

# City of Albuquerque

P.O. BOX 1293 ALBUQUERQUE, NEW MEXICO 87103

April 22, 2003

Ronald R. Bohannan, P.E.
Tierra West, LLC
8509 Jefferson NE
Albuquerque, New Mexico 87113

RE: WALGREENS @ 4TH ST & GRIEGOS NW

(F-14/D53)

(4700 4th St NW)

ENGINEERS CERTIFICATION FOR CERTIFICATE OF OCCUPANCY

ENGINEERS STAMP DATED 7/1/2002

**ENGINEERS CERTIFICATION DATED 4/17/2003** 

Dear Mr. Bohannan:

Based upon the information provided in your Engineers Certification submittal dated 4/17/2003, the above referenced site is approved for a Permanent Certificate of Occupancy.

If I can be of further assistance, please contact me at 924-3981.

Sincerely,

Teresa A. Martin

Hydrology Plan Checker

Development & Bldg. Services Div.

BLB

C: Certificate of Occupancy Clerk, COA drainage file approval file



# City of Albuquerque

P.O. BOX 1293 ALBUQUERQUE, NEW MEXICO 87103 July 11, 2002

Ronald R. Bohannan, P.E. Tierra West, LLC 8509 Jefferson NE Albuquerque, NM 87113

Attn: Vince Carrica

Re: Walgreen's 4<sup>th</sup> and Griegos Grading & Drainage Plan, Engineer's stamp dated 7-01-02

(F14/D53)

Dear Mr. Bohannan,

Based on the information provided in your submittal dated July 1, 2002, City of Albuquerque Hydrology approves the above referenced plan for:

• Final Plat action by the Development Review Board (DRB), and

• Building Permit.

Please attach a copy of this approved plan to the construction sets before sign-off by Hydrology.

Before release of the Certificate of Occupancy, an Engineer's Certification of the grading and drainage plan per the DPM checklist will be required.

Your plan specifies in the Notice to Contractors, that the "contractor must contact line locating service, 765-1234 for location of existing utilities." Please note that this is no longer the point of contact; instead it is New Mexico One Call System at 260-1990.

If you have any questions, please call me at 924-3988.

Sincerely,

Nancy Musinski, P.E.

Hydrology/Utility Development City of Albuquerque Public Works

cc: Terri Martin, Hydrology

Rang Musica/c-

file

#### DRAINAGE REPORT

For

# Walgreen's Fourth and Griegos

Prepared by

Tierra West, LLC 8509 Jefferson NE Albuquerque, New Mexico 87113

Prepared for

CAP II / PETERSON PROPERTIES 2325 San Pedro NE, Suite 2-A Albuquerque, New Mexico 87110

June 17, 2002

Ronald R. Bohannan P.E. No. 7868

HYDROLOGY SEUTION

PROFESSIONAL

#### LOCATION:

The 2.52-acre site is located at the northeast corner of Fourth Street and Griegos Road in northwest Albuquerque. It is bordered on three sides by city streets and on the north by a strip mall and a public school. All accesses into the site are existing with the exception of the Fourth Street access, which is existing but is proposed to be widened. The site is the current location of the Ugly Duckling Used Car Lot. The purpose of this report is to revise the drainage analysis and management plan for the commercial site (to include the proposed Walgreen's) for building permit in the western two thirds of the site. The balance of the site will remain, as it exists.

## **EXISTING DRAINAGE CONDITIONS:**

The 2.52-acre site is currently developed with two buildings and a paved parking field. The property is relatively flat with a gradual slope to the south. Currently, runoff from the west half of the site sheet flows to two concrete rundowns, which channel flows to Griegos Road through two-2' sidewalk culverts. The east half of the site sheet flows out onto La Luz Street through the existing driveway. A small portion in the northwest corner of the parcel sheet flows to Fourth Street through the existing driveway. The existing storm drain in Griegos Road intercepts all flows from the site. Currently the site is not restricting any of the developed flows from the site.

#### FIRM MAP AND SOIL CONDITIONS:

The site is located on FIRM Map 35001C0119 D, Panel Number 119, as shown on the attached excerpts. The map shows that the site does not lie within a 100-year flood plain.

The site contains a soil type designated as Gila Series by the Soil Conservation Service Soil Survey of Bernalillo County. The Gila series consists of deep, well-drained soils formed in recent

alluvium on the flood plains along the Rio Grande River. Slopes range from one to two percent. Permeability is moderate. Runoff is slow and the hazard of water erosion is slight.

## **ONSITE DRAINAGE MANAGEMENT PLAN:**

The proposed development plan includes demolition of the existing structures on the western two thirds of the site. The parcel will be subdivided into two lots. A Walgreen's store is proposed for the 1.74-acre lot on the western two thirds of the site. The on-site runoff from the Walgreen's lot will continue to surface flow to the existing rundowns, which will be extended to connect the new parking field with Griegos Road. A portion of the northwest corner of the Walgreen's lot will sheet flow to Fourth Street. The grades on the balance of the site (0.78-acre lot) will remain as they exist and the runoff will continue to sheet flow onto La Luz Street. The amount of landscaped area proposed for the Walgreen's site is slightly greater than the existing landscaping. The runoff from the proposed development (11.16 cfs) will therefore be equal to or less than existing conditions (approximately 11.19 cfs). Please see attached exhibits for runoff information pertaining to existing and proposed conditions.

#### **FUTURE DEVELOPED CONDITIONS:**

The Walgreen's lot will be redeveloped and the existing structures on the balance of the site will initially remain, as they exist. No proposed user for the east lot is available at this time. When a proposed use for the site becomes available a site plan and specific grading plan will be developed. The grading plan should continue to direct the runoff to either Griegos or La Luz where they can be intercepted by the storm drain in Griegos. With the site being currently developed, no increase in runoff is anticipated for the future development of the balance of the site.

## CRITERIA:

The site was analyzed using the procedures outlined in the Development Process Manual Volume 2, Chapter 22. The Weighted-E method was used in estimating volumes and flow rates of runoff from on-site basins. The existing and developed conditions for on-site basins were analyzed for a 100-year, 6-hour rainfall event.

## **SUMMARY:**

A Walgreen's is proposed for the western two thirds of the existing 2.52-acre tract. The existing buildings and parking lot on this portion of the site will be demolished and the site regarded to accommodate the proposed site plan. Runoff from the site will for the most part remain, as it exists today. The runoff will sheet flow to the adjacent roadways, either through exiting driveways or through exiting sidewalk culverts. The total area of landscaping will increase slightly, keeping the runoff equal to or less than existing conditions. The balance of the site may be redeveloped at a later date. Increases in runoff for this future development are not anticipated.

#### Walgreen's @ Fourth & Griegos

# Weighted E Method

Zone #2

Existing (Developed) Basins

												100-Year	10-Year				
Basin	Area	Area	Area L	Treatment A		Treatment B		Treatment C		Treatment D		Weighted E	Volume	Flow	Weighted E	Volume	Flow
	(sf)	(acres)	(sq miles)	%	(acres)	%	(acres)	%	(acres)	%	(acres)	(ac-ft)	(ac-ft)	cfs	(ac-ft)	(ac-ft)	cfs
<u> 1</u>	6431.00	0.148	0.00023	0%	0	10%	0.015	0%	0	90%	0.133	1.986	0.024	0.66	1.234	0.015	
2	35462.00	0.814	0.00127	0%	0	10%	0.081	0%	0			1.986	0.135	3.63			0.43
3	33694.00	0.774	0.00121	0%	0	10%		0%	0		···	1.986	**		1.234	0.084	2.3
4	33743.00	0.775	0.00121	0%	0	10%		0%	0				0.128	3.45	1.234	0.080	2.2
				3,0	<u>~</u>	10 /0	0.017	0 /61		90%	0.697	1.986	0.128	3.45	1.234	0.080	2.26
OTALS	109330.00	2.510	0.00392	<del></del>													
		2.010	0.00002										0.415	11.19		0.258	7.3

Developed Basins

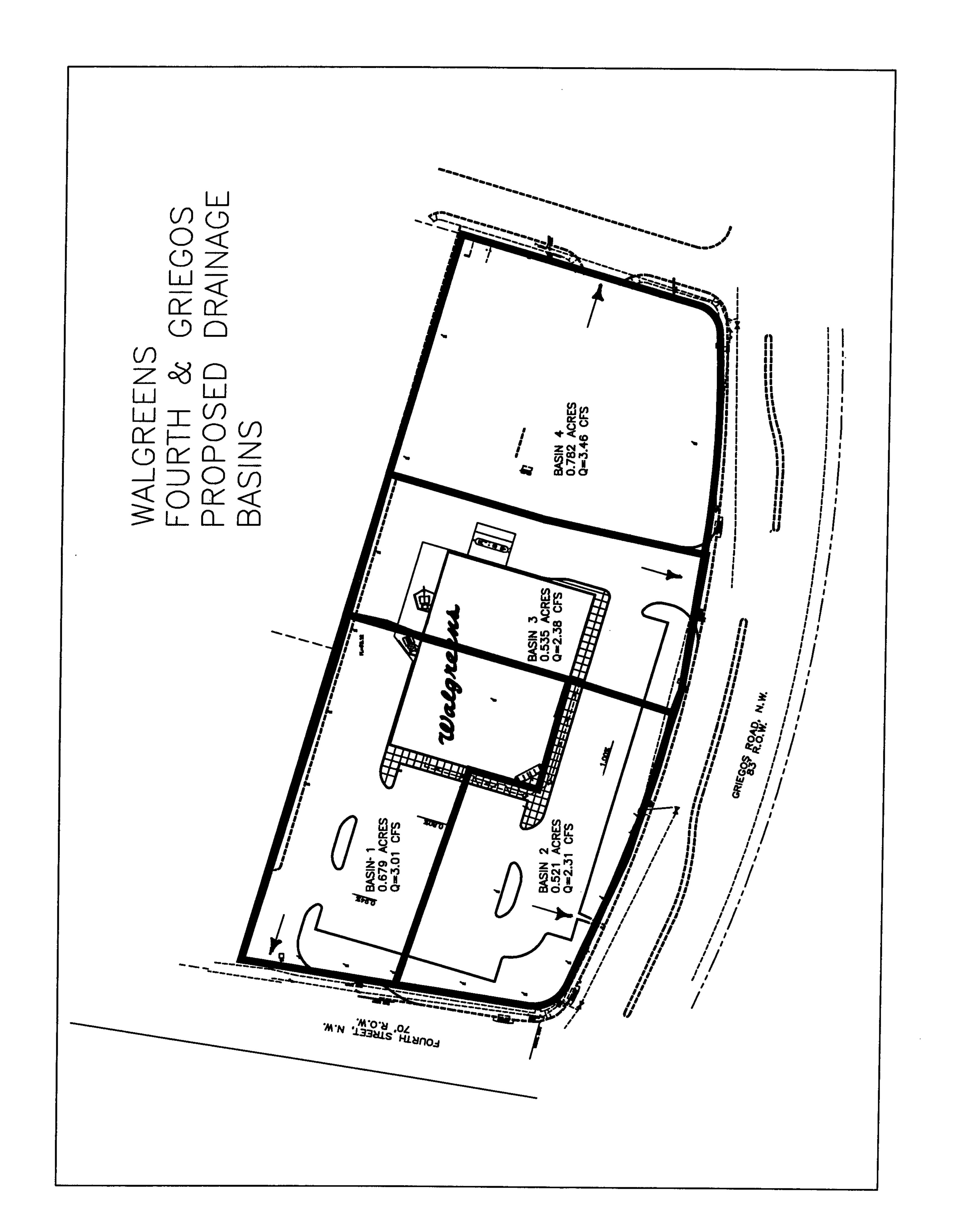
Poois	A	A	T								100-Year			10-Year			
Basin	Area	Area	Area		ment A	Treat	ment B	Treat	ment C	Treat	ment D	Weighted E	Volume	Flow	Weighted E	Volume	Flow
	(sf)	(acres)	(sq miles)	%	(acres)	<b>%</b>	(acres)	%	(acres)	-%	(acres)	(ac-ft)	(ac-ft)	cfs	(ac-ft)	(ac-ft)	cfs
1	29588.00	0.679	0.00106	0%]	0	11%	0.075	0%	Ö	89%	0.605	1.973	0.112	3.01	1.223		
2	22673.00	0.521	0.00081	0%	0	11%	0.057	0%	0			1.973	0.086		· · · · · · · · · · · · · · · · · · ·	0.069	1.97
3	23301.00	0.535	0.00084	0%	0	10%		0%	0		0.481	1.986		2.31	1.223	0.053	1.5
4	33768.00	0.775	0.00121	0%	0	10%		0%					0.089	2.38	1.234	0.055	1.56
·			0.00121	- 701	<del></del>	10 /6	0.070	070	<u>_</u>	90%	0.698	1.986	0.128	3.46	1.234	0.080	2.26
OTALS	109330.00	2.510	0.00392						<del></del>		<u> </u>			<u> </u>			
- · · · · · · · ·	, 00000,00	2.010	0.00032										0.414	11.16		0.257	7.3

