

14/4-D012B
590783
Blad/Hydrology
AGREEMENT AND COVENANT

This Agreement and Covenant, between the City of Albuquerque, New Mexico ("City") and Broadway Development Company, LLC, ("User") is made in Albuquerque, New Mexico and is entered into as of the date of recording this Agreement with the Bernalillo County Clerk.

1. Recital. The User is the owner of certain real property ("User's Property") located at Broadway Industrial Center, Unit 1, in Albuquerque, New Mexico, and more particularly described as: (give legal description and filing information)

*A portion of various parcels comprising Broadway Industrial Center, Unit 1,
recorded in the Bernalillo County Clerk's
Office December 5, 1997, Book 97C, Page 345.*

The City is the owner of certain real property, easement or public right-of-way ("City's Property") in the vicinity of, contiguous to, abutting or within User's Property, and more particularly described as:

Temporary Pond at the east end of Bethel Road (cul-de-sac)

The User wishes to construct upon, improve or repair and to maintain the following "Improvement" on the City's Property (or already has done so):

Temporary Pond

A sketch of the proposed or existing Improvement is attached as Exhibit A and made a part of this Agreement.

The City agrees to permit the Improvement to exist on the City's Property provided the User complies with the terms of this Agreement.

2. City Use of City's Property and City Liability. The City has the right to enter upon the City's Property at any time and perform whatever inspection, installation, maintenance, repair, modification or removal ("Work") it deems appropriate without liability to the User. If the Work affects the Improvement the City will not be financially or otherwise responsible for rebuilding or repairing the Improvement. The User promptly will repair the Improvement to the City's satisfaction. The cost of repairing the Improvement will be paid by User.

3. User's Responsibility for Improvement. The User will be solely responsible for constructing, maintaining, repairing and, if required, removing the Improvement, all in accordance with standards required by the City as per the approved ~~Grading and Drainage Plan~~ Exhibit A on file at the City Engineer's office. The User will be solely responsible for paying all related costs. The User will be solely responsible for paying all related costs. The User will not permit the Improvement to constitute a hazard to the health or safety of the general public or to interfere with the City's use of the City's Property. The User will conform with all applicable laws, ordinances and regulations. 9mm 11-19-07

4. Use of the Improvement. If the City's Property is a public right-of-way, it shall be open to the use of the general public at all times, subject to reasonable curtailment during periods of construction, maintenance or repair.

5. Demand for Repair, Modification or Removal. The City may send written notice ("Notice") to the User requiring the User to repair, modify or remove the Improvement within 30 days ("Deadline") and the User will comply promptly with the requirements of the Notice. If removal is demanded, the City also may require the User to return the City's Property to its original condition by the Deadline. The User will perform all required work by the Deadline, at User's sole expense.

6. Failure to Perform by User and Emergency Work by City. If the User fails to comply with the terms of the Notice by the Deadline stated, or, if the City determines that an emergency condition exists, the City may perform the work itself. The City then may assess the User for the cost of the work and for any other expenses or damages which result from User's failure to perform. The User agrees promptly to pay the City the amount assessed. If the User fails to pay the City within thirty (30) days after the City gives the User written notice of the amount due, the City may impose a lien against User's Property for the total resulting amount.

7. Cancellation of Agreement and Release of Covenant. This Agreement may be canceled and User's covenants released by the City at will by the City's mailing to the User notice of the City's intention to record a Cancellation and Release with the Bernalillo County Clerk. The Cancellation and Release will be effective thirty (30) days after the date of mailing the notice to the User unless a later date is stated in the notice or the Cancellation and Release. After the effective date, the City will record the Cancellation and Release with the Bernalillo County Clerk.

8. Condemnation. If any part of the User's Property is ever condemned by the City, the User will forego all claims to compensation for any portion of User's structure which encroaches on City Property and for severance damage to the remaining portion of User's structure on User's Property.

9. Assessment. Nothing in this Agreement shall be construed to relieve the User, his heirs, assigns and successors from an assessment against User's Property for improvements to the City Property under a duly authorized and approved Special Assessment District. The parties specifically agree that the value of the Improvement will not reduce the amount assessed by the City.

10. **Notice.** For purposes of giving formal written notice to the User, User's address is:

*Broadway Development Company, LLC
PO Box 10005
Albuquerque, NM 87184*

Notice may be given to the User either in person or by mailing the notice by regular U.S. mail, postage paid. Notice will be considered to have been received by the User within 3 days after the notice is mailed if there is no actual evidence of receipt. The User may change User's address by giving written notice of the change by certified mail, return receipt requested, to the City Engineer at P.O. Box 1293, Albuquerque, New Mexico 87103.

11. **Indemnification.** The User agrees to defend, indemnify and hold harmless the City, its officials, agents and employees from and against any and all claims, actions, suits or proceedings of any kind brought against said parties as a result of User's use of the City's Property. To the extent, if at all, Section 56-7-1 NMSA 1978 is applicable to this Agreement, this Agreement to indemnify will not extend to liability, claims, damages, losses or expenses, including attorney's fees, arising out of (1) the preparation or approval of maps, drawings, opinions, reports, surveys, change orders, designs or specifications by the indemnitee, or the agents or employees of the indemnitee; or (2) the giving of or the failure to give direction or instructions by the indemnitee, where such giving or failure to give directions or instructions is the primary cause of bodily injury to persons or damage to property.

12. **Term.** This Agreement shall continue until revoked by the City pursuant to Section 7 above.

13. **Binding on User's Property.** The covenants and obligations of the User set forth herein shall be binding on User, his heirs assigns and successors and on User's Property and constitute covenants running with User's Property until released by the City.

14. **Entire Agreement.** This Agreement contains the entire agreement of the parties and supersedes any and all other agreements or understandings, oral or written, whether previous to the execution hereof or contemporaneous herewith.

15. **Changes of Agreement.** Changes to this Agreement are not binding unless made in writing, signed by both parties.

16. **Construction and Severability.** If any part of this Agreement is held to be invalid or unenforceable, the remainder of the Agreement will remain valid and enforceable if the remainder is reasonably capable of completion.

17. **Captions.** The captions to the sections or paragraphs of this Agreement are not part of this Agreement and will not affect the meaning or construction of any of its provisions.

By: Richard Dourte
Richard Dourte

Dated: 11-30-07

Follow the

an
11-27-02


By: [Signature]

Title: Managing Member


Dated: 11/19/07

STATE OF NEW MEXICO)
) ss
COUNTY OF BERNALILLO)

Lisa Cornejo
Notary Public

 OFFICIAL SEAL
LISA CORNEJO
NOTARY PUBLIC-STATE OF NEW MEXICO
My commission expires 7-5-2010

STATE OF NEW MEXICO)
COUNTY OF BERNALILLO) ss.



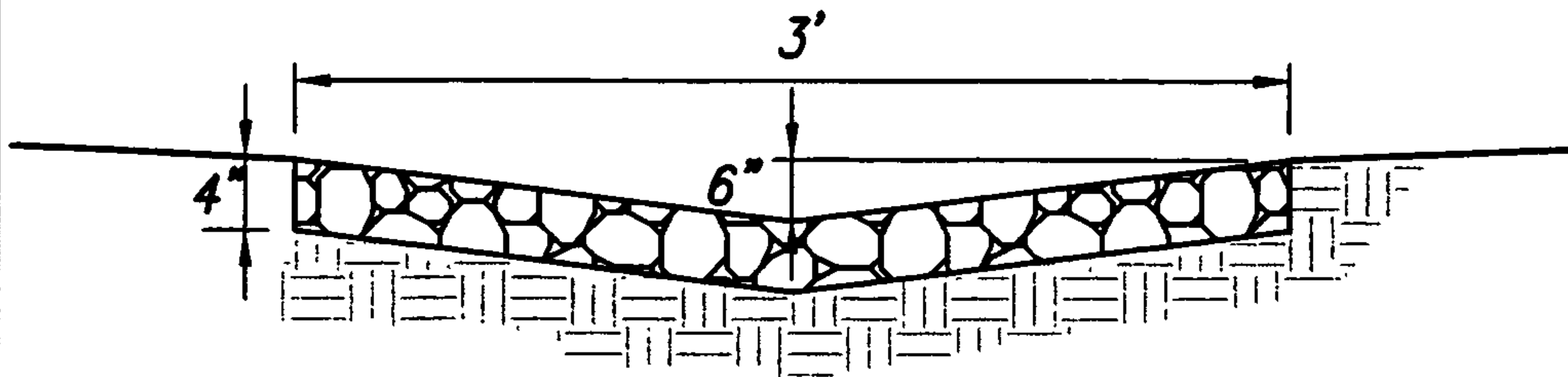
Notary Public

4/18/10



OFFICIAL SEAL
LISA ANGLADA
NOTARY PUBLIC STATE OF NEW MEXICO
My Commission Expires: 4/18/10

EXHIBIT A



GRAVEL SWALE

N.T.S.

NOTE: GRAVEL IS TO CONSIST OF
MINIMUM 1-1/2" ANGULAR ROCK

3/4"-1" ok to construct

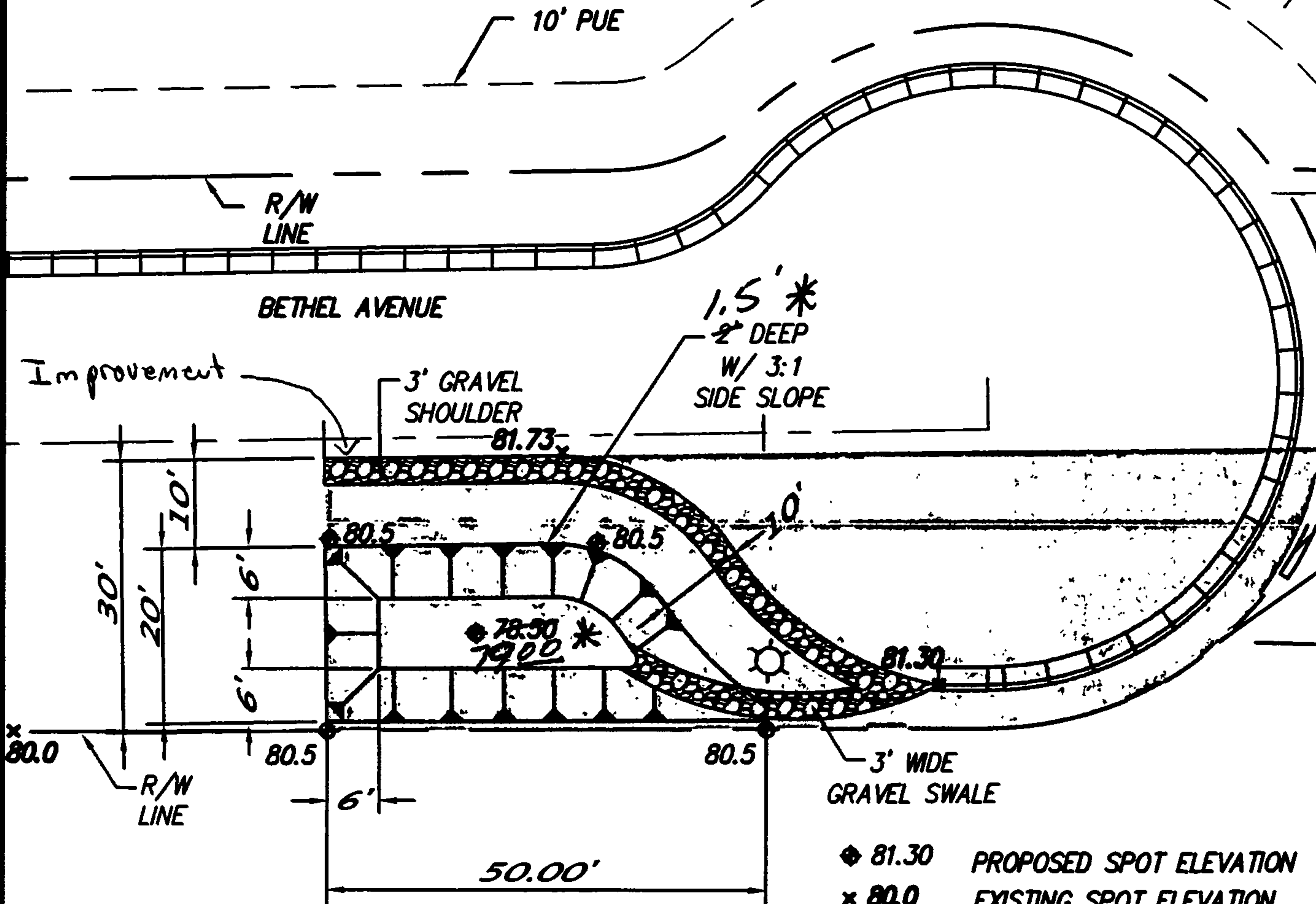
JMM
11-20-07

Anthony J. J...

