

# CITY OF ALBUQUERQUE



November 23, 2009

Scott J. Steffen, P.E.  
**BOHANNAN-HUSTON, INC.**  
7500 Jefferson Street NE Courtyard I  
Albuquerque, NM 87109

**Re: CVS @ Unser Crossing – Store # 08981,  
Approval of 90-Day Certificate of Occupancy (C.O.)  
Engineer's Stamp dated 2/02/09 (K-10/D045A)  
Certification dated 11-22-09**

Dear Mr. Steffen,

Based upon the information provided in your submittal received 11-22-09, the above referenced certification is approved for release of a 90 Day Temporary Certificate of Occupancy by Hydrology.

Prior to permanent C.O.:

1. Remove the all inlet protection.
2. Provide the city address to this site.

Prior to Permanent Certificate of Occupancy, an Engineer's Certification per the DPM is required.

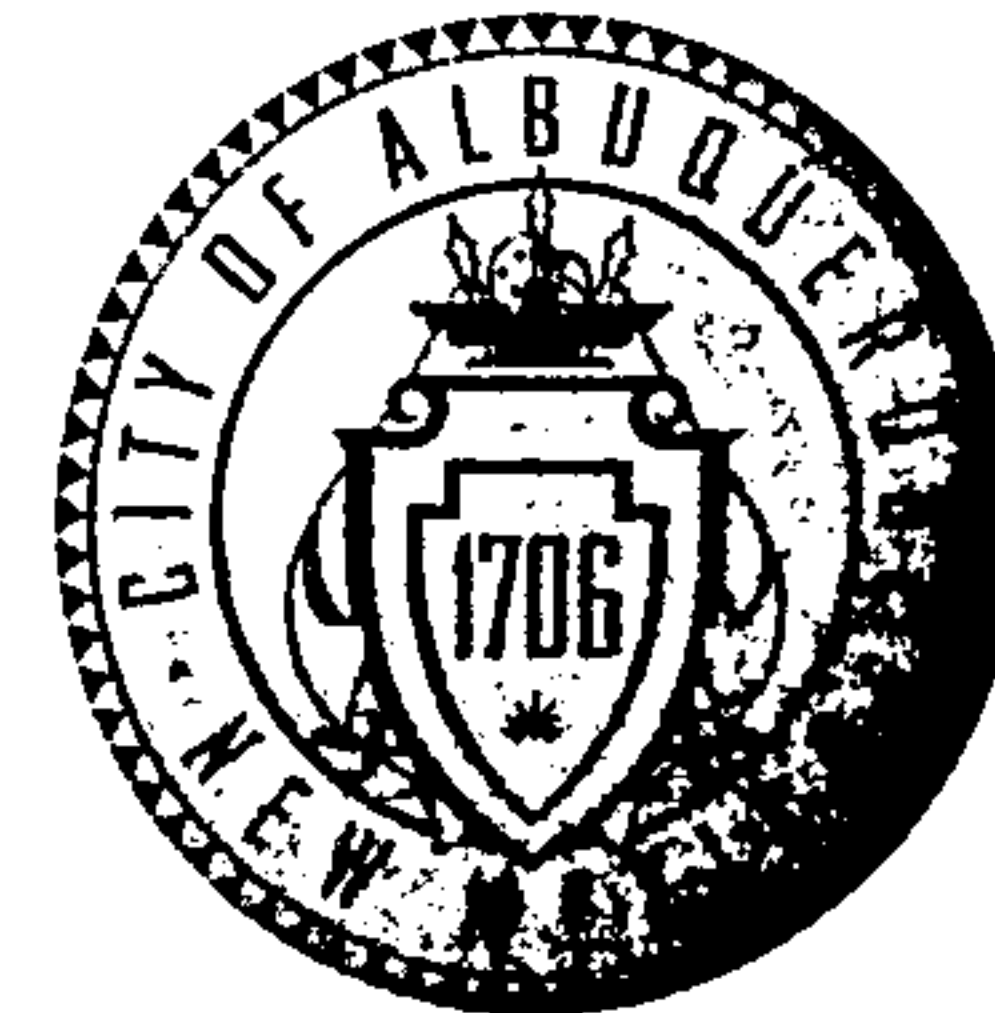
If you have any questions, you can contact me at 924-3982.

Sincerely,

Timothy E. Sims  
Plan Checker—Hydrology,  
Development and Building Services

C: CO Clerk—Katrina Sigala  
File

# CITY OF ALBUQUERQUE



November 24, 2009

Scott J. Steffen, P.E.  
Bohannon Huston Inc.  
7500 Jefferson St., Courtyard 1  
Albuquerque, NM 87109

**Re: CVS Pharmacy @ Unser Crossings  
7900 Central SW,  
Certificate of Occupancy – Transportation Development  
Engineer's Stamp dated 11-20-09 (K-10/D045A)**

Dear Mr. Steffen,

Based upon the information provided in your submittal received 11-20-09, Transportation Development has no objection to the issuance of a **Permanent Certificate of Occupancy**. This letter serves as a "green tag" from Transportation Development for a **Permanent Certificate of Occupancy** to be issued by the Building and Safety Division.

If you have any questions, you can contact me at 924-3630.

Sincerely,

Nilo Salgado-Fernandez, P.E.  
Senior Traffic Engineer, Planning Dept.  
Development and Building Services

C: CO Clerk  
File

PO Box 1293

Albuquerque

NM 87103

www.cabq.gov

**DRAINAGE AND TRANSPORTATION INFORMATION SHEET**  
(Rev. 12/2005)

PROJECT TITLE: CVS @ Unser Crossing ZONE MAP/DRG. FILE # K-10/D045A  
DRB#: \_\_\_\_\_ EPC#: 1007204 WORK ORDER#: \_\_\_\_\_

LEGAL DESCRIPTION: Tract 9, Unser Crossing

CITY ADDRESS: Southwest Corner of Central & Unser 7900 Central NW

ENGINEERING FIRM: Bohannon Huston Inc.  
ADDRESS: 7500 Jefferson St, Courtyard 1  
CITY, STATE: Albuquerque, NM

CONTACT: Scott Steffen, P.E.  
PHONE: 505-823-1000  
ZIP CODE: 87109

OWNER: Armstrong Development  
ADDRESS: 1500 N. PRIEST DRIVE, STE. 150E  
CITY, STATE: Tempe, AZ

CONTACT: Scott Maier  
PHONE: 303-501-0520  
ZIP CODE: 85281

ARCHITECT: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_  
CITY, STATE: \_\_\_\_\_

CONTACT: \_\_\_\_\_  
PHONE: \_\_\_\_\_  
ZIP CODE: \_\_\_\_\_

SURVEYOR: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_  
CITY, STATE: \_\_\_\_\_

CONTACT: \_\_\_\_\_  
PHONE: \_\_\_\_\_  
ZIP CODE: \_\_\_\_\_

CONTRACTOR: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_  
CITY, STATE: \_\_\_\_\_

CONTACT: \_\_\_\_\_  
PHONE: \_\_\_\_\_  
ZIP CODE: \_\_\_\_\_

**TYPE OF SUBMITTAL:**

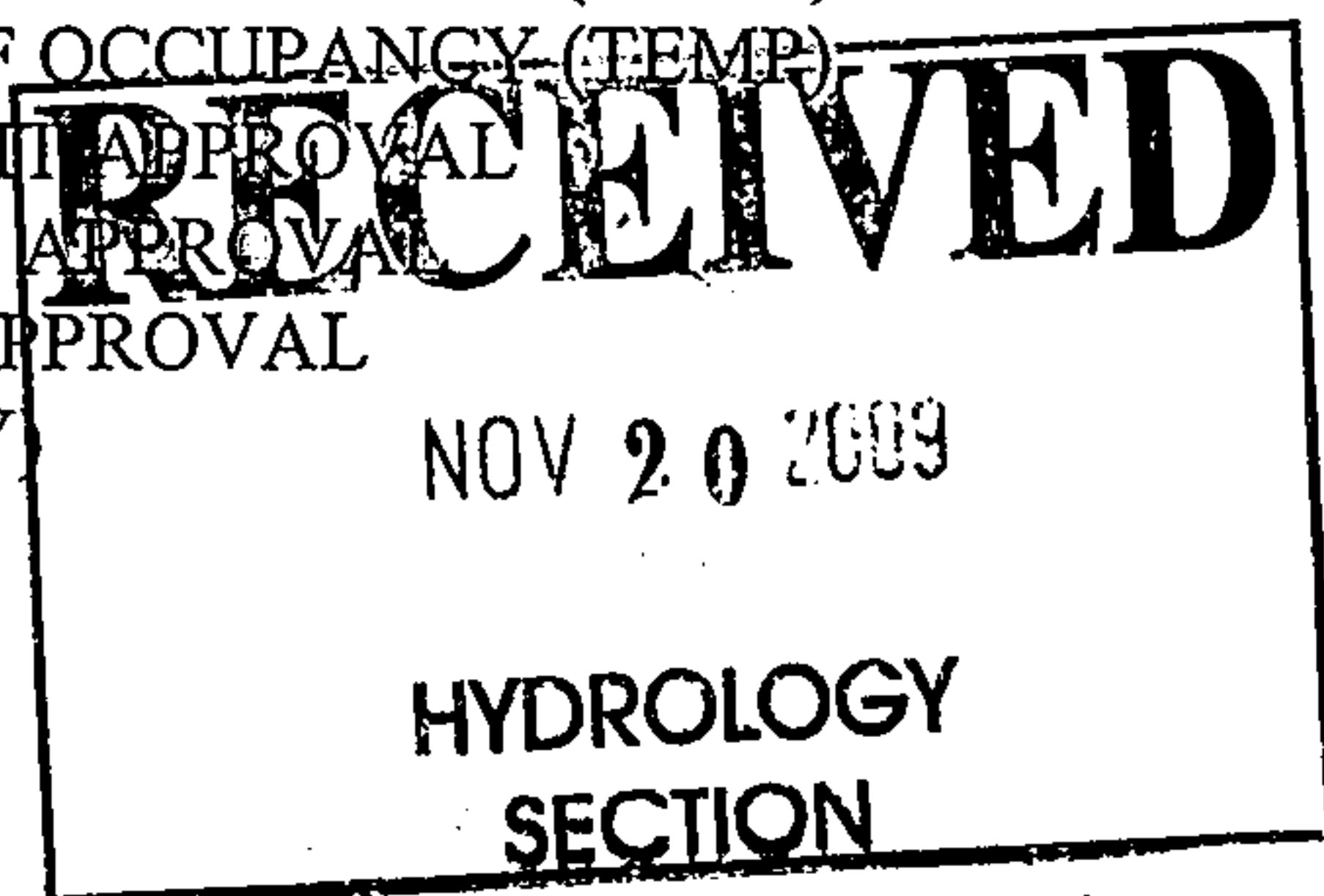
- ☐ DRAINAGE REPORT  
☐ DRAINAGE PLAN 1<sup>st</sup> SUBMITTAL  
☐ DRAINAGE PLAN RESUBMITTAL  
☐ CONCEPTUAL G & D PLAN  
☐ GRADING PLAN  
☐ EROSION CONTROL PLAN  
☐ ENGINEER'S CERT (HYDROLOGY)  
☐ CLOMR/LOMR  
☐ TRAFFIC CIRCULATION LAYOUT  
☐ ENGINEER CERT (TCL)  
☒ ENGINEER CERT (DRB SITE PLAN)  
☐ OTHER (SPECIFY) \_\_\_\_\_

**CHECK TYPE OF APPROVAL SOUGHT:**

- ☐ SIA/FINANCIAL GUARANTEE RELEASE  
☐ PRELIMINARY PLAT APPROVAL  
☐ S. DEV. PLAN FOR SUB'D APPROVAL  
☐ S. DEV. FOR BLDG. PERMIT APPROVAL  
☐ SECTOR PLAN APPROVAL  
☐ FINAL PLAT APPROVAL  
☐ FOUNDATION PERMIT APPROVAL  
☐ BUILDING PERMIT APPROVAL  
☒ CERTIFICATE OF OCCUPANCY (PERM)  
☐ CERTIFICATE OF OCCUPANCY (TEMP)  
☐ GRADING PERMIT APPROVAL  
☐ PAVING PERMIT APPROVAL  
☐ WORK ORDER APPROVAL  
☐ OTHER (SPECIFY) \_\_\_\_\_

WAS A PRE-DESIGN CONFERENCE ATTENDED:

- ☐ YES  
☒ NO  
☐ COPY PROVIDED



SUBMITTED BY: Scott J. Steffen, P.E. Scott J. Steffen DATE: November 20, 2009

Requests for approvals of Site Development Plans and/or Subdivision Plats shall be accompanied by a drainage submittal. The particular nature, location and scope to the proposed development define the degree of drainage detail. One or more of the following levels of submittal may be required based on the following:

1. **Conceptual Grading and Drainage Plan:** Required for approval of Site Development Plans greater than five (5) acres and Sector Plans.
2. **Drainage Plans:** Required for building permits, grading permits, paving permits and site plans less than five (5) acres.
3. **Drainage Report:** Required for subdivision containing more than ten (10) lots or constituting five (5) acres or more.

**CLIENT/COURIER TRANSMITTAL**

**To:** Nilo Salgado Fernandez  
COA Transporation Development  
Plaza del Sol  
600 2nd Street NW - 1st Floor

**Requested by:** Scott Steffen

**Date:** November 20, 2009

**Time Due:** ☐ This A.M.  
☒ This P.M.  
☐ Rush \_\_\_\_\_  
☐ By Tomorrow

**Phone:** 924-3630

**Job No.:** 080406.005

**Job Name:** CVS Cental & Unser

**DELIVERY VIA**

☒ Courier ☐ Federal Express  
☐ Mail ☐ UPS  
☐ Other

**PICK UP**

**Item:** \_\_\_\_\_

<b><u>ITEM NO.</u></b>	<b><u>QUANTITY</u></b>	<b><u>DESCRIPTION</u></b>
1	1	Drainage and Transporation info sheet
2	1	CVS DRB approved site plan w/engineer's certification
3	1	Unser Crossing DRB approved site plan w/engineer's certification

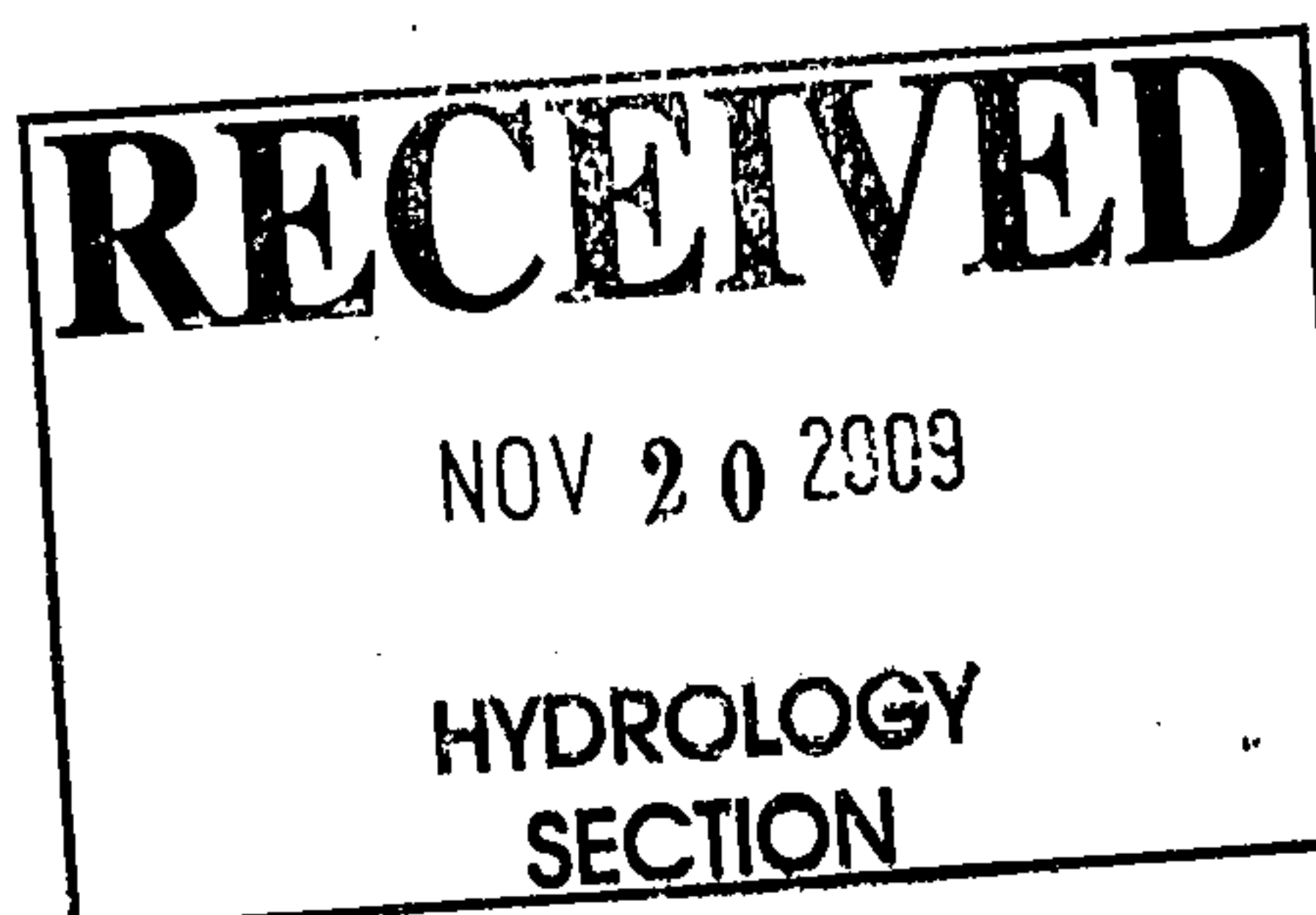
**COMMENTS / INSTRUCTIONS**

Nilo,

We are requesting approval for permanent CO.

Let me know if you have any questions

Thanks,  
Scott



**REC'D BY:** \_\_\_\_\_ **DATE:** \_\_\_\_\_ **TIME:** \_\_\_\_\_

**ENGINEERING ▲****SPATIAL DATA ▲****ADVANCED TECHNOLOGIES ▲**

Courtyard I  
7500 Jefferson St. NE  
Albuquerque, NM  
87109-4335

[www.bhinc.com](http://www.bhinc.com)

voice: 505.823.1000  
facsimile: 505.798.7988  
toll free: 800.877.5332

November 20, 2009

Nilo Salgado-Fernandez, P.E.  
Transportation Development Section  
City of Albuquerque  
600 2<sup>nd</sup> Street NW  
Albuquerque, NM 87102

Re: Engineer's Certification  
CVS Pharmacy, SWC Central and Unser, DRB Case No. 1007204, (K10/D045A)

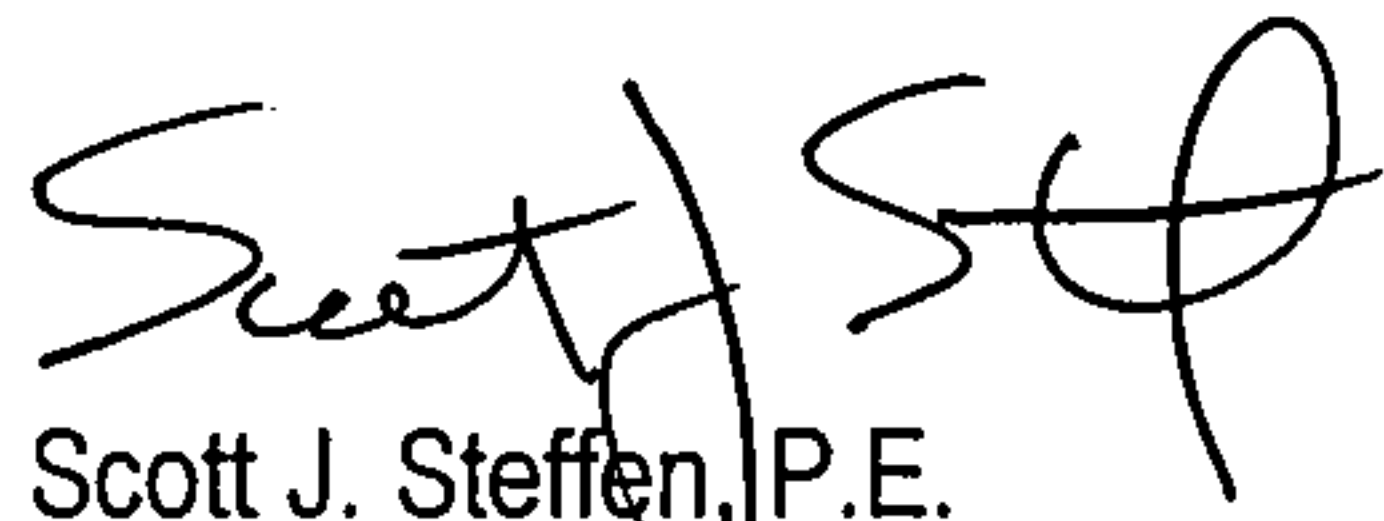
Dear Nilo:

Enclosed for your review is the DRB approved CVS site plan dated 1/22/2009 (Traffic signature date). I visited the site on 11/20/09 and it is my belief that the traffic and pedestrian improvements have been constructed in substantial compliance with the approved site plan. There is one less parking space than on the approved plan. One space had to be designated a fire lane due to the location of the building Fire Department Connection per the City Fire Marshal. The site parking count is now 74 spaces versus 64 required spaces.

In addition, the DRB approved Unser Crossing site plan dated 7/09/2008 (Traffic signature date) is included as a supplement to the CVS certification. The certification covers only the access drive aisle west of the CVS site and the connection of this drive aisle to Central Avenue and Unser Boulevard as clouded on the Unser Crossing site plan. The drive aisles have been constructed in substantial compliance with the approved site plan.

Your review and approval is requested for permanent Certificate of Occupancy for the project. I appreciate your time and consideration. If you have questions or require additional information, please contact me at 823-1000.

Sincerely,



Scott J. Steffen, P.E.  
Vice President  
Community Development and Planning Group

SJS/cc  
Enclosure

cc: Scott Maier, Armstrong Properties

**ENGINEERING ▲**

**SPATIAL DATA ▲**

**ADVANCED TECHNOLOGIES ▲**

# CITY OF ALBUQUERQUE

PLANNING DEPARTMENT – Development & Building Services



December 23, 2008

Scott Stephen, P.E.  
Bohannon Huston, Inc.  
7500 Jefferson NE – Courtyard 1  
Albuquerque, New Mexico 87109

RE: CVS at Unser Crossing (SW Corner of Central and Unser) (K10 – D 045 A)  
GRADING & DRAINAGE PLAN (PE Stamped 12-11-08)

Dear Mr. Stephen:

Based upon the information provided in your submittal received 12-12-08, the above referenced Conceptual Grading and Drainage Plan is approved for Site Development Plan for Building Permit.