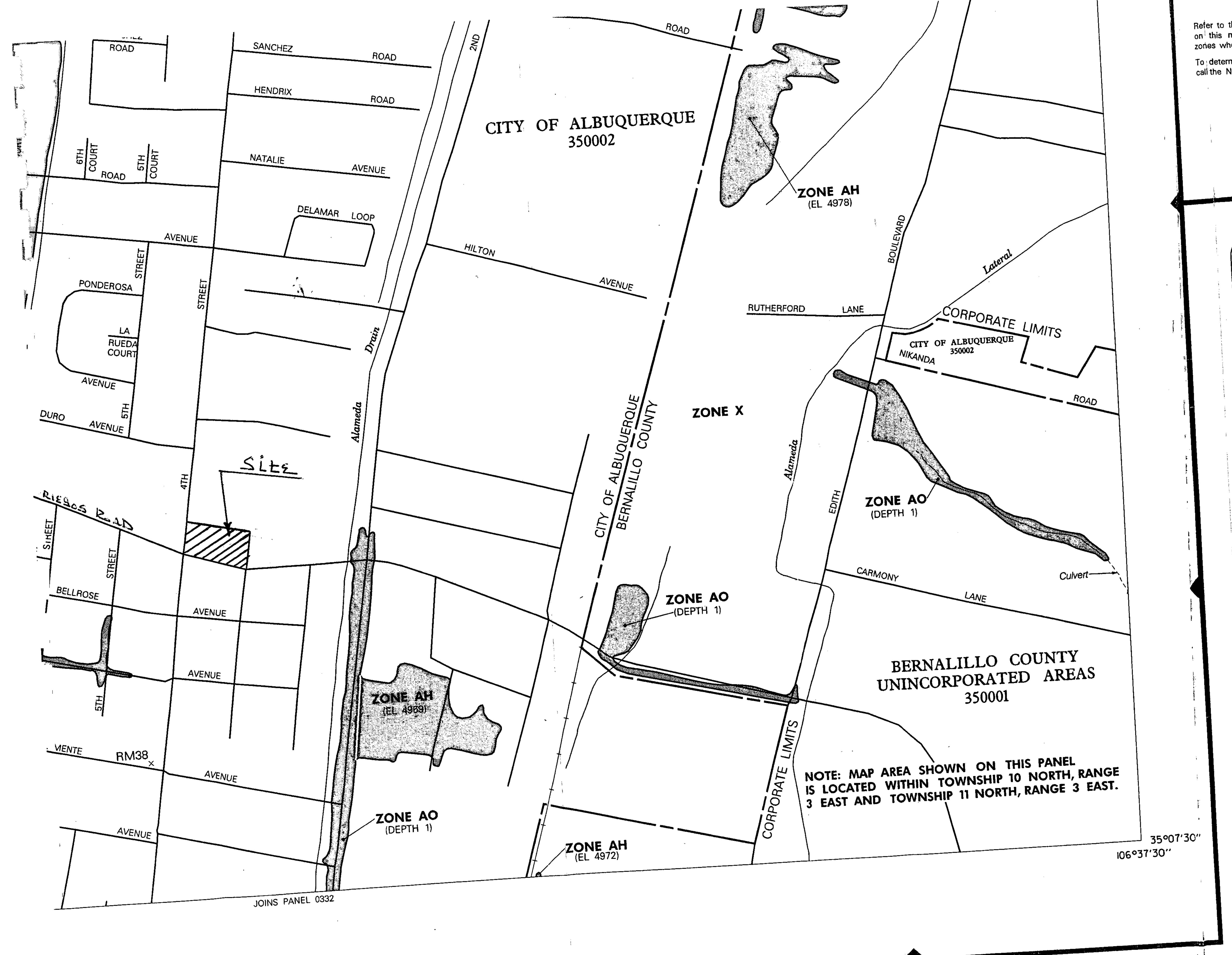
#### **Equations:**

Weighted E = Ea\*Aa + Eb\*Ab + Ec\*Ac + Ed\*Ad / (Total Area)

Volume = Weighted D \* Total Area

Flow = Qa \* Aa + Qb \* Ab + Qc \* Ac + Qd \* Ad





Refer to the FLOOD INSURANCE RATE MAP EFFECTIVE DATE shown on this map to determine when actuarial rates apply to structures in zones where elevations or depths have been established.

To determine if flood insurance is available, contact an insurance agent or call the National Flood Insurance Program at (800) 638-6620.



APPROXIMATE SCALE IN FEET

# NATIONAL FLOOD INSURANCE PROGRAM

# FIRM

# FLOOD INSURANCE RATE MAP

BERNALILLO COUNTY, NEW MEXICO AND INCORPORATED AREAS

# ""||| PANEL 119 OF 825

IN (SEE MAP INDEX FOR PANELS NOT PRINTED)

CONTAINS: COMMUNITY	NUMBER	PANEL	SUFFIX
ALBUQUERQUE, CITY OF	353002	0119	Ď
BERNALIL_O COUNTY, UNINCORPORATED AREAS	350001	0119	D
DE ALBUQUERQUE, VILLAGE OF LOS RANCHOS	350123	0119	D

MAP NUMBER 35001C0119 D

EFFECTIVE DATE: SEPTEMBER 20, 1996

Federal Emergency Management Agenc



# City of Albuquerque

P.O. BOX 1293 ALBUQUERQUE, NEW MEXICO 87103

# Planning Department Transportation Development Services Section

May 9, 2003

George R. Rainhart, Registered Architect 2325 San Pedro NE, Ste. 2-B Albuquerque, NM 87110

Re:

Certification Submittal for Final Building Certificate of Occupancy for

Walgreens at 4th and Griegos, [F=147/D53]

4700 4th NW

Architect's Stamp Dated 05/02/03

Dear Mr. Rainhart:

The TCL / Letter of Certification submitted on May 9, 2003 is sufficient for acceptance by this office for final Certificate of Occupancy (C.O.). Notification has been made to the Building and Safety Section.

Sincerely,

Nilo E. Salgado-Fernandez, P.E.

Senior Traffic Engineer

Development and Building Services

Planning Department

c: Engineer
CHydrology file CO Clerk

City of Albuquerque Attn: Transportation Department 600 2<sup>nd</sup> Street NW Albuquerque, NM 87102

RE: Walgreens at 4<sup>th</sup> and Griegos

Dear Nilo Salgado-Fernandez:

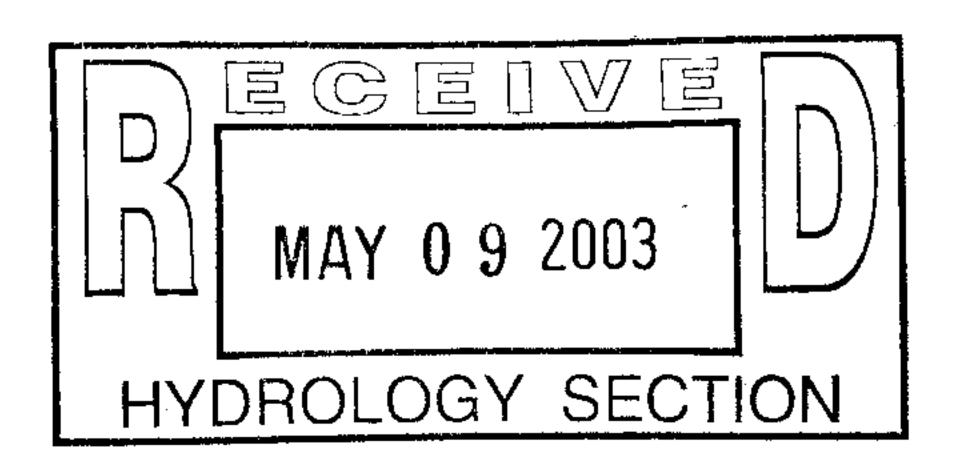
The traffic circulation around building and parking area of the Walgreens at 4<sup>th</sup> and Griegos is in substantial compliance with the approved site plan. A copy of the site plan is attached.