11/16/07

LOT 1E-1, UNIT 2,
BROADWAY INDUSTRIAL CENTER

SCALE 1"=20'



LAND of CHIOU
(2-11-85, D232A-340)

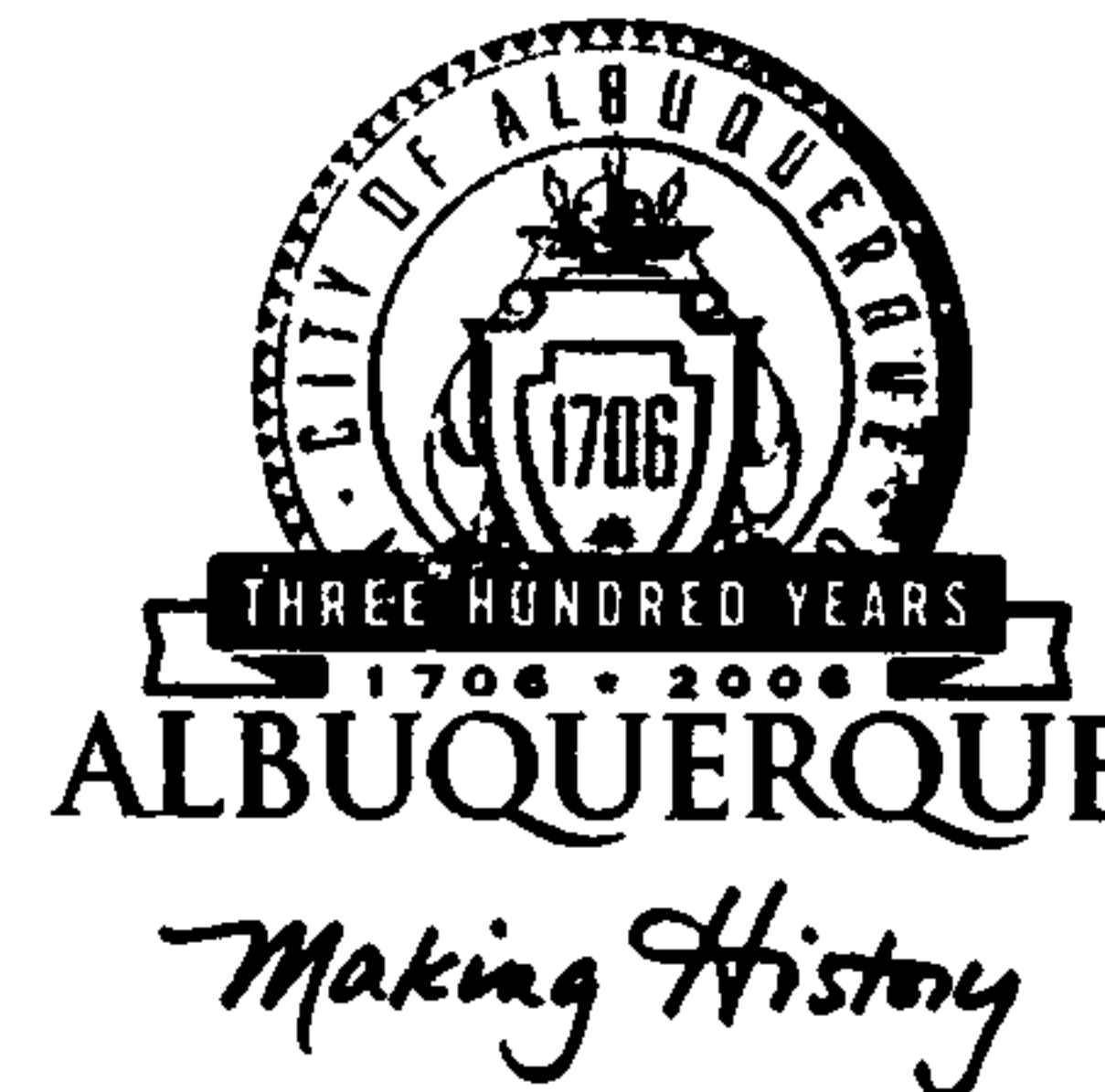
* by JMM 11-20-07

PORTION OF SHEET
2 OF PLANS

OK Bradley L. B... 11.16.07

- ◆ 81.30 PROPOSED SPOT ELEVATION
- × 80.0 EXISTING SPOT ELEVATION
- ☼ EXISTING STREET LIGHT
- THIS RUNOFF AREA TO TEMPORARY POND

CITY OF ALBUQUERQUE



**Planning Department
Transportation Development Services Section**

April 4, 2006

William Kleinschmidt, Registered Architect
3828 Blue Ridge Place NE
Albuquerque, NM 87111

Re: Certification Submittal for Final Building Certificate of Occupancy for
Maloy Office Bldg, Lot 1B1, Unit 2, [M-14 / D12B]
610 San Jose SE
Architect's Stamp Dated 04/04/06

Dear Mr. Kleinschmidt:

P.O. Box 1293

The TCL / Letter of Certification submitted on April 4, 2006 is sufficient for acceptance by this office for final Certificate of Occupancy (C.O.). Notification has been made to the Building and Safety Section.

Albuquerque

Sincerely,

New Mexico 87103

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

www.cabq.gov

c: Engineer
Hydrology file
CO Clerk



April 4, 2006

Arlene V. Portillo, Plan Checker
Planning Department, Hydrology Section
City of Albuquerque
200 2nd Street NW
Albuquerque, New Mexico 87102

Re: TCL Certification
Maloy Construction Building Addition, 610 San Jose SE, Albuquerque, NM
Traffic Circulation Layout (M14-D12B)

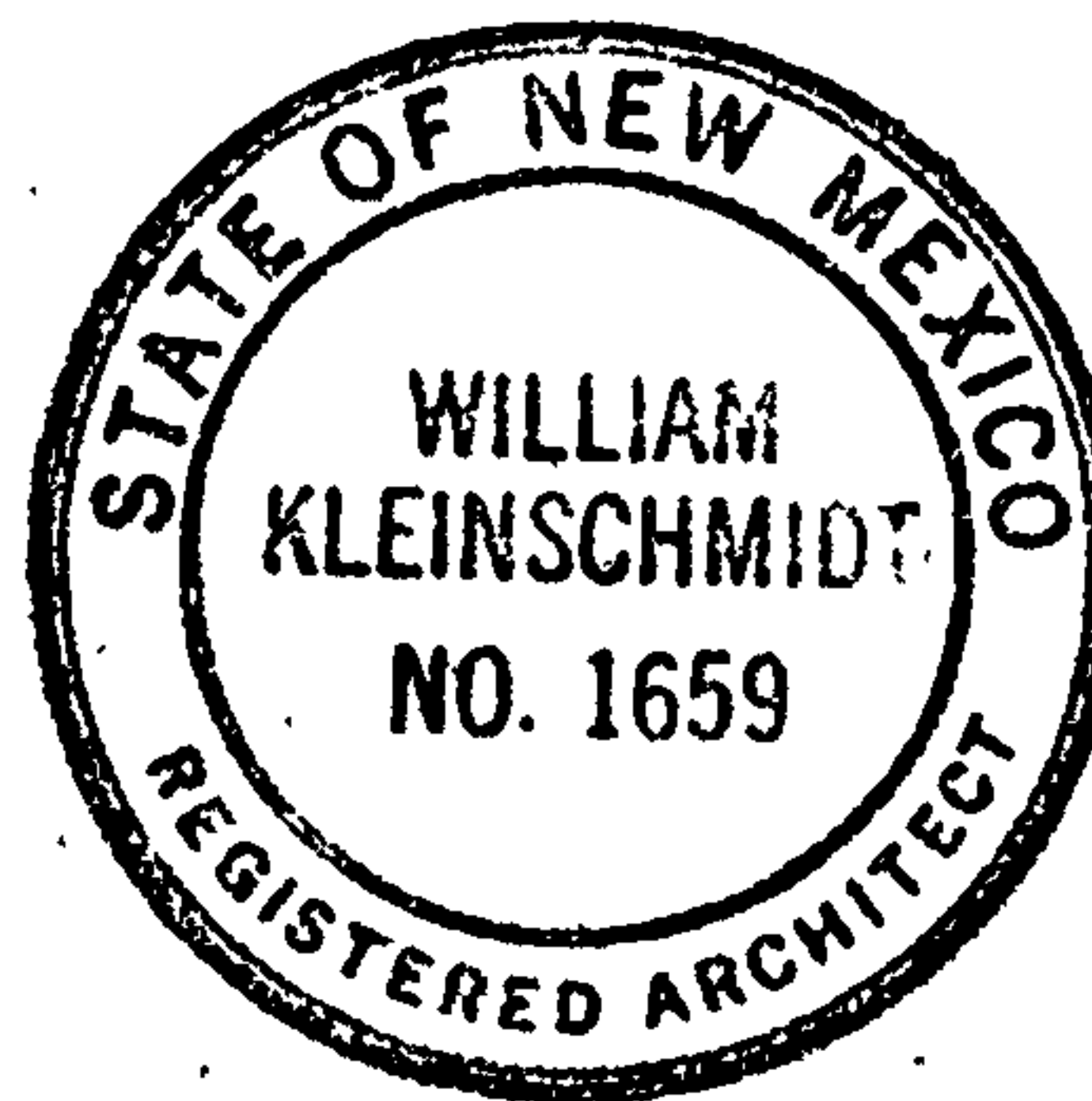
TRAFFIC CERTIFICATION

I, William Kleinschmidt, NMRA, of the firm William Kleinschmidt, Architect, hereby certify that this project is in substantial compliance with and in accordance with the design intent of the TCL approved plan dated July 19, 2004. The record information edited onto the original design document has been obtained by William Kleinschmidt of the firm William Kleinschmidt, Architect. I further certify that I have personally visited the project site on March 15, 2006 and have determined by visual inspection that the survey data provided is representative of actual site conditions and is true and correct to the best of my knowledge and belief. This certification is submitted in support of a request for final certificate of occupancy.

The record information presented hereon is not necessarily complete and intended only to verify substantial compliance of the traffic aspects of this project. Those relying on the record document are advised to obtain independent verification of its accuracy before using it for any other purpose.

Signature of Architect

Date



Maloy Office Bldg., Lot 1B1, Unit 2

DRAINAGE AND TRANSPORTATION INFORMATION SHEET

(REV. 1/28/2003rd)

M-14

PROJECT TITLE: BUILDING ADDITION
DRB #: _____ EPC#: _____

ZONE MAP/DRG. FILE #: M-14/DIAB
WORK ORDER#: _____

LEGAL DESCRIPTION: LOT 1B1A, BROADWAY INDUSTRIAL CENTER
CITY ADDRESS: 610 SAN JOSE ST, ALBUQUERQUE, N.M. 87102

ENGINEERING FIRM: _____
ADDRESS: _____
CITY, STATE: _____

CONTACT: _____
PHONE: _____
ZIP CODE: _____

OWNER: HALOY CONSTRUCTION, INC.
ADDRESS: 610 SAN JOSE ST
CITY, STATE: ALBUQUERQUE, N.M. 87102

CONTACT: MIKE HALOY
PHONE: 247-3100
ZIP CODE: 87102

ARCHITECT: WILLIAM KLEINSCHMIDT, ARCHITECT
ADDRESS: 3025 BLUE RIDGE PLACE NE
CITY, STATE: ALBUQUERQUE, N.M. 87111

CONTACT: BILL KLEINSCHMIDT
PHONE: 761-0000
ZIP CODE: 87111

SURVEYOR: _____
ADDRESS: _____
CITY, STATE: _____

CONTACT: Wkarch@comcast.net
PHONE: _____
ZIP CODE: _____

CONTRACTOR: HALOY CONSTRUCTION, INC.
ADDRESS: 610 SAN JOSE ST
CITY, STATE: ALBUQUERQUE, N.M. 87102

CONTACT: MIKE HALOY
PHONE: 247-3100
ZIP CODE: 87102

CHECK TYPE OF SUBMITTAL:

- ☐ DRAINAGE REPORT
- ☐ DRAINAGE PLAN 1st 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)
- ☐ ENGINEER'S CERTIFICATION (TCL)
- ☐ ENGINEER'S CERTIFICATION (DRB APPR. SITE PLAN)
- ☐ OTHER

* RE-SUBMITTAL

CHECK TYPE OF APPROVAL SOUGHT:

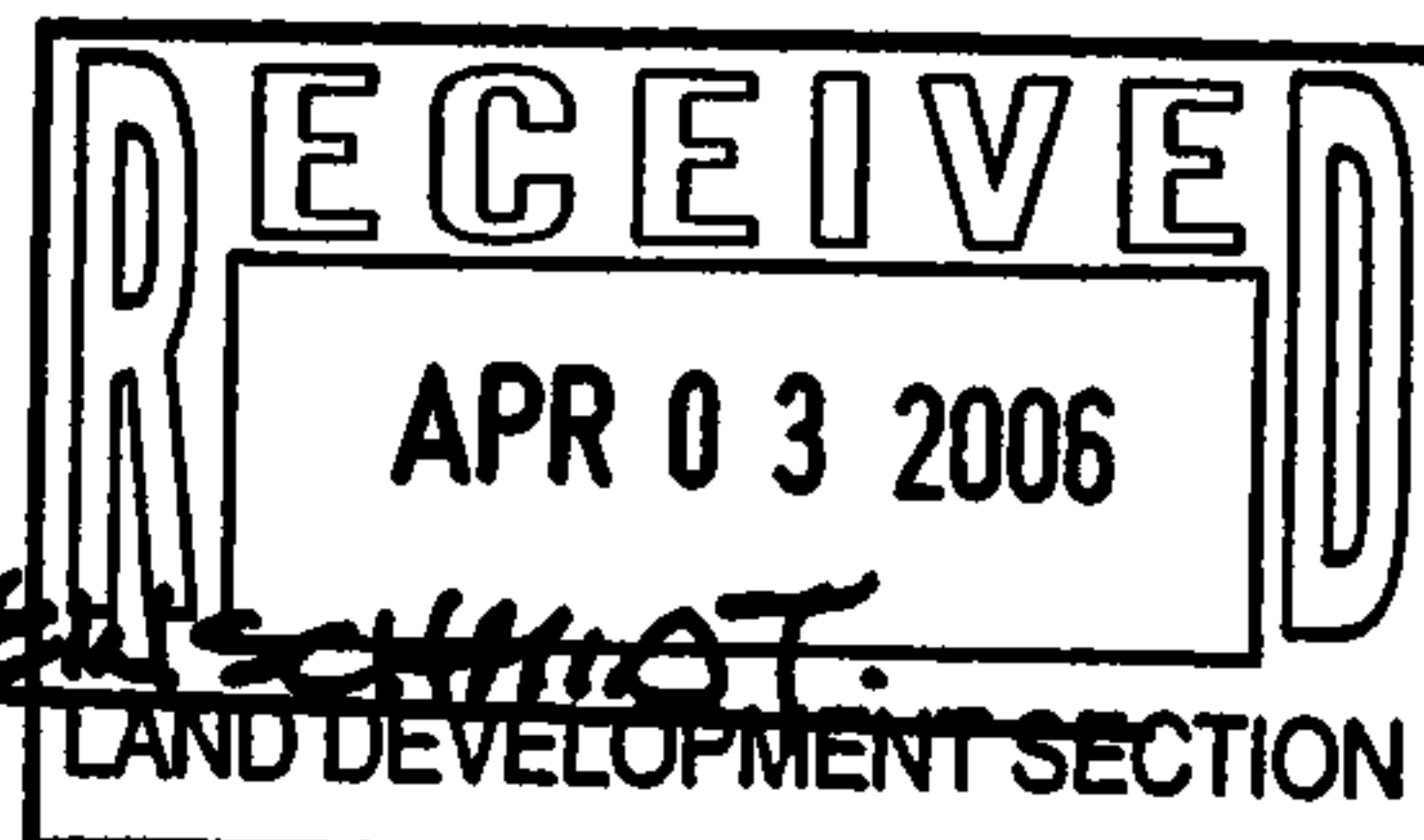
- ☐ SIA / FINANCIAL GUARANTEE RELEASE
- ☐ PRELIMINARY PLAT APPROVAL
- ☐ S. DEV. PLAN FOR SUB'D. APPROVAL
- ☐ S. DEV. PLAN FOR BLDG. PERMIT APPROVAL
- ☐ SECTOR PLAN APPROVAL
- ☐ FINAL PLAT APPROVAL
- ☐ FOUNDATION PERMIT APPROVAL
- ☒ BUILDING PERMIT APPROVAL
- ☐ CERTIFICATE OF OCCUPANCY (PERM.)
- ☐ CERTIFICATE 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: 7/19/04

BY: WILLIAM KLEINSCHMIDT



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.

