation of Maintenance Assessments

<u>Tract</u>	<u>Allocation</u>
1	None (as long as Tract 1 has no direct access to Shared Drive)
2	12.3%
3	6.8%
4	25%
5	10.2%
6	8.6%
7	17.7%
8	9.7%
9	9.7%