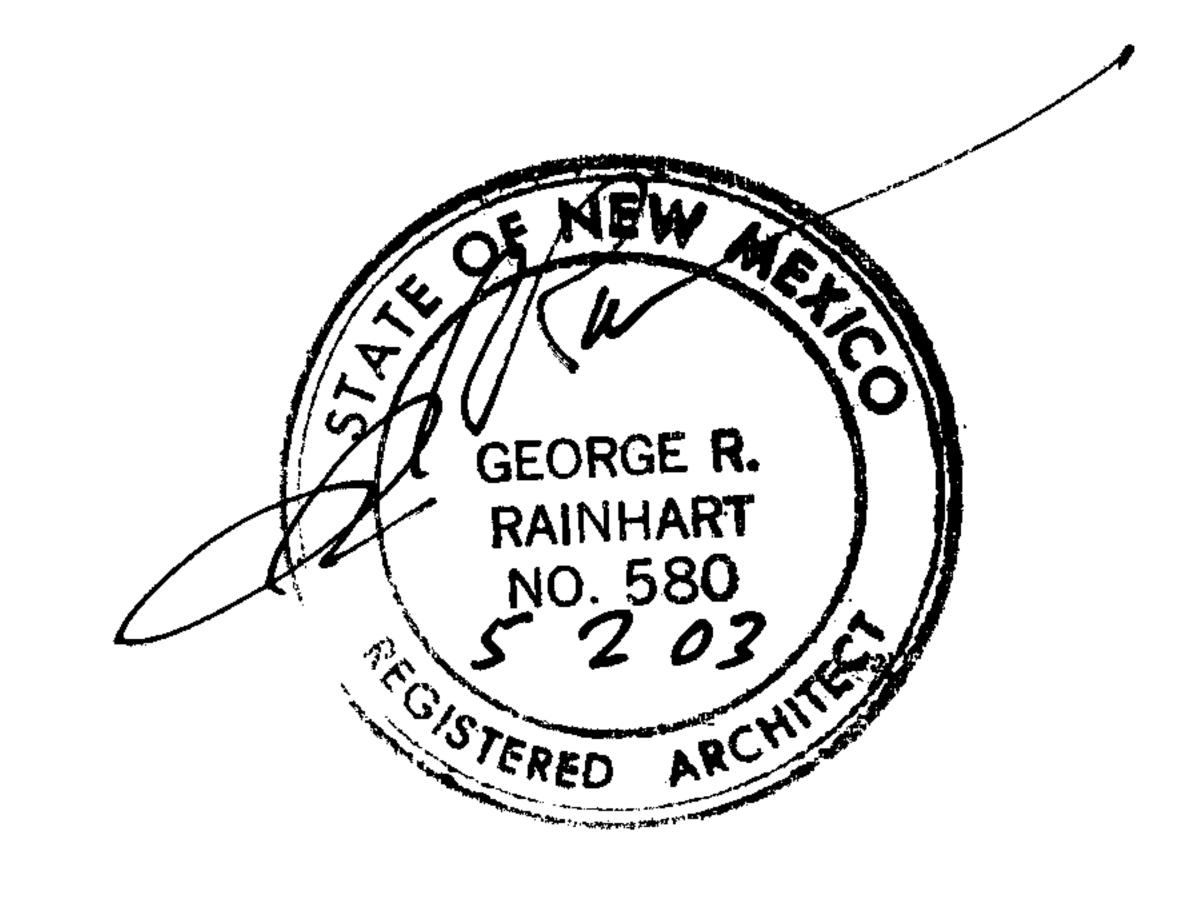
Sincerely,

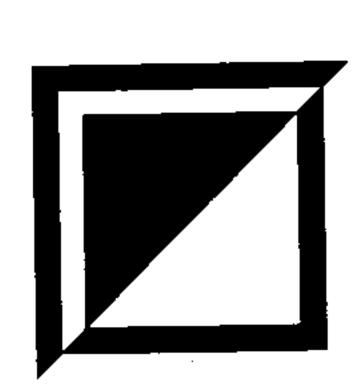
George Rainhart, Architect & Associates

George R. Rainhart, AIA

cc: File/0145









# DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND CROSS-EASEMENTS

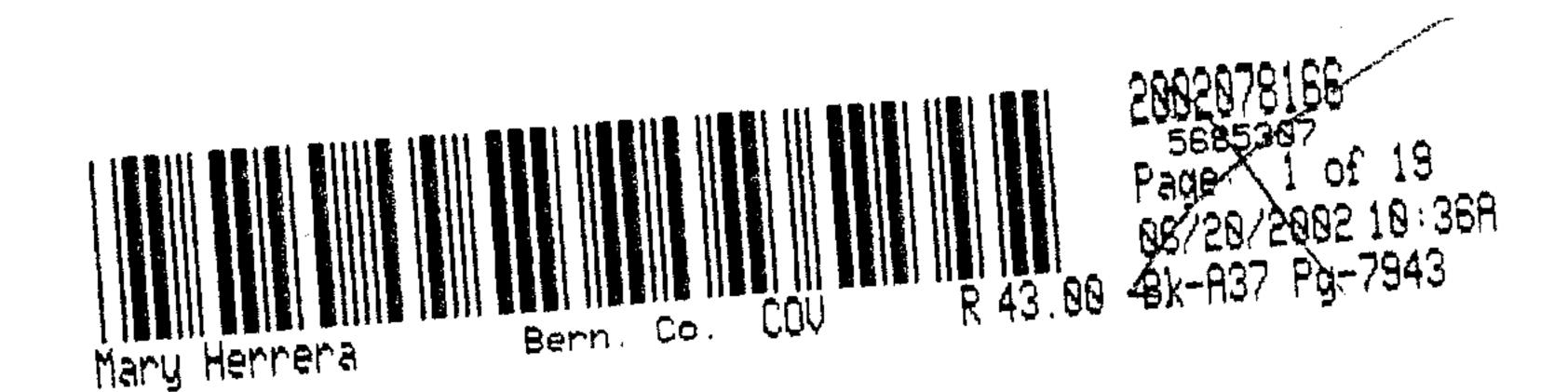
This Declaration of Covenants, Conditions, Restrictions and Cross-Easements ("Declaration") is made as of the 25 day of April , 2002, by CAP II - 4th/Griegos, LLC, a New Mexico limited liability company (hereinafter "Declarant").

# PREAMBLE:

A. Declarant is the fee owner of those certain Parcels of real estate described as Parcel 1 and Parcel 2 located at the northeast corner of 4<sup>th</sup> Street and Griegos Road in the City of Albuquerque, County of Bernalillo, State of New Mexico, which Parcels are designated "Parcel 1" and "Parcel 2" on Exhibit "A" and more particularly described in Exhibits "B" and "C" respectively, which Exhibits are attached hereto and by this reference incorporated herein. Parcel 1 and Parcel 2 are hereinafter collectively referred to as the "Property".

- B. Declarant wishes to place certain restrictions upon the Property and to establish cross-easements within the common areas of Parcels 1 and 2 for the mutual benefit of Parcels 1 and 2.
- C. This Declaration shall run in perpetuity and is intended to be and shall be construed as covenants running with the land and shall be binding upon Declarant, each Owner, and all other persons acquiring any right, title or interest in and to the Property or any part thereof, and shall inure to the benefit of Declarant and each person who becomes an Owner of any part of the

4<sup>th</sup> & Griegos Albuquerque, NM MP 3/10/02 REV. MP 3/14/02 MP 4/18/02





Property, as well as their respective successors-in-interest.

Declarant hereby declares, grants and establishes the following covenants, conditions, restrictions and easements for the mutual benefit of Parcel 1 and Parcel 2.

## ARTICLE I

#### DEFINITIONS

Unless the context otherwise specifies or requires, the terms defined in this Article I shall, for all purposes of this Declaration have the meaning herein specified.

Parcel which are not from time to time, and at any applicable time, occupied by buildings. By way of illustration, and not limitation, Common Area shall include all private streets, driveways, areas of ingress and egress, parking areas, service areas, sidewalks and other pedestrian ways, landscape areas and similar amenities designated and maintained for such uses from time to time. Except for the Access Easements granted in Section 2.01 below, the Owner of each Parcel shall have the right to change the Common Area at any time and from time to time, provided access as hereinafter granted is not adversely affected.

Section 1.02. Mortgage/Mortgagee. "Mortgage" shall mean a mortgage, deed of trust or other security device affecting all or any portion of or interest in either Parcel 1 or Parcel 2 and which has been recorded in the real property files of Bernalillo County (hereinafter "Official Records") and "Mortgagee" shall mean and refer to the mortgagee, beneficiary or other holder of any of the foregoing instruments, providing the name and address of such mortgagee, beneficiary or other holder shall appear among the aforesaid Official Records.

Section 1.03. Owner. "Owner" shall mean any Person having any fee simple estate

4<sup>th</sup> & Griegos Albuquerque, NM MP 3/10/02 REV. MP 3/14/02 MP 4/18/02



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in any portion of either Parcel 1 or Parcel 2, excluding any Person who holds such interest as security for the payment of an obligation, but including any Mortgagee or other security holder in actual possession of any portion of the Property by foreclosure or otherwise, and any Person taking title from any such security holder.

Section 1.04. <u>Person.</u> "Person" shall mean artificial persons or legal entities (such as corporations, partnerships, trusts, etc.) as well as natural persons.

Section 1.05. <u>Walgreen.</u> "Walgreen" shall mean Walgreen Co., an Illinois corporation, tenant and occupant of Parcel 1.

## ARTICLEII

#### EASEMENTS

Section 2.01. Ingress and Egress. Declarant hereby establishes and grants to the Owner of each Parcel, a perpetual, non-exclusive, reciprocal easement for vehicular and pedestrian ingress to and egress from Fourth Street, Griegos Road and Calle de la Luz (i) over, upon and across those areas of the Property striped and designated "Common Access Driveway" as shown on Exhibit "A" hereto and (ii) over, upon and across the Common Area of both Parcel 1 and Parcel 2 for the benefit of the other Parcel. The easement rights created in this Section 2.01 are collectively referred to as "Access Easements". No Owner of either Parcel shall construct or permit any barrier, fence, wall, building or any other structure of any kind which prevents or materially adversely affects access over the Common Area and/or the Common Access Driveway. Nothing contained herein shall be construed as a grant by Declarant of any vehicular parking rights in either Parcel 1 or Parcel 2 for the benefit of the other Parcel, and the Owners of each of Parcel 1 and Parcel 2 shall at all times provide sufficient parking on its Parcel

4<sup>th</sup> & Griegos Albuquerque, NM MP 3/10/02 REV. MP 3/14/02 MP 4/18/02



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Mary Herrera Bern. Co. DEC R 45.88 Bk-R41 Pg-8899
or portion thereof to satisfy any and all governmental parking requirements applicable thereto.

Additionally, no facility on Parcel 2 containing a vehicular drive-up or drive-through in which the

stopping or standing of motor vehicles in line at a location for dropoff and/or pickup is intended

(as, for example, at a restaurant, car wash or bank) shall be assigned, constructed, used or

operated in any manner such that motor vehicles in line at such facility stop or stand onto Parcel

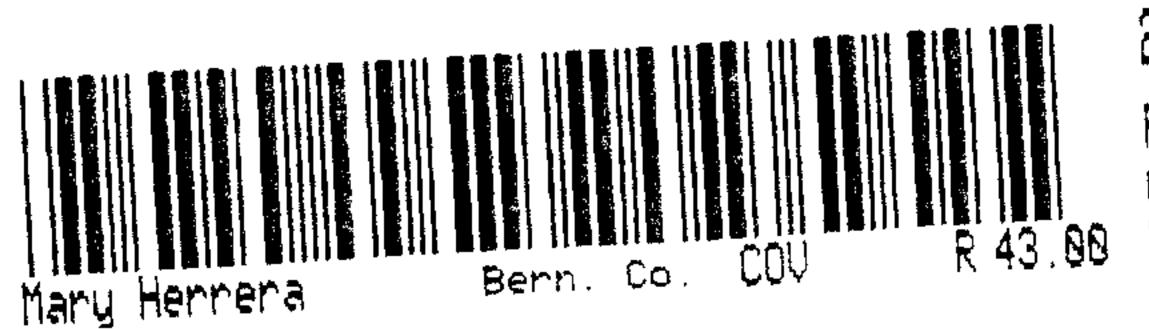
1, or otherwise interfere with the normal pattern and flow of pedestrian or vehicular traffic on and

across Parcel 1.