PO Box 1293

Albuquerque

A site specific Grading and Drainage Plan must be submitted and approved prior to Building Permit approval by the Hydrology office. *NOTE: The final Grading and Drainage Plan for Building Permit must reflect connection details to the storm drain in Unser, and clearly show limits of this plan vs. the Work Order (#735684) "stub-outs."*

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

NM 87103

Sincerely,

www.cabq.gov

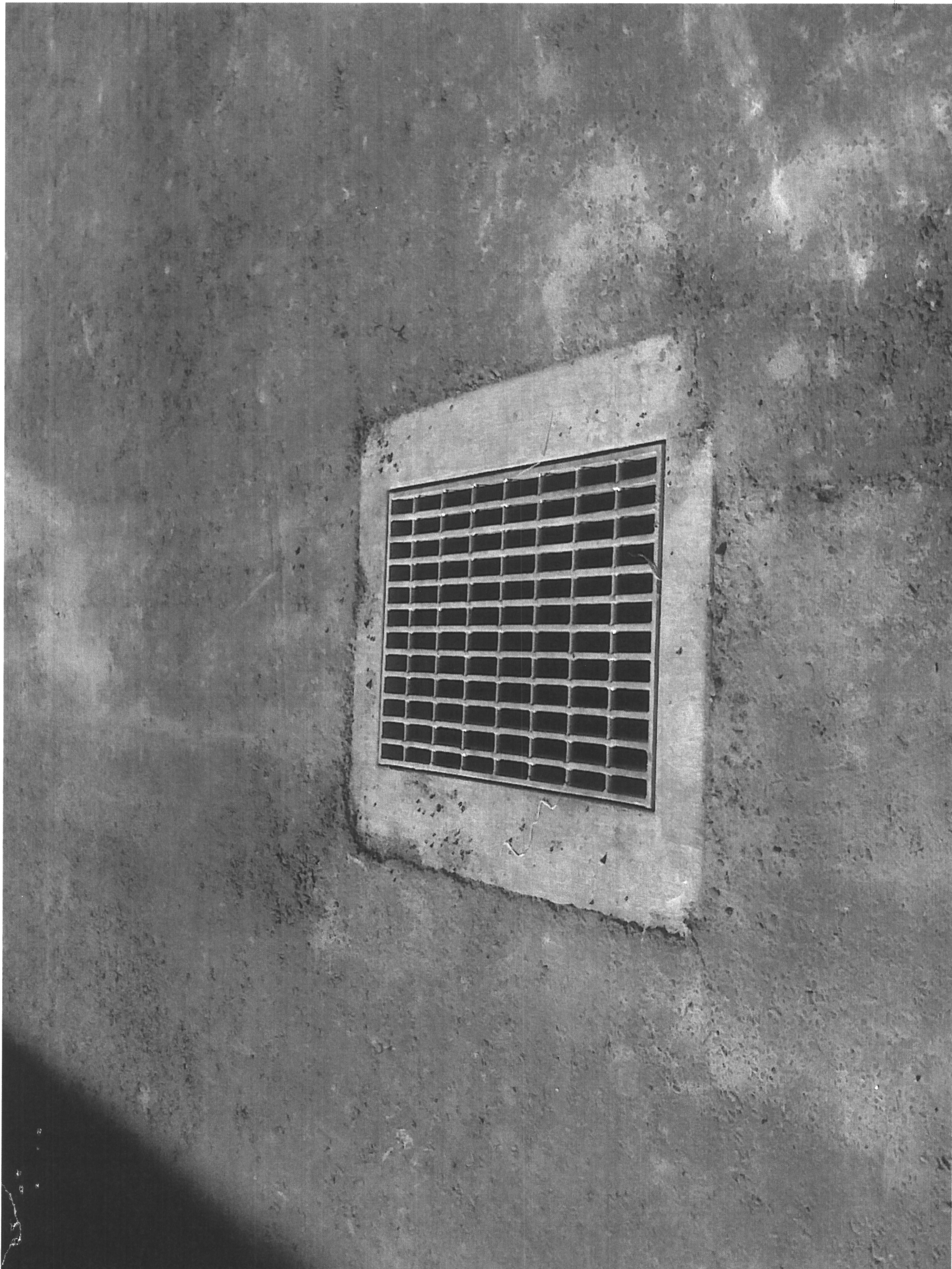
Gregory R. Olson, P.E.  
Hydrology Section

XC: Bradley Bingham, COA-PLN-Hydrology  
File: K10-D045A



7900

K-10700457A





# CITY OF ALBUQUERQUE



November 5, 2008

Bruce J. Stidworthy, P.E.  
Bohannon Huston  
7500 Jefferson St NE, Courtyard I  
Albuquerque, NM 87109

**Re: Unser Crossing Drainage Management, Grading and Drainage Plan  
Engineer's Stamp dated 10-30-08 (K10/D045)**

Dear Mr. Stidworthy,

Based upon the information provided in your submittal received 10-30-08 and 11-5-08, the above referenced plan is approved for Building Permit and for Work Order. Please attach a copy of this approved plan to the construction sets prior to sign-off by Hydrology.

Prior to Certificate of Occupancy release, Engineer Certification per the DPM checklist will be required.

If you have any questions, you can contact me at 924-3695.

Sincerely,

Curtis A. Cherne, P.E.  
Senior Engineer, Planning Dept.  
Development and Building Services

C: file

**DRAINAGE AND TRANSPORTATION INFORMATION SHEET**  
(Rev. 12/2005)

PROJECT TITLE: Unser Crossing ZONE MAP/DRG. FILE # 1K-10/D045  
DRB#: \_\_\_\_\_ EPC#: 1007204 WORK ORDER#: ~~K-9 & K-10~~

LEGAL DESCRIPTION: Tracts 1A, 1B, 2A, 2B, 3A, 3B, 4B, & 6 of VE Barrett Subdivision & Tracts 4A1, 5B1, & 5B2 Lands of WEFCO Partners

CITY ADDRESS: Southwest Corner of Central & Unser

ENGINEERING FIRM: Bohannon Huston Inc.  
ADDRESS: 7500 Jefferson St, Courtyard 1  
CITY, STATE: Albuquerque, NM

CONTACT: Racquel Michel, EI  
PHONE: 505-823-1000  
ZIP CODE: 87109

OWNER: Armstrong Development  
ADDRESS: 1500 N. PRIEST DRIVE, STE. 150E  
CITY, STATE: Tempe, AZ

CONTACT: Scott Maier  
PHONE: 303-357-4600  
ZIP CODE: 85281

ARCHITECT: Darren Sowell Architects  
ADDRESS: 4700 Lincoln Rd  
CITY, STATE: Albuquerque, NM

CONTACT: Darren Sowell  
PHONE: 505-342-6200  
ZIP CODE: 87109

SURVEYOR: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_  
CITY, STATE: \_\_\_\_\_

CONTACT: \_\_\_\_\_  
PHONE: \_\_\_\_\_  
ZIP CODE: \_\_\_\_\_

CONTRACTOR: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_  
CITY, STATE: \_\_\_\_\_

CONTACT: \_\_\_\_\_  
PHONE: \_\_\_\_\_  
ZIP CODE: \_\_\_\_\_

**TYPE OF SUBMITTAL:**

☐ DRAINAGE REPORT  
☐ DRAINAGE PLAN 1<sup>st</sup> SUBMITTAL  
☒ DRAINAGE PLAN RESUBMITTAL  
☐ CONCEPTUAL G & D PLAN  
☒ GRADING PLAN  
☐ EROSION CONTROL PLAN  
☐ ENGINEER'S CERT (HYDROLOGY)  
☐ CLOMR/LOMR  
☐ TRAFFIC CIRCULATION LAYOUT  
☐ ENGINEER CERT (TCL)  
☐ ENGINEER CERT (DRB SITE PLAN)  
☐ OTHER (SPECIFY) \_\_\_\_\_

**CHECK TYPE OF APPROVAL SOUGHT:**

☐ SIA/FINANCIAL GUARANTEE RELEASE  
☐ PRELIMINARY PLAT APPROVAL  
☐ S. DEV. PLAN FOR SUB'D APPROVAL  
☐ S. DEV. FOR BLDG. PERMIT APPROVAL  
☐ SECTOR PLAN APPROVAL  
☐ FINAL PLAT APPROVAL  
☒ FOUNDATION PERMIT APPROVAL  
☒ BUILDING PERMIT APPROVAL  
☐ CERTIFICATE OF OCCUPANCY (PERM)  
☐ CERTIFICATE OF OCCUPANCY (TEMP)  
☒ GRADING PERMIT APPROVAL (INCL PRIVATE SD)  
☒ PAVING PERMIT APPROVAL  
☒ WORK ORDER APPROVAL  
☐ OTHER (SPECIFY) OCT 20 2008

**WAS A PRE-DESIGN CONFERENCE ATTENDED:**

☐ YES  
☒ NO  
☐ COPY PROVIDED

SUBMITTED BY: Racquel Michel, EI DATE: October 28, 2008

Requests for approvals of Site Development Plans and/or Subdivision Plats shall be accompanied by a drainage submittal. The particular nature, location and scope to the proposed development define the degree of drainage detail. One or more of the following levels of submittal may be required based on the following:

1. **Conceptual Grading and Drainage Plan:** Required for approval of Site Development Plans greater than five (5) acres and Sector Plans.
2. **Drainage Plans:** Required for building permits, grading permits, paving permits and site plans less than five (5) acres.
3. **Drainage Report:** Required for subdivision containing more than ten (10) lots or constituting five (5) acres or more.

**HYDROLOGY  
SECTION**

October 30, 2008

Courtyard I  
7500 Jefferson St. NE  
Albuquerque, NM  
87109-4335

[www.bhinc.com](http://www.bhinc.com)

voice: 505.823.1000  
facsimile: 505.798.7988  
toll free: 800.877.5332

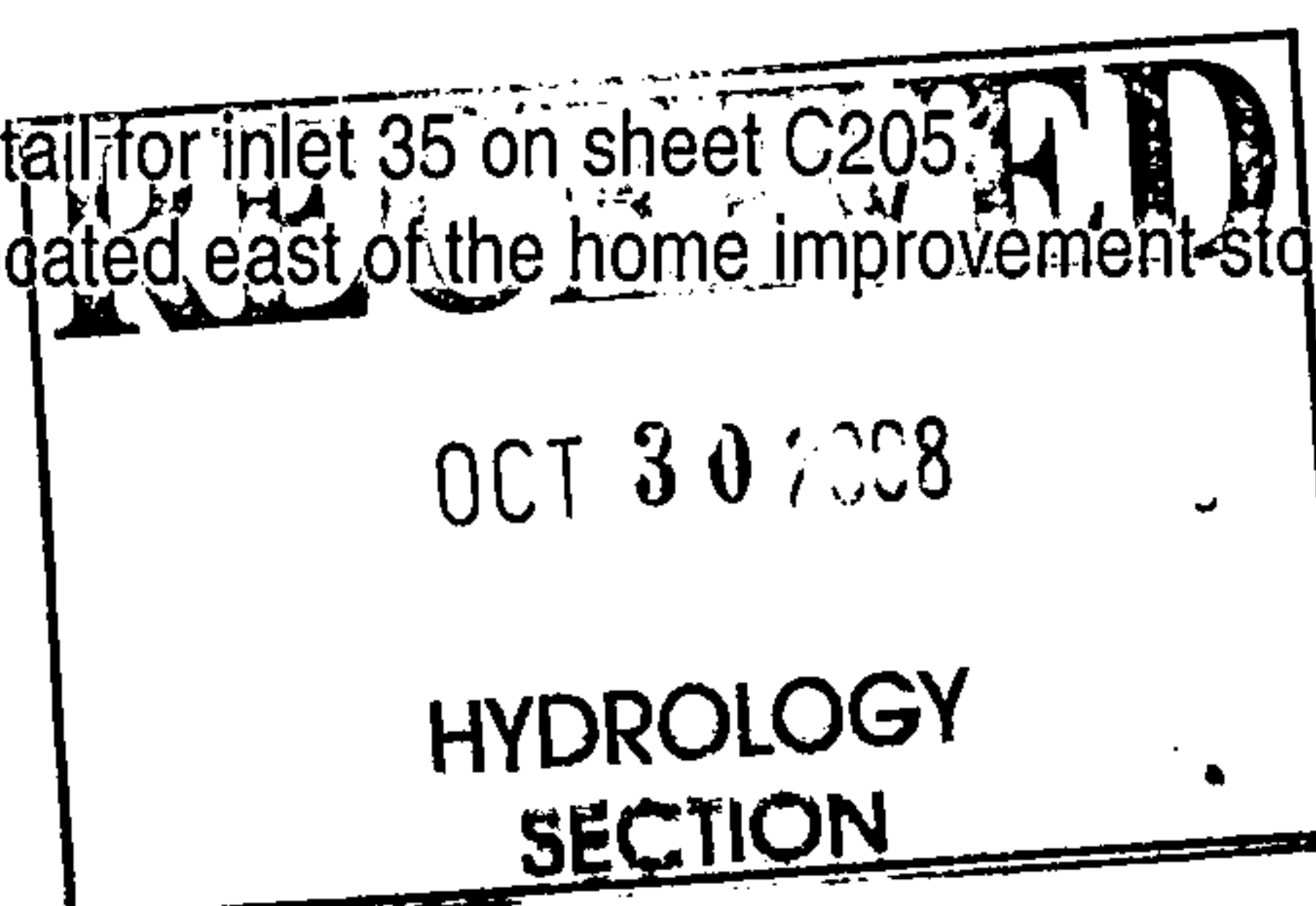
Curtis A. Cherne P. E.  
City of Albuquerque  
P.O. Box 1293 Rm 301  
Albuquerque, NM 87103

Re: Unser Crossing Drainage Management Plan  
Hydrology Re-Submittal (K10-D045)

Dear Mr. Cherne:

The above referenced project was reviewed on October 13, 2008. Below is a list of our responses to your comments. Please review our revisions and reconsider our request for building permit approval. Do not hesitate to contact Bruce Stidworthy or myself if you have additional questions.

- Drainage Management Plan:
  - The buildings will be phased. The only work to be completed immediately is the site work. The building numbers have been added to the Drainage Management Plan for reference.
  - The Certificate of No Effect was provided on October 16, 2008.
  - The flow rate in and out of the pond as well as the water surface elevation has been stated on the plan. For your reference the Flow in is  $Q=125.24\text{cfs}$ , the flow out is  $Q=104.18\text{cfs}$ , and the  $WSE=95.40$ .
  - The hydraulics of how SDMH 13 and the stormdrain work has been explained. All onsite flow will be directed to the pond and the outfall will be controlled by orifice plate.
  - Basin 4 drains to the detention pond which then outfalls to Unser and Bridge depending on how much head the pond has.
  - The narrative has been updated to explain the pond.
  - A temporary CMP inlet has been added near the southeast corner of Basin 3. A berm to direct flow to the inlet has been added to the Erosion Control Plans.
  - The storm drain labels have been clarified.
- Grading Plan:
  - Desiltation swales have been added to the Phase 2 Erosion Control Plan for control while the pad sites remain vacant.
  - Elevations at the back of sidewalk have been given at regular intervals around the perimeter of the site.
  - Additional contour labels have been added in the western region of the site.
  - A symbol to indicate the building walls that are retaining has been added to the site plan and grading plan sheets.
  - Contour labels have been added to the southwest corner of the site.
  - A small swale has been added south of the home improvement store to capture this minimal flow.
  - Additional clarification has been added to the detail for inlet 35 on sheet C205.
  - A cross slope has been added to the sidewalk located east of the home improvement store.



ENGINEERING ▲  
SPATIAL DATA ▲  
ADVANCED TECHNOLOGIES ▲

Curtis A. Cherne, P.E.  
City of Albuquerque  
October 30, 2008  
Page 2

If you have any questions or require further information, please contact me.

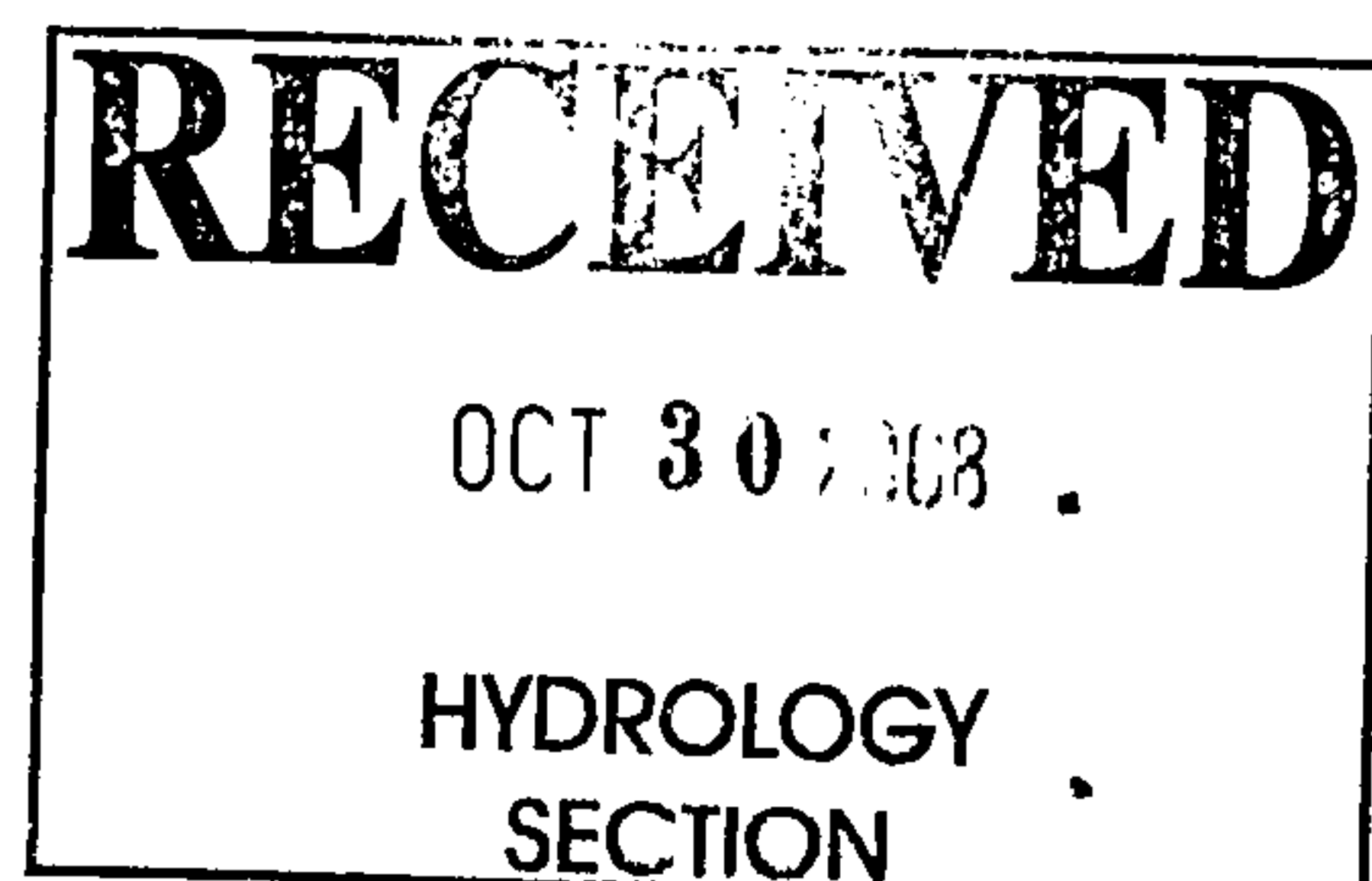
Sincerely,

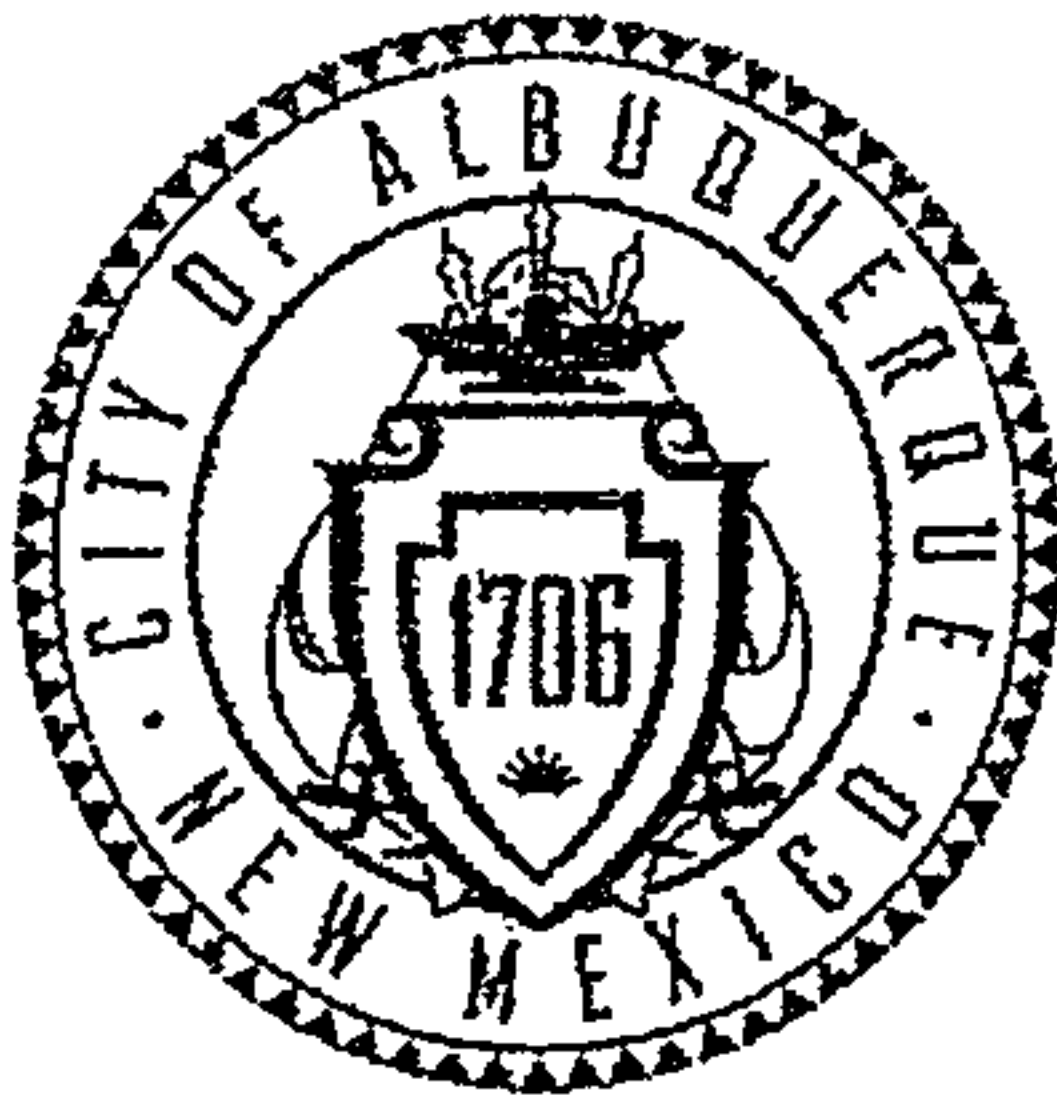


Racquel Michel, E.I.  
Community Development and Planning

RM/nmo  
Enclosures

cc: Armstrong Development Properties, LLC (w/encl.)  
Bruce Stidworthy, BHI





City of Albuquerque  
P.O. Box 1293 Albuquerque, New Mexico 87103

**Planning Department**

Martin J. Chavez, Mayor

Richard Dineen, Director

**Interoffice Memorandum**

April 1, 2008

**Subject: Albuquerque Archaeological Ordinance—Compliance Documentation**

**Project Number(s):**

**Case Number(s):**

**Agent:**

**Applicant:** Darren Sowell Architects, LLC

**Legal Description:** Tracts 1 – 6, Lands of V.E. Barrett

**Acreage:** 50.35 acres

**Zone Atlas Page:** K-9; K-10

**CERTIFICATE OF NO EFFECT:** Yes ☒ No ☐

**SUPPORTING DOCUMENTATION:**

A Cultural Resources Survey of a 50.35 Acre Parcel at West Central Avenue, Bridge Blvd, 86<sup>th</sup> Street, and Unser Boulevard, Bernalillo County, New Mexico. by Amador Minjares (TRC Solutions; Howard Higgins P.I. March 24, 2008). NMCRIS #109612.

**SITE VISIT:** n/a

**RECOMMENDATION(S):**

***CERTIFICATE OF NO EFFECT IS ISSUED (ref O-07-72 Section 4B(1)-- no significant sites in project area)***

**SUBMITTED:**

Matthew Schmader, PhD

Superintendent, Open Space Division

Acting City Archaeologist

K-10/DO45

080289

Unser Crossing  
1007204

# CITY OF ALBUQUERQUE



July 3, 2008

Bruce Stidworthy, PE  
Bohannon Huston, Inc.  
7500 Jefferson NE  
Albuquerque, NM 87109

**Re: Unser Crossing Conceptual Grading and Drainage Plan**  
**Engineer's Stamp dated 6-17-08 (K10/D45)**

Dear Mr. Stidworthy,

Based upon the information provided in your submittal dated 6-17-08, the above referenced plan is approved for Site Development Plan for Subdivision, Site Plat for Building Permit and Preliminary Plat action by the DRB.

If you have any questions, you can contact me at 924-3986.