Final file,
give to nelo

DRAINAGE AND TRANSPORTATION INFORMATION SHEET

(REV. 1/28/2003rd)

PROJECT TITLE: HALOY CONSTRUCTION BUILDING ADDITION ZONE MAP/DRG. FILE #: M-14
 DRB #: _____ EPC#: _____ WORK ORDER#: _____

LEGAL DESCRIPTION: LOT 131A, BROADWAY INDUSTRIAL CENTER
 CITY ADDRESS: 610 SAN JOSE SE, ALBUQ., N.M. 87102

ENGINEERING FIRM: _____
 ADDRESS: _____
 CITY, STATE: _____

CONTACT: _____
 PHONE: _____
 ZIP CODE: _____

OWNER: HALOY CONSTRUCTION, INC.
 ADDRESS: 610 SAN JOSE SE
 CITY, STATE: ALBUQ., N.M. 87102

CONTACT: MIKE HALOY
 PHONE: 247-3100
 ZIP CODE: 87102

ARCHITECT: WILLIAM KLEINSCHMIDT, ARCHITECT
 ADDRESS: 3828 BLUE RIDGE PLACE NE
 CITY, STATE: ALBUQ., N.M. 87111

CONTACT: BILL KLEINSCHMIDT
 PHONE: 701-0000
 ZIP CODE: 87111

SURVEYOR: _____
 ADDRESS: _____
 CITY, STATE: _____

CONTACT: _____
 PHONE: _____
 ZIP CODE: _____

CONTRACTOR: HALOY CONSTRUCTION, INC.
 ADDRESS: 610 SAN JOSE SE
 CITY, STATE: ALBUQ., N.M. 87102

CONTACT: MIKE HALOY
 PHONE: 247-3100
 ZIP CODE: 87102

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- ☐ GRADING PLAN
- ☐ EROSION CONTROL PLAN
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- ☐ OTHER

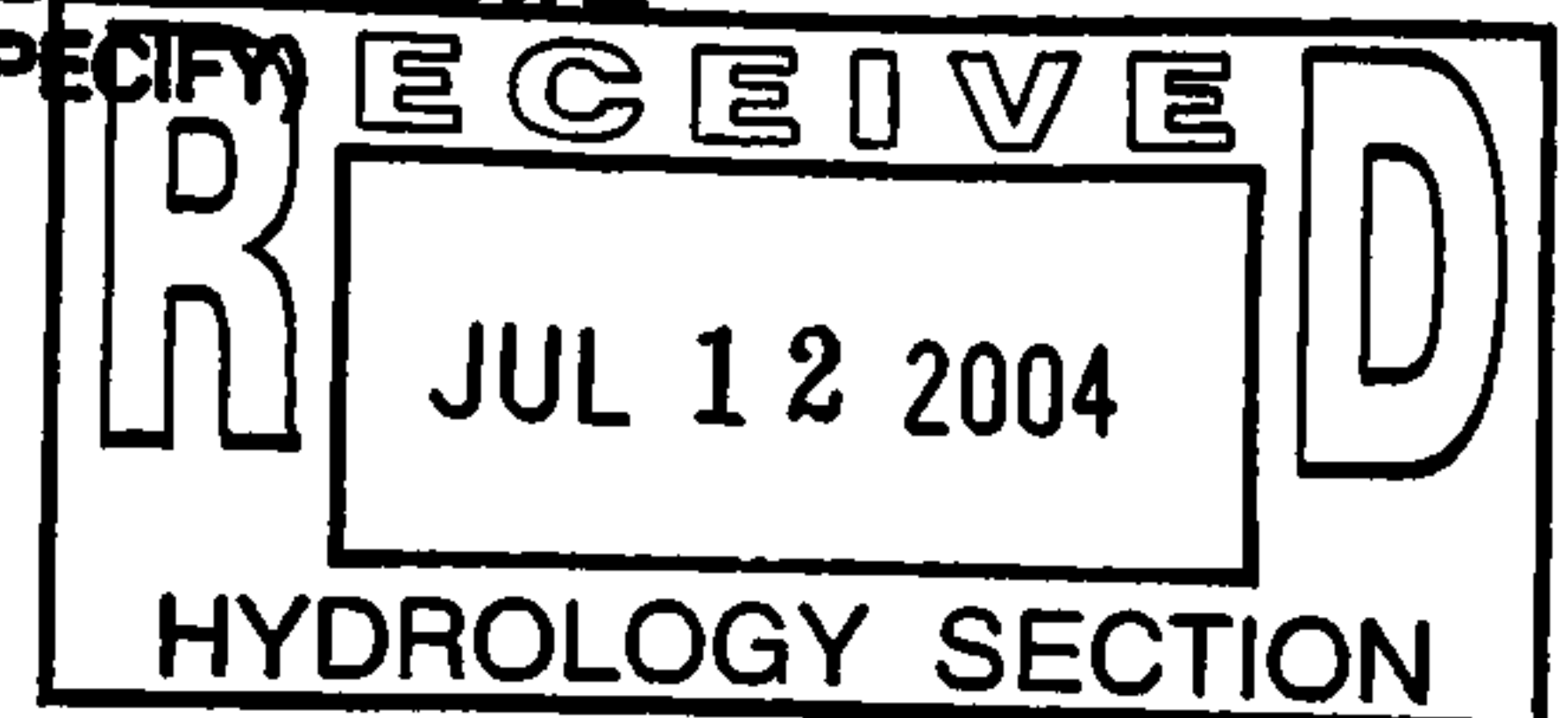
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- ☐ FINAL PLAT APPROVAL
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- ☐ CERTIFICATE OF OCCUPANCY (TEMP.)
- ☐ GRADING PERMIT APPROVAL
- ☐ PAVING PERMIT APPROVAL
- ☐ WORK ORDER APPROVAL
- ☐ OTHER (SPECIFY)

WAS A PRE-DESIGN CONFERENCE ATTENDED:

- ☒ YES
☐ NO
☐ COPY PROVIDED

DATE SUBMITTED: 7/12/04 BY: WILLIAM KLEINSCHMIDT



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:

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CITY OF ALBUQUERQUE



March 24, 2009

Martin J. Garcia, P.E.
ABQ Engineering, Inc.
6739 Academy Rd NE Ste. 130
Albuquerque, NM 87109

**Re: Maloy Office Building, 610 San Jose SE,
Approval of Permanent Certificate of Occupancy, (M-14/D012B)
Engineer's Stamp Date: 12-19-03
Certification Stamp Date: 3-17-09**

Dear Mr. Garcia,

PO Box 1293

Based upon your submittal received 3/24/09, the above referenced certification is approved for release of Permanent Certificate of Occupancy by Hydrology.

Albuquerque

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

Sincerely,

NM 87103

Timothy E. Sims
Plan Checker-Hydrology, Planning Dept
Development and Building Services

www.cabq.gov

C: CO Clerk—Katrina Sigala
file

DRAINAGE AND TRANSPORTATION INFORMATION SHEET

(REV. 1/28/2003rd)

PROJECT TITLE: Maloy Office Building
DRB #: _____

EPC#: _____

ZONE MAP/DRG. FILE # M-14/20123
WORK ORDER#: _____

LEGAL DESCRIPTION: Lot 1B, Unit 2, Broadway Industrial Center within Section 32
CITY ADDRESS: 610 San Jose

ENGINEERING FIRM: ABQ Engineering
ADDRESS: 6739 Academy NE Suite 130
CITY, STATE: Albuquerque, NM

CONTACT: Martin J. Garcia
PHONE: 255-7802
ZIP CODE: 87109

OWNER: Maloy Construction
ADDRESS: 610 San Jose Ave SE
CITY, STATE: Albuquerque, NM

CONTACT: Carlos Armijo
PHONE: 505-247-3100
ZIP CODE: 87102

ARCHITECT: William Kleinschmidt Architect
ADDRESS: 3828 Blue Ridge Place NE
CITY, STATE: Albuquerque, NM

CONTACT: _____
PHONE: 505-761-0000
ZIP CODE: 87111

SURVEYOR: _____
ADDRESS: _____
CITY, STATE: _____

CONTACT: _____
PHONE: _____
ZIP CODE: _____

CONTRACTOR: Maloy Construction
ADDRESS: 610 San Jose Ave SE
CITY, STATE: Albuquerque, NM 87102

CONTACT: Carlos Armijo
PHONE: 505-247-3100
ZIP CODE: 87102

CHECK TYPE OF SUBMITTAL:

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- ☐ CONCEPTUAL GRADING & DRAINAGE PLAN
- ☒ GRADING PLAN
- ☐ EROSION CONTROL PLAN
- ☐ ENGINEER'S CERTIFICATION (HYDROLOGY)
- ☐ CLOMRL/OMR
- ☐ TRAFFIC CIRCULATION LAYOUT (TCL)
- ☐ ENGINEERS CERTIFICATION (TCL)
- ☐ ENGINEERS CERTIFICATION (DRB APPR. SITE PLAN)
- ☐ OTHER

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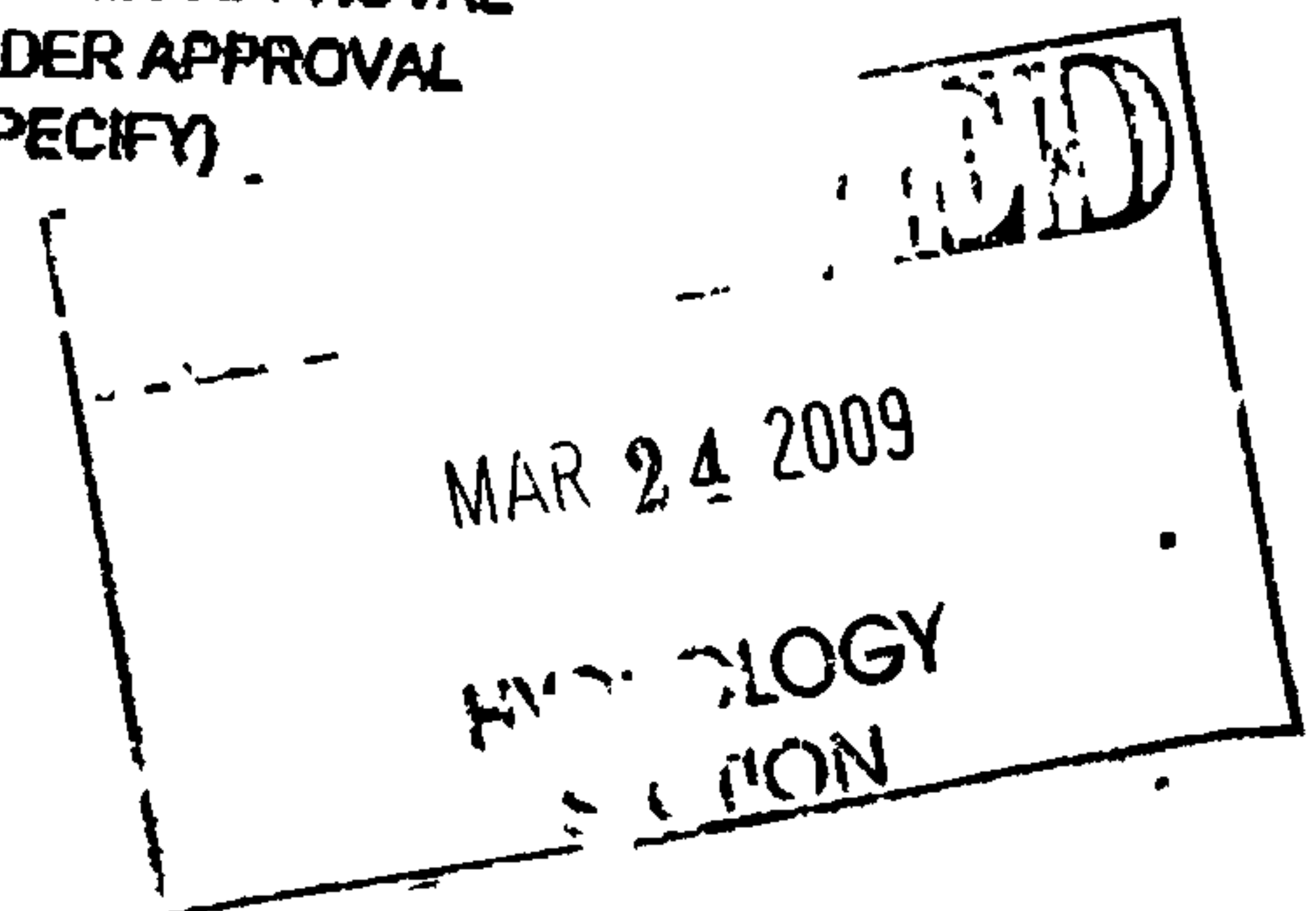
- ☐ SIA / FINANCIAL GUARANTEE RELEASE
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- ☐ PAVING PERMIT APPROVAL
- ☐ WORK ORDER APPROVAL
- ☐ OTHER (SPECIFY)

WAS A PRE-DESIGN CONFERENCE ATTENDED:

- ☐ YES
- ☐ NO
- ☐ COPY PROVIDED

DATE SUBMITTED: _____

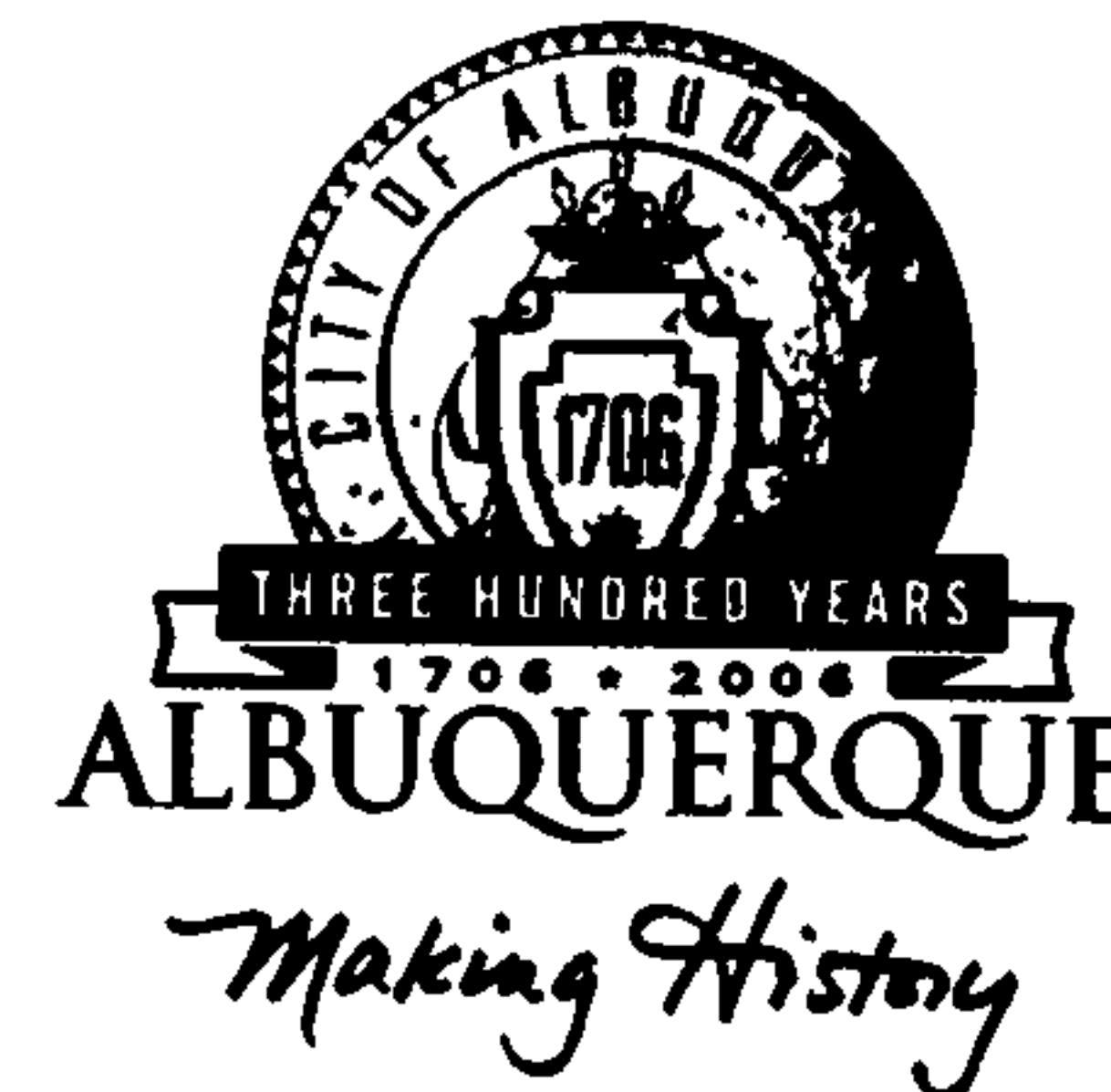
BY: _____



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CITY OF ALBUQUERQUE



July 15, 2004

William Kleinschmidt, R.A.
5828 Blue Ridge Pl. NE
Albuquerque, NM 87111

**Re: Maloy Construction Building Addition, 610 San Jose SE, Traffic
Circulation Layout**
Architect's Stamp dated 7-12-04 (M14-D12B)