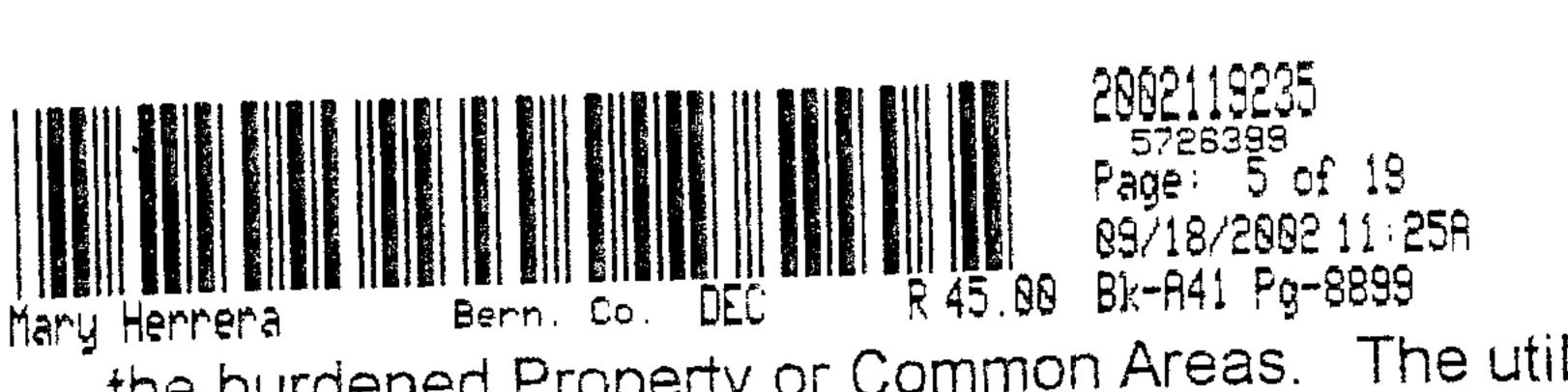
CAP shall construct, at its sole cost and expense, concurrent with the development of Parcel 1, the Common Access Driveway. After construction, the Owner of Parcel 1, its successors, assigns, Lessees or occupants, shall maintain the Common Access Driveway at its sole cost and expense, in good condition and repair, clean and free of all rubbish and obstructions.

Section 2. 02. <u>Utilities.</u> Declarant hereby establishes and grants for the benefit of each Parcel and the Owners thereof and their successors and assigns and their Lessees a perpetual, non-exclusive, reciprocal underground easement across the Common Areas of each respective Parcel as such are maintained from time to time, for the purpose of installing, maintaining, operating, repairing, replacing and renewing any and all utility lines and related facilities, including without limitation, electricity, water, gas, sewer, telephone, cable television and storm drains. No such utilities shall be located within any building footprint, or encroach upon any permanent improvements located on the Property from time to time, and all such easements, shall (if practical) be located along perimeters or boundary lines of the Property, but in any event shall be situated so as to minimize damage, dimunition in value or other negative impacts, upon

4<sup>th</sup> & Griegos Albuquerque, NM MP 3/10/02 REV. MP 3/14/02 MP 4/18/02



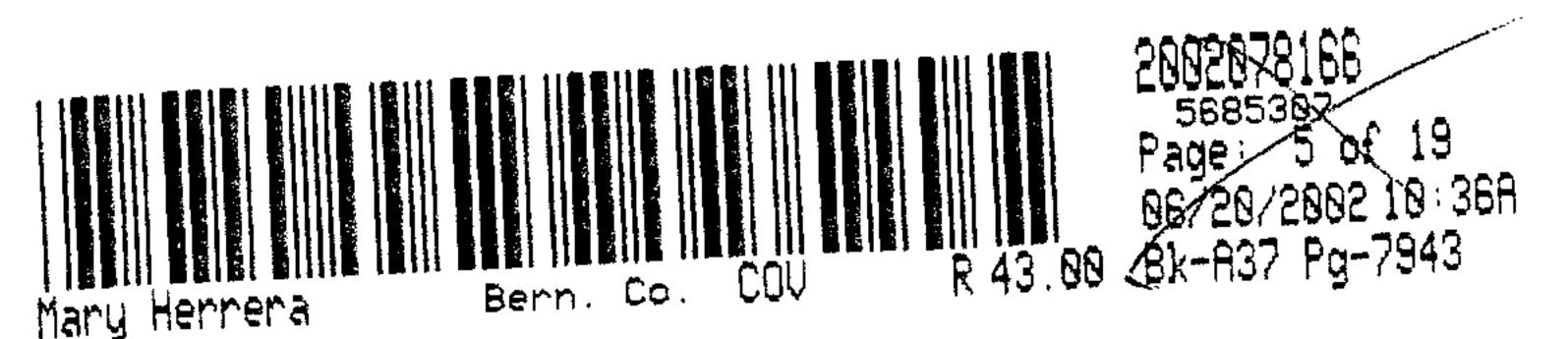
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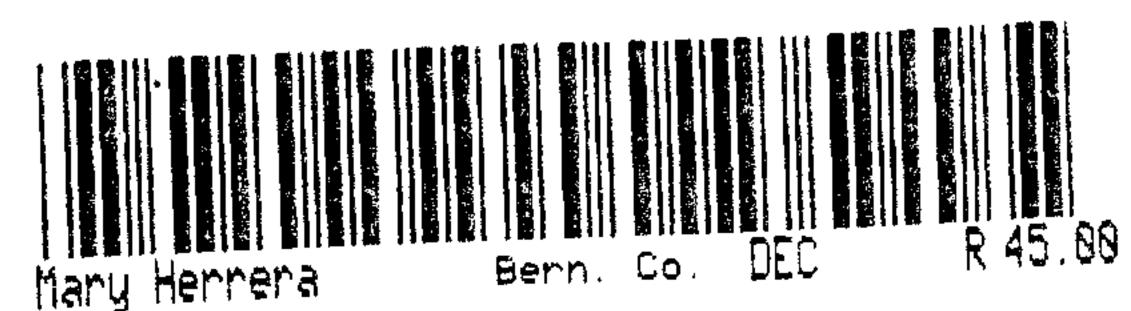


the burdened Property or Common Areas. The utility easements granted hereby are solely for the purposes set forth above, provided, however, that in using the easements granted hereby, any Owner who goes, or causes its agent or any utility company to go, upon any other Owner's property or Common Area shall (i) give the other Owner at least thirty (30) days prior written notice together with a drawing of any proposed installation or relocation of any utility line; (ii) cause such use of its utility easement to be conducted in a manner which, under the circumstances, is the least disruptive to the other Owner, its tenants, and the customers and invitees of each of them, including not conducting such work during the week before and after Easter and Christmas; (iii) cause such use to be completed with due regard for the safety of all persons coming onto such Property or Common Area, and (iv) cause, at its expense, any damage to the other Owner's or its tenant's improvements (including without limitation, pavement) to be promptly repaired and restored as near as practicable to the prior condition of such improvement. Each such Owner shall be liable to such other Owner and tenants for any breach of the foregoing obligations, and each such Owner shall indemnify such other Owner and tenants and hold such other Owner and tenants free, clear and harmless from any and all claims, actions, demands, causes of action, costs and expenses whatsoever (including attorneys' fees and court costs) for any personal injury or property damage arising from or as a result of such Owner's use of a utility easement upon such other Owner's Property or Common Area.

Section 2.03. <u>Drainage.</u> Declarant hereby establishes and grants for the benefit of each Parcel and the Owners thereof and their successors and assigns and their Lessees, a perpetual drainage easement over, upon, under and across the Common Area of each Parcel for the benefit of the other Parcel, for the purposes of drainage of storm and surface water.

4<sup>th</sup> & Griegos Albuquerque, NM MP 3/10/02 REV. MP 3/14/02 MF





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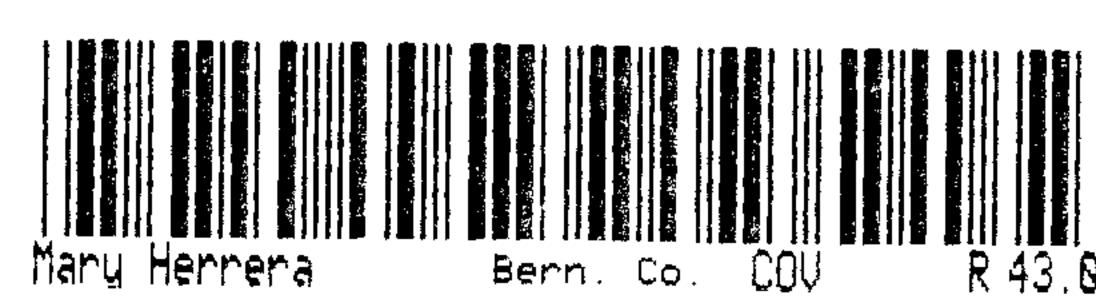
ARTICLE III

# RESTRICTIONS

Walgreen Exclusive. So long as Walgreen has an interest of any kind Section 3.01. in Parcel 1, no portion of Parcel 2 shall be used for (i) the operation of a drug store or a socalled prescription pharmacy or for any other purpose requiring a qualified pharmacist or other person authorized by law to dispense medicinal drugs, directly or indirectly, for a fee or remuneration of any kind; (ii) the operation of a medical diagnostic lab or the provision of treatment services (other than as part of a medical, dental, physician, surgical or chiropractic office[s], which office[s] shall not be restricted by this subsection [ii]); (iii) the sale of so-called health and beauty aids or drug sundries (except that the sale of said items in an area which does not exceed one hundred square feet {100 S.F.} of floor area within a business on Parcel 2 shall be permitted); (iv) the operation of a business in which photofinishing services or photographic film are offered for sale (except that the sale of photographic film in an area which does not exceed one hundred square feet {100 S.F.} of floor area within a business on Parcel 2 shall be permitted); (v) the operation of a business in which greeting cards or gift wrap are offered for sale (except that the sale of said items in an area which does not exceed one hundred square feet {100 S.F.} of floor area within a business on Parcel 2 shall be permitted); and (vi) the operation of a business in which prepackaged food items for off premises consumption are offered for sale.

Notwithstanding the foregoing, if Walgreen, as occupant of Parcel 1, closes its store on Parcel 1 to the public for six (6) months or more, then all of the foregoing exclusive use restrictions shall terminate, except in the event that Walgreen discontinues business as a result

4th & Griegos Albuquerque, NM MP 3/10/02 REV. MP 3/14/02 MP 4/18/0



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Mary Herrera service. DEC R 45.00 Bx-A41 Pg-8899 of fire, other casualty or other cause beyond Walgreen's control so long as Walgreen reopens its business within ninety (90) days after its store has been restored or the cause for such discontinuance has ceased. In no event shall said restriction terminate in the event that Walgreen or its successor discontinues business and a permitted assignee or sublessee of Walgreen or its successor commences business operations in the Walgreen's building on Parcel 2 within six (6) months after taking possession of the premises, selling any such item or items so restricted as a material part of such assignee's or sublessee's business.