Sincerely,

Bradley L. Bingham, PE  
Principal Engineer, Planning Dept.  
Development and Building Services

C: file

PO Box 1293

Albuquerque

NM 87103

[www.cabq.gov](http://www.cabq.gov)

**DRAINAGE AND TRANSPORTATION INFORMATION SHEET**  
(Rev. 12/2005)

PROJECT TITLE: Unser Crossing ZONE MAP/DRG. FILE # K-10/D045  
DRB#: \_\_\_\_\_ EPC#: 1007204 WORK ORDER#: K-9-3-K210

LEGAL DESCRIPTION: Tracts 1A, 1B, 2A, 2B, 3A, 3B, 4B, & 6 of VE Barrett Subdivision & Tracts 4A1, 5B1, & 5B2 Lands of WEFCO Partners

CITY ADDRESS: Southwest Corner of Central & Unser

ENGINEERING FIRM: Bohannon Huston Inc.  
ADDRESS: 7500 Jefferson St, Courtyard 1  
CITY, STATE: Albuquerque, NM

CONTACT: Racquel Michel, EI  
PHONE: 505-823-1000  
ZIP CODE: 87109

OWNER: Armstrong Development  
ADDRESS: 1500 N. PRIEST DRIVE, STE. 150E  
CITY, STATE: Tempe, AZ

CONTACT: Scott Maier  
PHONE: 303-357-4600  
ZIP CODE: 85281

ARCHITECT: Darren Sowell Architects  
ADDRESS: 4700 Lincoln Rd  
CITY, STATE: Albuquerque, NM

CONTACT: Darren Sowell  
PHONE: 505-342-6200  
ZIP CODE: 87109

SURVEYOR: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_  
CITY, STATE: \_\_\_\_\_

CONTACT: \_\_\_\_\_  
PHONE: \_\_\_\_\_  
ZIP CODE: \_\_\_\_\_

CONTRACTOR: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_  
CITY, STATE: \_\_\_\_\_

CONTACT: \_\_\_\_\_  
PHONE: \_\_\_\_\_  
ZIP CODE: \_\_\_\_\_

**TYPE OF SUBMITTAL:**

- ☐ DRAINAGE REPORT  
☒ DRAINAGE PLAN 1<sup>st</sup> SUBMITTAL  
☐ DRAINAGE PLAN RESUBMITTAL  
☒ CONCEPTUAL G & D PLAN  
☐ GRADING PLAN  
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☐ CLOMR/LOMR  
☐ TRAFFIC CIRCULATION LAYOUT  
☐ ENGINEER CERT (TCL)  
☐ ENGINEER CERT (DRB SITE PLAN)  
☐ OTHER (SPECIFY) \_\_\_\_\_

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☐ FINAL PLAT APPROVAL  
☐ FOUNDATION PERMIT APPROVAL  
☐ BUILDING PERMIT APPROVAL  
☐ CERTIFICATE OF OCCUPANCY (PERM)  
☐ CERTIFICATE OF OCCUPANCY (TEMP)  
☐ GRADING PERMIT APPROVAL  
☐ PAVING PERMIT APPROVAL  
☐ WORK ORDER APPROVAL  
☐ OTHER (SPECIFY) \_\_\_\_\_

WAS A PRE-DESIGN CONFERENCE ATTENDED:

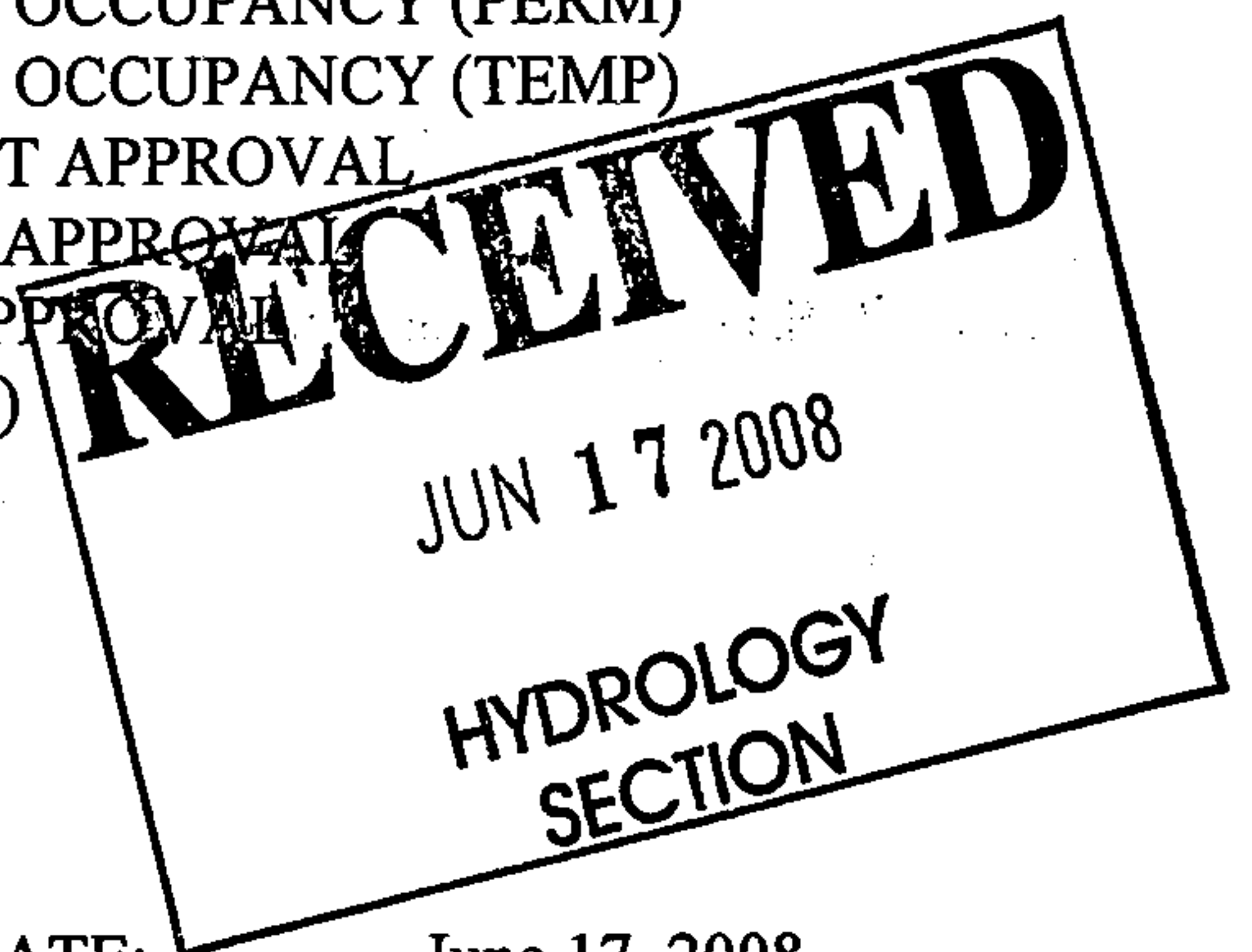
- ☐ YES  
☒ NO  
☐ COPY PROVIDED

\$ 100.00

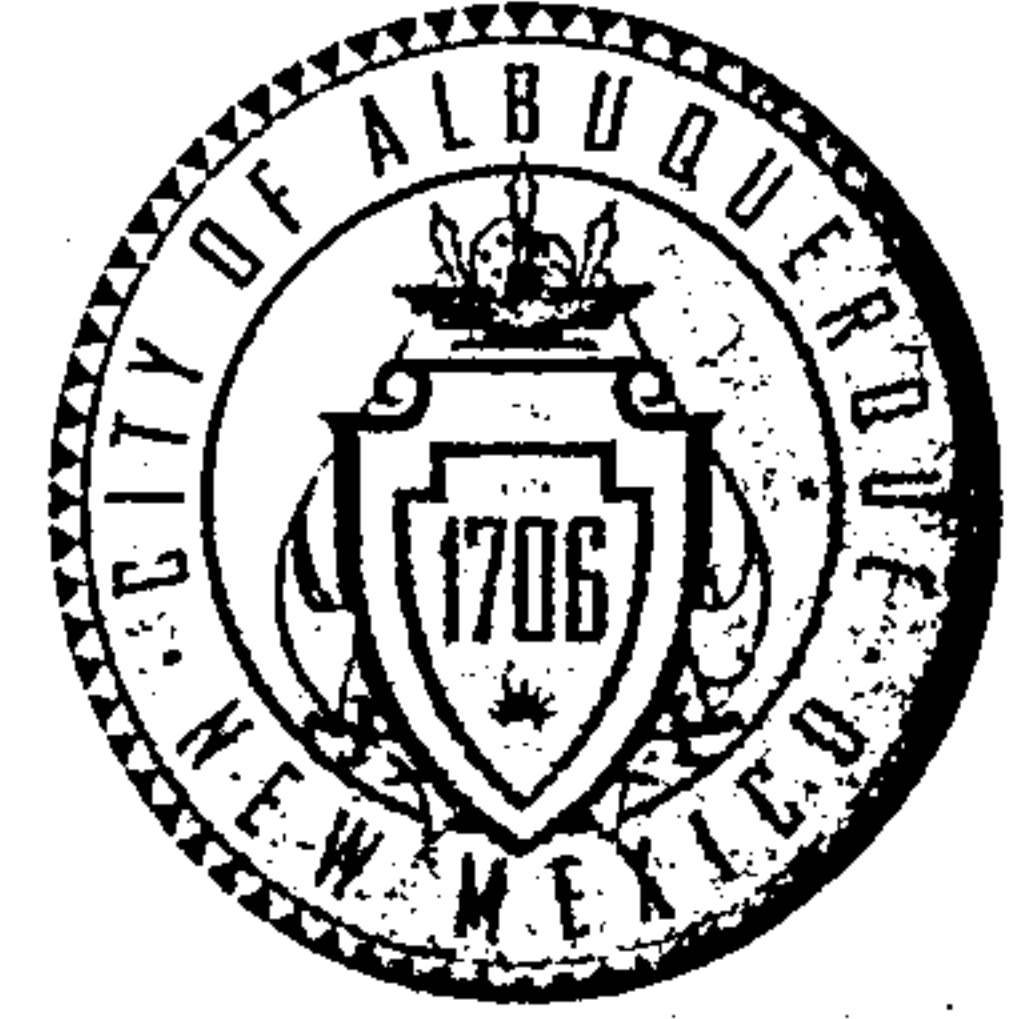
SUBMITTED BY: Racquel Michel, EI DATE: June 17, 2008

Requests for approvals of Site Development Plans and/or Subdivision Plats shall be accompanied by a drainage submittal. The particular nature, location and scope to the proposed development define the degree of drainage detail. One or more of the following levels of submittal may be required based on the following:

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3. **Drainage Report:** Required for subdivision containing more than ten (10) lots or constituting five (5) acres or more.



# CITY OF ALBUQUERQUE



October 13, 2008

Bruce J. Stidworthy, P.E.  
Bohannon Huston  
7500 Jefferson St NE, Courtyard I  
Albuquerque, NM 87109

**Re: Unser Crossing Drainage Management, Grading and Drainage Plan**  
**Engineer's Stamp dated 10-8-08 (K10/D045)**

Dear Mr. Stidworthy,

Based upon the information provided in your submittal dated 10-8-08, the above referenced plan cannot be approved for Building Permit until the following comments are addressed:

PO Box 1293

Albuquerque

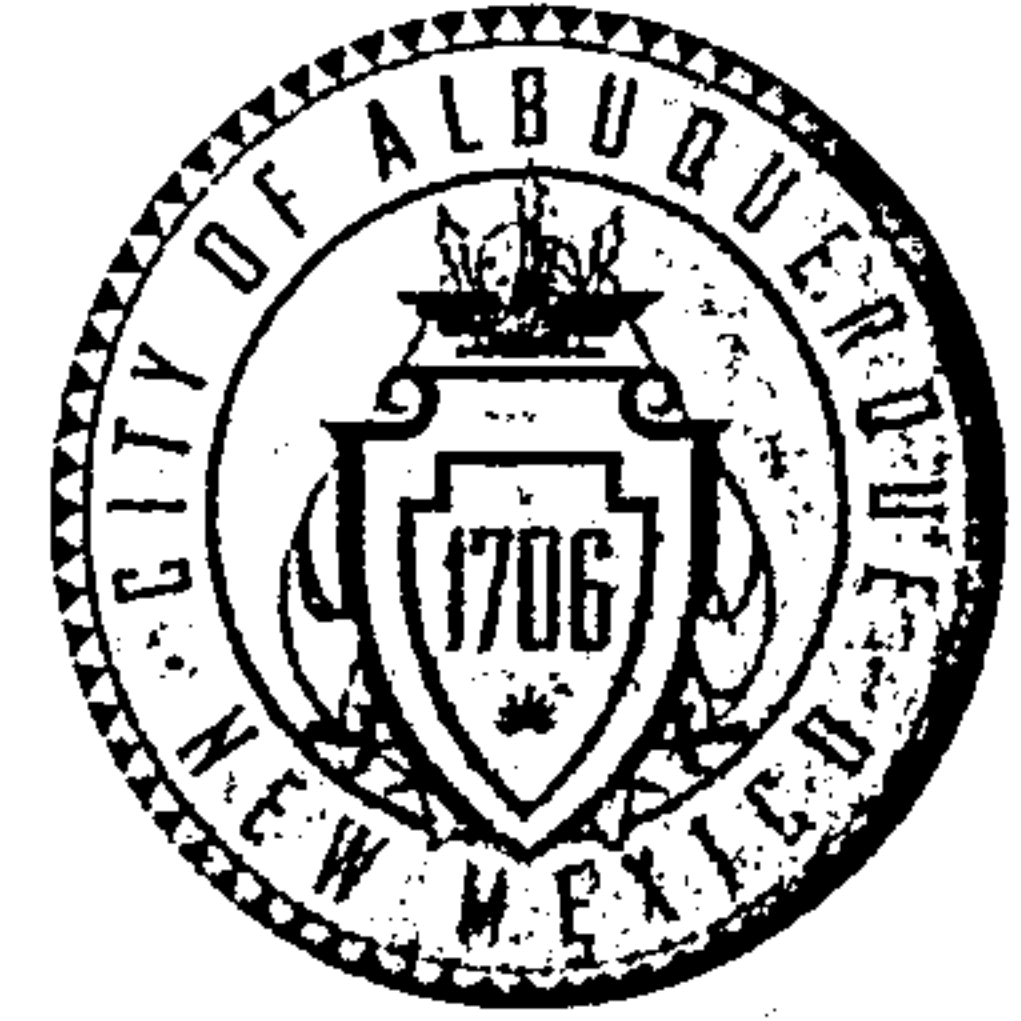
NM 87103

www.cabq.gov

- Drainage Management Plan:
  - Are all the proposed buildings to be built right away or phased? If phased, assign building letter or number designations to each building for Certificate of Occupancy purposes. Are all parking areas and storm drains to be built?
  - Provide documentation of Archeological clearance for this site. This is required before grading.
  - Provide the flow rate in and out of the ponds. Provide the WSE for the ponds.
  - I propose that you disconnect the two storm drains that meet at manhole SDMH 13. It appears there is enough head to push water from Basins 1 and 2 into Bridge Blvd. Provide the HGL and EGL at manhole SDMH 13.
  - How much of Basin 4 drains to Unser?
  - Is Basin 4 the only Basin to drain to the detention ponds? Update the narrative.
  - The narrative states that Basin 3 drains directly to the 96" storm drain. It appears to sheet flow over the curb into Unser. Basin 3 should drain to a desiltation pond then enter the storm drain at the stub.
  - Storm drain labels are not legible near the drive entrance on Unser Blvd.

don't make pond  
Carp river

# CITY OF ALBUQUERQUE



- Grading Plan:

- ✓ ☐ Provide a desiltation pond in the dirt area west of Driveway "B" and Driveway "C".
- bsw ☐ Provide existing flow line elevations in Central, Bridge, Unser, and 86<sup>th</sup> at regular intervals (approx 100') around the site.
- ✓ ☐ Label contours where 86<sup>th</sup> meets Central on Sheet C201 and C203. It is difficult to tell if the site will drain over the sidewalk.
- pat in ☐ Why isn't inlet "IN 32" closer to Unser Blvd? Label the flow out the drive entrance on the DMP.
- inlet in ☐ Walls between buildings need to be shown as retaining if the grade difference is 18" or greater.
- mt. Creek ☐ Label the proposed contours at the southwest corner of the site.
- 57th ☐ The landscape area south of the home improvement store is graded to drain over the sidewalk. Wet sidewalks are a slipping hazard, especially in the winter. Provide a better solution for this area.
- higher ☐ Does inlet IN 35 only receive water at the top? Provide a grate height to be compared to the WSE. In addition, the structure table lists two inverts and the detail shows three pipes.
- hazardous ☐ The sidewalk east of the home improvement store should drain to the gutter, not down the stairs and across the sidewalk.

PO Box 1293

Albuquerque

NM 87103

[www.cabq.gov](http://www.cabq.gov)

If you have any questions, you can contact me at 924-3695.

Sincerely,

*Curtis A. Cherne*

Curtis A. Cherne, P.E.

Senior Engineer, Planning Dept.

Development and Building Services

C: file

**DRAINAGE AND TRANSPORTATION INFORMATION SHEET**  
(Rev. 12/2005)

K-10/2045

PROJECT TITLE: Unser Crossing ZONE MAP/DRG. FILE # K-9 & K-10  
DRB#: \_\_\_\_\_ EPC#: 1007204 WORK ORDER#: \_\_\_\_\_

LEGAL DESCRIPTION: Tracts 1A, 1B, 2A, 2B, 3A, 3B, 4B, & 6 of VE Barrett Subdivision & Tracts 4A1, 5B1, & 5B2 Lands of WEFCO Partners

CITY ADDRESS: Southwest Corner of Central & Unser

ENGINEERING FIRM: Bohannon Huston Inc.  
ADDRESS: 7500 Jefferson St, Courtyard 1  
CITY, STATE: Albuquerque, NM

CONTACT: Racquel Michel, EI  
PHONE: 505-823-1000  
ZIP CODE: 87109 798-7881

OWNER: Armstrong Development  
ADDRESS: 1500 N. PRIEST DRIVE, STE. 150E  
CITY, STATE: Tempe, AZ

CONTACT: Scott Maier  
PHONE: 303-357-4600  
ZIP CODE: 85281

ARCHITECT: Darren Sowell Architects  
ADDRESS: 4700 Lincoln Rd  
CITY, STATE: Albuquerque, NM

CONTACT: Darren Sowell  
PHONE: 505-342-6200  
ZIP CODE: 87109

SURVEYOR: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_  
CITY, STATE: \_\_\_\_\_

CONTACT: \_\_\_\_\_  
PHONE: \_\_\_\_\_  
ZIP CODE: \_\_\_\_\_

CONTRACTOR: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_  
CITY, STATE: \_\_\_\_\_

CONTACT: \_\_\_\_\_  
PHONE: \_\_\_\_\_  
ZIP CODE: \_\_\_\_\_

**TYPE OF SUBMITTAL:**

- ☐ DRAINAGE REPORT  
☒ DRAINAGE PLAN 1<sup>st</sup> SUBMITTAL  
☒ DRAINAGE PLAN RESUBMITTAL  
☐ CONCEPTUAL G & D PLAN  
☒ GRADING PLAN  
☐ EROSION CONTROL PLAN  
☐ ENGINEER'S CERT (HYDROLOGY)  
☐ CLOMR/LOMR  
☐ TRAFFIC CIRCULATION LAYOUT  
☐ ENGINEER CERT (TCL)  
☐ ENGINEER CERT (DRB SITE PLAN)  
☐ OTHER (SPECIFY) \_\_\_\_\_

**CHECK TYPE OF APPROVAL SOUGHT:**

- ☐ SIA/FINANCIAL GUARANTEE RELEASE  
☐ PRELIMINARY PLAT APPROVAL  
☐ S. DEV. PLAN FOR SUB'D APPROVAL  
☐ S. DEV. FOR BLDG. PERMIT APPROVAL  
☐ SECTOR PLAN APPROVAL  
☐ FINAL PLAT APPROVAL  
☒ FOUNDATION PERMIT APPROVAL  
☒ BUILDING PERMIT APPROVAL  
☐ CERTIFICATE OF OCCUPANCY (PERM)  
☐ CERTIFICATE OF OCCUPANCY (TEMP)  
☒ GRADING PERMIT APPROVAL (INCL PRIVATE SD)  
☒ PAVING PERMIT APPROVAL  
☒ WORK ORDER APPROVAL  
☐ OTHER (SPECIFY) \_\_\_\_\_

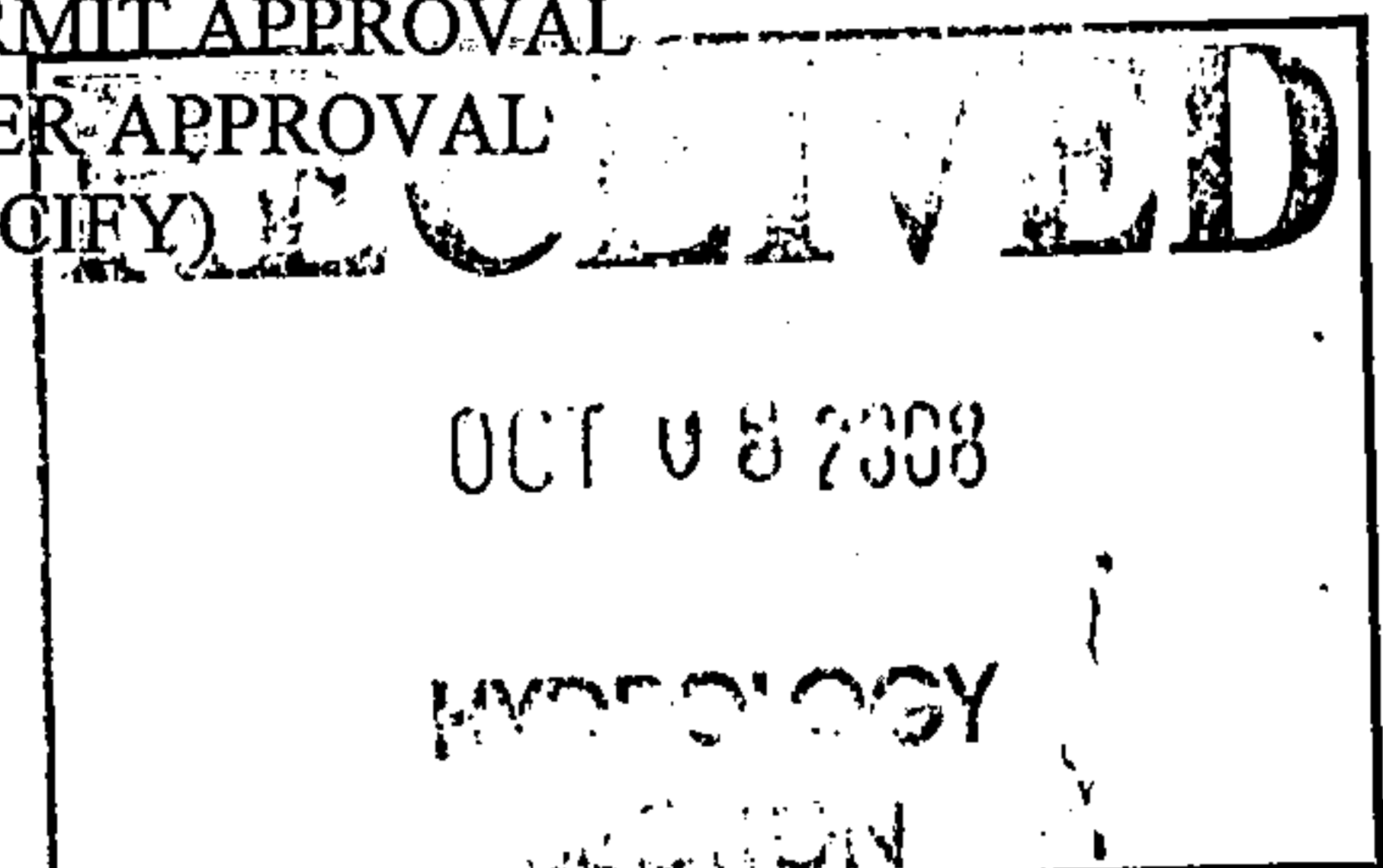
WAS A PRE-DESIGN CONFERENCE ATTENDED:

- ☐ YES  
☒ NO  
☐ COPY PROVIDED

\$ 30.00

SUBMITTED BY: Carrienne Doughty, PE

DATE: October 6, 2008



Requests for approvals of Site Development Plans and/or Subdivision Plats shall be accompanied by a drainage submittal. The particular nature, location and scope to the proposed development define the degree of drainage detail. One or more of the following levels of submittal may be required based on the following:

1. **Conceptual Grading and Drainage Plan:** Required for approval of Site Development Plans greater than five (5) acres and Sector Plans.
2. **Drainage Plans:** Required for building permits, grading permits, paving permits and site plans less than five (5) acres.
3. **Drainage Report:** Required for subdivision containing more than ten (10) lots or constituting five (5) acres or more.



# ***City of Albuquerque***

P.O. BOX 1293 ALBUQUERQUE, NEW MEXICO 87103

November 19, 2003

Bruce Stidworthy, PE  
Bohannon Huston, Inc.  
7500 Jefferson NE  
Albuquerque, NM 87109

**Re: SW Corner of Unser/Central Conceptual Grading and Drainage Plan  
Engineer's Stamp dated 11-13-03 (K10/D45)**

Dear Mr. Stidworthy,

Based upon the information provided in your submittal dated 11-13-03, the above referenced plan is approved for Site Development Plan for Subdivision or Preliminary Plat action by the DRB.