Dear Mr. Kleinschmidt,

Based upon the information provided in your submittal received 7-12-04, the above referenced plan cannot be approved for Building Permit until the following comments are addressed:

P.O. Box 1293

Albuquerque

New Mexico 87103

www.cabq.gov

1. List radii for all curves shown.
2. What is the width of the access aisle adjacent to the handicapped parking space?
3. Please show a vicinity map.
4. The parking spaces must be paved.

If you have any questions, you can contact me at 924-3991.

Sincerely,

Wilfred A. Gallegos, P.E.
Traffic Engineer, Planning Dept.
Development and Building Services

C: file

DRAINAGE AND TRANSPORTATION INFORMATION SHEET

(REV. 1/28/2003rd)

PROJECT TITLE: HALOY CONSTRUCTION BUILDING ADDITION ZONE MAP/DRG. FILE #: M-14/D012B
 DRB #: _____ EPC#: _____ WORK ORDER#: _____

LEGAL DESCRIPTION: LOT 131A, BROADWAY INDUSTRIAL CENTER
 CITY ADDRESS: 610 SAN JOSE SE, ALBUQ., N.M. 87102

ENGINEERING FIRM: _____
 ADDRESS: _____
 CITY, STATE: _____

CONTACT: _____
 PHONE: _____
 ZIP CODE: _____

OWNER: HALOY CONSTRUCTION, INC.
 ADDRESS: 610 SAN JOSE SE
 CITY, STATE: ALBUQ., N.M. 87102

CONTACT: MIKE HALOY
 PHONE: 247-3100
 ZIP CODE: 87102

ARCHITECT: WILLIAM KLEINSCHMIDT, ARCHITECT
 ADDRESS: 3828 BLUE RIDGE PLACE NE
 CITY, STATE: ALBUQ., N.M. 87111

CONTACT: BILL KLEINSCHMIDT
 PHONE: 761-0000
 ZIP CODE: 87111

SURVEYOR: _____
 ADDRESS: _____
 CITY, STATE: _____

CONTACT: _____
 PHONE: _____
 ZIP CODE: _____

CONTRACTOR: HALOY CONSTRUCTION, INC.
 ADDRESS: 610 SAN JOSE SE
 CITY, STATE: ALBUQ., N.M. 87102

CONTACT: MIKE HALOY
 PHONE: 247-3100
 ZIP CODE: 87102

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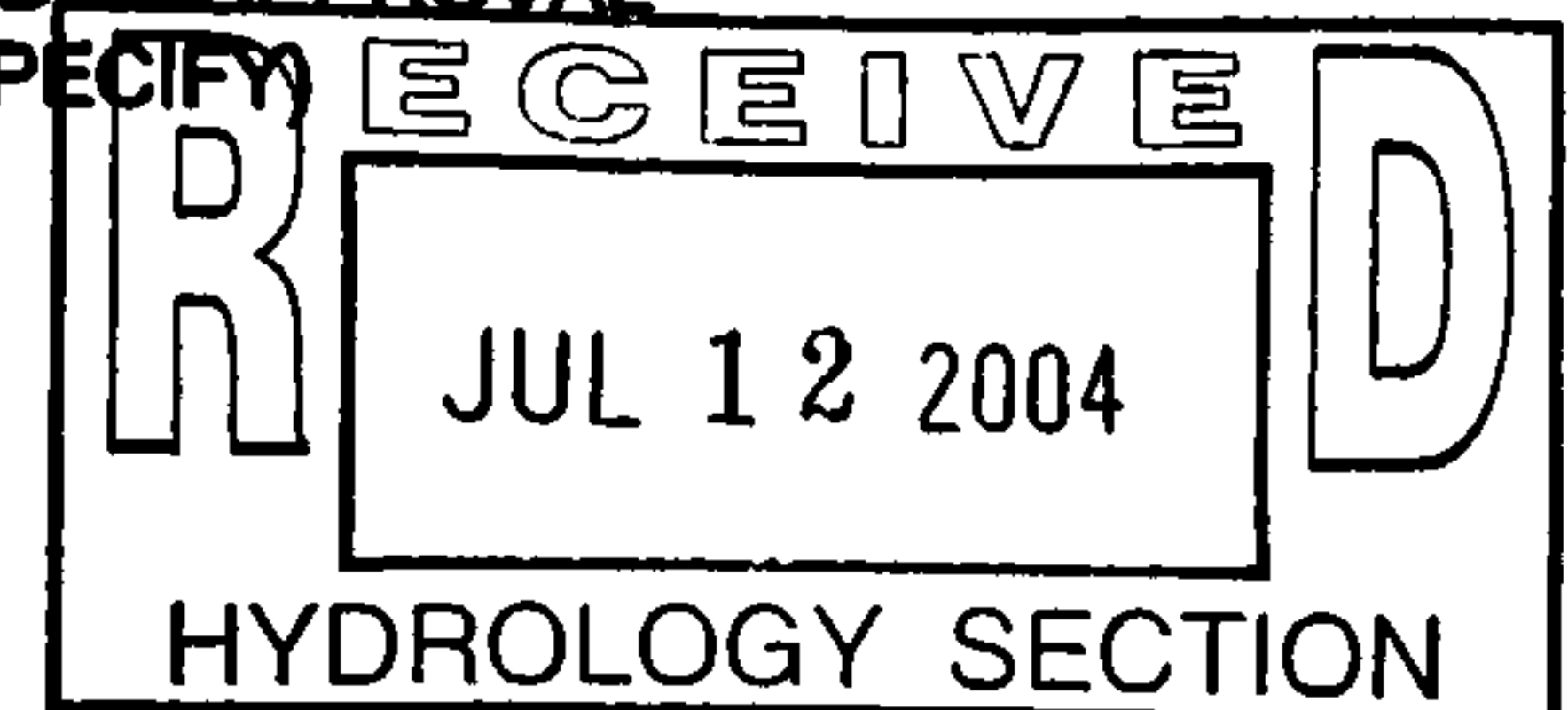
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- ☐ DRAINAGE PLAN 1st SUBMITTAL, *REQUIRES TCL or equal*
- ☐ DRAINAGE PLAN RESUBMITTAL
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- ☐ WORK ORDER APPROVAL
- ☐ OTHER (SPECIFY)

WAS A PRE-DESIGN CONFERENCE ATTENDED:

- ☐ YES
☒ NO
☐ COPY PROVIDED

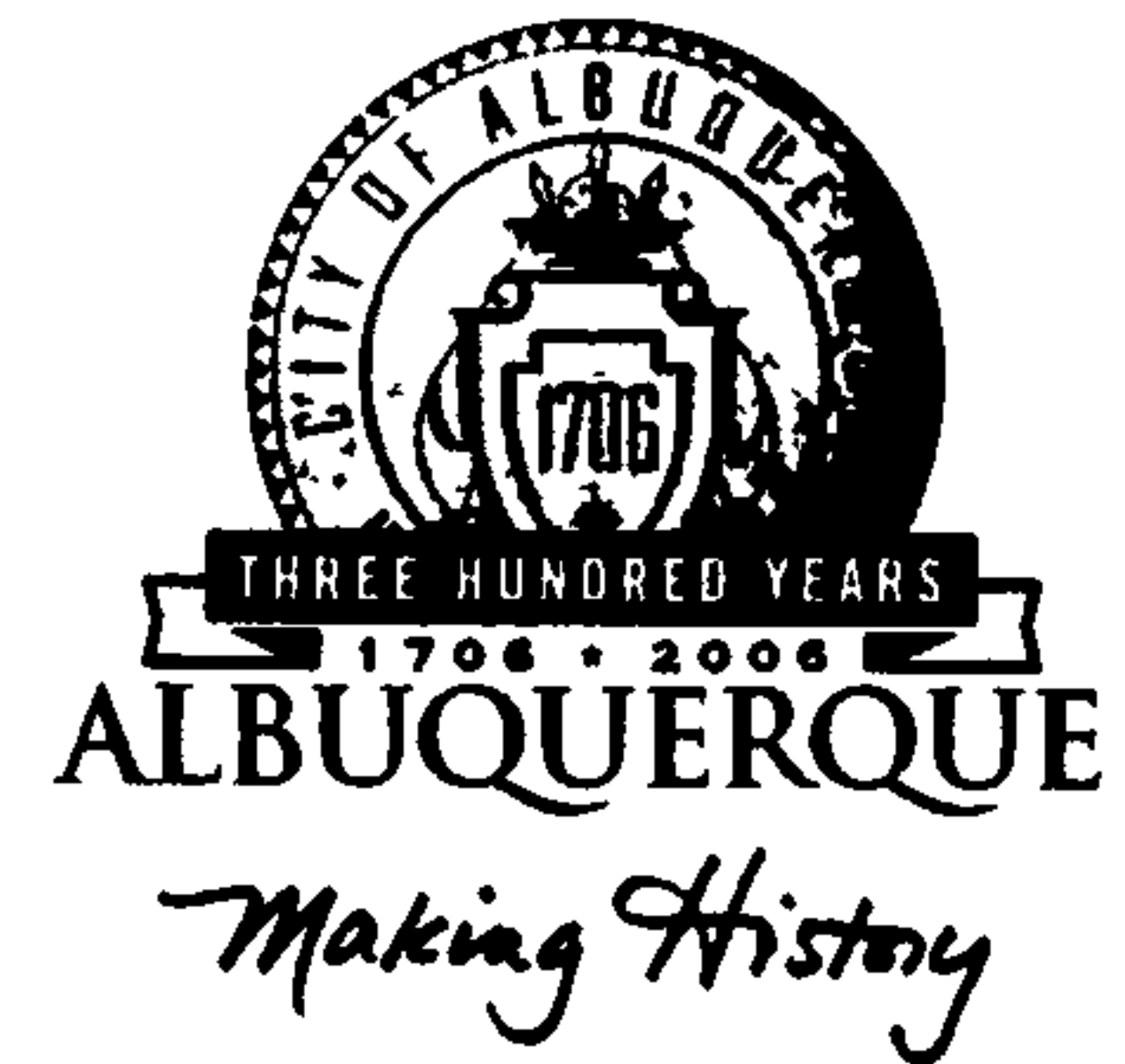


DATE SUBMITTED: 7/12/04 BY: WILLIAM KLEINSCHMIDT

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.

CITY OF ALBUQUERQUE



July 19, 2004

William Kleinschmidt, R.A.
5828 Blue Ridge Pl. NE
Albuquerque, NM 87111

Re: Maloy Construction Building Addition, 610 San Jose SE, Traffic Circulation Layout
Architect's Stamp dated 7-19-04 (M14-D12B)

Dear Mr. Kleinschmidt,

The TCL submittal received 7-19-04 is approved for Building Permit. The plan is stamped and signed as approved. A copy of this plan will be needed for each of the building permit plans. Please keep the original to be used for certification of the site for final C.O. for Transportation.

If a temporary CO is needed, a copy of the original TCL that was stamped as approved by the City will be needed. This plan must include a statement that identifies the outstanding items that need to be constructed or the items that have not been built in "substantial compliance," as well as the signed and dated stamp of a NM registered architect or engineer. Submit this TCL with a completed Drainage and Transportation Information Sheet to Hydrology at the Development Services Center of Plaza Del Sol Building.

When the site is completed and a final C.O. is requested, use the original City stamped approved TCL for certification. A NM registered architect or engineer must stamp, sign, and date the certification TCL along with indicating that the development was built in "substantial compliance" with the TCL. Submit this certification TCL with a completed Drainage and Transportation Information Sheet to Hydrology at the Development Services Center of Plaza Del Sol Building.

Once verification of certification is completed and approved, notification will be made to Building Safety to issue Final C.O. To confirm that a final C.O. has been issued, call Building Safety at 924-3306.

Sincerely,

Kristal D. Metro
Engineering Associate, Planning Dept.
Development and Building Services

cc: file

P.O. Box 1293

Albuquerque

New Mexico 87103

www.cabq.gov



City of Albuquerque

P.O. BOX 1293 ALBUQUERQUE, NEW MEXICO 87103

April 30, 2001

James D. Hughes, P.E.
Mark Goodwin & Associates
P.O. Box 90606
Albuquerque, New Mexico 87199

RE: MALLOY OFFICE BUILDING (San Jose Ave SE) (M-14/D12B)
(Broadway Industrial Center Unit 2 Lot 1B)
ENGINEERS CERTIFICATION FOR CERTIFICATE OF OCCUPANCY
ENGINEERS STAMP DATED 8/7/2000
ENGINEERS CERTIFICATION DATED 4/20/2001

Dear Mr. Hughes:

Based upon the information provided in your Engineers Certification submittal dated 4/20/2001, the above referenced site is approved for Permanent Certificate of Occupancy.

This site is approved for Certificate of Occupancy, however as-built elevations have been substantially changed, but are within the allowable tolerance.

Also remember that on future submittals, an engineers seal needs accompany your engineers certification.

If I can be of further assistance, please contact me at 924-3986.