# ARTICLE IV

# GENERAL

Section 4.01. Notices. All notices required to be given pursuant to the provisions of this Declaration shall be in writing and delivered in accordance with the following accepted forms of delivery: (a) hand delivery with a signature and date to verify receipt; (b) via Federal Express (or similar over-night carrier) for priority over-night delivery; (c) United States Postal Service postage prepaid, by Certified or Registered Mail, return receipt requested; or (d) via facsimile (together with a copy sent by regular United States class mail) to:

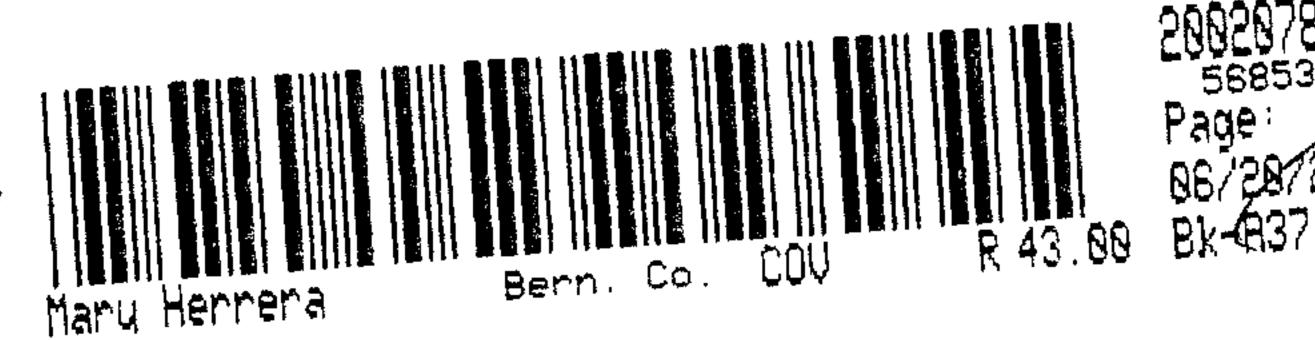
If to Declarant:

CAP II - 4th/Griegos, LLC c/o Peterson Properties Real Estate Services, Inc. 2325 San Pedro NE, Suite 2-A Albuquerque, NM 87110 ATTN: James A. Peterson

cc: Steve Johnson Development, LLC 2325 San Pedro NE, Suite 2A Albuquerque, NM 87110 ATTN: Steve Johnson

If to any other Owner or occupant: To such address as such Owner or occupant shall designated in writing to Declarant, or to the Owner's or occupant's address in the

4th & Griegos Albuquerque, NM MP 3/10/02 REV. MP 3/14/02 MP 4/



Recognition of the second seco

2002119235 5726399 Page: 8 of 19 09/18/200211:25A R 45.00 Bk-A41 Pg-8899

Property, if no other address is designated;

or to such address as is thereafter provided by the parties hereto. If written notice is hand delivered it shall be deemed received upon delivery. If written notice is sent via Federal Express, it shall be deemed received the next business day. If written notice is mailed via United States Certified or Registered Mail, it shall be deemed received upon the earlier of actual receipt or on the third business day following the date of mailing. If written notice is sent via facsimile, it shall be deemed received upon transmission when successful transmission has been confirmed by a printed confirmation sheet. In addition, all notices sent by facsimile shall also be mailed via regular United States Mail.

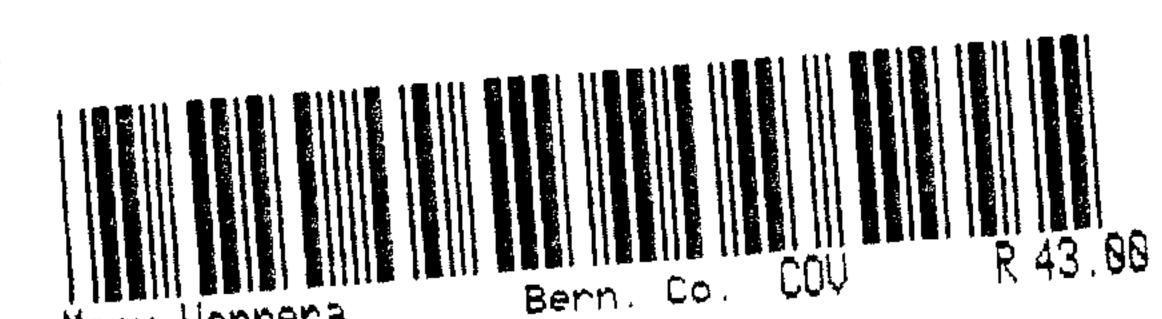
For so long as Walgreen shall occupy premises on or have an interest in Parcel 1, a copy of all notices required to be given pursuant to the provisions of this Declaration shall be delivered as follows:

TO: Walgreen Co.
200 Wilmot Road
Deerfield, IL 60015
ATTN: Law Department

With a duplicate to the Walgreen premises on Parcel 1 or to such other address(es) as provided by Walgreen from time to time.

Section 4.02. <u>Maintenance.</u> Each Owner shall at all times maintain its portion of the Property and all improvements thereon in a safe, clean, neat, attractive and sanitary condition as appropriate for a first-class commercial property, and in all respects in compliance with all governmental zoning, health, fire and police requirements. By way of illustration and not limitation, such maintenance shall include (i) maintaining the surfaces of all driveways and parking areas of its portion of the property in a level, smooth and evenly covered condition with

4<sup>th</sup> & Griegos Albuquerque, NM MP 3/10/02 REV. MP 3/14/02 MP 4/18/02



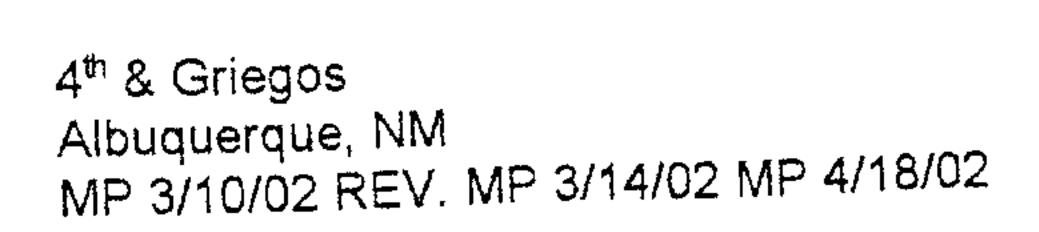
2002078166 5685307 Page: 8 of 19 06/20/2002 10/366 BK-R37 Pg-7943



asphalt pavement or similarly appropriate surfacing material; (ii) planting, weeding, irrigating, Mary Herrera pruning and otherwise maintaining landscaping on all of its portions of the Property which are not covered by a structure or paving; (iii) re-painting, cleaning and repairing the exterior of all buildings and other improvements on a regular basis; (iv) removing all trash, refuse, papers and debris; (v) placing and keeping in repair and replacing as necessary directional signs, markers, lines and striping; and (vi) operating, keeping in repair and replacing as necessary such artificial lighting facilities as shall be reasonably required for the safe and attractive condition of its portion of the Property.

Taxes. As to any portion of the Property, it is intended that all real Section 4.03. estate taxes and assessments by public authority relating to said land and improvements thereon or the ownership thereof, shall be paid prior to delinquency by the respective Owner thereof.

Default. This Declaration shall create privity of contract and estate Section 4.04. with and among all grantees of all or any part of the Property and their respective heirs, executors, administrators, successors and assigns. In the event of a breach, or attempted or threatened breach by any Owner of any part of the Property, in any of the terms, covenants, and conditions hereof, any one or all such other Owners of any part of the Property shall be entitled forthwith to full and adequate relief by injunction and all such other available legal and equitable remedies from the consequences of such breach. In addition to all other remedies available at law or in equity, upon the failure of a defaulting party to cure a breach of this Agreement within thirty (30) days following written notice thereof by another party (unless, with respect to any such breach the nature of which cannot reasonably be cured within such (thirty) 30-day period, the defaulting party commences such cure within such (thirty) 30-day period and thereafter diligently







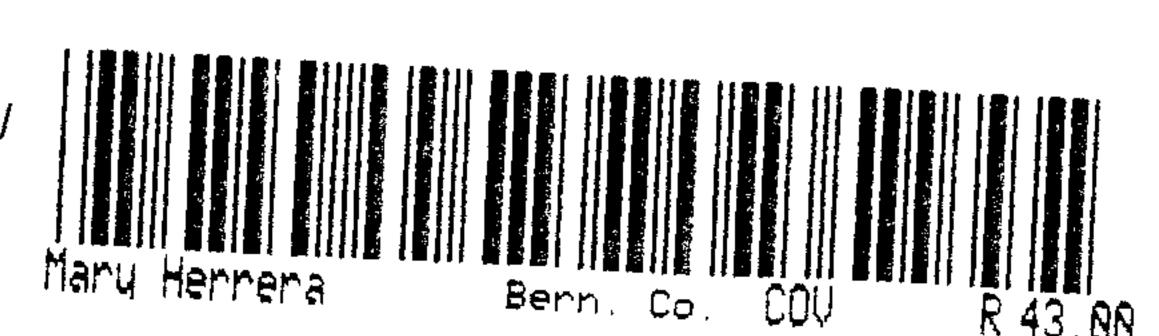
2002119235 5726399 Page: 18 of 19 89/18/200211:25A R 45.00 Bk-A41 Pg-8899

Herrerà Bern. Co. DEC R 43.88 Ex-n41 ry-00000 pursues such cure to completion) the non-defaulting party or parties shall have the right to perform such obligation contained in this Declaration on behalf of such defaulting party and be reimbursed by such defaulting party, upon demand, for the reasonable costs incurred in the course of curing such default together with interest thereon at the prime rate for Bank One (or any successor institution) plus two percent (2%) (not to exceed the maximum rate of interest allowed by law). The remedies permitted at law or equity of any one or all such Owners specified herein shall be cumulative as to each and as to all.

claims for personal injury or property damage in an amount not less than \$2,000,000.00 with respect to all personal injuries suffered in an accident, and \$500,000.00 with respect to property damage. Upon request, annually each Owner shall provide the other with a certificate of insurance, evidencing the existence of a valid policy of insurance in conformity with the above specifications. Notwithstanding the foregoing, for so long as Walgreen or any Owner of Parcel 1 has a net worth in excess of Three Hundred Million Dollars (\$300,000,000.00) any insurance required hereunder to be carried by the Owner of Parcel 1 may, at Walgreen or such Owner's option, be carried by Walgreen or such owner under an insurance policy(ies), self-insurance or pursuant to a master policy of insurance or so-called blanket policy of insurance covering other locations of Walgreen or its corporate affiliates or such Owner or any combination thereof, and evidence of such coverage may be provided by a certificate of insurance.