The southerly east-west storm drain line must be sized for developed runoff (approximately 24 cfs) from Tracts 3-B and 3-A, V.E. Barrett Subd. per the Tierra Bayita masterplan. It must also be a public line. I will also need a public easement on the plat, either well-defined or "floating". Please revise the drainage plan prior to Work Order or Final Plat.

Please make these corrections to the plat and infrastructure list before the DRB hearing. If you have any questions, you can contact me at 924-3986.

Sincerely,

Bradley L. Bingham, PE  
Sr. Engineer, Planning Dept.  
Development and Building Services

C: file

14-5-8  
Recording Requested By and  
When Recorded, Return To:  
Paul M. Harman, Esq.  
Jones Waldo Holbrook & McDonough  
170 South Main Street, Suite 1500  
Salt Lake City, UT 84101-1644

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EASEMENTS  
COVENANTS, CONDITIONS AND RESTRICTIONS  
BY AND BETWEEN  
LOWE'S HOME CENTERS, INC.,  
ARMSTRONG CENTRAL UNSER BLVD., LLC,  
AND  
SANDIA PLAZA PARTNERS, LLC

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EASEMENTS  
COVENANTS, CONDITIONS AND RESTRICTIONS

THESE EASEMENTS, COVENANTS, CONDITIONS AND RESTRICTIONS (hereinafter referred to as “**ECC&Rs**”), are made and entered into as of the date of the last execution hereof, which date is the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between ARMSTRONG CENTRAL UNSER BLVD. LLC, a New Mexico limited liability company, (“**Developer**”), LOWE’S HOME CENTERS, INC., a North Carolina corporation (“**Lowe’s**”), and SANDIA PLAZA PARTNERS, LLC, a New Mexico limited liability company (“**Sandia**”) (the foregoing parties hereinafter collectively referred to as the “**Parties**”);

W I T N E S S E T H :

WHEREAS, Lowe’s is the owner of that certain tract of real property consisting of approximately 13.10 acres located in the City of Albuquerque, Bernalillo County, State of New Mexico as more particularly described on Schedule I attached hereto and made a part hereof for all purposes (the “**Lowe’s Parcel**”); and

WHEREAS, Developer is the owner of a certain tract of real property located in City of Albuquerque, Barnalillo County, State of New Mexico, located contiguous with and adjacent to the Lowe’s Parcel, which is more particularly described in Schedule II attached hereto and made a part hereof for all purposes (the “**Developer Parcels**”); and

WHEREAS, Sandia is the owner of a certain tract of real property located in City of Albuquerque, Barnalillo County, State of New Mexico, located contiguous with and adjacent to the Lowe’s Parcel, which is more particularly described in Schedule III attached hereto and made a part hereof for all purposes (the “**Sandia Parcel**”); and

WHEREAS, the Lowe’s Parcel, the Developer’s Parcels, and the Sandia Parcel are further designated on the site plan of the overall shopping center development, attached hereto and made a part hereof as Exhibit A (the “**Site Plan**”).

NOW, THEREFORE, the Developer and Lowe’s hereby declare, agree, covenant and consent that all of the Parcels described on Schedule I, Schedule II, and Schedule III shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions which are imposed on such Parcels to run with the land and be binding on and inure to

the benefit of all parties having any right, title or interest in the described Parcels or any part thereof, their heirs, successors and assigns for the purpose of development and operation of the Parcels in an integrated shopping center and to protect the value of such respective Parcels. Further, in consideration of the premises, the agreements and the covenants of the Parties hereto, the mutual benefits and advantages accruing to them, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

ARTICLE I  
BASIC DEFINITIONS

Section 1.1. **“Building”** shall mean the permanently enclosed structure(s) which has(have) been, will be or may be constructed within the Permissible Building Areas, but shall not include Common Area Improvements. For purposes of these ECC&Rs, “Building” shall include any appurtenant canopies, supports, loading docks, truck ramps and other outward extensions.

Section 1.2. **“Common Area”** shall mean all real property owned by the Parties for the common use and enjoyment of the Owners and their respective Permittees, including, without limitation, parking areas (provided there are no reciprocal parking easements), access drives and ingress and egress points, service drives, sidewalks and non-dedicated streets and shall consist of all portions of the Shopping Center not designated as Permissible Building Area and all portions of any Permissible Building Area upon which no Building is currently constructed. Common Areas do not include drive up or drive through areas and facilities, loading docks, patio areas, or permanent outdoor sales areas.

Section 1.3. **“Common Area Improvements”** shall mean all improvements constructed from time to time within the Common Area and intended for common use and enjoyment which may include, without limitation, parking areas (provided there are no reciprocal parking easements except as provided herein), access drives, ingress and egress points, service drives, non-dedicated streets, lighting standards, sidewalks, landscaping, fixtures, and signage. The Common Area Improvements shown on the Site Plan require no further approval by any Owner.

Section 1.4. **“Consenting Owner”** shall mean and refer to the Owner of the Lowe’s Parcel and the Owner of Parcel 14. The Parties intend that there shall be only two (2) Consenting

Owners for the Shopping Center consisting of only one Consenting Owner representing Parcel 14 and only one Consenting Owner representing the Lowe's Parcel. In the event that the Lowe's Parcel or Parcel 14 are further subdivided, the current Consenting Owner shall designate the particular parcel of the subdivided Parcel whose Owner shall succeed as the Consenting Owner.

Section 1.5. **"Default Rate"** shall mean the rate of interest that is the lesser of (i) twelve percent (12%) per annum, compounded monthly, and (ii) the maximum rate allowed by applicable law.

Section 1.6. **"Improvement(s)"** shall mean Building(s) and other structures within a Permissible Building Area and Common Area Improvements.

Section 1.7. **"Maximum Square Footage"** shall mean and refer to the maximum square footage allowed for all Buildings contained within a single Permissible Building Area. The Maximum Square Footage for each Permissible Building Area is shown on the Site Plan. Any change to the Maximum Square Footage shown on the Site Plan shall be subject to the prior written consent of the Consenting Owners, which consent may be withheld in the sole discretion of each of the Consenting Owners and any such change shall be reflected in an amendment to these ECC&Rs.

Section 1.8. **"National or Regional Chain"** shall mean a retail business operating under the same name (and utilizing the same prototypical signage or prototypical building design as applicable) having at least forty (40) locations through the United States or having at least six (6) locations within the Albuquerque metropolitan area.

Section 1.9. **"Owner"** shall mean and refer to the record owner, whether one or more persons or entities, of fee simple title to any Parcel which is a part of the Shopping Center, as hereinafter defined, but excluding those having such interest merely as security for the performance of any obligation.

Section 1.10. **"Parcel"** shall mean and refer to any parcel of land shown as a parcel on the Site Plan. **"Outparcel"** shall mean and refer to any and every parcel of land identified as a numbered or lettered outparcel on the Site Plan. Every Outparcel shall be a Parcel from the date of recording of a subdivision map showing the Outparcel, so that all references herein to Parcels shall apply with equal force to Outparcels; however, references to Outparcels shall be specific to Outparcels as herein defined.

Section 1.11. “**Permissible Building Area**” shall mean the area designated on the Site Plan within which a Building(s) may be constructed not to exceed the Maximum Square Footage. Any change to the Permissible Building Areas shown on the Site Plan shall be subject to the prior written consent of the Consenting Owners, which consent may be withheld in the sole discretion of each of the Consenting Owners and any such change shall be reflected in an amendment to these ECC&Rs.

Section 1.12. “**Permittees**” shall mean Owners and their tenants and subtenants and the employees, occupants, contractors, customers, agents, licensees, guests, and invitees of an Owner, its tenants and subtenants.

Section 1.13. “**Shopping Center**” shall mean and refer to the Lowe’s Parcel, the Developer Parcels, and the Sandia Parcel as shown on the Site Plan, located in the City of Albuquerque, County of Bernalillo, State of New Mexico.

## ARTICLE II

### EASEMENTS

#### Section 2.1 Definitions and Documentation:

For the purposes of this Article II, the following will apply:

(A) An Owner granting an easement is called the “**Grantor**”, it being intended that the grant shall thereby bind and include not only such Owner but also its successors and assigns.

(B) An Owner to whom the easement is granted is called the “**Grantee**”, it being intended that the grant shall benefit and include not only such Owner but its successors, assigns, and Permittees; although not for the direct benefit of Permittees, the Grantee may permit from time to time its Permittees to use such easements; provided, however, that no such permission nor the division of the dominant estate shall permit or result in a use of the easement in excess of the use contemplated at the date of the creation of such easement.

(C) The term “**Utility Facilities**” means utility systems and utility facilities serving the Shopping Center such as the following: storm drainage, detention, retention and disposal facilities and sanitary sewer systems, manholes, underground domestic and fire protection water systems, underground natural gas systems, underground electric power cables and systems, underground telephone and television cables and systems, and all other utility systems and utility facilities installed under the provisions of these ECC&RS and as replacements thereto.

(D) The term “**Common Utility Facilities**” means Utility Facilities serving more than one (1) Owner.

(E) The term “**Separate Utility Facilities**” means Utility Facilities serving a single owner (e.g., a lateral line).

(F) The word “in” with respect to an easement granted “in” a particular Parcel means, as the context may require, “in”, “to”, “on”, “over”, “through”, “upon”, “across”, and “under”, or any one or more of the foregoing.

(G) All easements granted herein are non-exclusive and are irrevocable and perpetual.

(H) All easements granted herein shall be easements appurtenant and not easements in gross.

(I) In the event an Owner transfers or conveys a portion of its Parcel, those easements granted under this Article II which benefit, bind, and burden the remainder of the Parcel not transferred or conveyed shall benefit, bind, and burden the portion of the Parcel so transferred or conveyed, and those easements granted under this Article II which benefit, bind, and burden the portion so transferred or conveyed shall benefit, bind, and burden the remainder of the Parcel of which it was a part.

(J) All easements granted hereunder and herein shall exist by virtue of these ECC&Rs, without the necessity of confirmation by any other document. Likewise, upon the termination of any easement (in whole or in part) or its release in respect of all or any part of any Parcel, in accordance with the terms hereof, the same shall be deemed to have been terminated or released without the necessity of confirmation by any other document. However, upon the reasonable request of an Owner, the other Owners shall sign and acknowledge a document memorializing the existence (including the location and any conditions), or the termination (in whole or in part), or the release (in whole or in part), as the case may be, of any easement, if the form and substance of the document is approved by the other Owners, which approval shall not be unreasonably withheld. No grant of an easement pursuant to this Article II shall impose any greater obligation on any Owner to construct or maintain its Building(s) except as expressly provided in these ECC&Rs.

Section 2.2 Easements for Use of Common Area.

(A) Grant of Easement: Each Owner hereby grants to the other Owner(s) easements in the Common Area on its (Grantor's) Parcel for:

- (i) ingress to and egress from the Grantee's Parcel;
- (ii) the passage of vehicles;
- (iii) the passage and accommodation of pedestrians; and
- (iv) the doing of such other things as are expressly authorized or required to be done on the Common Area under these ECC&Rs.

(B) No Cross Parking: The Owners hereby specifically disclaim any intention to create any reciprocal parking easements between the Lowe's Parcel and any other Parcel in the Shopping Center.

(C) Design of the Common Areas:

(i) No Change Area: No change may be made to the layout and configuration of that portion of the Common Area shown on the Site Plan as the "**No Change Area**" without the consent of each of the Consenting Owners, which consent may be withheld in the sole discretion of each Consenting Owner.

(ii) Initial Development of the Common Areas: The Common Area Improvements depicted on the Site Plan are hereby deemed approved by the Consenting Owners.

(iii) Changes after Initial Development. Any Owner may add Common Areas and Common Area Improvements not shown on the Site Plan or make changes to the Common Area and the Common Area Improvements shown on the Site Plan on such Owner's Parcel and not included in the No Change Area, as such Owner determines in its sole discretion; provided, however, that the consent of each Consenting Owner shall be required for any change or addition that adversely impacts: (i) access to an Owner's Parcel (including changes and additions to entrances or exits that adversely affect access to an Owner's Parcel), (ii) vehicular traffic flow to any other Parcel in the Shopping Center (including changes or additions to curb cuts or the orientation of parking spaces or drive aisles that adversely affect traffic flow to any other Parcel in the Shopping Center), or (iii) visibility of any other Owner's building or any sign on which any other Owner has a right to display a sign panel, and such consent may be withheld in the sole discretion of each Consenting Owner. No change may (i) reduce parking spaces below the

minimum required under these ECC&Rs, (ii) alter the location of free standing signs as provided in Section 4.2 of these ECC&Rs, or (iii) relocate utility facilities except as provided in Section 2.3 of these ECC&Rs. Notwithstanding the foregoing, no drive through or drive up window or lane may be added to or changed in the Common Areas within the No Change Area without the consent of each of the Consenting Parties, which consent may be withheld in the sole discretion of each Consenting Party.

(iv) Enjoyment and use of the Common Area easements granted by this Section 2.2 shall commence on the date the Common Area Improvements with respect to the Common Area in question are substantially complete.

(D) Common Area Sales and Displays: Notwithstanding the grant of easements under Section 2.2(A), sales and displays may be located within the Common Area but only as follows (and provided that the following activities are not in violation of any applicable law or ordinance):

(i) The Owner or occupant of the Lowe's Parcel may conduct parking lot sales, conduct other business and/or display merchandise in that portion of the Common Area (including the parking field) to the side of or in front of any Building on the Lowe's Parcel so long as such activity does not materially interfere with ingress and egress to the rest of the Shopping Center and is not in violation of any applicable law or ordinance.

(ii) The Owner or occupant of the Lowe's Parcel may display merchandise, conduct sidewalk sales and/or conduct other business on the sidewalks on the Lowe's Parcel. The Owner or occupant of the Lowe's Parcel may otherwise enclose and/or redesign its sidewalk areas without the need of obtaining any other Owner's consent. The Owner or occupants of the Developer Parcels may display merchandise, conduct sidewalk sales or other business on the sidewalks in on their respective Parcels.

(iii) The Owner or occupant of the Lowe's Parcel may park vehicles or equipment in the parking field of the Lowe's Parcel in connection with the leasing of vehicles and/or equipment.

(iv) Except as set forth herein, parking lot sales and/or other display or sale of merchandise in the Common Areas is not permitted in the Shopping Center.

(E) Easements for Access Roads: Each Owner hereby grants to the other Owner(s) easements for pedestrian and vehicular traffic in those drive aisles and access roads (not less than the widths therefor shown on the Site Plan) on its (Grantor's) Parcel which are shown on Site Plan as "Access Drives" (hereinafter collectively referred to as the "**Access Roads**") for the purpose of providing ingress to and egress from the Grantee's Parcel and each of Central Avenue, SW, Unser Boulevard SW, and 86<sup>th</sup> Street SW, together with the following rights and subject to the following restrictions and reservations:

(i) The use of the Access Road easements by any person entitled to the use thereof shall be in common with all other such persons. The Access Road easements and the land upon which they are located shall be considered in all respects part of the Common Area, and the improvements thereon shall be considered in all respects part of the Common Area Improvements; and

(ii) As further provided in Section 2.2(F) herein, Grantors of the Access Road easements agree not to obstruct or interfere in any way with the free flow of pedestrian and vehicular traffic over the roadways which comprise the Access Road, except to the extent necessary for reasonable repair and maintenance, traffic regulation and control, and to prevent a dedication thereof or the accrual of any prescriptive rights to any person therein.

(F) General Provisions for Common Area Easements:

(i) No barriers, fences, walls, grade changes or other obstructions shall be erected so as to impede or interfere in any way with the free flow of vehicular and pedestrian traffic between those portions of the Shopping Center from time to time devoted to pedestrian access, vehicular roadways or parking area, or in any manner unreasonably restrict or interfere with the use and enjoyment by any of the Owners of the rights and easements created by this Article II. In addition, each Owner may temporarily close or block traffic on its Parcel for the time necessary for the purpose of protecting ownership rights and preventing creation of easements to the public and unrelated third parties (provided, however, that prior to closing off any portion of the Common Area, as herein provided, such Owner shall give fifteen (15) days written notice to each other Owner of its intention to do so and shall attempt to coordinate such closing with each other Owner, so that no unreasonable interference in the passage of pedestrians

or vehicles shall occur), and may temporarily fence off portions of its Parcel as reasonably required for the purpose of repair, construction and reconstruction.

(ii) The easements granted under this Section 2.2 are limited to such portions of the Common Area of the Grantor's Parcel as are now or hereafter from time to time set aside or intended to be set aside, maintained and authorized for such use under these ECC&Rs, specifically including those portions of the Common Area shown on the Site Plan. Enjoyment and use of the Common Area easements granted by this Section 2.2 shall commence on the date the Common Area Improvements with respect to the Common Area in question are substantially completed.

(iii) Each Owner hereby reserves the right to eject from the Common Area on its Parcel any person not authorized to use the same.

(iv) The easements provided for in this Section 2.2 are subject to the rights to use and the restrictions on use of the Common Area provided for in these ECC&Rs.

### Section 2.3 Easements for Utility Facilities:

(A) Grant of Easement: Each Owner hereby grants to the other Owner(s) perpetual easements to its (Grantor's) Parcel, except within such Owner's Permissible Building Area, for the installation, use, operation, maintenance, repair, replacement, relocation and removal of Common Utility Facilities and Separate Utility Facilities serving the Parcel of the Grantee.

(B) Installation, Repair and Maintenance:

(i) All Utility Facilities shall be underground, if reasonably possible.

(ii) The location of any Utility Facilities shall be subject to the prior written consent of the Owner(s) across whose Parcel(s) the same are to be located, which consent shall not be unreasonably withheld, conditioned or delayed.

(iii) The Owner of the \_\_\_\_\_ Parcel shall be responsible for the maintenance, operation, repair, replacement and removal of all Common Utility Facilities subject to reimbursement by each Owner in the Shopping Center of its pro rata share of the costs of such work. For purposes of this Section 2.3(C), each Owner's pro rata share shall be calculated by dividing the square footage of such Owner's land by the total square footage of all land of all Owners served by such Common Utility Facilities. The reimbursements will be invoiced and paid in accordance with the provisions of Section 5.1.

(iv) The Owner served by a Separate Utility Facility (i.e., the Owner whose Parcel is served by a separate lateral utility line) shall be responsible, at its cost, for the maintenance, operation, repair, replacement and removal of such Separate Utility Facility, regardless of whether the Separate Utility Facility is on that Owner's Parcel or on another Owner's Parcel pursuant to a grant of easement above.

(v) Any installation, maintenance, repair, replacement, relocation and removal of Separate Utility Facilities shall be performed by a Grantee on a Grantor's Parcel or of Common Utility Facilities by the Owner of the Developer Parcel only after thirty (30) days advance notice to Grantor of the intention to do such work. However, in the case of an emergency (whereby either persons or property are in immediate danger of substantial damage and/or harm), any such work may be immediately performed after giving such advance notice to Grantor as is practicable and reasonable under the circumstances.

(vi) All installation, maintenance, repair and removal of Utility Facilities shall be performed in a manner that causes as little disturbance to Grantor as may be practicable under the circumstances and any and all portions of the surface area of Grantor's Parcel which may have been excavated, damaged or otherwise disturbed as a result of such work shall be restored, at the sole cost and expense of Grantee, to essentially the same condition as existed prior to the commencement of any such work.

(vii) After the Building on the Lowe's Parcel has opened for business, no installation, repair or removal of Utility Facilities shall be carried on during the period from November 15<sup>th</sup> through the next succeeding January 15<sup>th</sup>, and April 1<sup>st</sup> through July 4<sup>th</sup>, or on any weekends except: (a) emergency repair work; (b) work undertaken outside of the hours during which the Building on the Lowe's Parcel is open for business provided that any interruption of utility service to the Lowe's Parcel shall be coordinated with the Owner of the Lowe's Parcel.

(C) Easements to Public Utilities. Any grant or other conveyance of an easement to a public utility, as Grantee, by a Grantor on its Parcel shall, without necessity of further recital in the conveyancing instrument, be deemed to include the following conditions, covenants and restrictions, in addition to the other provisions of Section 2.3, to which such public utility and its successors shall be bound unless specifically stated otherwise in such instrument.

- (i) The easement is non-exclusive;
- (ii) All Utility Facilities installed pursuant to the easement shall be underground, except for manholes and manhole covers which shall be flush with adjacent grade, and except as otherwise shown on plans subject to the prior written consent of Grantor, which consent shall not be unreasonably withheld, conditioned or delayed;
- (iii) The right to use the surface areas for the purposes allowed under these ECC&Rs is reserved;
- (iv) Grantor reserves the right to require Grantee to relocate its facilities (and vacate the easement) to another location on Grantor's Parcel, subject to the conveyance of a similar easement, all at Grantor's cost and expense;
- (v) Grantee shall not, in its use or installation, interfere with other installations and easements in the area;
- (vi) Grantee shall protect its Utility Facilities against uses of the surface made by Grantor and others;
- (vii) Grantee shall make adequate provisions for the safety and convenience of all persons using the area;
- (viii) Grantee, following installation or other work, shall replace and restore the areas and improvements to the condition in which they were immediately prior to performance of such installation and work;
- (ix) Grantee shall defend, indemnify and hold harmless Grantor against all loss, liability, and costs (including reasonable attorneys' fees and reasonable attorneys' fees on appeal) which may result to Grantor from the negligent or willful wrongful act or omission of Grantee, its agents, employees and contractors; and
- (x) Grantee shall not permit any claim, lien or encumbrance to attach against Grantor's Parcel or any interest therein.

(D) Indemnification: The Grantee shall defend, indemnify and hold Grantor harmless from and against any and all liens, losses, liabilities, costs or expenses (including reasonable attorneys' fees and reasonable attorneys' fees on appeal), incurred in connection with Grantee's use of the [Separate] Utility Facilities easements under this Section 2.3, except to the extent occasioned by Grantor's negligent or willful wrongful act or omission to act.

(E) Grantee's Rights as to Utility Facilities:

(i) Use of Separate Utility Facilities: The Grantor of any easement for Separate Utility Facilities under this Section 2.3 may use the utility facilities installed pursuant to such easement; provided, however, that any increase in costs incurred in order to make such utility facilities adequate to serve Grantor's additional use shall be borne by such Grantor; and provided, further, that Grantor gives written notice within the time period called for under, and otherwise complies with, the requirements of Section 2.3(E)(ii).

(ii) Relocation of Utility Facilities on Grantor's Parcel: Except during the period from November 15th through the following January 15th and the period from April 1st through July 4<sup>th</sup>, the Grantor of any easement under this Section 2.3 may relocate on its Parcel any Separate Utility Facilities or Common Utility Facilities installed thereon under any easement granted by it (provided that such relocation work may occur during the periods described above for (a) emergency repair work; (b) work undertaken outside of the hours during which the Building on the Lowe's Parcel is open for business provided that any interruption of utility service to the Lowe's Parcel shall be coordinated with the Owner of the Lowe's Parcel); provided, however, that such relocation:

(a) may be performed only after Grantor has given Grantee thirty (30) days' written notice of its intention to relocate such facilities;

(b) shall not interfere with or diminish the utility services to the Grantee (however, temporary interferences with and diminutions in utility services shall be permitted if they occur during the non-business hours of the Grantee, and Grantee has been so notified under Subsection 2.3(E)(ii)(a)). Grantor shall promptly reimburse Grantee for all costs, expenses and losses incurred by Grantee as a result of such interferences or diminutions, or both;

(c) shall not reduce or unreasonably impair the usefulness or function of the facilities in question;

(d) shall be located underground, if reasonably possible;

(e) shall be performed without cost or expense to Grantee, and, if Common Utility Facilities or Separate Utility Facilities which provide service to the Grantee are involved, in accordance with plans approved by the Grantee; and

(f) shall be performed in a manner that minimizes the disruption of business operations within the Shopping Center.

(iii) Limitation on Rights: Nothing herein shall be construed to grant any Owner the right to utilize, drain into, or otherwise alter natural water flow into any detention or retention facilities located on or exclusively serving any other Owner's Parcel.