Sincerely,

Bradley L. Bingham, PE
Senior Civil Engineer
Hydrology Section, PWD

C: Vickie Chavez, COA
Teresa Martin, COA
file

DRAINAGE INFORMATION SHEET

SUBJECT TITLE: Malloy Office ZONE ATLAS#: M-14-7 D.12B
DRB#: _____ EPC# _____ WORKORDER#: _____
LEGAL DESCRIPTION: Lot 1B, Unit 2, Broadway Industrial Center, within Section 32, Township 10 N., Range 3 E.
CITY ADDRESS: 611 San Jose Ave. SE

ENGINEERING FIRM:	<u>Mark Goodwin & Associates, PA</u>	CONTACT:	<u>James D. Hughes, PE</u>
ADDRESS:	<u>P.O. Box 90606, Albuquerque, NM 87199</u>	PHONE:	<u>828-2200</u>
OWNER:	<u>Mike Malloy</u>	CONTACT:	<u>Mike Malloy</u>
ADDRESS:	<u>176 Vinyard NE, Albuquerque, NM 87107</u>	PHONE:	<u>343-3400</u>
ARCHITECT:	_____	CONTACT:	_____
ADDRESS:	_____	PHONE:	_____
SURVEYOR:	_____	CONTACT:	_____
ADDRESS:	_____	PHONE:	_____
CONTRACTOR:	_____	CONTACT:	_____
ADDRESS:	_____	PHONE:	_____

TYPE OF SUBMITTAL:

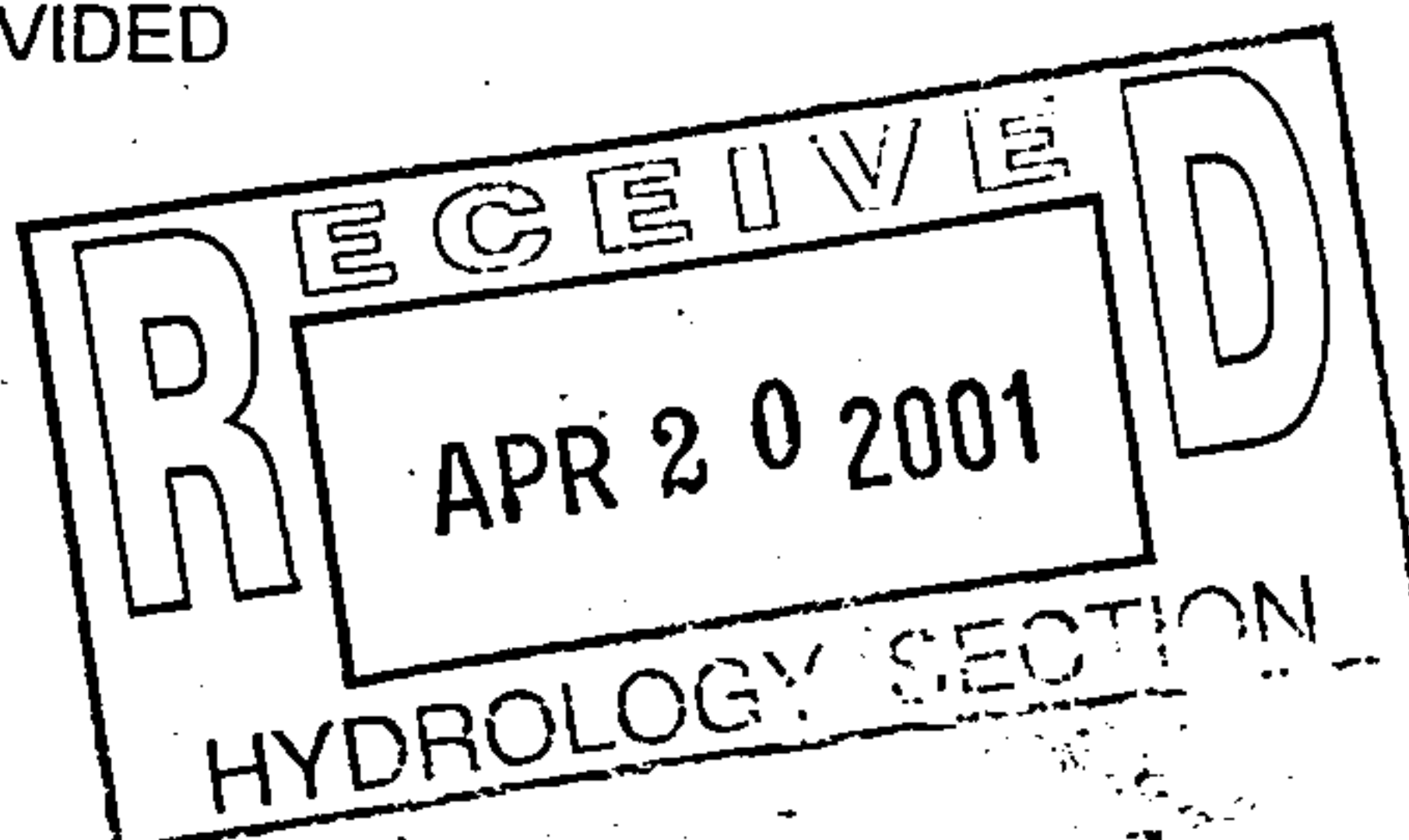
☐ DRAINAGE REPORT
☐ DRAINAGE PLAN
☐ CONCEPTUAL GRADING & DRAINAGE PLAN
☐ GRADING PLAN
☐ EROSION CONTROL
☒ ENGINEER'S CERTIFICATION
☐ OTHER
☐ EASEMENT VACATION

PRE-DESIGN MEETING:

☐ YES
☒ NO
☐ COPY PROVIDED

CHECK TYPE OF APPROVAL SOUGHT:

☐ SKETCH PLAT APPROVAL
☐ 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
☒ CERTIFICATION OF OCCUPANCY APPROVAL
☐ GRADING PERMIT APPROVAL
☐ PAVING PERMIT APPROVAL
☐ S.A.D. DRAINAGE REPORT
☐ DRAINAGE REQUIREMENTS
☐ OTHER
☐ RELEASE OF FINANCIAL GUARANTY
☐ TRAFFIC CIRCULATION LAYOUT



DATE SUBMITTED: 4-20-01

BY: James D. Hughes, PE



City of Albuquerque

P.O. BOX 1293 ALBUQUERQUE, NEW MEXICO 87103

August 24, 2001

William Kleinschmidt, Architect
3016 Arno Street NE
Albuquerque, NM 87107

Re: Maloy Expansion Traffic Circulation Plan, Architect Stamp Dated 7-11-01
(M14/D12B) Received 7/23/01

Dear Mr. Kleinschmidt:

The Traffic Circulation Plan as submitted cannot be approved. Please revise the plan to reflect the existing and proposed Traffic Circulation Plan (TCL) improvements and add details per the DPM. Recommend a narrative explaining the proposed expansion and its effect on the TCL..

If you have any questions, please call me at 924-3620.

Sincerely,

Mike Zamora, Plan Checker
City of Albuquerque
Public Works/Development Services
Hydrology Development

MZ:FA:gds

c: Terri Martin
Engineer
file



City of Albuquerque

P.O. BOX 1293 ALBUQUERQUE, NEW MEXICO 87103

July 31, 2001

James D. Hughes, PE
Mark Goodwin & Associates
P.O. Box 90606
Albuquerque, New Mexico 87199

Re: Malloy Expansion Drainage Plan
Engineer's Stamp dated 7-23-01, (M-14/D12B)

Dear Mr. Hughes:

Based on your submittal dated 7-23-01, you are approved for Building Permit. Their appears to be a typo on the spot elevation (75.5) for the existing swale.

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

Also, 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 924-3986.

Sincerely,

Nilo E. Salgado-Fernandez, PE
Senior Civil Engineer
Hydrology Section, PWD

CC: file



City of Albuquerque

September 20, 2000

James D. Hughes, P.E.
Mark Goodwin & Assoc.
P.O. Box 90606
Albuquerque, NM 87199

**RE: MALLOY OFFICE BUILDING (M14-D12B). GRADING AND DRAINAGE PLAN FOR
BUILDING PERMIT APPROVAL. ENGINEER'S STAMP DATED AUGUST 7, 2000.**

Dear Mr. Hughes:

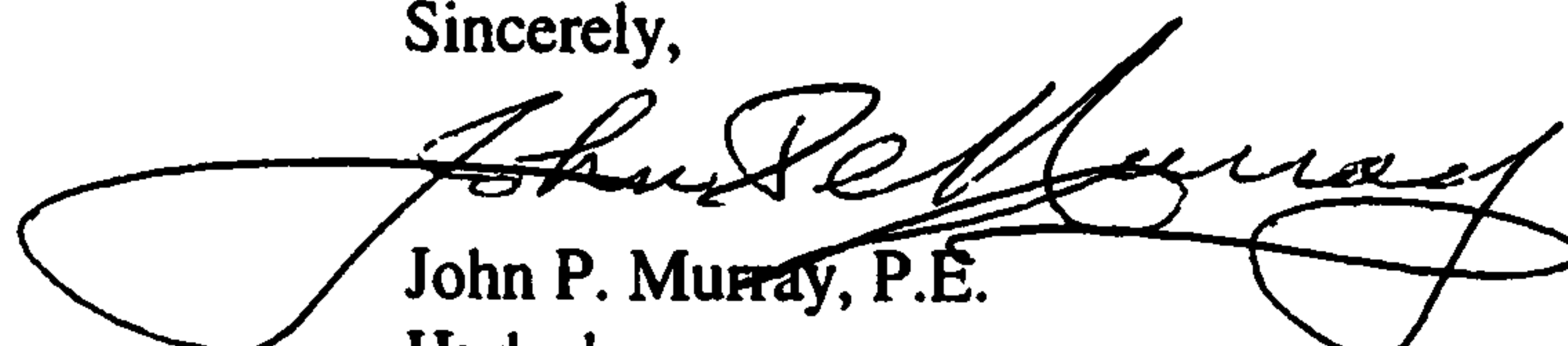
Based on the information provided on your August 30, 2000 supplemental submittal, the above referenced project is approved for Building Permit.

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

Prior to Certificate of Occupancy approval, an Engineer's Certification per the DPM will be required.

If I can be of further assistance, please feel free to contact me at 924-3984.

Sincerely,


John P. Murray, P.E.
Hydrology

c: ☒ Whitney Reiersen
☒ File



D. Mark Goodwin & Associates, P.A.
Consulting Engineers

P.O. BOX 90606, ALBUQUERQUE, NM 87199
(505) 828-2200 FAX 797-9539
e-mail: dmgs@swcp.com

September 18, 2000

Mr. Stewart Reeder
Hydrology Division
City of Albuquerque
P.O. Box 1293
Albuquerque, NM 87103

Re: **Malloy Warehouse (Drainage File# M-14/D012B)**

Dear Mr. Reeder:

I have reviewed the changes made to the Traffic Circulation Plan with Architects stamp dated 9-13-000. It is my opinion that the minor parking lot layout changes do not warrant a Revised Grading and Drainage Plan because there is no change to the drainage swale elevations, and the building, entrance and existing pond did not move. The minor internal changes will not effect drainage, or the as-built certification. Please approve the previously submitted plan for building permit.

Please call if you have any questions or concerns.

Sincerely,

MARK GOODWIN & ASSOCIATES, PA

A handwritten signature in black ink that reads "James D. Hughes". The signature is written in a cursive, flowing style.

James D. Hughes, PE
Senior Engineer

JDH/sw

xc: **Bruce Ross, Shiver Construction**
Mike Malloy, Owner

f:\malloy.offchanges.ltr



D. Mark Goodwin & Associates, P.A.
Consulting Engineers

P.O. BOX 90606, ALBUQUERQUE, NM 87199
(505) 828-2200 FAX 797-9539
e-mail: dmgs@swcp.com

August 30, 2000 ✓

Mr. Stuart Reeder
Utilities Division
City of Albuquerque
P.O. Box 1293
Albuquerque, NM 87103

Re: Grading & Drainage Plan for Malloy Office Building (M-14/DO12B)

Dear Mr. Reeder:

Attached please find a copy of the previously approved plan dated 3-9-99. The pond, as constructed with that plan, is sized for 1.403 ac•ft which is the 10 day, 100 year volume assuming 90% impervious cover over the 5.34 acres that drains into it from Lots 1B thru 1E. The pro-rated volume required for this lot is 0.546 ac•ft assuming a 2.08 acre portion of this lot drains into the pond at 90% impervious. This is a conservative estimate because most of the lot is currently proposed to be gravel surface, instead of paved. These volume calculations are consistent with the originally approved grading plan for Broadway Industrial Center as revised 2-4-99, also enclosed. Note that the original volume calculations were documented in that original report and subsequent plans used pro-rated runoff calculations.

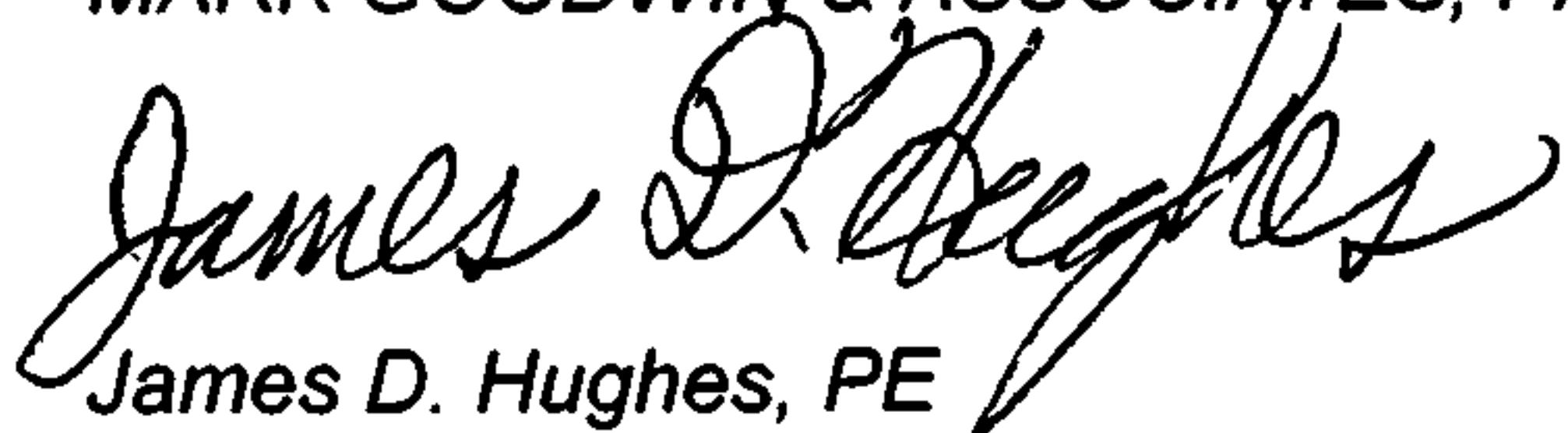
The Malloy plan shows the pond as existing and does not propose any modifications to it. Construction of that previously approved plan for Lots 1A thru 1E is complete and is in substantial compliance with that approved plan except that the swale on the south side of Lot 1E was not constructed. There was no infrastructure with the previous plan hence no financial guarantees and no "engineer's certification".