Section 4.06. Covenants Running With The Land. The easements and covenants established by this Declaration shall run in perpetuity and are intended to be and shall be construed as covenants running with the land, binding upon, and inuring to the benefit of and

4th & Griegos Albuquerque, NM MP 3/10/02 REV. MP 3/14/02 MP 4/18/

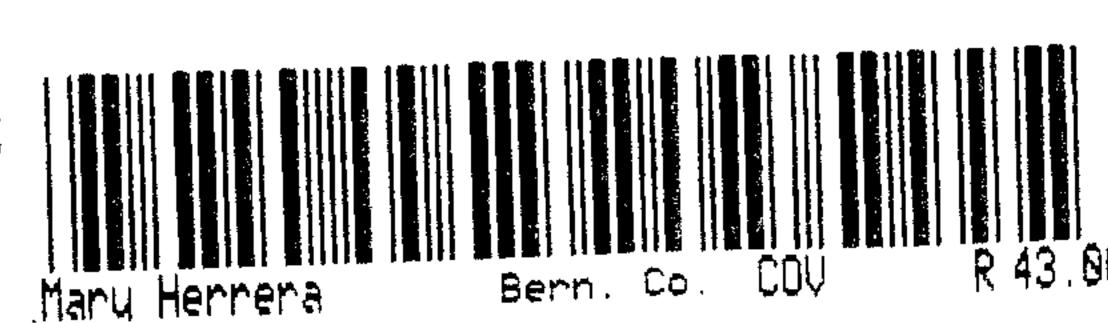




enforceable by the Declarant and all subsequent Owners of the Property or any part thereof, Mary Herrera provided however, that nothing contained herein shall be construed as a grant for the benefit of any other Owner of any right or easement in any part of its property for parking purposes. If during the existence of this Declaration, an Owner of all or any part of the Property shall sell or transfer or otherwise terminate its interest as Owner, then from and after the effective date of such sale, transfer, or termination of interest, such party shall be released and discharged from any and all obligations, responsibilities and liabilities under this Declaration as to the parts sold or transferred provided that the transferee assumes all of said obligations, responsibilities and liabilities, except those obligations, responsibilities and liabilities (if any) which have already accrued as of such date, and any such transferee by the acceptance of the transfer of such interest shall thereupon become subject to the covenants contained herein to the same extent as if such transferee were originally a party hereto. The covenants and easements established hereby are not intended and shall not be construed as a dedication of such rights in the Property for public use, and this Declaration shall not be deemed to vest any rights in any customers, invitees or the public at large, but are solely for the benefit of the Owners of the Property and their lessees, customers and invitees to the extent heretofore established. For so long as Walgreen shall occupy premises on or have an interest in Parcel 1, in the event of a breach or attempted or threatened breach of any of the terms, covenants and conditions of this Declaration, Walgreen shall have the right to pursue directly any and all remedies therefore available at law or in equity, specifically including, but not limited to injunctive relief.

Attorneys Fees. In the event any Owner (or Walgreen as the case Section 4.07. may be) is required to enforce the provisions hereof through judicial proceedings, the prevailing

4th & Griegos Albuquerque, NM MP 3/10/02 REV. MP 3/14/02 MP 4/18/0:



2002119235 5726399 Page: 12 of 19 09/18/200211:25A

Ty Herrera Bern. Co. DEC R 45.80 Bk-841 Pg-8899

party shall be entitled to reasonable attorneys fees and court costs from the non-prevailing party.

Section 4.08. <u>Estoppel Certificates.</u> Any Owner of either Parcel 1 or Parcel 2 shall execute and deliver to any other Owner or its Mortgagee within fifteen (15) days from receipt of such other Owner's request from time to time, an estoppel certificate, in a form reasonably acceptable to the Owner to whom such request is made, which certificate shall include information as to any modification of this Declaration and to the best knowledge of the Owner to whom such request is made, whether or not the requesting Owner is in Default of this Declaration.

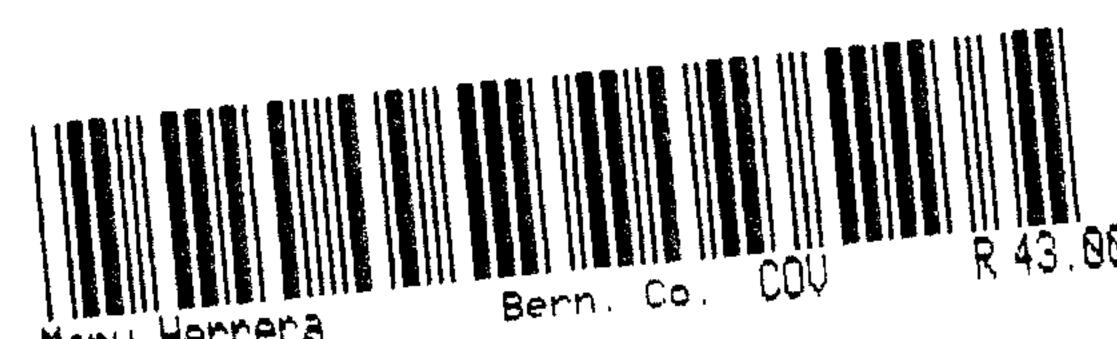
Section 4.09. <u>Effective Date.</u> The covenants, conditions, restrictions and cross-easements contained herein shall be effective commencing on the date of recordation of this Declaration in the Official Records and may be modified, amended or canceled by recordation in the Official Records of a writing executed by the fee Owners of a majority of the land area of the Property at the time of such modification, amendment or cancellation (and Walgreen, so long as it occupies Parcel 1 or has an interest therein).

Section 4.10. Severability. Each provision of this Declaration and the application thereof to Parcels 1 and 2 are hereby declared to be independent of and severable from the remainder of this Declaration. If any provision contained herein shall be held to be invalid or to be unenforceable or not to run with the land, such holding shall not affect the validity or enforceability of the remainder of this Declaration.

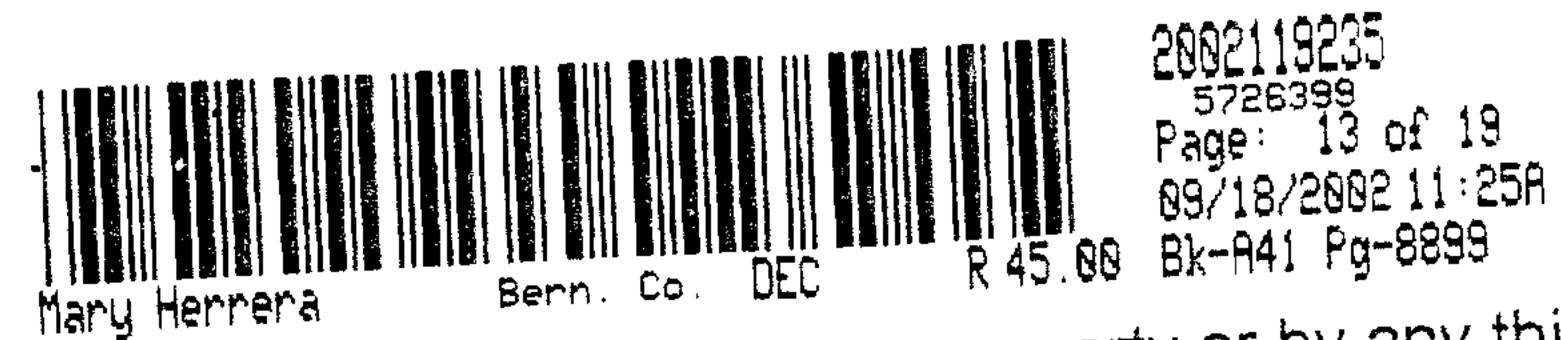
Section 4.11. Waiver. No waiver of any default of any obligation by any Owner of all or a part of the Property shall be implied from any omission by the other Owner or Owners to take any action with respect to such default.

Section 4.12. Relationship of the Owners. Nothing in this Declaration shall be

4th & Griegos Albuquerque, NM MP 3/10/02 REV. MP 3/14/02 MP 4/18/0



2002078166 5685307 Page: 15 of 19 06/20/2002 10:368 BX-837 Pg-7943



deemed or construed by any party or by any third person to create the relationship of principal and agent or of limited or general partners or of joint venturers or of any other association between the parties.

Section 4.13. <u>Jurisdiction.</u> The laws of the State of New Mexico shall govern the interpretation, validity, performance and enforcement of this Declaration.

Section 4.14. <u>Subdivision.</u> Nothing contained herein shall be construed as limiting the right of the Owners of Parcel 1 and Parcel 2 to subdivide and/or sell all or any portion of Parcel 1 or Parcel 2 to third parties, so long as any third party assumes the rights and obligations established hereunder.

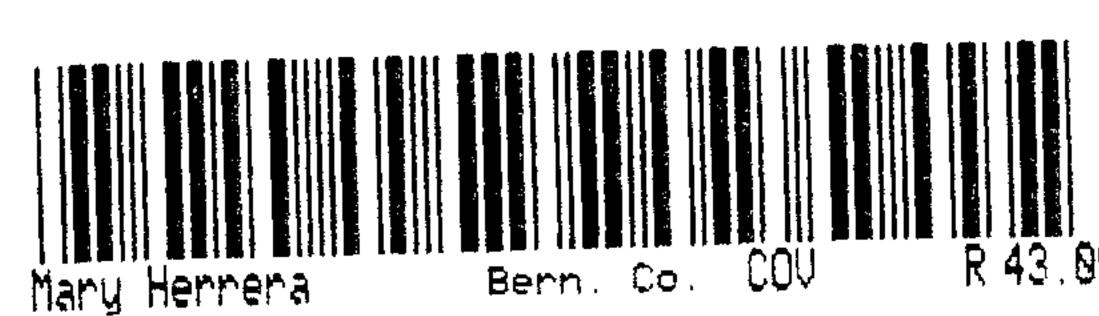
Section 4.15. <u>Legal Descriptions.</u> In the event the validity or enforceability of any provision of this Declaration is held to be dependent upon the existence of a specific legal description, the Owners of Parcel 1 and Parcel 2 or any portion thereof, shall agree to promptly cause such legal description to be prepared and made a part hereof.

## ARTICLE V

# GRANTEE'S COVENANT

Each grantee, tenant or other person in interest, accepting either a deed or any other interest in either Parcel 1 or Parcel 2, whether or not the same incorporates or refers to this Declaration, covenants for himself, his heirs, successors and assigns to observe, perform and be bound by this Declaration and to incorporate this Declaration by reference in any deed or other document of conveyance of all or any portion of its interest in any real property subject hereto.