#### Section 2.4 Drainage:

Each Owner hereby grants to the other Owners easements to use, maintain and repair any storm water drainage system (the "**Storm Drainage System**") now or hereafter located on any Parcel, together with the right to discharge surface water runoff across portions of any Parcel in accordance with the design of the Storm Drainage System; provided, however, that use, maintenance and repair of any Utility Facilities for the Storm Drainage System shall comply with Section 2.2. All Storm Drainage Systems shall be subject to the prior written consent of the Consenting Owners, which consent shall not be unreasonably withheld, conditioned or delayed. Any alteration in the natural water flow which may occur as a natural consequence of normal construction activities and the existence of an Owner's Improvements substantially as shown on the Site Plan (including, without limitation, Buildings, curbs, drives and paving) shall be permitted, provided that the same is in accordance with a drainage plan approved by the Consenting Owners and which does not cause water to settle or pool within another Owner's Parcel.

#### Section 2.5 Construction Easements:

(A) Each Owner hereby grants to the other Owners temporary construction related easements in the Common Area of its (Grantor's) Parcel, and where appropriate and necessary in the Permissible Building Area on its (Grantor's) Parcel, but only prior to the commencement of construction by Grantor of Improvements on its own (Grantor's) Parcel, for the purpose of facilitating the initial construction of the Grantee Improvements contemplated within these ECC&Rs.

(B) With respect to any Parcels on which fresh dirt is dumped, the area shall be sloped to meet any contiguous property within the Shopping Center or any public roads, and shall be smoothed in a level manner consistent with the contours of the adjoining property or in

accordance with a grading plan approved by the Grantor, which approval shall not be unreasonably withheld, conditioned or delayed.

(C) The location and use of all temporary construction easements under this Section 2.5 shall be subject to the prior written consent of Grantor, which consent shall not be unreasonably withheld, conditioned or delayed.

(D) Each Grantee agrees to pay the Grantor any additional cost of construction, maintenance, repair and replacement of any improvement or structure constructed by Grantor which may arise on account of or due to Grantee's exercise of its temporary construction easement rights under this Section 2.5. Each Grantee further agrees to use due care in the exercise of the rights granted under this Section 2.5 and, in the event the exercise of the rights granted under this Section 2.5 requires Grantee to enter upon the Parcel of Grantor, to first obtain the consent of Grantor as to the specific activities, methods and timing in the exercise of such rights so as to avoid cost or damage to Grantor.

(E) Each Owner covenants and agrees, respectively, that its exercise of such easements shall not result in damage or injury to the Building(s) or other Improvements of any other Owner, and shall not interfere with or interrupt the business operations conducted by any other Owner in the Shopping Center. Furthermore, once the final topcoat of asphalt or concrete paving has been placed on the Lowe's Parcel or any Common Area access, egress and service drives to the Lowe's Parcel, no construction traffic shall use any portion of the Lowe's Parcel or the Main Access Drive (as shown on the Site Plan). In addition, each Grantee, at its sole cost and expense, shall promptly repair, replace or restore any and all improvements of Grantor which have been damaged or destroyed in the exercise by Grantee of the temporary construction easements granted under this Section 2.5 and shall defend, indemnify and hold Grantor harmless from and against all liens, losses, liabilities, costs or expenses (including reasonable attorneys' fees and reasonable attorneys' fees on appeal) incurred in connection with or arising out of Grantee's exercise of said temporary construction easements, except to the extent occasioned by Grantor's grossly negligent or wrongful acts or omissions.

(F) Grantee's Improvements made within such temporary construction easements shall, for purposes of cost allocation due to maintenance, operation, insurance, taxes, repairs, reconstruction and restoration under these ECC&Rs, be deemed to be part of the Grantee's Parcel

and Building and shall be deemed not to be part of the Grantor's Parcel or Building for such purposes.

(G) Except as reasonably necessary for and during the construction of any Building, no structure of a temporary character shall be erected or allowed to remain on any Parcel.

Section 2.6 Sign Easement:

The Owners of the Parcels on which a Center Sign is located hereby grant to the other Owners entitled under Section 4.3 of these ECC&Rs to display a sign panel on the Center Sign(s), an easement for maintenance, repair and replacement of such sign panel.

Section 2.7 Cure Right Easements:

Each Owner hereby grants to the Consenting Owners an easement and license to enter upon its Parcel for the purpose of exercising the cure rights provided under Article V of these ECC&Rs. Each Grantee of the easements granted under this Section 2.7 shall defend, indemnify and hold Grantor harmless from and against all liens, losses, liabilities, costs or expenses (including reasonable attorney's fees and reasonable attorneys' fees on appeal) incurred in connection with or arising out of Grantee's use of said easements, except to the extent occasioned by the Grantor's negligent or wrongful act or omission to act. The duration of the easements granted under this Section shall be coterminous with the respective provisions of the ECC&RS which give the Grantee the right or the obligation to perform the work described in this Section 2.7

### ARTICLE III

#### USE RESTRICTIONS

Section 3.1 Permitted Uses:

Every Parcel shall be used only for financial institutions, service shops, Retail Offices, retail stores selling retail merchandise normally carried in other shopping centers and restaurants with less than \_\_\_\_\_ (\_\_\_%) percent of gross revenues from alcoholic beverage sales (except as provided below), all as subject to the further restrictions of this Article III. "**Retail Offices**" shall mean offices of the type customarily found in retail shopping centers for use primarily with customers or clients including, without limitation, insurance offices, real estate offices, travel agents, and limited service offices such as health care providers, chiropractors, dentists, accounting and tax services, but shall not include educational or training facilities. No Retail

Office use shall exceed 5,000 square feet and the total of all Retail Office use in the Shopping Center shall not exceed 20,000 square feet.

Section 3.2 Nuisances:

No Parcel shall be used for anything other than purposes which may be permitted by applicable zoning regulations. Nothing shall be done on any Parcel which is a public nuisance to the community.

Section 3.3 Use Restrictions:

(A) During the term of these ECC&Rs no portion of the Shopping Center may be used for any of the following purposes without the prior written consent of the Consenting Owners which consent may be withheld in the sole discretion of a Consenting Owner:

(i) A liquor store, or a tavern, bar, nightclub, cocktail lounge, discotheque, dance hall, or any other establishment selling alcoholic beverages for on-premises consumption; provided, however, the foregoing shall not prohibit the operation of a restaurant where the sale of alcoholic beverages therein comprises less than thirty (30%) percent of the restaurant's gross revenues provided that this provision will not prohibit a Chili's, TGIFriday's, Bennigans, Applebee's or similar restaurant concept, a restaurant which is a National or Regional Chain so long as the food sales for such restaurants are at least sixty (60%) percent of the restaurant's gross revenues, or a neighborhood bar or grill customarily found in retail shopping centers. Notwithstanding the foregoing, there may be one (1) upscale specialty wine store located west of the furthest west entrance to the Shopping Center from West Central Avenue (the "**West Entrance**") provided that such store: (a) has sales of not more than five percent (5%) of its total gross sales attributable to sale of alcoholic beverages other than wine; (b) no exterior or window signs using neon or moving lights or advertising brands or prices shall be visible from the Common Areas; (c) must close on or before 11:00 p.m.; and (d) must be a first class operation such as \_\_\_\_\_.

(ii) A bowling alley, billiards parlor, bingo parlor, arcade, game room or other amusement center (provided, however, that up to three (3) pool tables or five (5) video or game machines shall be allowed as incidental to an otherwise permitted restaurant use).

(iii) A theater (motion picture or live performance).

(iv) A health club, gymnasium or spa except that a health club, gym or fitness center may be operated on Parcel 7 provided that the main customer entrances to the building face east and that Parcel 7 provide the greater of: (a) five (5) parking spaces for each 1,000 SF of floor area for the Building on Parcel 7 or (b) ninety-five percent (95%) of the parking spaces shown on the Site Plan for Parcel 7 (provided further that this shall not preclude a day spa).

(v) A service station, automotive repair shop or truck stop; provided that one (1) gas station without service bays or repair services operated in conjunction with a convenience store may be permitted on the Outparcels provided that it is operated as part of a national or regional chain having at least ten (10) other locations under the same national or regional trade name and that it complies with all local, state and federal storage and disposal regulations, rules, laws and ordinances (provided further that this shall not preclude a mini-lube, tune-up, tire repair, or limited auto serve shop such as Jiffy Lube).

(vi) A flea market, open air market, tent sale or pawn shop.

(vii) A training or educational facility (including, without limitation, a school, college, reading room or other facility catering primarily to students and trainees rather than customers; provided that such restriction shall not prohibit the incidental use of an otherwise permitted business for training or classes, such as "how to" classes taught in conjunction with the sale of retail items from an otherwise permitted retail use).

(viii) A car wash, except on an Outparcel and where the same shall have constructed and shall use sanitary sewer, water and storm water drainage service lines entirely separate from those utilized by the Lowe's Parcel.

(ix) A medical clinic or medical office (provided that this shall not restrict dental, chiropractic, optometrist, naturopath, osteopath, or optician offices which shall be permitted Retail Offices or a minute clinic as part of a CVS Pharmacy).

(x) A storage or mini-warehouse facility.

(xi) An establishment for the sale of automobiles, trucks, mobile homes, boats or recreational motor vehicles.

(xii) A dry cleaning plant (other than a qualified green plant), central laundry or Laundromat except that this restriction shall not prohibit: (a) a drop off and pick up facility where dry cleaning and laundry is performed offsite; and/or (b) a drop-off and pickup facility

where nominal cleaning services are provided on-site provided that the business does not use perchloroethylene or any other chemical or substance that is considered to be hazardous or toxic under any state, federal or local environmental laws and that uses sanitary sewer lines that are entirely separate from those utilized by the Lowe's Parcel.

(xiii) A hotel or motel.

(xiv) Governmental offices.

(B) During the term of these ECC&Rs no portion of the Shopping Center may at any time be used for any of the following uses whatsoever:

(i) An adult type bookstore or other establishment selling, renting, displaying or exhibiting pornographic or obscene materials (including without limitation: magazines, books, movies, videos, photographs or so called "sexual toys") or providing adult type entertainment or activities (including, without limitation, any displays or activities of a variety involving, exhibiting or depicting sexual themes, nudity or lewd acts) provided, however, that such prohibition shall not exclude incidental sales of adult items by a regional or national chain general interest bookstore or regional or national chain general interest video rental store in the same manner as offered in the majority of such chain's stores and properly screened from children.

(ii) A massage parlor, provided, however, that this restriction shall not prohibit: (a) massages provided as an incidental service performed by licensed massage therapists in connection with the health club, fitness center and/or gym allowed under (A)(iv) above; or (b) a first class massage therapy facility operated as part of a full service hair salon or day spa or National or Regional Chain, not to exceed three thousand (3,000) square feet of floor area and located west of the Western Entrance.

(iii) A skating rink.

(iv) A mortuary, crematorium or funeral home.

(v) A mobile home or trailer court, labor camp, junkyard or stockyard.

(vi) A land fill, garbage dump or other such facility for the dumping, disposing, incineration or reduction of garbage.

(vii) A telephone call center.

(viii) A gambling establishment or betting parlor.

(ix) Veterinary hospital or animal raising or keeping facilities except as part of a national or regional chain pet or pet supply store.

(x) Assembling, manufacturing, industrial, distilling, refining or smelting facility.

Section 3.4 Exclusive Use Restriction for the Benefit of the Lowe's Parcel:

(A) No portion of the Shopping Center other than the Lowe's Parcel may be used for the following purposes:

(i) A hardware store or center containing more than 5,000 square feet of floor area.

(ii) An appliance, home electronics and/or lighting store or center containing more than 5,000 square feet of floor area (provided that this restriction shall not prohibit the operation of an Office Depot, Staples, OfficeMax, Best Buy, Circuit City or Radio Shack, as such retail facilities are currently being operated and merchandised with appliances, home electronics and lighting in excess of 5,000 square feet of floor area and shall not prohibit the operation of a home theater specialty reator with electronics in excess of 5,000 square feet of floor area).

(iii) A nursery and/or lawn and garden store or center containing more than 3,000 square feet of floor area (including any outdoor areas).

(iv) A paint store or center, wall paper store or center, tile store or center, flooring store or center, carpeting store or center, and/or home decor store or center containing more than 4,000 square feet of floor area.

(v) A retail and/or warehouse home improvement center, lumber yard, building materials supply center, home improvement service center and/or other stores or centers similar to those operated by or as Lowe's, Home Depot, Home Depot Expo, Villagers Hardware, 84 Lumber, Wickes, Hughes Lumber, McCoys, Menard's, Sears Hardware, Great Indoors, Sutherlands, Scotty's and Orchard Supply.

(B) These restrictions or exclusive rights shall also apply to prohibit a larger business having space in its store devoted to selling the merchandise described in subparagraphs (A)(i) through (A)(v) when such space exceeds the limitations of subparagraphs (A)(i) through (A)(v).

(C) Notwithstanding anything to the contrary in Section 3.4, in the event a retail and/or warehouse home improvement center, lumber yard, building materials supply center,

hardware store, lawn and garden store, appliance, home electronics and/or lighting store, and/or paint, wall paper, tile, flooring, carpeting and/or décor store or center is not operated in any portion of the Lowe's Parcel for a period in excess of three (3) consecutive years (excluding temporary closings due to alterations, casualty, condemnation, or other unavoidable delays beyond the reasonable control of the Owner of the Lowe's Parcel), the exclusives stated in Section 3.4 shall be of no further force and/or effect until such time as Lowe's or its successors, assigns or tenants shall re-open a store on any portion of the Lowe's Parcel for any one of the foregoing uses, which reopening shall not prohibit uses in violation of such exclusives if such uses were begun during such time as the above exclusive use restrictions were of no force and/or effect.

#### Section 3.5 Proprietary Rights of Lowe's:

Any owner, occupant or person owning, leasing or otherwise making use of any portion of the Shopping Center shall be deemed, by virtue of accepting such ownership, leasehold interest or making such use, to have covenanted and agreed that (i) the trade names, trademarks, service marks (including, without limitation, all logos, emblems, designs or designating words or names) utilized by Lowe's or its affiliated companies, in connection with the Shopping Center or the conduct of its business thereat are registered and/or the proprietary property of Lowe's or its affiliates, (ii) except as provided below, no usage of those marks or names will be made in naming or referring to any activity within or without the Shopping Center and (iii) no usage of such marks or names shall be made without the prior written consent of Lowe's and Lowe's legal counsel, which consent Lowe's may withhold in its sole discretion. Lowe's reserves the right to require any person or entity to whom it may grant a written right to use a given name or mark to enter into a formal written license agreement with Lowe's and to charge a fee or royalty therefor.

### ARTICLE IV

#### GENERAL CONSTRUCTION & DEVELOPMENT

##### Section 4.1 Development Parameters:

(A) Permissible Building Areas: All Buildings must be constructed within a Permissible Building Area. No Building can exceed the Maximum Square Footage shown for each Permissible Building Area on the Site Plan. No building, structure or improvements (other than Common Area Improvements) shall be erected or maintained outside of a Permissible

Building Area. The Permissible Building Areas and Maximum Square Footages as shown on the Site Plan cannot be changed without the prior written consents as required under Section 1.7 and Section 1.11, which changes shall be reflected in an amendment to these ECC&Rs.

(B) Parking Requirements. Each of the Developer Parcels, including all Outparcels, shall be self-supporting with respect to parking and shall each contain not less than ten (10.0) paved full size automobile parking spaces per each 1,000 square feet of building floor area for restaurant use (including fast food restaurant use) and five (5.0) paved full size automobile parking spaces for each 1,000 square feet of building floor area for any other permitted use, constructed thereon, or the number of parking spaces required by applicable law, whichever is greater. The Lowe's Parcel shall contain no fewer than 410 parking spaces. To be self-supporting, the parking spaces must be located on each such parcel so that parking spaces available on other Parcels or available through easements with other Parcels cannot be counted in meeting the requirements of this Section. Notwithstanding the foregoing, Parcels \_\_, \_\_ and \_\_ may share parking in order to satisfy the parking requirements in this paragraph so long as the aggregate parking spaces on such Parcels shall comply with the aggregate parking requirements as set forth in this paragraph for such Parcels.

(C) Fire Protection: All improvements within the Shopping Center shall be constructed in compliance with all applicable federal, state, and local building codes with respect to fire protection. There shall be sixty (60) feet of open space on which no buildings or structures may be constructed around the Building on the Lowe's Parcel such that the Building on the Lowe's Parcel maintains an unlimited area classification for fire protection purposes. Notwithstanding anything else to the contrary in these ECC&Rs, no Owner shall seek a building permit for a Building within sixty (60) feet of the Building on the Lowe's Parcel without the prior written consent of the Owner of the Lowe's Parcel, which the Owner of the Lowe's Parcel may withhold in its sole discretion.

(D) Condition Prior to Construction: After the Building on the Lowe's Parcel has initially opened for business, each Parcel shall be kept neat, orderly, planted in grass or seed and trimmed (or improved as Common Area) until improved and constructed.

#### Section 4.2 Building Design:

(A) Harmony. All structures (including Common Area Improvements such as lighting) erected within the Shopping Center shall be architecturally harmonious (including, without limitation, harmonious colors, materials and designs). The Consenting Owners shall cooperate in creating a reasonably harmonious exterior appearance for the Buildings and Improvements to be constructed by them within the Shopping Center, acknowledging however that the Owners of the Lowe's Parcel and the Sandia Parcel may construct improvements similar to their current prototypical store building and improvements. Specifically, the initial design and appearance of the Buildings and Improvements on the Lowe's Parcel and the Sandia Parcel and any changes to the Buildings and Improvements on the Lowe's Parcel and the Sandia Parcel that the Owners of the Lowe's Parcel and the Sandia Parcel may deem appropriate for consistency with changes in the design and appearance of its then current prototypical stores do not require the consent of any other Owner. All Buildings within the Shopping Center shall be single story.

(B) Approvals Except as provided in Section 4.2(A), no buildings or structures shall be erected or allowed to remain on any Parcel unless architectural renderings (depicting the exterior elevations of all sides, materials, colors and dimensions), a foundation plan and a site plan (collectively, the "Plans") for such structure have been approved in writing by the Consenting Owners, which approval shall not be unreasonably withheld, conditioned or delayed. A complete set of the proposed Plans shall be presented to and approved in writing by the Consenting Owners prior to commencing clearing, grading, or construction of a building of any kind on any Parcel. Upon completion of the Building foundation, an actual field survey of the foundation shall be presented to the Consenting Owners to ensure that it has been constructed in accordance with the Plans. All Improvements shall comply with the Plans as approved by the Consenting Owners unless changes are approved in writing by the Consenting Owners. The right to make inspections necessary to assure compliance is reserved to the Consenting Owners. After initial construction of Buildings and other Improvements, except as provided in Section 4.2(A), no Owner shall make alterations that will substantially change the exterior of its Buildings without the consent of the Consenting Owners, such consents not to be unreasonably withheld, conditioned or delayed. The Consenting Owners shall have thirty (30) days from receipt of the

Plans to object to the proposed Plans. If no Consenting Owner objects within the thirty (30) day period, the Plans shall be conclusively deemed approved.

(C) Construction Timing. Weather permitting, all paving and landscaping will be finished upon completion of the Building, but in no event shall it be installed later than ninety (90) days after the Building is occupied. Subject to force majeure, total construction time from pouring footings to the completion of the Building ready for occupancy shall not exceed one (1) year.

Section 4.3 Pylon or Monument Signage: [OPEN FOR VERIFICATION/DISCUSSION]

(A) With respect to any Shopping Center pylon or multiple occupant monument sign (“**Center Sign**”) which shall be erected or used for the advertising of multiple Owners, tenants or occupants of the Shopping Center, the Owner of the Lowe’s Parcel shall be entitled to have and maintain a sign panel thereon in the top and most prominent position on both sides of each such Center Sign (“**Lowe’s Sign Panel(s)**”). The maximum number of panels on any given Center Sign shall be . No other sign panel on any such Center Sign shall be of a size or have dimensions which are greater than seventy-five percent (75%) of the size and dimensions of a Lowe’s Sign Panel on the same Center Sign. Lowe’s Sign Panels shall be of colors, design and content as required by the Owner of the Lowe’s Parcel’s own visual sign standards. If only one freestanding Center Sign is allowed by governmental authorities, then that sign shall be located near the main entrance to the Shopping Center.

(B) The cost of constructing any Center Sign shall be prorated in accordance with the number of occupants having panels thereon. Any designation of the Shopping Center on a Center Sign shall be treated as a sign panel attributed to the Developer’s Parcel for purposes of cost prorations.

(C) Single occupant monument signs (“**Monument Sign**”) may be located at the location(s) shown on the Site Plan as “Monument Sign”. Each Owner shall be entitled to use the Monument Sign, if any, shown on such Owner’s Parcel, and shall be solely responsible for all costs of construction, maintenance and repair of such Monument Sign.

(D) The location of any Center Sign or Monument Sign and the design of any Center Sign Structure, sign panel, or Monument Sign (other than Lowe’s Sign Panels or Lowe’s Monument Sign(s)) shall be subject to the prior written consent of the Owner of Parcel 14, which

consent shall not be unreasonably withheld, conditioned or delayed. If an Owner desires to display a sign panel on a Center Sign or erect a Monument Sign, it shall make its request in writing to the Owner of Parcel 14 with a copy of the sign plans. The Owner of Parcel 14 shall then have thirty (30) days from receipt of the notice to object to the proposed sign. If the Owner of Parcel 14 does not object within the thirty (30) day period, then the proposed sign shall be conclusively deemed approved. Consents under this section shall not be unreasonably withheld, conditioned or delayed.

(E) Notwithstanding the foregoing, there may be erected entrance-exit signs to facilitate the free flow of traffic, which entrance-exit signs shall be of a monument type, not to exceed 3' 3" in height.

(F) There shall be no other free standing signs allowed in the Center.

Section 4.4 Outparcel Development:

Any Outparcel sold or developed within Shopping Center will only be developed under the following guidelines:

(A) Any Building constructed on any of the Outparcels (other than Parcel \_\_) shall not exceed 24 feet in height, as measured from the finished elevation of the portion of the parking area located next to the Building, provided that architectural features measuring not more than 20% of the length of the fascia on any side of the Building, may extend no taller than 27 feet in height as measured from the finished elevation of the portion of the parking area located next to the Building. Any Building located on Parcel \_\_ shall not exceed 26 feet in height, as measured from the finished elevation of the portion of the parking area located next to the Building, provided that architectural features measuring not more than 20% of the length of the fascia on any side of the Building, may extend no taller than 30 feet in height as measured from the finished elevation of the portion of the parking area located next to the Building.

(B) Any rooftop equipment installed on any Outparcel shall be screened in a manner reasonably satisfactory to the Consenting Owners;

(C) No rooftop signs shall be erected on any building constructed on any Outparcel.

(D) A Monument Sign may be erected on any Outparcel only with the prior written consent of the Consenting Owners (as provided in Section 4.3(D) above), but in no event shall such Monument Sign (other than Lowe's Monument Sign) exceed eight (8) feet in height or

block the visibility of any signage on any Building located on the Lowe's Parcel or the visibility of any Lowe's Monument Sign or any Center Sign.

(E) Any Owner or other party purchasing or leasing from Developer and having an ownership or leasehold interest in an Outparcel shall repair any damage caused to any of the Utility Facilities, as described in Section 2.3 of these ECC&Rs, serving the Properties and the Outparcel which is caused by such Owner or party, to the extent the Outparcel benefits from any of the Utility Facilities serving the Shopping Center and the Outparcel.

(F) The foregoing restrictions and agreements are imposed on each of the Outparcels for the benefit of the entire Shopping Center. The agreements, restrictions and covenants herein made shall be deemed restrictive covenants running with the land and shall be binding upon each of the Outparcels and any person who may from time to time own, lease, or otherwise have an interest in any of the Outparcels.