The pond is considered to be Common Area and will be maintained by the Owner's Association, as identified in the attached restrictive covenants.

Please call if you have any questions or concerns.

Sincerely,

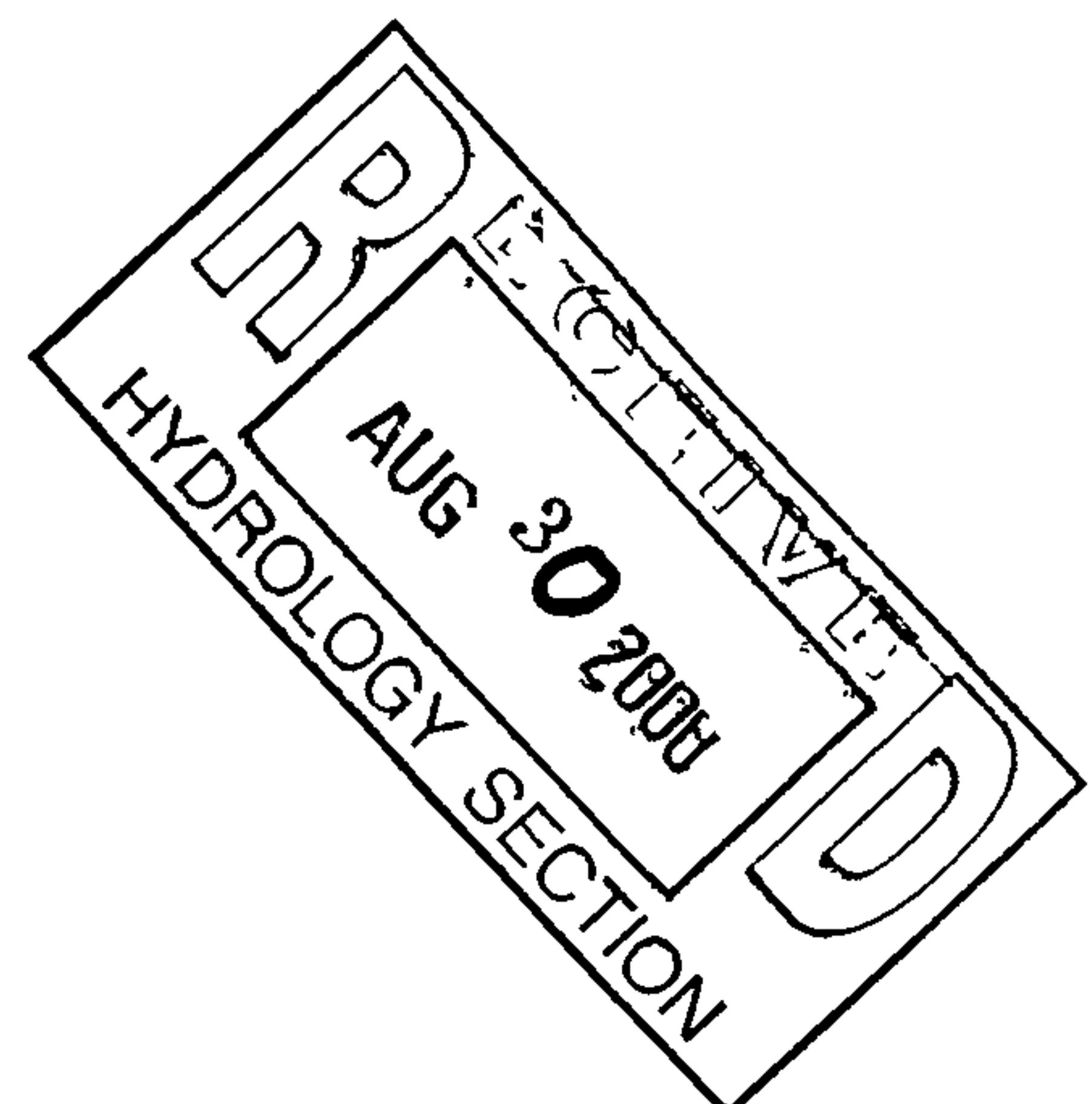
MARK GOODWIN & ASSOCIATES, PA


James D. Hughes, PE
Senior Engineer

JDH/sw

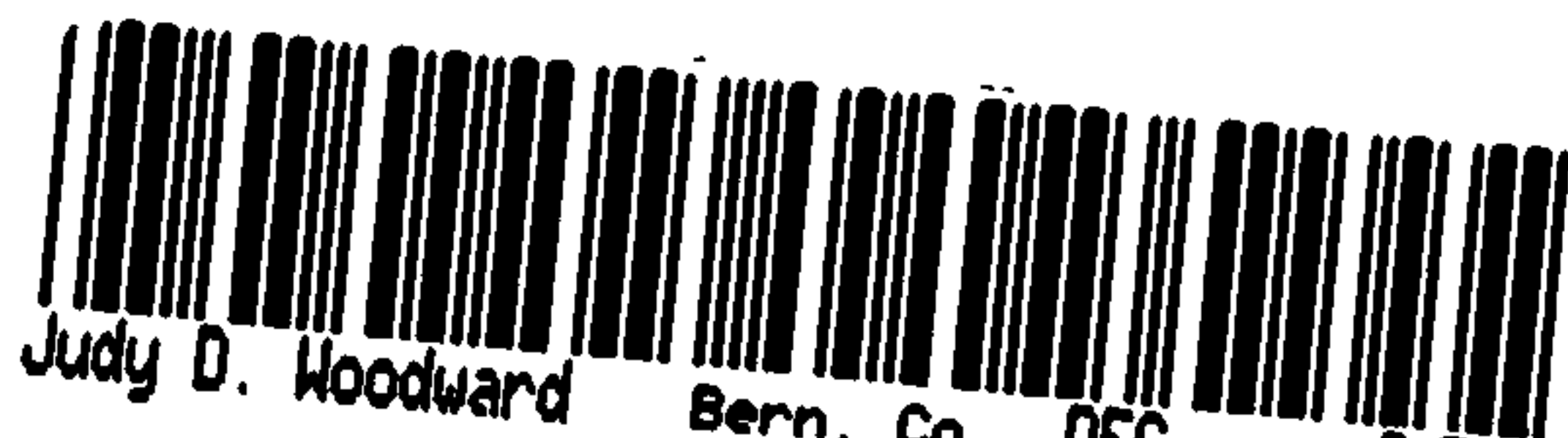
xc: Mike Malloy
Bruce Ross

f:\malloy.off\complan.ltr



Return to: First American Title Ins. Co. GF # 01982648 Ke

DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
FOR
BROADWAY INDUSTRIAL CENTER



Judy D. Woodward

Bern. Co. DEC

R 71.00

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RECITALS

A. BROADWAY DEVELOPMENT COMPANY, L.L.C., a New Mexico limited liability company is the owner of that certain real property in the City of Albuquerque, County of Bernalillo, State of New Mexico described in Exhibit "A" attached hereto and by this reference incorporated therein and known as BROADWAY INDUSTRIAL CENTER.

B. Broadway Industrial Center is being developed as a planned commercial and industrial center. It is the desire and intention of the Declarant to subject the Property to certain covenants, conditions, and restrictions for the benefit of the Property and the Owners. It is intended that said covenants, conditions, and restrictions bind and benefit not only the Owners, but also their respective successors, heirs, and assigns, and that all Lots should be held, used, leased, sold, and conveyed subject to the covenants, conditions, and restrictions set forth in this Declaration.

C. An integral part of the development plan is the creation of Broadway Industrial Center Property Owners Association, Inc., an association comprised of all Owners, which will own, operate, and maintain the Common Areas and administer and enforce this Declaration.

D. It is the intention of Declarant to further a plan of subdivision by means of the covenants, conditions, and restrictions set forth in this Declaration to enhance and protect the value, desirability, and attractiveness of all Lots to their mutual benefit.

ARTICLE I

DEFINITIONS

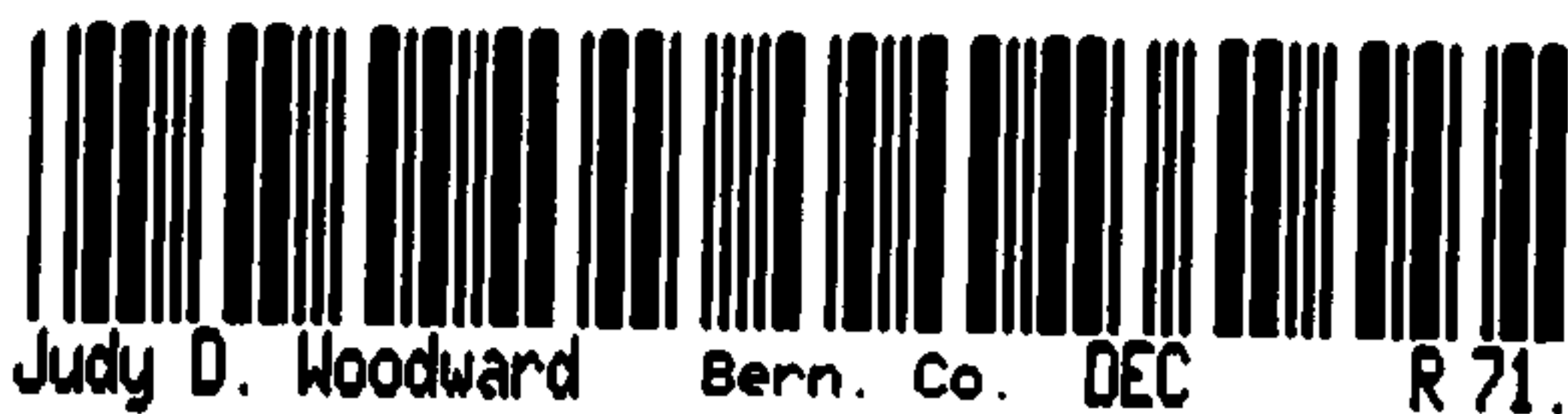
Unless the context otherwise specifies or requires, the terms defined in this Article I shall, as used in this Declaration, have the meanings herein set forth:

1.1 Articles

The term "Articles" shall mean the Articles of Incorporation of the Association as filed with the New Mexico Secretary of State.

1.2 Association

The term "Association" shall mean the Broadway Industrial Center Property Owners Association, Inc., a New Mexico nonprofit corporation, its successors or assigns.



1.3 Board of Directors-Board

The term "Board of Directors" or "Board" shall mean the body responsible for administration of the Association, selected as provided in the By-Laws and generally serving the same role as the board of directors under New Mexico corporate law.

1.4 Broadway Industrial Center

The term "Broadway Industrial Center" shall be synonymous with the term "Property" and shall mean all of the real property now or hereafter made subject to this Declaration.

1.5 By-Laws

The term "By-Laws" shall mean the By-Laws of the Association.

1.6 Common Area

The term "Common Area" shall mean all real and personal property, including Improvements, which the Association now or hereafter owns, leases, or otherwise holds possessory or use rights for the common use and enjoyment of the Owners.

1.7 Declarant

The term "Declarant" shall mean Broadway Development Company, L.L.C., a New Mexico limited liability company, and, to the extent provided in Article X of this Declaration, its successors and assigns.

1.8 Declaration

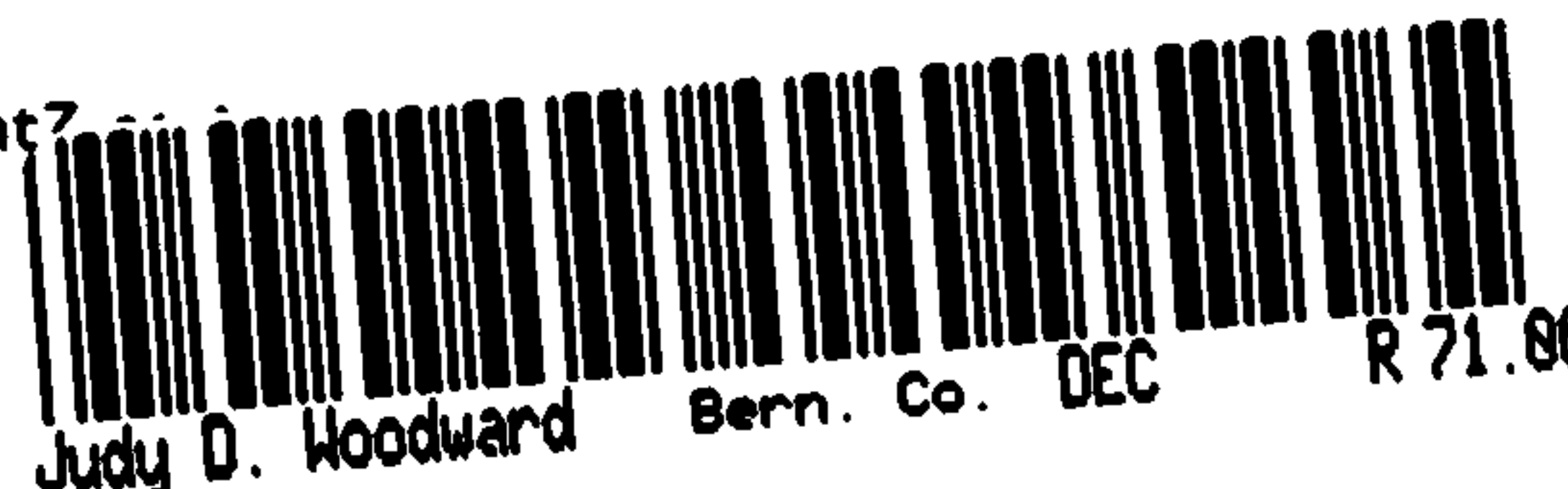
The term "Declaration" shall mean this Declaration of Covenants, Conditions, and Restrictions for Broadway Industrial Center, as it may from time to time be amended or supplemented.

1.9 Golden Ventures

The term "Golden Ventures" shall mean Golden Ventures, LLC, a California limited liability company.

1.10 Improvement-Improvements

The term "Improvement" or "Improvements" shall include buildings, outbuildings, roads, driveways, parking areas, fences, screening walls and barriers, retaining walls, stairs, decks, utility services, hedges, windbreaks, plantings, planted trees and shrubs, poles, signs, loading areas, and all other structures,



construction, installations, and landscaping of every type and kind, whether above or below the land surface.

1.11 Lot

The term "Lot" shall mean a fractional part of the Property as subdivided on subdivision plats recorded from time to time in the Office of the County Clerk of the County of Bernalillo, State of New Mexico.

1.12 Lot Line

The term "Lot Line" shall mean the boundary of every Lot.

1.13 Property

The term "Property" shall be synonymous with the term "Broadway Industrial Center" and each Lot therein, and shall mean all of the real property now or hereafter made subject to this Declaration.

1.14 MLJ

The term "MLJ" shall mean MLJ, Ltd., a New Mexico limited partnership.

1.15 Mortgage

The term "Mortgage" shall mean a Deed of Trust as well as a Mortgage.