4th & Griegos Albuquerque, NM MP 3/10/02 REV. MP 3/14/02 MP 4



## "DECLARANT"

CAP II - 4th/Griegos, LLC a New Mexico limited liability company

Peterson Properties Real Estate Services, Inc By: a New Mexico corporation Its Managing Member

Ву:

JAMES A. PETERSON, President

Steve Johnson Development Ltd. Liability By Company, a New Mexico limited liability company, its wember

Ву

STEVEN J. JOHNSON Managing Member

Mary Herrera

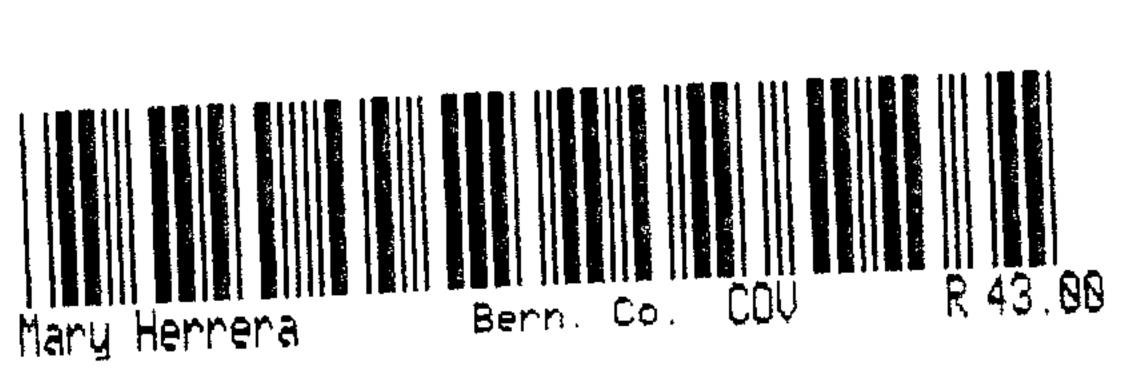
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2002078166 5685267 Page: 14 of 19 06/20/200210:36A Bern. Co. COV R 43.00 Bk-R37 Pg-7943 Mary Herrera

STATE OF NEW MEXICO ) SS COUNTY OF BERNALILLO  This instrument was acknowledged by James A. Peterson, President of Peterson Corporation, Managing Member of CAP II company, on behalf of said Corporation and	pefore me this 18th day of 12th 12002, 2002, Properties Real Estate Services, Inc., a New Mexico - 4th/Griegos, LLC, a New Mexico limited liability
My Commission Expires:	OFFICIAL SEAL  COLLEEN R. McGRATH  NOTARY PUBLIC-STATE OF NEW MEXICO  My commission exemps: 10/18/05
COUNTY OF BERNALILLO  This instrument was acknowledged	I before me this <u>18th</u> day of <u>Ard</u> , 2002 per of Steve Johnson Development Limited Liability company, Member of CAP II - 4th/Griegos, LLC, a New If of both limited liability companies.
My Commission Expires: 8-20-04	NOTARY/PUBLIC  OFFICIAL SEAL  Jeanie Baxter  NOTARY PUBLIC - STATE OF NEW MEXICO  My commission expires: 1-30-0f-



2002119235 5726399 Page: 15 of 19 89/18/200211:25A 8 Bk-A41 Pg-8899



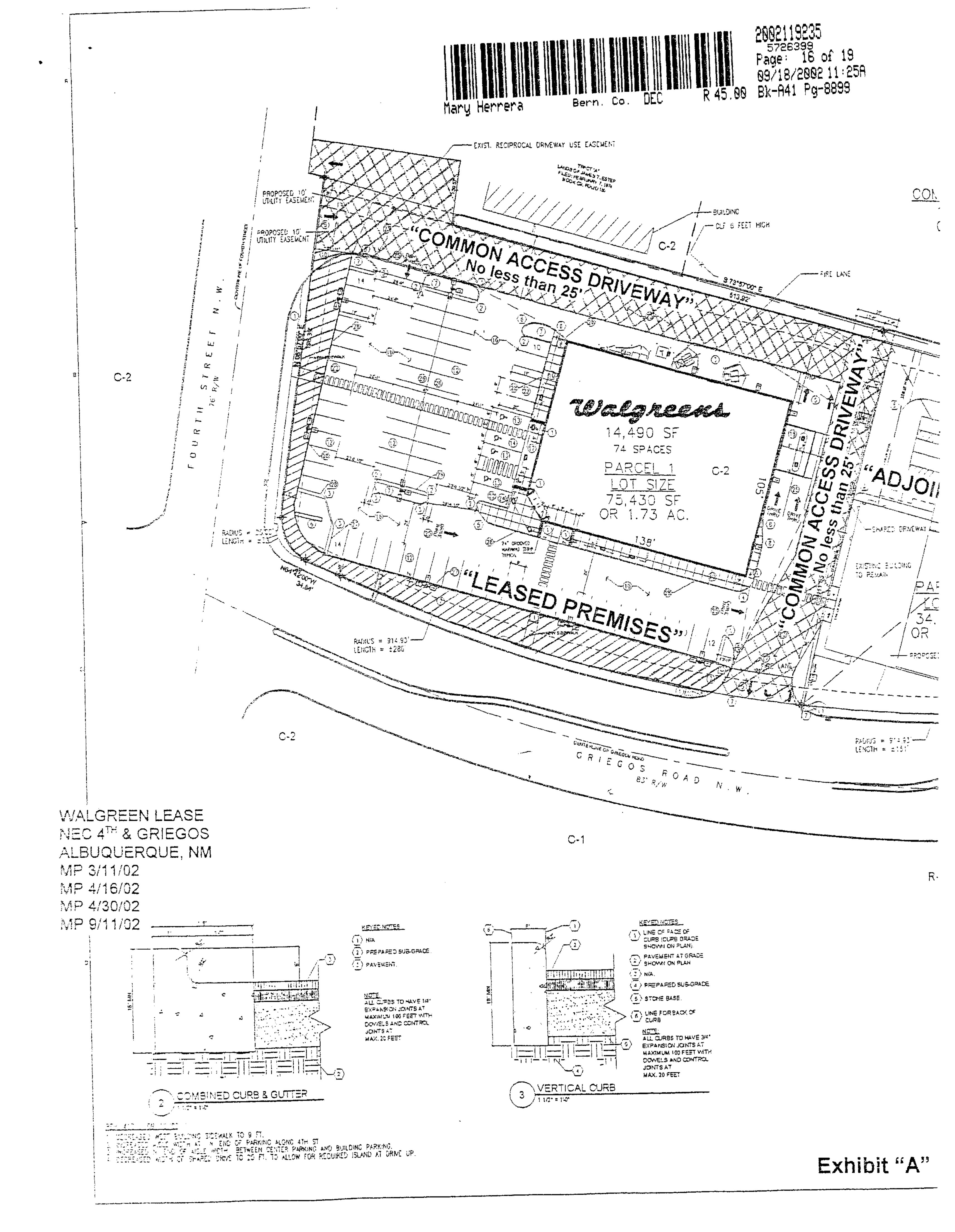
4th & Griegos Mary Herrera

Albuquerque, NM

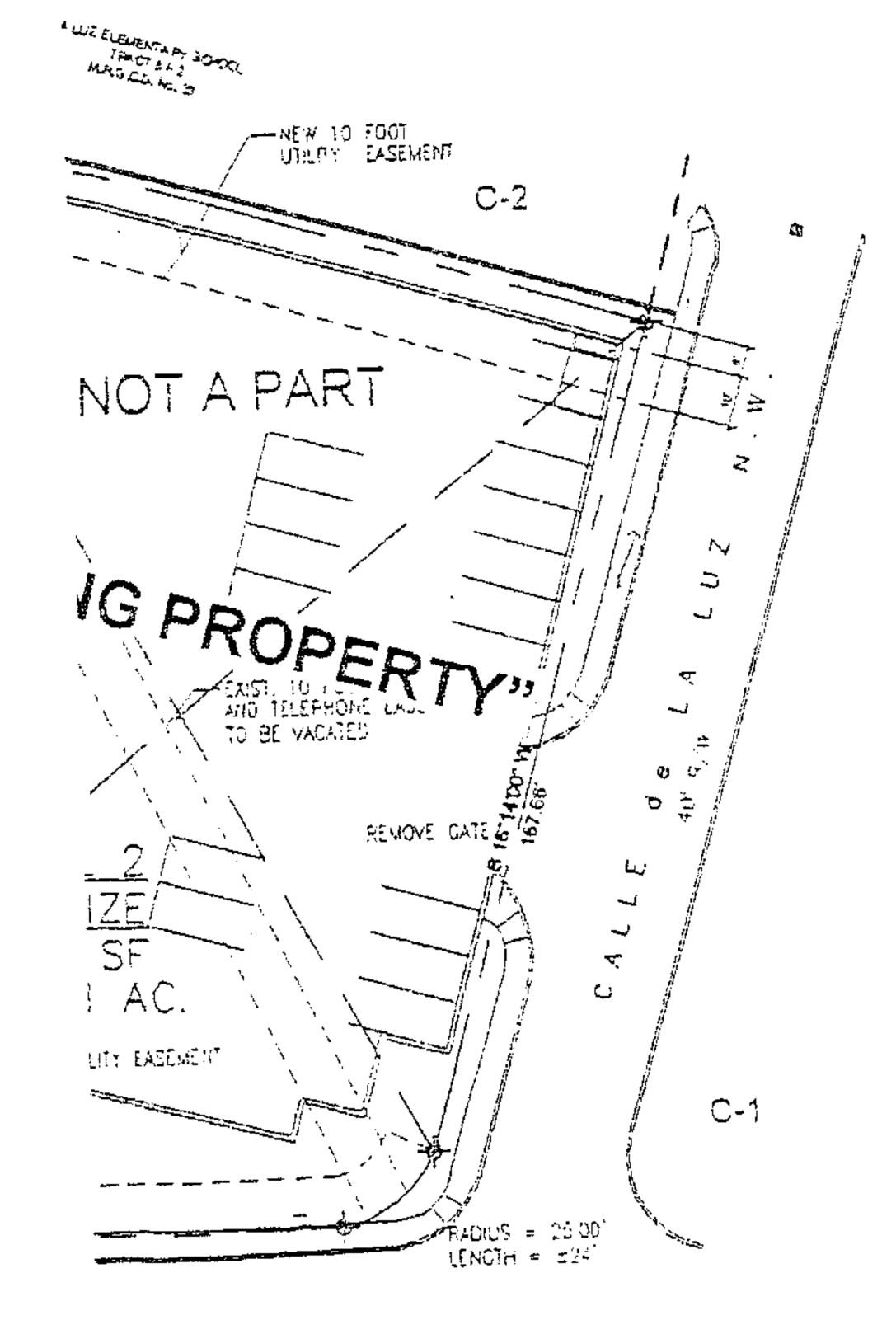
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2002078166 5685302 Page: 15 of 19 06/20/2002 10:366 Bl/-R37 Pg-7943

Page -15-



IED LOT SIZE ,592 SF



# KEYED NOTES

ACCESSIBLE RAMP. TPANSFORMER LOCATION. COMPACTOR LOCATION - PAD & ENGLOSURE TO CURRENT CITY OF ALBUQUERQUE REQUIREMENTS.