#### Section 4.5 Performance of Construction Work Generally:

All construction, alteration or repair work ("**Work**") undertaken by an Owner after the Building on the Lowe's Parcel has opened for business shall be prosecuted, after the commencement of such construction, with reasonable commercial diligence, subject to delays or interruptions caused by strikes, lockouts or labor disputes, inability to obtain labor or materials or reasonable substitutes therefore, acts of God, governmental action, condemnation, unusually severe weather conditions for the area, civil commotion, war or terrorism or fire or other casualty or other conditions beyond the reasonable control, other than financial, of such Owner or occupant (provided, however, that this provision shall not supercede any obligations between Developer and Lowe's pursuant to any separate development agreement). The person or entity undertaking such Work shall: (i) pay all costs and expenses associated with such Work; (ii) take necessary measures to minimize disruption and inconvenience caused by such Work; (iii) make adequate provisions for the safety and convenience of the Owners and their Permittees; (iv) control dust, noise and other effects of such work using methods customarily utilized in order to control such deleterious effects associated with construction projects in a populated or developed area; (v) repair any and all damage which may be caused by or result from such Work; (vi) restore all affected portions of any Parcel to a condition equal to or better than the condition existing prior to beginning such Work; (vii) indemnify and hold harmless all other Owners in the Shopping

Center against any mechanics liens for such Work, particularly as to Common Areas; and (viii) obtain all necessary governmental approvals. Such Work shall not unreasonably interfere with the business operations on any other Parcel and shall not block or impede the Shopping Center ingress or egress from public streets. The party performing such Work shall limit all construction work and staging areas to its own Parcel and not encroach on any Common Areas on any other Parcel and shall not utilize parking areas of any other Parcel unless giving written permission by the Owner of the Parcel to be so encroached upon, used or utilized. In connection with Work performed within the Permissible Building Areas of the constructing Owner, incidental encroachment upon the Common Area of the party performing such work may occur in the use of ladders, scaffolding, store-front barricades and similar facilities resulting in temporary obstruction of portions of such Common Area, if such encroachment is kept within reasonable requirements of such Work expeditiously pursued. For construction purposes, the Common Areas may be utilized: (a) for ingress and egress of vehicles transporting construction materials and equipment and persons employed in connection with such Work (but each Owner performing Work shall, to the extent reasonably possible and subject to Section 2.5, limit such access to its own Parcel) and (b) temporary storage and parking on the constructing Owner's Parcel of materials and vehicles in connection with such Work. All such Work for which a license is granted above (i) which will be performed by an Owner on another Owner's Parcel (subject to Section 2.5), or (ii) which would adversely affect the ingress and egress to the Shopping Center, the availability of parking and/or circulation of traffic in the Shopping Center, or the operation and supply of common utility facilities to or in the Shopping Center shall be undertaken only after giving the other Owners thirty (30) days prior written notice of the Work to be undertaken, and the scope, nature, duration, location and extent of the Work. Such notice shall include any plans and specifications for the Work ("**Plans**"). No such Work shall be performed in the Common Areas without the prior written consent of the Owner of the Lowe's Parcel, such consent not to be unreasonably withheld, conditioned or delayed. In the event of any emergency involving an immediate and imminent threat of substantial harm or injury to persons or property, only such notice as may be reasonable under the circumstance shall be required.

#### Section 4.6 Compliance in Construction:

All work which an Owner undertakes on a Parcel shall comply with the Plans, the requirements of all applicable governmental authorities, public bodies and other entities (such as public utilities) having jurisdiction, and all applicable laws, ordinances, rules and regulations, including procurement of all license and permits required for such Work. The consent by the Consenting Owners of any such Work or Plans, under any provisions of these ECC&Rs, shall not constitute any assumption of responsibility for the accuracy, sufficiency or propriety of such Work or Plans, nor shall such consent constitute a representation or warranty that such Work or Plans will be economic to construct or will comply with law.

#### Section 4.7 Construction Insurance.

(A) Prior to commencing any construction activities on a Parcel, the constructing Owner or occupant shall obtain or require its contractor to obtain and thereafter maintain so long as such construction activity is occurring and until construction is completed, at least the minimum insurance coverage set forth below:

(i) Worker's Compensation and Employer's Liability Insurance.

(a) Worker's compensation insurance as required by any applicable law or regulation.

(b) Employer's liability insurance in the amount of \$2,000,000 each accident for bodily injury, \$2,000,000 policy limit for bodily injury by disease and \$2,000,000 each employee for bodily injury by disease.

(ii) Commercial General Liability insurance with the following minimum limits of liability and coverages:

(a) Premises and Operations;

(b) Products and Completed Operations;

(c) Contractual Liability (insuring the indemnity obligations assumed by any contractor working on an Owner's Parcel under contract documents);

(d) Broad Form Property Damage, including Explosion, Collapse and Underground Hazards, for the full replacement cost of Buildings and Improvements on an Owner's Parcel (including Completed Operations):

(1) \$2,000,000 for Bodily Injury and Property Damage each occurrence;

- (2) \$3,000,000 for Personal and Advertising Injury Liability;
- (3) \$5,000,000 aggregate for Products and Completed Operations;
- (4) \$5,000,000 general aggregate.

(e) Automobile Liability Insurance. Automobile liability insurance (bodily injury and property damage liability) including coverage for owned, hired, and non-owned automobiles, shall have limits of liability of not less than \$1,000,000 combined single limit each accident for bodily injury and property damage combined.

(f) Umbrella/Excess Liability Insurance. Each Owner shall also carry umbrella/excess liability insurance in the amount of \$5,000,000.

(B) If the construction activity involves the use of another Parcel, then the Owner and mortgagee of such Parcel shall each be additional insured(s) and such insurance shall provide that the insurance shall not be canceled, or reduced in an amount or coverage below the requirements of these ECC&Rs, without at least thirty (30) days prior written notice to the additional insureds. If such insurance is canceled or expires, then the constructing party shall immediately stop all work on or use of the other Owner's Parcel until either the required insurance is reinstated or replacement insurance obtained. Each Owner or occupant, as the case may be, shall supply or cause its general contractor to supply each Owner with certificates with respect to all insurance required by this Section.

(C) Nothing herein shall be construed from prohibiting an Owner which itself, or in combination with its parent corporation, has a net worth in excess of ONE HUNDRED MILLION DOLLARS (\$100,000,000.00), as determined by generally accepted accounting principles, from self-insuring.

#### Section 4.8 Damage and Destruction:

In the event of the destruction or damage to any extent to any Buildings or Improvements in the Shopping Center, the affected Owner shall either: (1) diligently commence and pursue completion of the repair or restoration of such Building or Improvement, or (2) within ninety (90) days after the destruction or damage, level such Building or Improvement, remove the debris and keep the Parcel neat, orderly, planted in grass and mowed/trimmed(or otherwise treated for dust and weed control) until subsequently improved, constructed upon and operated and so that the Parcel is in a clean, orderly, sightly and safe condition (provided that such Owner repairs and

restores any No Change Area on such Owner's property). In the event any Building, structure or other Improvement on an Outparcel shall be damaged or destroyed by any fire or other casualty, the Owner, lessee or user of the Outparcel shall within thirty (30) days of such damage or destruction (a) commence to repair and/or reconstruct such improvements to the condition required by this Section; or (b) level such Building or improvement, remove the debris from the Outparcel and keep the Outparcel neat, orderly, planted in grass and mowed/trimmed until subsequently improved, constructed upon and operated.

## ARTICLE V

### MAINTENANCE, TAXES AND INSURANCE

#### Section 5.1 Maintenance:

Each Owner hereto shall maintain at its cost the Building(s) and the Common Areas on its Parcel in good order and condition and state of repair in accordance with the standards of first class shopping center operation including (but not limited to) sweeping and removal of trash, litter and refuse, painting and striping of parking areas, repair and replacement of paving as necessary, maintenance of landscaped areas (including replacement and replanting), removal of ice and snow from driveways and parking areas, and maintenance and repair of lighting standards and signs. Each Owner covenants that it, in addition to other requirements of this Section, will keep the inside and outside of all glass in the doors and windows of its Buildings clean; will maintain its Buildings at its own expense in a clean, orderly and sanitary condition and free of insects, rodents, vermin and other pests; will not permit accumulation of garbage, trash rubbish and other refuse, and will remove same at its own expense, and will keep such refuse in proper containers or compactors in places designated therefore until called for to be removed; and will keep the Common Areas on its Parcel clear of accumulations of ice and snow. The maintenance and repair of the Buildings and Improvements on each Parcel shall be of such a character that their appearance will be that of a unified shopping center and, accordingly, the Owners agree to cooperate with each other in good faith with respect to said maintenance and repair and, to the extent reasonably possible, coordinate such repair and maintenance.

(A) Maintenance of Access Roads and Common Drive Aisles: Notwithstanding the obligation of each Owner to maintain the Common Areas on such Owner's Parcel, the Owner of

the \_\_\_\_\_ Parcel shall maintain the Access Roads and the drive aisles marked "Common Driveway Area" on the Site Plan in accordance with the standards set forth in this Section 5.1 and all applicable regulations and ordinances (including associated improvements such as curb, gutter, lighting, landscaping and irrigation) and each Owner shall reimburse the Owner of the \_\_\_\_\_ such Owner's pro rata share of the cost of such maintenance. Each reimbursing Owner's pro rata share shall be calculated as the ratio of the total square feet on such Owner's Parcel divided by the total square footage of property in the Shopping Center. All reimbursements must be made within thirty (30) days of receipt of an invoice with reasonable documentation of the costs.

(B) Lighting: Each Owner shall cause the Common Area on its Parcel to be adequately lit for at least the hours during which the business on the Lowe's Parcel is open for business and for one (1) hour after Closing.

(C) Center Signs: The Owner of Parcel 14 shall be responsible for maintenance, repair and replacement of the sign structure for the Center Signs, subject to reimbursement by each Owner entitled pursuant to Section 4.3 to display a sign panel thereon. Each such Owner's share shall be calculated as a fraction, the numerator of which is the total square footage of such Owner's sign panel and the denominator of which is to the total square footage of all sign panels on the Center Sign. Any designation of the Shopping Center on a Center Sign shall be treated as a sign panel attributed to the Developer's Parcel for purposes of cost proration.

#### Section 5.2 Maintenance Director:

Subject to the mutual agreement of each of the Consenting Owners, a third party may be appointed to maintain and repair the Common Areas in the manner as above outlined (the "**Maintenance Director**"). The Maintenance Director may receive for such agency a fee that is mutually acceptable to the Consenting Owners to cover supervision, management, accounting and similar fees. The cost of all maintenance and repair activities undertaken by the Maintenance Director, together with the agency fee, shall be prorated between all Owners based upon acreage owned. An Owner shall pay its proportional share of all such costs and fees within thirty (30) days following its receipt of a detailed invoice thereafter.

### Section 5.3 Failure in Performing Maintenance Responsibilities:

In the event that an Owner fails or defaults in its maintenance obligations as set forth in Section 5.1, which failure continues for a period of thirty (30) days (ten [10] business days in the event of a failure to pay money) after receipt of written notice thereof specifying the particulars of such failure, such failure shall constitute a breach under the ECC&RS and either Consenting Owner (the “**Curing Party**”) may thereafter perform such maintenance obligations, in addition to such Owner’s other remedies. The Curing Party shall then invoice the defaulting Owner for the expenses incurred. The defaulting Owner shall have fifteen (15) days to pay the Curing Party after receipt of the invoice. If the defaulting Owner does not so pay, the Curing Party shall have a lien on the Parcel of the defaulting Owner for the amount of the invoice, which amount shall bear interest at the Default Rate from the date of expiration of said fifteen (15) day period until paid.

### Section 5.4 Taxes:

The Owner of each Parcel shall pay or cause to be paid, prior to delinquency, directly to the appropriate taxing authorities all real property taxes and assessments which are levied against such Owner’s Parcel. In the event an Owner fails to pay when due all taxes and assessments described herein, which failure continues for a period of ten (10) days after written notice thereof, such failure shall constitute a breach under these ECC&Rs and either Consenting Owner (the “**Curing Party**”) may, in addition to such Owners’ other remedies, thereafter pay such taxes if such taxes are delinquent and the owing Owner has not commenced and is not duly prosecuting any contest of such taxes. The Curing Party shall then invoice the defaulting Owner for the expenses incurred. The defaulting Owner shall have ten (10) business days after receipt of the invoice to pay the Curing Party. If the defaulting Owner does not so pay, the Curing Party shall have a lien on the Parcel of the defaulting Owner for the amount of the invoice, which amount shall bear interest at the Default Rate from the date of expiration of said ten (10) business day period until paid.

### Section 5.5 Insurance:

(A) Insurance Coverage: Each Owner in the Shopping Center will at all times maintain or cause to be maintained with respect to its Parcel and all Buildings and Improvements thereon: (i) commercial property insurance against loss or damage by fire,

lighting and other risks customarily covered by an all-risks policy of property insurance for the full replacement cost of the Building(s) and Improvements located thereon and (ii) commercial general liability insurance (including contractual liability coverage) against claims for bodily injury, death or property damage occurring on, in or about such Owner's Parcel combined single limit coverage of not less than TWO MILLION DOLLARS (\$2,000,000.00) per occurrence. Nothing herein shall be construed from prohibiting an Owner which itself, or in combination with its parent corporation, has a net worth in excess of ONE HUNDRED MILLION DOLLARS (\$100,000,000.00), as determined by generally accepted accounting principles, from self-insuring for such insurance coverage.

Section 5.6 Failure to Carry Insurance:

In the event an Owner fails to maintain the insurance described above, which failure continues for a period of ten (10) days after written notice thereof, such failure shall constitute a breach under these ECC&Rs and either Consenting Owner (the "Curing Party") may, in addition to such Owners' other remedies, thereafter obtain and pay for such insurance. The Curing Party shall then invoice the defaulting Owner for the expenses incurred. The defaulting Owner shall have fifteen (15) days after receipt of the invoice to pay the Curing Party. If the defaulting Owner does not so pay, the Curing Party shall have a lien on the Parcel of the defaulting Owner for the amount of the invoice, which amount shall bear interest at the Default Rate from the date of expiration of said fifteen (15) days period until paid.

Section 5.7 Cross Indemnity:

To the extent not covered by the insurance policies described above, each Owner (the "Indemnitor") will pay, and indemnify and save harmless the other Owner (the "Indemnitee") from and against, all liabilities, losses, damages, costs, expenses (including attorneys' fees and expenses), causes of action, suits, claims, demands or judgments of any nature arising from: (i) any injury to or death of a person or loss of or damage to property occurring on the Indemnitor's Parcel; (ii) any use or condition of the Indemnitor's Parcel; and (iii) any negligence or tortious acts of the Indemnitor or any of his tenants, licensees, invitees, customers, agents or employees, except to the extent that such causes of action, suits, claims, demands or judgments arise out of the negligence or intentional misconduct of the Indemnitee.

Section 5.8 Waiver of Subrogation:

Each Owner (the “**Releasor**”) hereby releases the other Owner (the “**Releasee**”) from any and all liability or responsibility to the Releasor or anyone claiming through or under the Releasor by way of subrogation or otherwise for any incurred loss or damage to any person or property caused by fire or other peril or other such loss, damages, or other insured event or negligence of the Releasee, or anyone for whom such Releasee may be responsible; provided, however, that this release shall be applicable and in force and effect only with respect to loss or damage occurring during such time as the Releasor’s policy or policies of insurance shall contain a waiver of subrogation endorsement, to the effect that any such release shall not adversely affect or impair said policy or policies or prejudice the right of the Releasor to recover thereunder.

ARTICLE VI

DEFAULT, REMEDIES

Section 6.1 Default:

The occurrence of any one or more of the following events shall constitute a breach of these ECC&Rs by the non-performing party (the “**defaulting Owner**”):

(A) The failure to perform any obligation of Article V hereof and to cure such failure within the time requirements cited therein which shall be a breach under these ECC&Rs without necessity of any further notice to the defaulting party other than as provided for in Article V;

(B) The failure to make any payment required to be made hereunder within ten (10) business days of the due date which shall be a breach under these ECC&Rs without necessity of any notice to the defaulting party, or

(C) The failure to observe or perform any other of the covenants, conditions or obligations of these ECC&Rs or to abide by the restrictions and requirements herein provided, other than as described in (A) above, which shall be a breach under these ECC&Rs after expiration of thirty (30) days after the issuance of a notice by a non-defaulting Owner (“**Non-Defaulting Owner**”) specifying the nature of the default claimed.

Section 6.2 Remedies for all Owners:

Each non-defaulting Owner shall have the right to prosecute any proceedings at law or in equity against any Owner or any other person for breach of any easement or restriction benefiting such non-defaulting Owner. Such proceeding shall include the right to restrain by injunction any such

violation or threatened violation and to obtain a decree to compel performance of any such easements or restrictions. No Permittee shall have the right to bring any action to enforce any provision of these ECC&Rs and no enforcing Owner shall have the obligation to join any Permittee in any action to enforce these ECC&Rs.

Section 6.3 Right to Cure:

With respect to any default under Section 6.1, any Non-Defaulting Owner who is a Consenting Owner (the “**Curing Party**”) shall have the right, but not the obligation, in addition to any remedy available at law or equity, to cure such default by the payment of money or the performance of some other action for the account of and at the expense of the defaulting Owner (except as otherwise limited in Article V); provided, however, that in the event the default shall constitute an emergency condition involving an immediate and imminent threat of substantial injury or harm to persons or property, the Curing Party, acting in good faith, shall have the right to cure such default upon such advance notice as is reasonably possible under the circumstances or, if necessary, due to such emergency, without advance notice, so long as notice is given as soon as possible thereafter. To effectuate any such cure, the Curing Party shall have the right to enter upon the Parcel of the defaulting Owner (but not into any Building) to perform any necessary work or furnish any necessary materials or services to cure the default of the defaulting Owner. Each Owner shall be responsible for the non-performance or default of its Occupants and lessees. In the event any Curing Party shall cure a default, the defaulting Owner shall reimburse the Curing Party for all costs and expenses incurred in connection with such curative action, plus interest at the Default Rate, within ten (10) business days of receipt of demand, together with reasonable documentation supporting the expenditures made.

Section 6.4 Liens:

Costs and expenses accruing and/or assessed pursuant to Section 6.3 above and the amounts described in Section 6.1 shall constitute a lien against the defaulting Owner’s Parcel. A lien under this Section 6.4 or under Article V shall attach and take effect only upon recordation of a claim of lien in the applicable real estate records office of the county in which the said Parcel is located, by the Curing Party making the claim. The claim of lien shall include the following:

- (A) The name and address of the lien claimant;

(B) A statement concerning the basis for the claim of lien and identifying the lien claimant as a Curing Party;

(C) An identification by name and address (if known) of the Owner or reputed Owner of the Parcel or interest therein against which the lien is claimed;

(D) A description of the Parcel against which the lien is claimed;

(E) A description of the work performed which has given rise to the claim of lien;

(F) A statement itemizing the total amount due, including interest;

(G) A statement that the lien is claimed pursuant to the provisions of these ECC&Rs, reciting the date, book and page of recordation hereof.

The notice shall be duly acknowledged and contain a certificate that a copy thereof has been served upon the Owner against whom the lien is claimed, by personal service or by mailing pursuant to Section 7.4 below. The lien so claimed shall attach from the date of recordation solely in the amount claimed thereby and may be enforced in any judicial proceedings allowed by law, including without limitation, suit in the nature of a suit to foreclose a mortgage or mechanic's lien under the applicable provisions of the law of the State in which the Shopping Center is located.

#### Section 6.5 Cumulative Remedies:

All of the remedies permitted or available to a Consenting Owner under these ECC&Rs or at law or in equity shall be cumulative and not alternative, and invocation of any such right or remedy shall not constitute a waiver or election of remedies with respect to any other permitted or available right or remedy.

#### Section 6.6 No Waiver:

No delay or omission of any Owner in the exercise of any right accruing upon any default of any other Owner shall impair any such right or be construed to be a waiver thereof, and every such right may be exercised at any time during the continuance of such default. No waiver by any Owner of any default under these ECC&Rs shall be effective or binding on such Owner unless made in writing by such Owner and no such waiver shall be implied from any omission by a Owner to take action in respect to such default. No express written waiver of any default shall affect any other default or cover any other period of time other than any default and/or period of

time specified in such express waiver. One or more written waivers or any default under any provision of these ECC&Rs shall not be deemed to be a waiver of any subsequent default in the performance of the same provision or any other term or provision contained in these ECC&Rs.

Section 6.7 No Termination for Breach:

No breach, whether or not material, of the provisions of these ECC&Rs shall entitle any Owner to cancel, rescind or otherwise terminate these ECC&Rs, but such limitation shall not affect, in any manner, any other rights or remedies which any Party may have hereunder by reason of any breach of the provisions of these ECC&Rs.

Section 6.8 Limitation of Liability:

Notwithstanding the foregoing, any person acquiring fee or leasehold title to a Parcel, or any portion thereof, shall be bound by these ECC&Rs only as to the Parcel or portion of the Parcel acquired or possessed by such person. In addition, such person shall be bound by these ECC&Rs only during the period such person is the fee leasehold Owner or occupant of such Parcel or portion of the Parcel; and, upon conveyance or transfer of the fee or leasehold interest shall be released from liability hereunder, except as to the obligations, liabilities or responsibilities that accrue prior to such conveyance or transfer. Although persons may be released under this Section 6.9, the easements, covenants and restrictions in these ECC&Rs shall continue to be benefits to and servitudes upon said Parcels running with the land.

Section 6.9 Attorneys Fees:

In the event of a breach hereof, the non-prevailing Owner shall pay the reasonable attorney's fees (and the reasonable attorneys' fees on appeal) of the prevailing Owner.

ARTICLE VII

MISCELLANEOUS

Section 7.1 Estoppel Certificates:

Each Owner shall upon not less than thirty (30) days from receipt of written notice from the requesting Owner execute and deliver to the requesting Owner a certificate in recordable form stating that (i) either these ECC&Rs are unmodified and in full force and effect or are modified (and stating the modification); and (ii) whether or not such Owner has sent any notice of any default to any other Owner under these ECC&Rs.

### Section 7.2 Term and Perpetuity:

The agreements, conditions, covenants, and restrictions created and imposed herein shall be effective upon the date hereof and shall continue in full force and effect, to the benefit of and being binding upon all Owners, their heirs, executors, administrators, successors, successors-in-title, and assigns until the expiration of sixty (60) years from the date hereof, unless terminated by the consent of all the Owners pursuant to a writing recorded in the real property records of the county and state in which the Shopping Center is located. Said agreements and restrictions shall be unaffected by any change in the ownership of any real property covered by these ECC&Rs or by any change of use, demolition, reconstruction, expansion or other circumstances, except as specified herein. Notwithstanding the foregoing, the easements contained herein binding and benefiting the Parcels shall be perpetual and shall run with the land. Upon termination of the agreements, conditions, covenants and restrictions of these ECC&Rs, all rights and privileges derived from and all duties and obligations created and imposed by the provisions of these ECC&Rs, except as related to the easements cited and mentioned herein, shall terminate and have no further force or effect.

### Section 7.3 Amendment:

These ECC&Rs may not be amended except by agreement of the Consenting Owners in writing and recorded in the real property records of Bernalillo County, New Mexico.

### Section 7.4 Notices:

Any notice or invoice required or permitted to be given under these ECC&Rs shall be in writing and shall be deemed to have been given upon deposit in the United States Mail as Certified Mail, Return Receipt Requested, postage prepaid or deposit with a nationally recognized overnight delivery service, and addressed to the Party being notified at the address given below (or such other address which any party may designate for itself from time to time hereafter by written notice to the other Party):

To Developer:       Armstrong Development  
                          1500 N. Priest, Suite 150 E  
                          Tempe, AZ 85281  
                          Attention: SG Ellison and Jason D. Stych, Esq.

cc:                   Armstrong Development Properties, Inc.  
                          2100 Wharton Street, Suite 700

Pittsburgh, Pennsylvania 15203  
Attention: W. Gregg Baldwin

Campbell & Wells, P.A.  
2155 Louisiana Blvd. NE, Suite 10300  
Albuquerque, New Mexico 87110  
Attn: Lawrence M. Wells

Lowe's: Lowe's Home Centers, Inc.  
Box 1111  
North Wilkesboro NC 28656  
Street Address: (1605 Curtis Bridge Road, Wilkesboro, NC 28697)  
Attention: Property Management Dept. (FMN6)

Copy to: Lowe's Home Centers, Inc.  
Box 1111  
North Wilkesboro NC 28656  
Street Address: (1605 Curtis Bridge Road, Wilkesboro, NC 28697)  
Attention: Legal Department (LGS6)

Section 7.5 Lessee Designation: An Owner may designate, by written notice delivered to all other Owners, a lessee with respect to an entire Parcel to act as such Owner's designated agent for all purposes under this ECC&Rs, and to exercise all rights and perform all obligations of such Owner under this ECC&Rs. Upon delivery of such written designation to the other Owner, the designated agent shall be recognized by the other Owners as the party responsible for, and with authority regarding, all matters under this ECC&Rs respecting the Parcel 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 of a written revocation of the designation by the designating Owner (or such Owner's successors or assigns). Notwithstanding the foregoing, the designating Owner shall remain primarily responsible and liable for the obligations of such Owner under this ECC&Rs, and the designated agent of an Owner shall have no power or authority to agree or consent to the amendment, modification or termination of this ECC&Rs.