1.16 Mortgagee

The term "Mortgagee" shall mean a Beneficiary under, or holder of, a Deed of Trust, as well as a Mortgagee under a Mortgage.

1.17 Net Acreage

The term "Net Acreage" shall mean the total number of square feet of land of the Property, less any square feet of land included in dedicated Streets and Common Areas.

1.18 Occupant

The term "Occupant" shall mean a lessee/tenant or licensee of an Owner, or any other person or entity other than an Owner in lawful possession of a Lot with the permission of the Owner.



1.19 Owner

The term "Owner" shall mean (i) the person or persons holding record fee title to a Lot; or (ii) the contract purchaser of a Lot, but not the contract seller; or (iii) the lessee entitled to occupy all of a Lot under a lease for a fixed term of twenty years or longer (in which case the fee owner of the Lot demised by such lease shall not be deemed to be the Owner of such Lot for purposes of this Declaration during the term of said lease). In the event that the ownership of the Improvements on any Lot shall ever be severed from the ownership of the land, whether by lease or by deed, only the owner of the Improvements shall be deemed an Owner hereunder and shall be entitled to act on behalf of the owner of the land for all purposes hereunder.

1.20 Record-Recorded-Recordation

The term "Record", "Recorded", or "Recordation" shall mean, with respect to any document, the recordation of said document in the Office of the Recorder of the County of Bernalillo, State of New Mexico.

1.21 Sign

The term "Sign" shall mean any structure, device, or contrivance, electric or nonelectric, upon or within which any poster, bill, bulletin, printing, lettering, painting, device, or other advertising of any kind whatsoever is used, placed, posted, tacked, mailed, or otherwise fastened or affixed.

1.22 Skillins

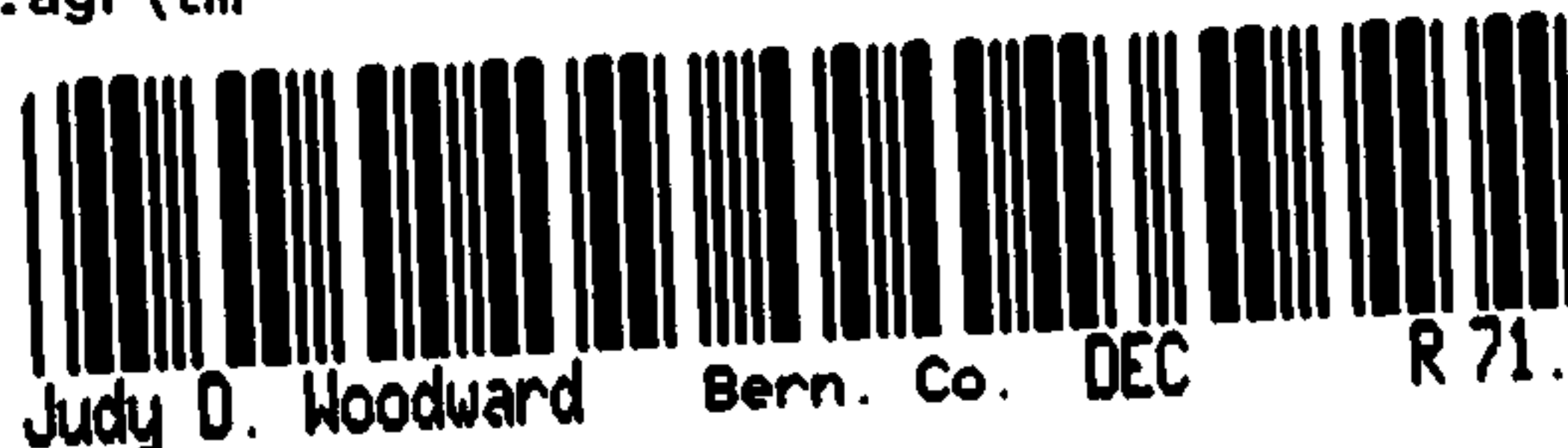
The term "Skillins" shall mean John R. Skillin and Grietje J. Skillin, husband and wife.

1.23 Street or Streets

The term "Street" or "Streets" shall mean any street, highway, road, or thoroughfare within or adjacent to the Property and shown on any Recorded subdivision plat, which has been accepted by the City of Albuquerque as a public right of way for all purposes, whether designated thereon as street, boulevard, place, avenue, drive, road, court, terrace, way, lane, circle, or otherwise.

1.24 Visible from Neighboring Property

The term "Visible from Neighboring Property" shall mean, with respect to any given object on a Lot, that such object is or would be visible to a person six (6) feet tall, standing on any part of



any adjacent Lot or other property at an elevation no greater than the elevation of the base of the object being viewed.

1.25 Waterman

The term "Waterman" shall mean Waterman, Inc., a New Mexico corporation.

ARTICLE II

PROPERTY

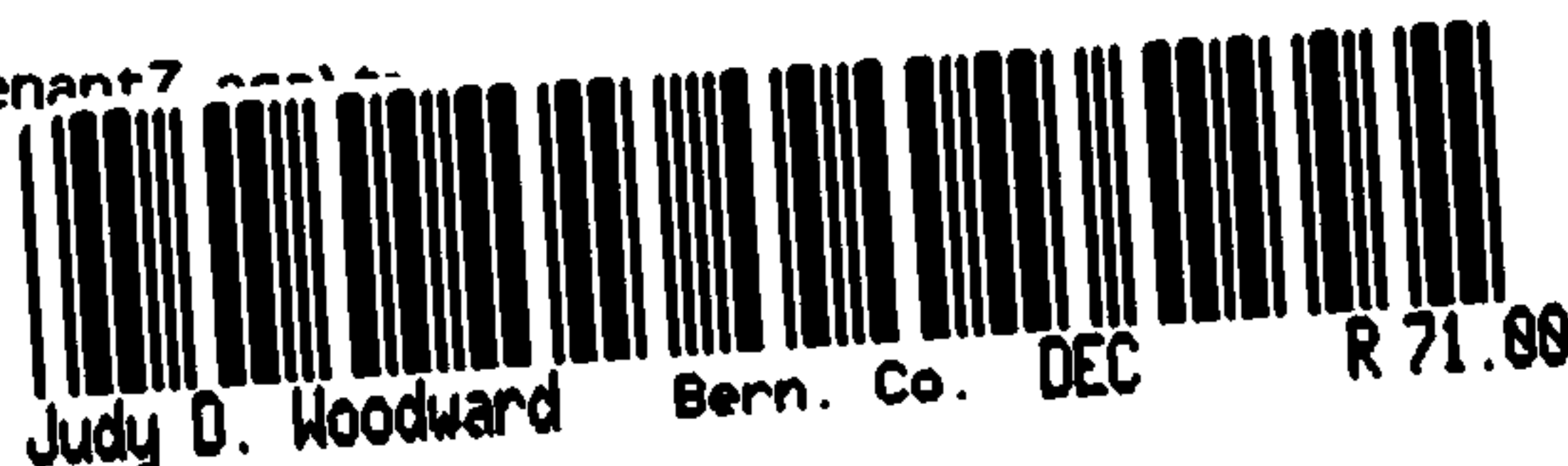
2.1 General Declaration

Declarant hereby declares that all of that real property located in the City of Albuquerque, County of Bernalillo, State of New Mexico, and more particularly described in Exhibit "A", as it may be supplemented from time to time, shall be, conveyed, hypothecated, encumbered, leased, occupied, built upon or otherwise used, improved, or transferred in whole or in part, subject to this Declaration. All of the covenants, conditions, and restrictions set forth herein are declared and agreed to be in furtherance of a plan for the subdivision, Improvements, and sale of the Property and are established for the purpose of enhancing and protecting the value, desirability and attractiveness of the Property and every part thereof. All of said covenants, conditions, and restrictions shall run with all of the Property for all purposes and shall be binding upon and inure to the benefit of Declarant and all Owners, Occupants, and their successors in interest, heirs and assigns as set forth in this Declaration.

2.2 Additional Land

The Declarant may from time to time unilaterally subject to the provisions of this Declaration all or any portion of the real property described in Exhibit "B". Such right shall exist until all property described on Exhibit "B" has been subjected to this Declaration or 15 years after the Recording of this Declaration, whichever is earlier. The Declarant may transfer or assign this right to annex property, provided that the transferee or assignee is either the developer of at least a portion of the real property described in Exhibit "A" or "B" or the Association and that such transfer is memorialized in a written, Recorded instrument executed by Declarant.

Such annexation shall be accomplished by Recordation of a supplemental declaration describing the property being annexed. Such supplemental declaration shall not require the consent of the Owners, but shall require the consent of the owner of such



property, if other than Declarant. Any such annexation shall be effective upon the Recordation of such supplemental declaration unless otherwise provided therein.

ARTICLE III

BROADWAY INDUSTRIAL CENTER PROPERTY OWNERS ASSOCIATION

3.1 Function of Association

The Association shall succeed to all of the rights and responsibilities of the Declarant under this Declaration at such time as Declarant no longer owns any Lot, portion of, or interest in the Property, or at any earlier time if Declarant assigns such rights or delegates such responsibilities in a written instrument. Such delegation shall entitle the Association, among other things, to assess each Owner for expenses incurred or anticipated to be incurred by the Association in performing its responsibilities and exercising its rights and powers under this Declaration and to enforce this Declaration. The Declarant may also partially assign its rights or delegate its responsibilities to the Association at any time.

The Association shall perform its functions in accordance with this Declaration, the By-Laws, the Articles and the laws of the State of New Mexico. The affairs of the Association shall be governed by a Board of Directors, which Board shall have such powers and authority as are more specifically set forth in the By-Laws. Membership and voting rights in the Association shall be subject to the provisions of the By-Laws regarding the same.

ARTICLE IV

REGULATION OF OPERATIONS AND USES

4.1 Permitted Uses

The development of the Property is planned to occur for industrial and commercial uses approved by the Declarant/Design Review Committee and compatible with other previously approved uses. Such approved uses shall be performed or carried out entirely within a Lot that is designed and constructed so as not to cause or produce a nuisance to other Lots or property as more fully defined in Section 4.3. Certain activities within a Lot must be screened so as not to be Visible from Neighboring Property and Streets as more fully set forth herein. Declarant's consent shall be required for any Lot splits which create one or more Lots of less than 1 acre. Nothing contained herein shall prohibit

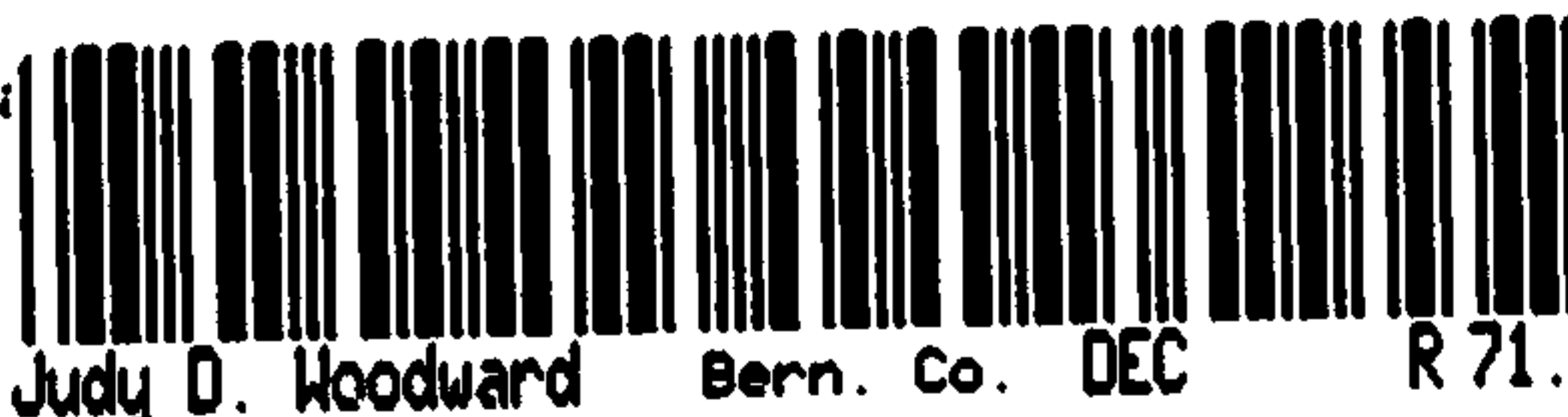


Declarant from creating Lot splits, and in all such cases, no approval by other Owners is required.

4.2 Prohibited Uses and Operations

The following uses and operations shall **not** be permitted on any Lot or in or on any Improvement which is subject to this Declaration:

- a. owner occupied trailer court or mobile home park;
- b. junkyard;
- c. labor camp;
- d. commercial excavation of sand, gravel, aggregate, clay, clay derivatives, or other building or construction materials;
- e. dumping or disposal of offal, dead animals, refuse, trash or junk;
- f. distillation of bones, rendering fat, or curing hides;
- g. stockyard, or slaughter of animals;
- h. refining of petroleum or of its products, or gasification or liquefaction of coal;
- i. smelting of iron, tin, zinc or other ores;
- j. storage or sale of commercial explosives or above-ground bulk storage in containers exceeding 500 gallons of petroleum or flammable liquids or gases;
- k. breeding, raising, boarding or keeping live animals for commercial purposes in kennels or otherwise, except as permitted for use in medical or scientific research or experimentation or as approved by the Declarant/Design Review Committee;
- l. residential, other than caretaker (conditional use as approved by Declarant/Design Review Committee);
- m. cemeteries; and
- n. jails, prisons, or honor farms.



4.3 Nuisances

No nuisance shall be permitted to exist or operate upon any Lot so as to be offensive or detrimental to any adjacent Lot or property or to its Owners/Occupants. A "nuisance" shall include, but not be limited to, any of the following conditions:

- 4.3.1 Any use, excluding reasonable construction, maintenance or debris removal activity, of the Lot which emits dust, sweepings, dirt, or cinders into the atmosphere, or discharges liquid, solid wastes, or other matter onto any street, other Lot or storm sewer, and which, in the opinion of the Declarant or the Association, may adversely affect the health, safety, comfort, or intended use of other Lots by persons within the area.
- 4.3.2 The escape or discharge of any fumes, odors, gases, vapors, steam, acids, or other substance into the atmosphere which discharge is not regulated by governmental authorities and in the opinion of Declarant may be detrimental to the health, safety, or welfare of any person or may interfere with the comfort of persons within the area or which may be harmful to property or vegetation.
- 4.3.3 The radiation or discharge of intense glare or heat, or atomic, electromagnetic, microwave, ultrasonic, laser, or other radiation. Any operation producing intense glare or heat or such other radiation shall be performed only within an enclosed or screened area and then only in such manner that the glare, heat, or radiation emitted will not be discernible from any point exterior to the site or Lot upon which the operation is conducted.
- 4.3.4 Any vibration, noise, sound, or disturbance which, in the opinion of Declarant, is objectionable due to intermittence, beat, frequency, strength, shrillness, or volume.
- 4.3.5 All tenants or Owners shall be responsible for receiving, using, storing, and disposing of any hazardous materials, waste, or by-products, and any damages that may occur from these hazardous materials. There shall be no limitations by Owners or tenants for responsibility or damages in time, money, or actions.