-NOT USED-WHITE PAINTED ARROW. \* WALGREENS STANDARD READER BOARD PYLON SIGN AND ACCESS PAVERS SIGN SIZE AND TYPE PER APPROVAL

FROM LOCAL GOVERNMENT AGENCY NEW LANDSCAFE BUFFERS/ISLANDS. EYCYCLE RACK LOCATION - 4 BIKES. FROPOSED NEW CURB OUT SIZE AND FINAL LOCATION

PER APPROVAL FROM LOCAL GOVERNMENTAL AGENCY. NEW CONCRETE SIDEWALK PEDESTRIAN CROSS WALK

STRIPING, WHITE, AT WIDE (TYPICAL). ACCESSIBLE SPACE WITH PAINTED SYMBOL AND SIGN PER CITY OF ALBUQUERQUE REQUIREMENTS. ACCESSIBLE VAN SPACE.

-NOT USED.

STANDARD ASPHALT PAVING FOR CAR TRAFFIC -ASPHALTIC CONCRETE OVER SUBGRADE, SEE GEOTECHNICAL REPORT FOR THICKNESS AND ALL OTHER RECOMMENDATIONS THIS AREA OF WALK FLUSH WITH ASPHALT.

PHARMACY DRIVE-THRU 1,12 MAXIMUM SLOP ON ACCESSIBLE RAMP, RED STAINED CONCRETE.

NEW CONDRETE BIDEWALK SHALL TIE INTO EXISTING OR NEW CITY SIDEWALK AS REQUIRED PER LOCAL CODE. B'-0" X 20'-0" OR 15'-0" TYPICAL STRIPED ACCESSIBLE

PARKING SPACE AND ACCESS AISLE. 22. 91-01X 181-01 OR 131-01 STALLS TYPICAL.

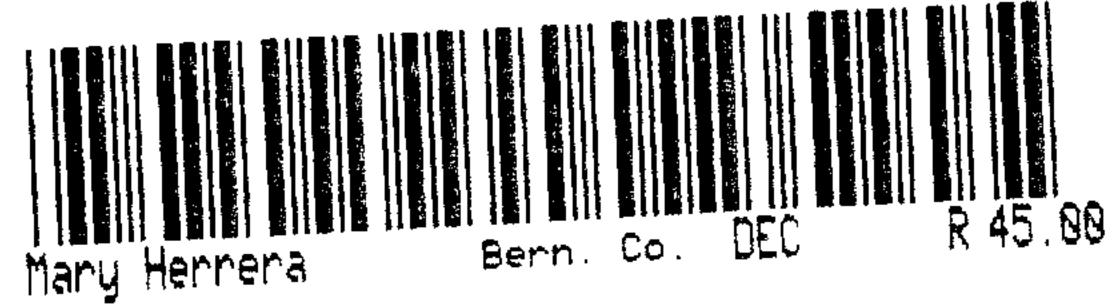
HEAVY DUTY ASPHALT PAYING FOR TRUCK TRAFFIC -ASPHALTIC CONCRETE OVER SUBGRADE, SEE GEOTECHNICAL REPORT FOR THICKNESS AND ALL OTHER RECOMMENDATIONS.

PRECAST CONCRETE PARKING BUMPER WITH 2 #6 PINS. YELLOW PAINTED ARROW AND 24" HIGH LETTERS, SEE

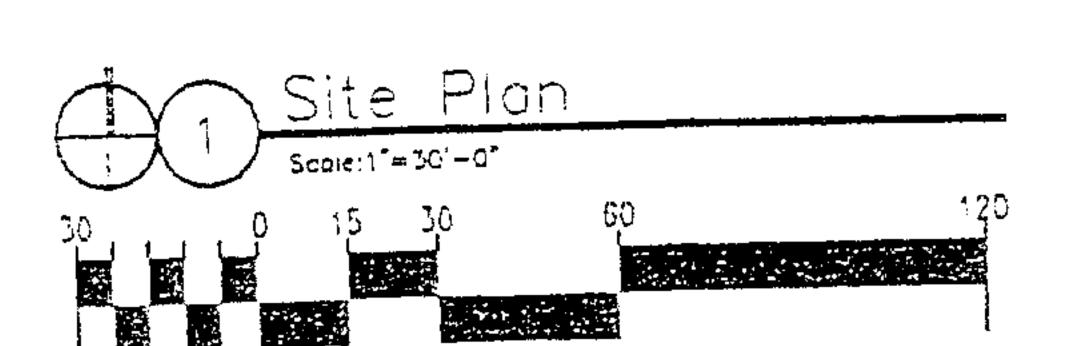
5/00.0 91-01X 20101 STALLS TYPICAL WALGREEN'S CURB AND GUTTER STANDARD CURE AND GUTTER.

## (I) RADIUS INFORMATION

 $\langle \overline{2} \rangle$  RADIUS = 25°-0°  $\langle \overline{1} \rangle$  RADIUS = 2'-0"  $\langle \overline{B} \rangle$  RADIUS = 30'-0'' $\langle \mathbb{C} \rangle$  RADIUS =  $\mathbb{D}' - \mathbb{C}'$  $\langle 9 \rangle$  RADIUS = 40'-9'' $\langle \overline{3} \rangle$  RADIUS = 5'-0"(10) RADIUS = 50'-6"  $\langle \overline{4} \rangle$  RADIUS = 10'-0'' $\langle 11 \rangle$  RADIUS = 60'-9'' $\langle \overline{5} \rangle$  RADIUS = 15'-0'' $\langle \overline{12} \rangle$  RADIUS = 100'-0'' $\langle \overline{8} \rangle$  RADIUS = 20'+0''



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# 

FACILITIES PLANNING AND DESIGN 250 WILLHOT ROAD

766-840-7500

DEERFIELD. IL 800n5

PROJECT TYPE

DRAWINGS/SPECIFICATIONS BY.

WALGREENS CONSULTANT LANDLORD'S CONSULTANT

ALL CONSTRUCTION WORK DINLESS NOTED OTHERWISE BY:

WALGREENS' CONTRACTOR

ITURNIKEY CONSTRUCTION E LANDLORDS'S CONTRACTOR

STORE	BUILDING
RELOCATION	NEW SHELL CHLY

PROJECT INFOMATION

LOCATION:

DEVELOPMENT IS LOCATED AT THE NORTHEAST CORNER OF FOURTH STREET AND GRIEGOS ROAD ALBUQUERQUE, NEW MEXICO

LEGAL DESCRIPTION:

A CERTAIN TRACT OF LAND SITUATE WITHIN SECTION 12. TOWNSHIP 10 NORTH, RANGE 3 EAST, NEW MEXICO PRINCIPAL MERICIAN, BEING AND COMPRISING TRACTS A-T AND A-2 OF THE REPLAT OF BLOCK SIXTEEN (18) OF MIRAMONTES PARK, UNIT ONE, ALBUOUEROUE, BERNAUILLO COUNTY, NEW MEXICO

ARCHITECTS:

SECRGE RAINHART ARCHITECT & ASSOCIATES, P.C. 2025 SAN PEDRO NE SUITE 2-8 ALBUQUEROUE, NEW MEXICO 87110

C-2ZOMNS: 381 OCCUPANTS DOCUPANT LOAD M (MERCANTILE) CCCUPANCY GROUP. ± 2.52 ACRES TOTAL ACREAGE: V-N SPRINKLERED COMSTRUCTION TYPE

14,490 SOUARE FEET TOTAL BUILDING AREA:

PARKING ANALYSIS:

70 REQUIRED PARKING SPACES 74 PROMDED PARKING SPACES INCLUDING 70 STANDARD PARKING SPACES & 4 ACCESSIBLE SPACES (1 VAN ACCESSIBLE SPACE)

5	3/11/02	FAW PER WALGREENS COMMENTS	
=	2/2/02	FAW PER WALGREENS COMMENTS	
4	1/29/02	FAM PER WALGREENS COMMENTS	
;	נשומו	FAW CER WALGREENS COMMENTS 1	
	1/14/01	FAVY PER SURVEY OR INFO	

REVISIONS

CERTIFICATION AND SEAL

THE PLAN AND SPECIF-CATION WAS PREPARED BY ME CRUNDER MY DIFECT SUPERVISION AND THAT 14 A CULY PEGISTEFED ARCHITECT OR ENGINEER UNCERTHE LAWS OF THE STATE OF NEW MEXICO AS SIGNIFIED BY MY HAND AIRD SEAL

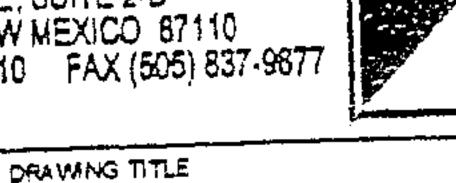
www.gra-arch.com



PROJECT NAME

WALGREENS STOPE (NEC) FOURTH ST. & GRIEGOS ALBUQUERQUE, NEW MEXICO

GEORGE RAINHART, ARCHITECT & ASSOCIATES P.C.
2325 SAN PEDRO NE., SUITE 2-B
ALBUQUERQUE, NEW MEXICO 87110
PHONE (505) 884-9110 FAX (505) 837-9877



SITE PLAN DRAWING NO. STORE NO 9/13/03 CATE 7351 504LE 17430'-0" CRAWN FELEASED TO CONSTRUCTION CMGS FENDAD En

# EXHIBIT "B"

# LEGAL DESCRIPTION OF PARCEL 1

A portion of that certain Tract lettered "A", Plat of Tract "A", LAND OF UGLY DUCKLING CORPORATION, being a replat of Tracts 8J, 8K and 8N, M.R.G.C.D., Map No. 33, Albuquerque, Bernalillo County, New Mexico, as the same is shown and designated on said plat, filed in the Office of the County Clerk of Bernalillo County, New Mexico, on January 21, 1997, in Plat Book 97C, folio 24.

Together with easement appurtenant to land described above for vehicular ingress/egress and other purposes as set forth in document filed October 2, 1997, recorded in Book 9727, page 6565, as Document No. 97103959, records of Bernalillo County, New Mexico.

(NOTE: Once the subdivision plat is finalized, the new legal description shall be included herein and substituted herefor.)

Taru Herrera Bern. Co. DEC R 45.00 Bk-A41 Pg-8899 Mary Herrera

09/18/2002 11:25A

Mary Herrera

4th & Griegos Albuquerque, NM MP 3/10/02 REV. MP 3/14/02 MP 4/18/02

# EXHIBIT "C"

# LEGAL DESCRIPTION OF PARCEL 2

A portion of that certain Tract lettered "A", Plat of Tract "A", LAND OF UGLY DUCKLING CORPORATION, being a replat of Tracts 8J, 8K and 8N, M.R.G.C.D., Map No. 33, Albuquerque, Bernalillo County, New Mexico, as the same is shown and designated on said plat, filed in the Office of the County Clerk of Bernalillo County, New Mexico, on January 21, 1997, in Plat Book 97C, folio 24.

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Mary Herrera Bern. Co. DEC R 45.00 Bk-A41 Pg-8899

R 43.88 Mary Herrera

4th & Griegos Albuquerque, NM MP 3/10/02 REV. MP 3/14/02 MP 4/18/02