Section 7.6 Adjacent Developer Parcels:

Developer may, in his sole discretion, subject the parcels of real property adjacent to the Shopping Center which are owned by Developer (the "**Adjacent Developer Parcels**") to the terms, covenants and conditions of these ECC&Rs. At that time the Adjacent Developer Parcels shall be subject to the obligations created herein and shall benefit from the rights granted to

Developer herein. If such Adjacent Developer Parcels are incorporated in the Shopping Center and made subject to these ECC&Rs; and if there are any continuing liabilities of the Owners which are divided between the Owners based on prorations of land area or otherwise, then the prorations shall be adjusted accordingly. Notwithstanding anything in these ECC&Rs to the contrary, nothing in these ECC&Rs shall be construed as limiting or preventing the Developer and/or Sandia from further encumbering the Developer Parcels and/or the Sandia Parcel with additional easements, covenants, conditions and restrictions on the Developer Parcels and/or the Sandia Parcel.

Section 7.7 No Covenant to Continuously Operate:

The Owner of the Lowe's Parcel is not obligated to continuously operate a business on the Lowe's Parcel and, specifically, is not obligated to continuously operate or operate for any specific period of time a Lowe's building supply or home improvement retail warehouse or any store on the Lowe's Parcel. Nothing contained in these ECC&Rs shall be construed, interpreted or otherwise read to require the Owner of the Lowe's Parcel to operate a business on the Lowe's Parcel or to prevent the Owner of the Lowe's Parcel from closing its business on the Lowe's Parcel.

Section 7.8 Severability:

In the event any provision or portion of these ECC&Rs is held by any court of competent jurisdiction to be invalid or unenforceable, such holding will not affect the remainder hereof, and the remaining provisions shall continue in full force and effect to the same extent as would have been the case had such invalid or unenforceable provision or portion never been a part hereof.

Section 7.9 No Public Dedication:

Nothing contained herein shall be deemed or implied to be a gift, grant or dedication of the Shopping Center or any portions thereof, to the general public, or for any public use or purpose whatsoever. Except as may be specifically provided herein, no right, privileges or immunities of any Owner hereto shall inure to the benefit of any third-party, nor shall any third-party be deemed or considered to be a beneficiary of any of the provisions herein contained.

Section 7.10 Counterparts:

These ECC&Rs may be executed in one or more counterparts, each of which shall be deemed an original and all such counterparts shall constitute one and the same instrument.

Section 7.11 Relationship of the Parties:

Nothing contained herein shall be construed or interpreted as creating a partnership, joint enterprise or joint venture between or among the Parties hereto or the Owners. It is understood that the relationship between the Parties hereto and Owners is an arms length one that shall at all times be and remain that of separate owners of real property. No Party hereto nor any Owner shall have the right to act for or on behalf of another Party or Owner, as agent or otherwise, unless expressly authorized to do so by separate written instrument signed by the Party or Owner to be charged or bound, except as otherwise specifically provided herein.

Section 7.12 Rights of Mortgagees:

No provision of these ECC&Rs shall in any way defeat or render invalid the lien of any mortgage, deed of trust or other security instrument entered into in good faith and for valuable consideration, whether presently in existence or hereafter recorded against any part of the Shopping Center, but such lien shall be, except as otherwise provided in these ECC&Rs, subject and subordinate to the provisions of these ECC&Rs, such that, if any portion of the Shopping Center is purchased in connection with a foreclosure of such mortgage, deed of trust or security instrument or is conveyed to the party so secured in lieu of foreclosure, any person so acquiring or purchasing and its successors and assigns shall hold any and all real property so purchased or acquired subject to the provisions of these ECC&Rs. In connection with the execution of these ECC&Rs, the Owners shall obtain an agreement from the existing holders of any mortgage or deed of trust or other security instrument on their respective Parcels subordinating the terms thereof to the terms of these ECC&Rs.

IN WITNESS WHEREOF, the Parties hereto have executed and delivered these ECC&Rs as of the day and year first written above.

[Remainder of Page Left Intentionally Blank; Signatures on Following Pages]

Signature Page for Lowe's (ECC&Rs):

LOWE'S HOME CENTERS, INC.,  
a North Carolina corporation

Attest:

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

STATE OF NORTH CAROLINA    )  
  ) ss.  
COUNTY OF WILKES            )

ON THIS \_\_\_\_ day of \_\_\_\_\_, 200\_\_, before me, the undersigned, a Notary Public in and for said County and State, personally appeared \_\_\_\_\_, to me personally known to be the person described in and who executed the foregoing instrument, who, being by me first duly sworn, stated that he/she is the \_\_\_\_\_ of LOWE'S HOME CENTERS, INC., a North Carolina corporation, and that he/she executed such instrument on behalf of said corporation by authority of its board of directors, and said person acknowledged to me that he/she executed such instrument as the act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year last above written.

Notary Public \_\_\_\_\_  
Printed Name:

My Commission Expires:

\_\_\_\_\_

Signature Page for Developer (ECC&Rs):

ARMSTRONG DEVELOPMENT,

a \_\_\_\_\_

By: \_\_\_\_\_

Name:

Title:

STATE OF \_\_\_\_\_ )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

ON THIS \_\_\_\_ day of \_\_\_\_\_, 200\_, before me, the undersigned, a Notary Public in and for said County and State, personally appeared \_\_\_\_\_, to me personally known to be the person described in and who executed the foregoing instrument, who, being by me first duly sworn, stated that he/she is the \_\_\_\_\_ of \_\_\_\_\_, a \_\_\_\_\_, and that he/she executed such instrument on behalf of said corporation by authority of its board of directors, and said person acknowledged to me that he/she executed such instrument as the act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year last above written.

Notary Public \_\_\_\_\_

Printed Name:

My Commission Expires:

\_\_\_\_\_

Schedule I  
Legal Description Lowe's Parcel

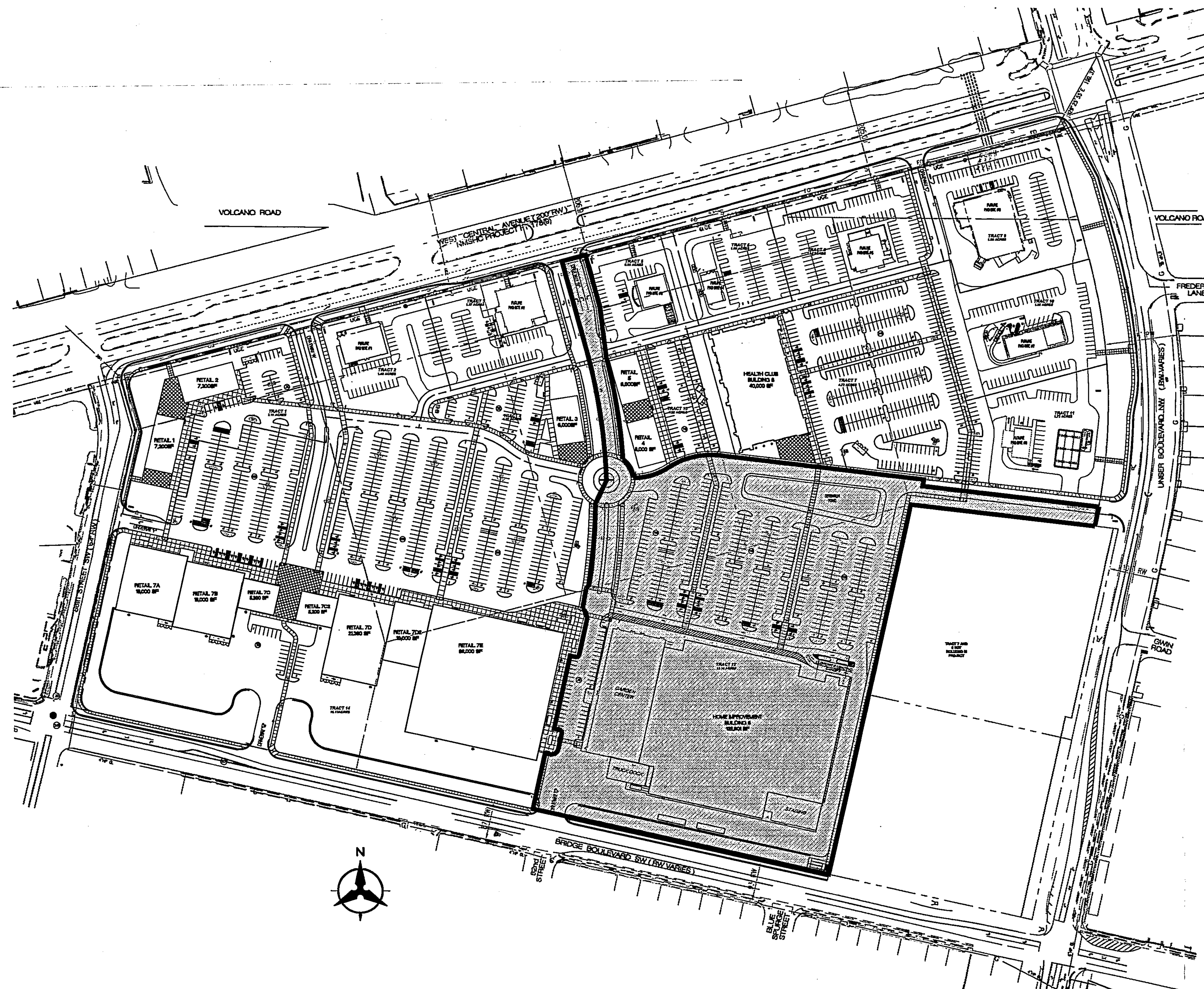
Schedule II  
Legal Description Developer's Parcel(s)

Exhibit A  
Site Plan

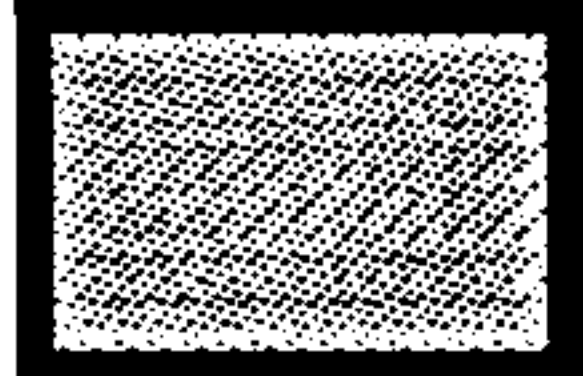
# ECC & R's Schedule I Lowe's Parcel



LEGAL DESCRIPTION  
TRACT 12 OF UNSER CROSSING

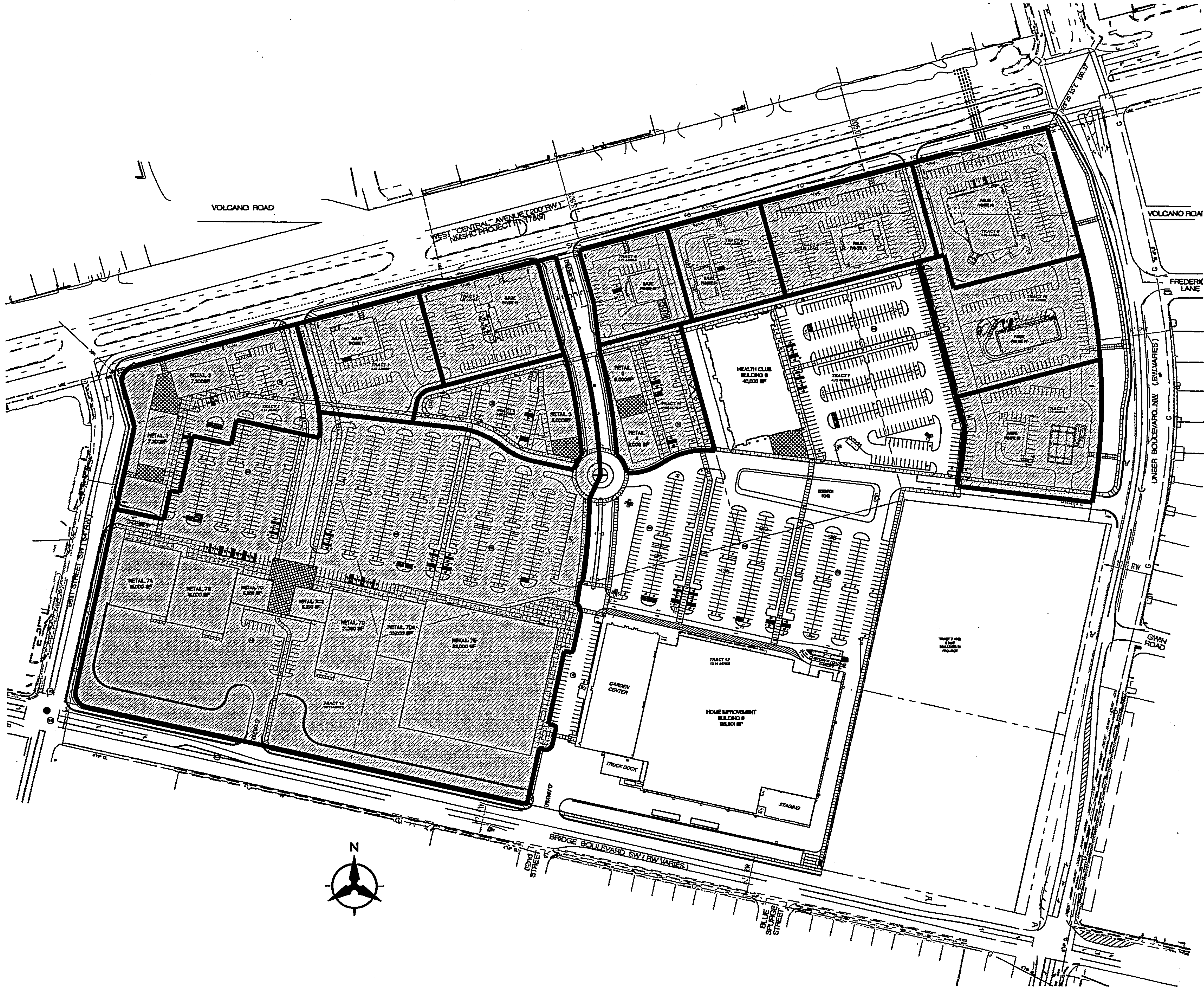


# ECC & R's Schedule II Developer Parcel



DEVELOPER PARCELS

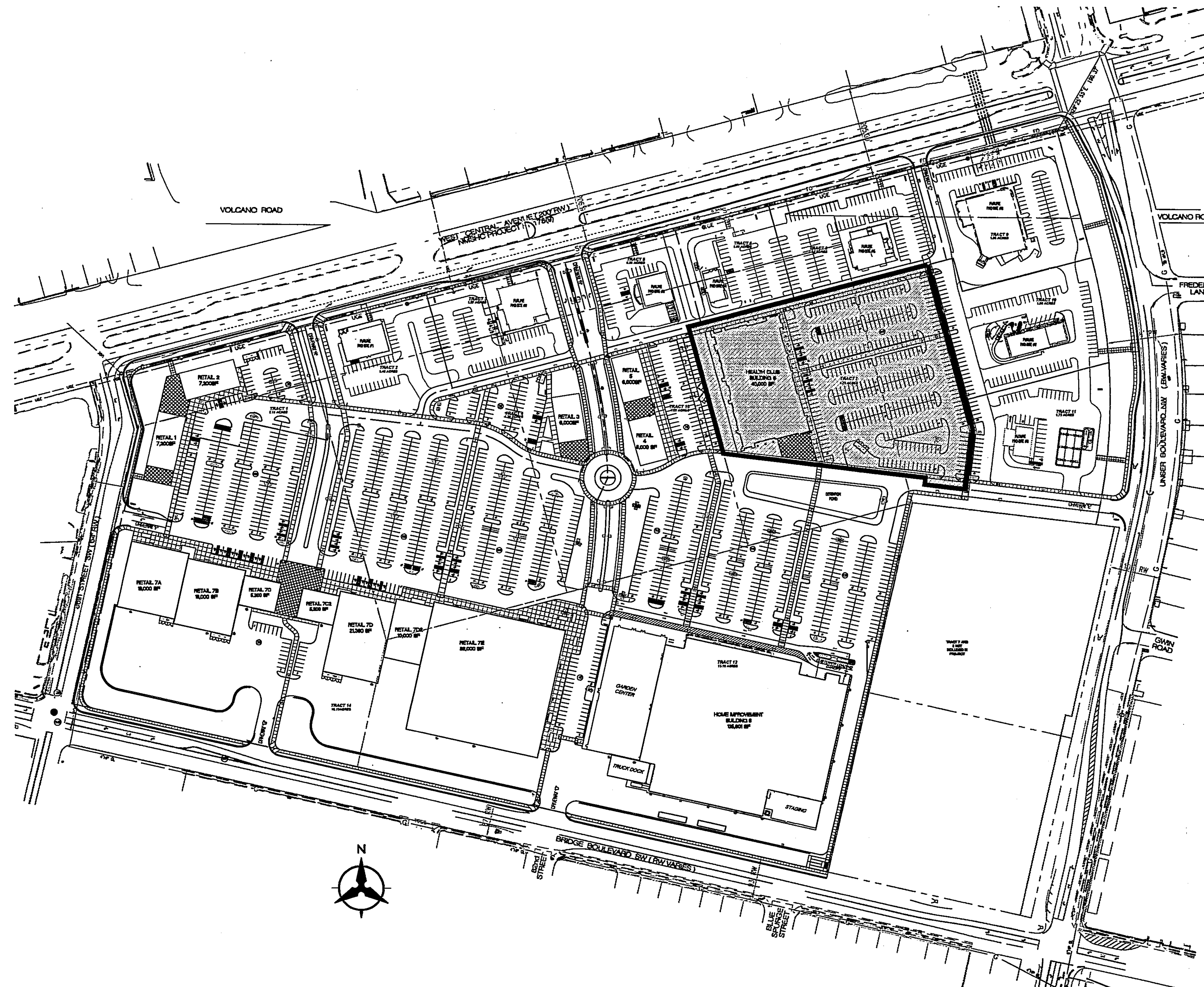
LEGAL DESCRIPTION  
TRACTS 1, 2, 3, 4, 5, 6, 8, 9, 10, 11, 13,  
AND 14 OF UNSER CROSSING



**Bohannon & Huston**

Courtyard I 7500 Jefferson St. NE Albuquerque, NM 87109-4336  
ENGINEERING • SPATIAL DATA • ADVANCED TECHNOLOGIES

# ECC & R's Schedule III Sandia Parcel



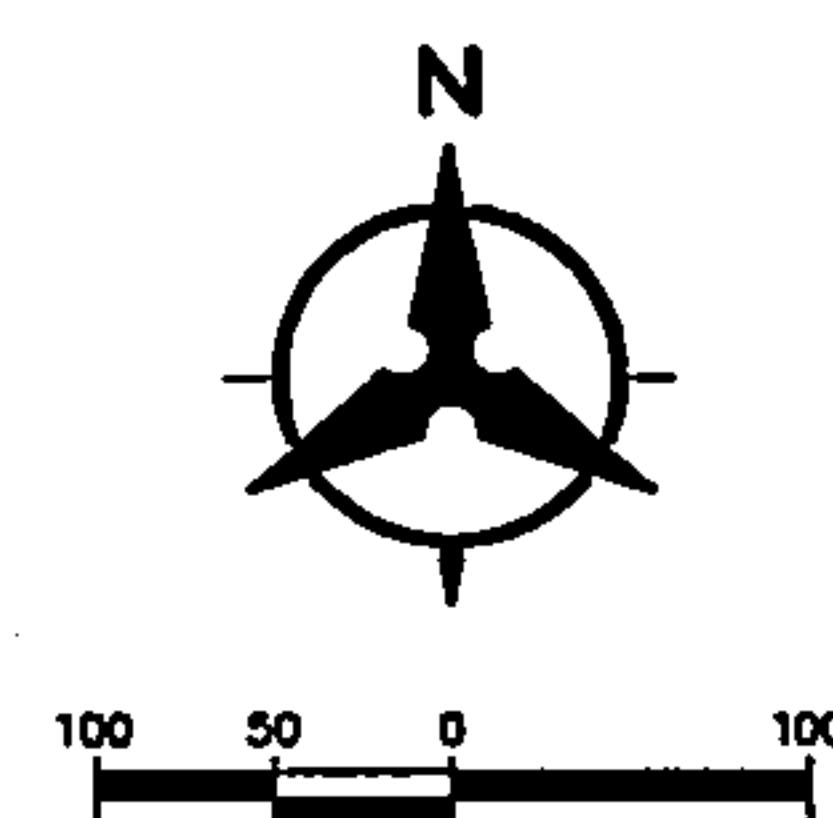
 SANDIA PARCEL

LEGAL DESCRIPTION  
TRACT 7 OF UNSER CROSSING

**Bohannon & Huston**

Courtyard I 7500 Jefferson St. NE Albuquerque, NM 87109-4336  
ENGINEERING • SPATIAL DATA • ADVANCED TECHNOLOGIES

NO CHANGE AREA / COMMON  
AREA DRIVEWAY / INTERNAL  
ACCESS DRIVES



# CITY OF ALBUQUERQUE

under water block crossing  
on Archd clark



Entrance A.txt

MANNING'S N = 0.017 SLOPE = 0.019

POINT	DIST	ELEV	POINT	DIST	ELEV	POINT	DIST	ELEV
1.0	0.0	0.9	3.0	10.5	0.7	5.0	12.6	0.1
2.0	10.0	0.7	4.0	10.6	0.0	6.0	40.6	0.7

WSEL FT.	DEPTH INC	FLOW AREA SQ. FT.	FLOW RATE (CFS)	WETTED PER (FT)	FLOW VEL (FPS)	TOPWID PLUS OBSTRUCTIONS	TOTAL ENERGY (FT)
0.050	0.050	0.020	0.020	0.822	1.006	1.242	0.066
0.100	0.100	0.078	0.125	1.645	1.598	2.024	0.140
0.150	0.150	0.183	0.333	3.159	1.822	3.498	0.202
0.200	0.200	0.398	0.819	5.711	2.060	6.011	0.266
0.250	0.250	0.738	1.795	8.263	2.432	8.523	0.342
0.300	0.300	1.204	3.392	10.815	2.817	11.036	0.423
0.350	0.350	1.796	5.734	13.368	3.193	13.549	0.509
0.400	0.400	2.513	8.935	15.920	3.556	16.061	0.597
0.450	0.450	3.356	13.105	18.472	3.905	18.574	0.687
0.500	0.500	4.324	18.345	21.024	4.242	21.087	0.780
0.550	0.550	5.418	24.752	23.576	4.568	23.600	0.875
0.600	0.600	6.638	32.420	26.128	4.884	26.112	0.971
0.650	0.650	7.984	41.440	28.680	5.191	28.625	1.069

2.38 CFS

PO Box 1293

$$\frac{0.423 - 0.342}{3.392 - 1.795} = \frac{0.423 - x}{3.392 - 2.38}$$

Albuquerque

$$\frac{0.081}{1.597} = \frac{0.423 - x}{1.012}$$

NM 87103

$$0.051972 = 0.675531 - 1.597x$$

www.cabq.gov

$$x = 0.37' = EGL$$

WSEL

$$\frac{0.38 - 0.25}{1.597} = \frac{0.38 - x}{1.012}$$

$$0.0506 = 0.4791 - 1.597x$$

$$WSEL = 0.27'$$

# CITY OF ALBUQUERQUE



Entrance B.txt

MANNING'S N = 0.017 SLOPE = 0.012

POINT	DIST	ELEV	POINT	DIST	ELEV	POINT	DIST	ELEV
1.0	0.0	0.9	3.0	10.5	0.7	5.0	12.6	0.1
2.0	10.0	0.7	4.0	10.6	0.0	6.0	40.6	0.7

WSEL FT.	DEPTH INC	FLOW AREA SQ. FT.	FLOW RATE (CFS)	WETTED PER (FT)	FLOW VEL (FPS)	TOPWID PLUS OBSTRUCTIONS	TOTAL ENERGY (FT)
0.050	0.050	0.020	0.015	0.822	0.778	1.242	0.059
0.100	0.100	0.078	0.097	1.645	1.235	2.024	0.124
0.150	0.150	0.183	0.258	3.159	1.409	3.498	0.181
0.200	0.200	0.398	0.633	5.711	1.593	6.011	0.239
0.250	0.250	0.738	1.388	8.263	1.881	8.523	0.305
0.300	0.300	1.204	2.623	10.815	2.179	11.036	0.374
0.350	0.350	1.796	4.434	13.368	2.469	13.549	0.445
0.400	0.400	2.513	6.909	15.920	2.750	16.061	0.518
0.450	0.450	3.356	10.134	18.472	3.020	18.574	0.592
0.500	0.500	4.324	14.185	21.024	3.280	21.087	0.667
0.550	0.550	5.418	19.140	23.576	3.532	23.600	0.744
0.600	0.600	6.638	25.069	26.128	3.777	26.112	0.822
0.650	0.650	7.984	32.044	28.680	4.014	28.625	0.901

5.41' CFS

PO Box 1293

EGL

$$\frac{0.518 - 0.405}{6.909 - 4.434} = \frac{0.518 - x}{6.909 - 5.41}$$

Albuquerque

$$\frac{0.073}{2.475} = \frac{0.518 - x}{1.499}$$

NM 87103

$$0.109427 = 1.28205 - 2.475x$$

www.cabq.gov

$$x = 0.47' = \text{EGL}$$

WSEL

$$\frac{0.40 - 0.35}{6.909 - 4.434} = \frac{0.40 - x}{6.909 - 5.41}$$

$$\frac{0.05}{2.475} = \frac{0.4 - x}{1.479}$$

$$0.07495 = 0.99 - 2.475x$$

$$x = 0.37' = \text{WSEL}$$

Page 1

# CITY OF ALBUQUERQUE



Entrance C.txt

MANNING'S N = 0.017 SLOPE = 0.005

POINT	DIST	ELEV	POINT	DIST	ELEV	POINT	DIST	ELEV
1.0	0.0	0.9	3.0	10.5	0.7	5.0	12.6	0.1
2.0	10.0	0.7	4.0	10.6	0.0	6.0	40.6	0.7

WSEL FT.	DEPTH INC	FLOW AREA SQ. FT.	FLOW RATE (CFS)	WETTED PER (FT)	FLOW VEL (FPS)	TOPWID PLUS OBSTRUCTIONS	TOTAL ENERGY (FT)
0.050	0.050	0.020	0.010	0.822	0.511	1.242	0.054
0.100	0.100	0.078	0.063	1.645	0.811	2.024	0.110
0.150	0.150	0.183	0.169	3.159	0.925	3.498	0.163
0.200	0.200	0.398	0.416	5.711	1.046	6.011	0.217
0.250	0.250	0.738	0.911	8.263	1.235	8.523	0.274
0.300	0.300	1.204	1.722	10.815	1.430	11.036	0.332
0.350	0.350	1.796	2.911	13.368	1.621	13.549	0.391
0.400	0.400	2.513	4.536	15.920	1.805	16.061	0.451
0.450	0.450	3.356	6.653	18.472	1.983	18.574	0.511
0.500	0.500	4.324	9.313	21.024	2.154	21.087	0.572
0.550	0.550	5.418	12.566	23.576	2.319	23.600	0.634
0.600	0.600	6.638	16.459	26.128	2.479	26.112	0.696
0.650	0.650	7.984	21.038	28.680	2.635	28.625	0.758

9.63 CFS

PO Box 1293 EGL

Albuquerque

NM 87103

www.cabq.gov

12.566 - 9.313 = 12.566 - 9.63

0.631 - 0.572 = 0.634 - x

3.253 = 2.976

0.002 = 0.634 - x

0.182032 = 2.0624 - 3.253x

EGL = 0.58'

WSEL

12.566 - 9.33 = 12.566 - 9.63  
0.55 - 0.50 = 0.55 - x

3.253 = 2.936  
0.05 = 0.55 - x

0.1468 = 1.78915 - 3.253x

x = 0.50' = WSEL  
Page 1

# CITY OF ALBUQUERQUE



86th at site entrance.txt

MANNING'S N = 0.017 SLOPE = 0.006

POINT	DIST	ELEV	POINT	DIST	ELEV	POINT	DIST	ELEV
1.0	0.0	0.9	3.0	9.8	0.7	5.0	12.0	0.1
2.0	9.3	0.7	4.0	10.0	0.0	6.0	36.0	0.6

WSEL FT.	DEPTH INC	FLOW AREA SQ. FT.	FLOW RATE (CFS)	WETTED PER (FT)	FLOW VEL (FPS)	TOPWID PLUS OBSTRUCTIONS	TOTAL ENERGY (FT)
0.050	0.050	0.020	0.011	0.822	0.560	1.282	0.055
0.100	0.100	0.078	0.069	1.645	0.889	2.064	0.112
0.150	0.150	0.183	0.185	3.159	1.013	3.538	0.166
0.200	0.200	0.398	0.456	5.711	1.146	6.051	0.220
0.250	0.250	0.738	0.998	8.263	1.353	8.563	0.278
0.300	0.300	1.204	1.886	10.815	1.567	11.076	0.338
0.350	0.350	1.796	3.189	13.368	1.776	13.589	0.399
0.400	0.400	2.513	4.969	15.920	1.978	16.101	0.461
0.450	0.450	3.356	7.288	18.472	2.172	18.614	0.523
0.500	0.500	4.324	10.202	21.024	2.359	21.127	0.587
0.550	0.550	5.418	13.765	23.576	2.540	23.640	0.650
0.600	0.600	6.638	18.030	26.128	2.716	26.152	0.715

7.99 CFS

EGL

PO Box 1293

10.202 - 7.288

0.587 - 0.523

10.202 - 7.99

0.587 - X

Albuquerque

2.914

0.064

2.212

0.587 - X

NM 87103

0.141568 = 171052 - 2914 X

www.cabq.gov

X = 0.54'

< 0.61' ok



# ***City of Albuquerque***

P.O. BOX 1293 ALBUQUERQUE, NEW MEXICO 87103

November 19, 2003

Bruce Stidworthy, PE  
Bohannon Huston, Inc.  
7500 Jefferson NE  
Albuquerque, NM 87109

**Re: SW Corner of Unser/Central Conceptual Grading and Drainage Plan  
Engineer's Stamp dated 11-13-03 (K10/D45)**

Dear Mr. Stidworthy,

Based upon the information provided in your submittal dated 11-13-03, the above referenced plan is approved for Site Development Plan for Subdivision or Preliminary Plat action by the DRB.

The southerly east-west storm drain line must be sized for developed runoff (approximately 24 cfs) from Tracts 3-B and 3-A, V.E. Barrett Subd. per the Tierra Bayita masterplan. It must also be a public line. I will also need a public easement on the plat, either well-defined or "floating". Please revise the drainage plan prior to Work Order or Final Plat.

Please make these corrections to the plat and infrastructure list before the DRB hearing. If you have any questions, you can contact me at 924-3986.

Sincerely,

Bradley L. Bingham, PE  
Sr. Engineer, Planning Dept.  
Development and Building Services

C: file

(Resubmittal)

K-10/045

# DRAINAGE AND TRANSPORTATION INFORMATION SHEET

(REV. 1/28/2003rd)

PROJECT TITLE: SWC CENTRAL AVE. AND UNSER BLVD ZONE MAP/DRG. FILE # K-10-Z  
DRB #: \_\_\_\_\_ EPC#: \_\_\_\_\_ WORK ORDER#: \_\_\_\_\_

LEGAL DESCRIPTION: TRACTS 4-A-1, 5-B-1 AND 5-B-2, LANDS OF WEFECO PARTNERS AND TRACT 4-B, V.E. BARRET  
SUBDIVISION  
CITY ADDRESS: COA Hydrology File #K10/D45

ENGINEERING FIRM: Bohannon Huston, Inc.  
ADDRESS: 7500 Jefferson NE - Courtyard I  
CITY, STATE: Albuquerque, NM

CONTACT: \_\_\_\_\_  
PHONE: (505) 823-1000  
ZIP CODE: 87109

OWNER: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_  
CITY, STATE: \_\_\_\_\_

CONTACT: \_\_\_\_\_  
PHONE: \_\_\_\_\_  
ZIP CODE: \_\_\_\_\_

ARCHITECT: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_  
CITY, STATE: \_\_\_\_\_

CONTACT: \_\_\_\_\_  
PHONE: \_\_\_\_\_  
ZIP CODE: \_\_\_\_\_

SURVEYOR: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_  
CITY, STATE: \_\_\_\_\_

CONTACT: \_\_\_\_\_  
PHONE: \_\_\_\_\_  
ZIP CODE: \_\_\_\_\_

CONTRACTOR: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_  
CITY, STATE: \_\_\_\_\_

CONTACT: \_\_\_\_\_  
PHONE: \_\_\_\_\_  
ZIP CODE: \_\_\_\_\_

## CHECK TYPE OF SUBMITTAL:

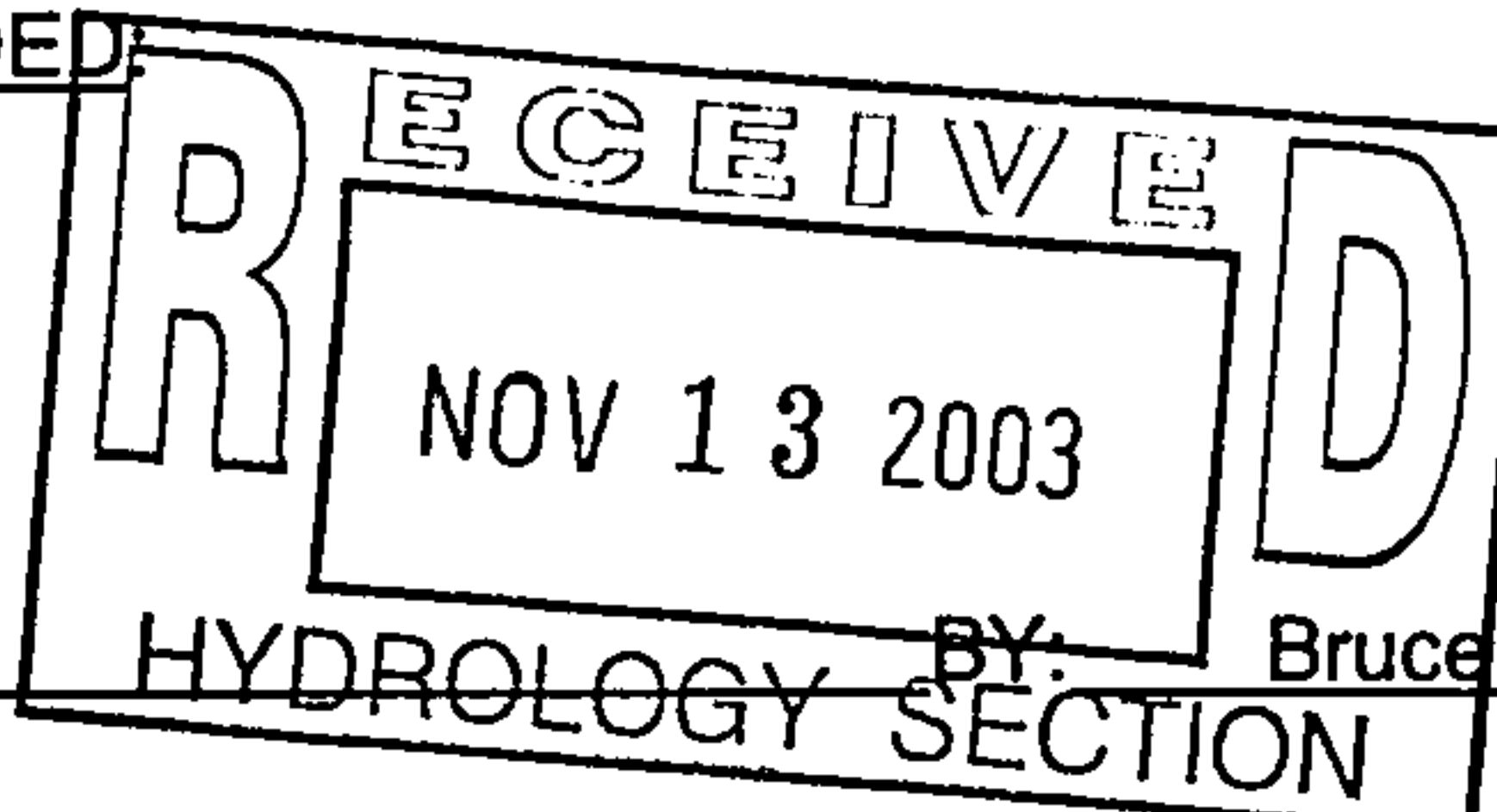
- ☐ DRAINAGE REPORT  
☐ DRAINAGE PLAN 1<sup>st</sup> SUBMITTAL, **REQUIRES TCL or equal**  
☐ DRAINAGE PLAN RESUBMITTAL  
☒ CONCEPTUAL GRADING & DRAINAGE PLAN  
☐ GRADING PLAN  
☐ EROSION CONTROL PLAN  
☐ ENGINEER'S CERTIFICATION (HYDROLOGY)  
☐ CLOMR/LOMR  
☐ TRAFFIC CIRCULATION LAYOUT (TCL)  
☐ ENGINEERS CERTIFICATION (TCL)  
☐ ENGINEERS CERTIFICATION (DRB APPR. SITE PLAN)  
☐ OTHER

## CHECK TYPE OF APPROVAL SOUGHT:

- ☐ SIA / FINANCIAL GUARANTEE RELEASE  
☐ PRELIMINARY PLAT APPROVAL  
☐ S. DEV. PLAN FOR SUB'D. APPROVAL  
☒ S. DEV. PLAN FOR BLDG. PERMIT APPROVAL  
☐ SECTOR PLAN APPROVAL  
☐ FINAL PLAT APPROVAL  
☐ FOUNDATION PERMIT APPROVAL  
☐ BUILDING PERMIT APPROVAL  
☐ CERTIFICATE OF OCCUPANCY (PERM.)  
☐ CERTIFICATE OF OCCUPANCY (TEMP.)  
☐ GRADING PERMIT APPROVAL  
☐ PAVING PERMIT APPROVAL  
☐ WORK ORDER APPROVAL  
☐ OTHER (SPECIFY)

## WAS A PRE-DESIGN CONFERENCE ATTENDED?

- ☐ YES  
☒ NO  
☐ COPY PROVIDED



DATE SUBMITTED: 11/12/2003 BY: Bruce Stidworthy/mb

Requests for approvals of Site Development Plans and/or Subdivision Plats shall be accompanied by a drainage submittal. The particular nature, location and scope of the proposed development defines the degree of drainage detail. One or more of the following levels of submittal may be required based on the following:

1. **Conceptual Grading and Drainage Plan:** Required for approval of Site Development Plans greater than five (5) acres and Sector Plans.

2. **Drainage Plans:** Required for building permits, grading permits, paving permits and site plans less than five (5) acres.

3. **Drainage Report:** Required for subdivisions containing more than ten (10) lots or constituting five (5) acres or more.

Courtyard I  
7500 Jefferson NE  
Albuquerque, NM  
87109-4335  
www.bhinc.com

voice: 505.823.1000  
fax: 505.798.7988  
toll free: 800.877.5332

October 15, 2003

Brad Bingham, P.E.  
Planning/Hydrology Development Section  
City of Albuquerque  
P O Box 1293  
Albuquerque, NM 87103

Re: SW Corner of Unser/Central Conceptual Grading and Drainage Plan  
(COA Hydrology File #K10/D45)

Dear Brad:

Based on the comments provided in your letter dated November 6, 2003, the Conceptual Grading and Drainage Plan for the referenced project has been updated to meet the requirements for Site Development plan approval. The following revisions have been addressed:

1. Storm drain sizes and slopes have been included on the Drainage Management Sheet in the 'Storm Drain Pipe Table'.
2. The offsite basin to the west of the site now drains into an inlet connected to the 'Basin B' storm drain system which flows into the Unser storm drain.

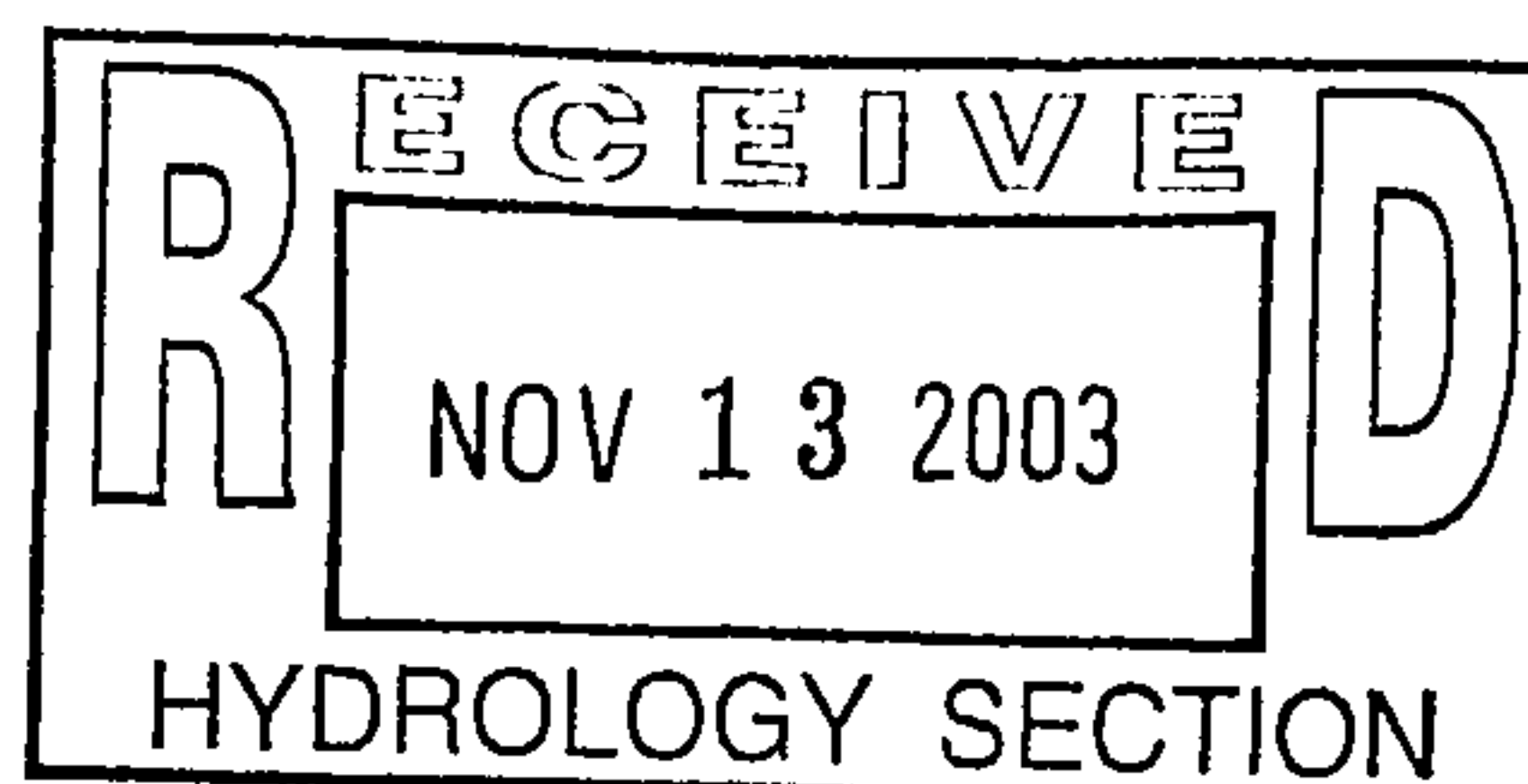
If you have any questions concerning this project, feel free to contact me at 823-1000.

Sincerely,



Bruce J. Stidworthy, P.E.  
Community Development and Planning

BJS/mb  
Enclosure



ENGINEERING

SPATIAL DATA

ADVANCED TECHNOLOGIES



# ***City of Albuquerque***

P.O. BOX 1293 ALBUQUERQUE, NEW MEXICO 87103

November 6, 2003

Bruce Stidworthy, PE  
Bohannon Huston, Inc.  
7500 Jefferson NE  
Albuquerque, NM 87109

**Re: SW Corner of Unser/Central Conceptual Grading and Drainage Plan  
Engineer's Stamp dated 10-27-03 (K10/D45)**

Dear Mr. Stidworthy,

Based upon the information provided in your submittal dated 10-28-03, the above referenced plan cannot be approved for Site Development Plan for Subdivision or Preliminary Plat until the following comments are addressed.

- Since there will be an infrastructure list with this platting action, please include sizes of all storm drain needed to support this development.
- Your plan should account for some developed offsite runoff entering your site. It may be prudent to extend the southern stormdrain system to the west property line.

If you have any questions, you can contact me at 924-3986.

Sincerely,

Bradley L. Bingham, PE  
Sr. Engineer, Planning Dept.  
Development and Building Services

C: file

**Cherne, Curtis**

---

**From:** Yolanda Padilla Moyer [ypadilla@bhinc.com]

**Sent:** Monday, August 01, 2011 4:56 PM

**To:** Cherne, Curtis

**Subject:** Unser Crossing

Hi Curtis,

The Q100=342 cfs coming through the manifold from the north side of Central. The Drainage report is Amole Del Norte Storm Diversion Facilities COA Project # 4076.93 dated March 1998.

Hope this is what you're looking for. You might want to have Graeme pull this report to verify this is what he is looking for.

Let me know if you need anything else.

Yolanda

8/1/2011

**DRAINAGE AND TRANSPORTATION INFORMATION SHEET**  
(Rev. 12/2005)

PROJECT TITLE: CVS @ Unser Crossing ZONE MAP/DRG. FILE # K-10/D045A.  
DRB#: \_\_\_\_\_ EPC#: 1007204 WORK ORDER#: \_\_\_\_\_

LEGAL DESCRIPTION: Tract 9, Unser Crossing

CITY ADDRESS: Southwest Corner of Central & Unser

ENGINEERING FIRM: Bohannon Huston Inc.  
ADDRESS: 7500 Jefferson St, Courtyard 1  
CITY, STATE: Albuquerque, NM

CONTACT: Scott Steffen, P.E.  
PHONE: 505-823-1000  
ZIP CODE: 87109

OWNER: Armstrong Development  
ADDRESS: 1500 N. PRIEST DRIVE, STE. 150E  
CITY, STATE: Tempe, AZ

CONTACT: Diana Rinck  
PHONE: 602-385-4100  
ZIP CODE: 85281

ARCHITECT: Darren Sowell Architects  
ADDRESS: 4700 Lincoln Rd  
CITY, STATE: Albuquerque, NM

CONTACT: Darren Sowell  
PHONE: 505-342-6200  
ZIP CODE: 87109

SURVEYOR: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_  
CITY, STATE: \_\_\_\_\_

CONTACT: \_\_\_\_\_  
PHONE: \_\_\_\_\_  
ZIP CODE: \_\_\_\_\_

CONTRACTOR: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_  
CITY, STATE: \_\_\_\_\_

CONTACT: \_\_\_\_\_  
PHONE: \_\_\_\_\_  
ZIP CODE: \_\_\_\_\_

TYPE OF SUBMITTAL:  
☐ DRAINAGE REPORT  
☒ DRAINAGE PLAN 1<sup>st</sup> SUBMITTAL  
☐ DRAINAGE PLAN RESUBMITTAL  
☒ CONCEPTUAL G & D PLAN  
☐ GRADING PLAN  
☐ EROSION CONTROL PLAN  
☐ ENGINEER'S CERT (HYDROLOGY)  
☐ CLOMR/LOMR  
☐ TRAFFIC CIRCULATION LAYOUT  
☐ ENGINEER CERT (TCL)  
☐ ENGINEER CERT (DRB SITE PLAN)  
☐ OTHER (SPECIFY) \_\_\_\_\_

CHECK TYPE OF APPROVAL SOUGHT:  
☐ SIA/FINANCIAL GUARANTEE RELEASE  
☐ PRELIMINARY PLAT APPROVAL  
☐ S. DEV. PLAN FOR SUB'D APPROVAL  
☒ S. DEV. FOR BLDG. PERMIT APPROVAL  
☐ SECTOR PLAN APPROVAL  
☐ FINAL PLAT APPROVAL  
☐ FOUNDATION PERMIT APPROVAL  
☐ BUILDING PERMIT APPROVAL  
☐ CERTIFICATE OF OCCUPANCY (PERM)  
☐ CERTIFICATE OF OCCUPANCY (TEMP)  
☐ GRADING PERMIT APPROVAL  
☐ PAVING PERMIT APPROVAL  
☐ WORK ORDER APPROVAL  
☐ OTHER (SPECIFY) \_\_\_\_\_

WAS A PRE-DESIGN CONFERENCE ATTENDED:

☐ YES  
☒ NO  
☐ COPY PROVIDED

SUBMITTED BY: Scott J. Steffen, P.E. DATE: December 11, 2008

Requests for approvals of Site Development Plans and/or Subdivision Plats shall be accompanied by a drainage submittal. The particular nature, location and scope to the proposed development define the degree of drainage detail. One or more of the following levels of submittal may be required based on the following:

1. **Conceptual Grading and Drainage Plan:** Required for approval of Site Development Plans greater than five (5) acres and Sector Plans.
2. **Drainage Plans:** Required for building permits, grading permits, paving permits and site plans less than five (5) acres.
3. **Drainage Report:** Required for subdivision containing more than ten (10) lots or constituting five (5) acres or more.