- 4.3.6 Condition of Lots. The Owner or Occupant of any Lot shall at all times keep it and the Improvements and appurtenances thereon in a safe, clean, and wholesome condition and comply at its own expense, in all respects, with all applicable governmental, health, fire, and safety ordinances, regulations, requirements, and directives; and the Owner or Occupant shall at regular and frequent intervals remove at its own expense any weeds and rubbish of any character whatsoever which may accumulate upon such Lot.
- 4.3.7 Maintenance and Repairs. Each Lot and all Improvements thereon, shall at all times be constructed, kept, and maintained by the Owner or Occupant of the Lot in first-class condition, repair, and appearance similar to other first-class commercial/industrial areas in Albuquerque. All repairs, alterations, replacements, or additions to Improvements shall be at least equal to the original work in class and quality. The necessity and adequacy of such repairs shall be measured by the same standard as set forth above for the original construction and maintenance, and shall be in compliance with Broadway Industrial Center Design Guidelines ("Design Guidelines").

4.4 Other Operations and Uses

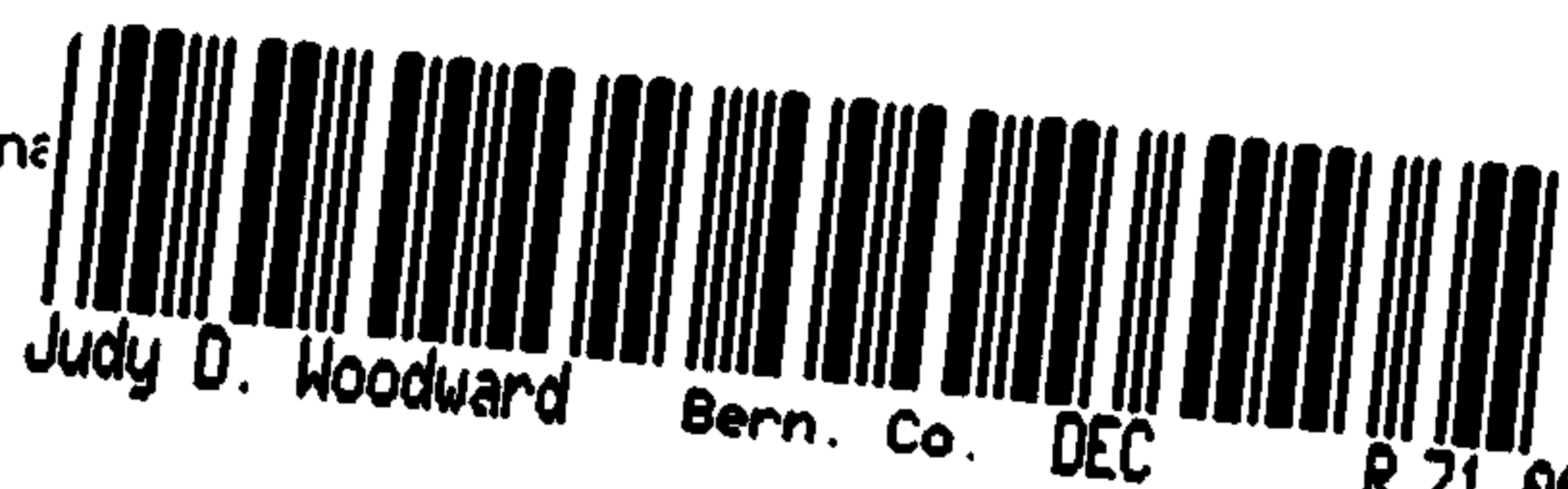
Operations and uses which are neither specifically prohibited nor specifically authorized by this Declaration may be permitted in a specific case if operational plans and specifications are submitted to and approved in writing by Declarant/Design Review Committee. Approval or disapproval of such operational plans and specifications shall be based upon the effect of such operations or uses on other Lots, Common Areas and Streets or upon the Occupants thereof, but shall be at the sole discretion of Declarant/Design Review Committee.

4.5 Setbacks and Height

The following are guidelines applicable to all Improvements and are subject to variances with prior approval of the Declarant/Design Review Committee:

A. Setbacks:

Front Yard: Buildings shall be set back at least 40 feet from the front Lot Line.



Side Yard: 30 foot minimum side yard shall be provided when adjacent to Street right-of-way. A minimum 10 foot side yard shall be provided from an interior Lot Line.

Rear Yard: Buildings shall be set back at least 20 feet from the rear Lot Line.

Parking
Setback: Parking lots shall be set back at least 20 feet from the right-of-way line on Street frontages.

B. Height: No building shall exceed a height of three stories or 50 feet.

4.6 Public Utilities

Declarant reserves the sole right to grant consents for the construction and operation of public utilities including, but not limited to, freight railways, poles or lines for electricity, telephone or telegraph, above- or below-ground conduits, and gas pipes in and upon any and all Streets now existing or hereafter established upon which any portion of the Property may now or hereafter front or abut. Declarant reserves the exclusive right to grant consents and to petition the proper authorities for any and all Street improvements, including but not limited to grading, seeding, tree planting, sidewalks, paving, sewer and water installation, whether it be on the surface or subsurface, and no Owner or Occupant shall enter into any contract or agreement with any governmental agency or body or public utility with reference to the installation of any utility service or Street improvement without Declarant's prior written consent, which consent will not be unreasonably withheld or delayed. Declarant reserves the exclusive right to approve above-ground utility lines across the Property or any portion thereof on a temporary basis for the purpose of construction, and such lines shall be permitted when required by a governmental agency, as a necessity of utility design or if the utility lines existed prior to the filing of these covenants.

4.7 Construction of Improvements

Except as to Lots owned by Declarant, the Owners of all Lots are required to begin construction of Improvements within 18 months after acquisition thereof from Declarant, unless otherwise provided for in writing by the Declarant. Declarant shall have the right to repurchase any Lot failing to meet this requirement at the original sale price less cost for reacquisition. Declarant shall have 2



years after expiration of the 18 month period to exercise the right to repurchase. Thereafter the right shall expire automatically. Construction shall be substantially completed on each Lot in not more than one (1) year after the commencement of construction. Receipt of a certificate of occupancy or other final approval by governmental authority shall be deemed at the date of substantial completion.

ARTICLE V

DESIGN REVIEW

5.1 New Construction

Until 100% of the Property has been developed and conveyed to Owners, the Declarant shall have exclusive authority to administer and enforce architectural controls under this Declaration, including specifically the Design Guidelines, and to review and act upon all applications for original construction within the Property. There shall be no surrender of this right prior to that time except in a written instrument in recordable form executed by the Declarant.

5.2 Modifications

Upon the expiration or surrender of such right the Declarant's rights as set forth above, the Board shall create, appoint, and assign such duties to a Design Review Committee. The Design Review Committee shall consist of three to five persons who shall serve and may be removed in the Board's discretion. The Design Review Committee shall have no rights or authority until the Declarant's authority under this Article expires or is surrendered.

5.3 Fees

The Declarant or the Design Review Committee, as appropriate, may establish and charge reasonable fees for the review of applications hereunder and may require such fees to be paid in full prior to review of any application. The Declarant and the Association may employ Architects, engineers, or other persons as deemed necessary to perform the review. The Board may assess the Owners pursuant to Section 3.1 to recover such costs.

5.4 Rules of Procedure

The Declarant, and thereafter, the Design Review Committee, may adopt rules and regulations from time to time governing its activities not inconsistent herewith, including rules and regulations with respect to the application for the approval



process. The Reviewer, as defined in the Design Guidelines shall meet at the convenience of the members thereof as often as necessary to transact their business.

5.5 Submittals

5.5.1 Before the commencement of the construction, remodeling, addition to, or alteration of or removal of any Improvement, on any Lot, and further including landscaping, which is visible from any Street, the Owner of the Lot shall apply to the Declarant/Design Review Committee for approval. There shall be submitted to the Declarant/Design Review Committee:

5.5.1.1 A complete set of plans, including but not limited to, foundations, floor plans, elevations, details, specifications which identify construction material, exterior color scheme, and a site plan showing the location of the structure on the Lot identifying all construction including but not limited to roof overhang lines, all setbacks at point of minimum distance to each property boundary, dimension of Lots, all walks, drives, and walls and/or fences and their construction materials, which set of plans and specifications upon approval will be retained by the Declarant/Design Review Committee to remain on file;

5.5.1.2 If deemed necessary by the Declarant/Design Review Committee, the following may be required:

- 5.5.1.2.1 colors and samples of exterior materials;
- 5.5.1.2.2 wall sections;
- 5.5.1.2.3 roof plan;
- 5.5.1.2.4 details of exterior furnishings;
- 5.5.1.2.5 the Owner's proposed construction schedule;
- 5.5.1.2.6 a detailed landscape plan; and
- 5.5.1.2.7 an architect's rendering showing the perspective view of the proposed construction. These renderings may be in pencil or ink line drawings.



- 5.5.2 No building, structure, or other Improvements of any kind, including walls and landscaping, shall be erected, altered, placed or maintained upon any Lot unless, and until the complete set of final plans and specifications has been approved in writing by the Declarant/Design Review Committee as to quality of materials, harmony of external design with existing structures, and as to location with respect to topography and finished grade. Any resurfacing or painting of the exterior wall areas of Improvements shall be completed in a color texture as close to the original as possible, unless the consent of the Declarant/Design Review Committee is obtained in writing as to a different color and/or texture and except as hereafter provided.
- 5.5.3 The Declarant/Design Review Committee shall have the right to disapprove any plans, specifications or details submitted to it as aforesaid, in the event that the Declarant/Design Review Committee determines such plans and specifications are not in accordance with all the provisions of this Declaration, or if a design or color scheme of the proposed structure is not in harmony with the general surroundings or in harmony with the Lot or adjacent structures, or if the Declarant/Design Review Committee deems the plans and specifications to be contrary to the spirit and intent of this Declaration.
- 5.5.4 In the event the Declarant/Design Review Committee shall fail to approve or disapprove the plans, specifications and other such information as may be required within thirty (30) days after submission, then such approval shall be deemed given, provided that no Improvements shall be erected which violate any of the terms of this Declaration.
- 5.5.5 Neither the Declarant nor the Design Review Committee and its members shall be responsible in any manner whatsoever for any defect in any plans or specifications submitted or as revised by the Declarant/Design Review Committee, or for work done pursuant to a requested change of said plans and specifications.
- 5.5.6 Declarant or a majority of the Design Review Committee may, from time to time, grant exceptions or variances not in substantial conflict with this Declaration, without the consent of the Owners.



- 5.5.7 The work of constructing any building on any part of the Property shall be substantially completed within one (1) year from the commencement thereof unless extended by the Declarant/Design Review Committee based on good cause.

5.6 Signage

All signage is subject to review and approval by the Declarant/Design Review Committee in the same manner as other submittals. The following requirements shall apply to all signage:

- 5.6.1 Soft up-lighting or back-lighting may be used when appropriate.
- 5.6.2 Signage shall be limited to identification wall signs mounted on the sides of structures which do not protrude above the roof ridge line and entry identification ground signage located on Street entrances.
- 5.6.3. Lots which abut Interstate 25 may, with the approval of the Declarant/Design Review Committee, install additional signage, including billboard signage.

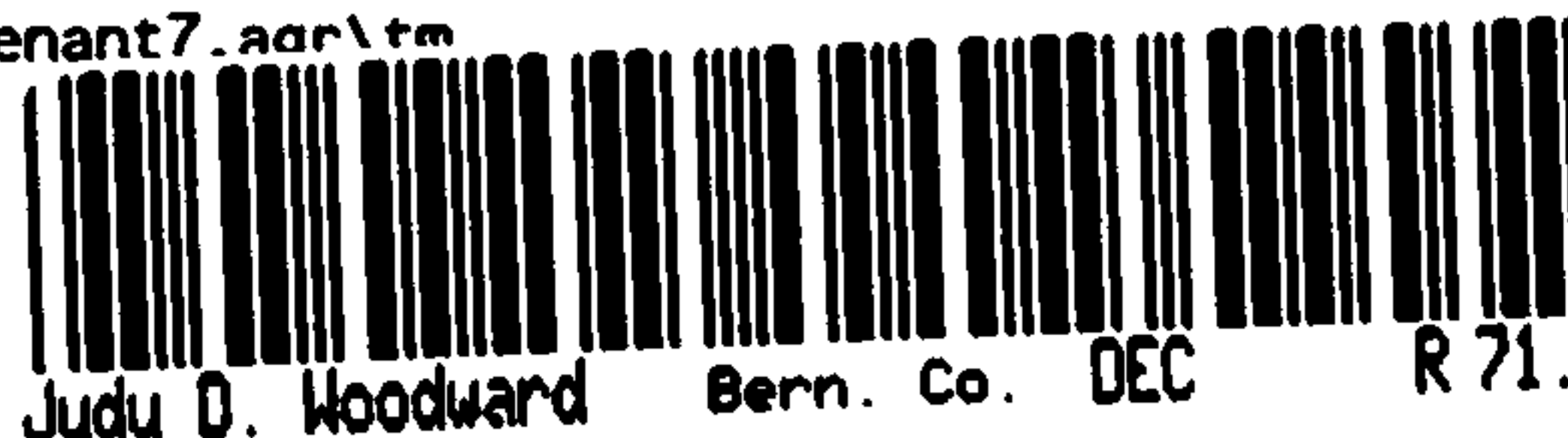
ARTICLE VI

MAINTENANCE OF COMMON AREAS AND FACILITIES

6.1 Declarant's Maintenance Responsibility

Until such responsibilities are assigned to the Association, the Declarant shall maintain and repair all Common Areas and facilities located on the Property, which Common Areas shall include all natural arroyo areas, parks, and all special landscaped areas. Such maintenance and repair may include:

- 6.1.1 Cleaning, maintenance, and relamping of any external lighting fixtures, except such fixtures which are the property of any utility or governmental body;
- 6.1.2 Performance of necessary maintenance of all landscaping as required within the Common Areas including the trimming, watering, and fertilization of all grass, groundcover, shrubs and trees, removal of dead or waste material; and replacement of any dead or diseased grass, groundcover, shrubs, or trees;



- 6.1.3 The removal of trash and rubbish within the Common Areas;
- 6.1.4 The cleaning, maintenance, and repair of all concrete terrace drains within the Common Areas or contiguous to Streets within the Property, which are not otherwise located upon a Lot and thereby the responsibility of an Owner or Occupant pursuant to Section 6.3;
- 6.1.5 Maintenance of general public liability insurance for the benefit of Declarant and all Owners and Occupants against claims for bodily injury, death, or property damage occurring on, in, or about the Common Areas, but not within any Streets or other publicly owned property or any Lot or Improvement thereon or within any other area within the exclusive control of any Owner or Occupant.

6.2 Owner's Maintenance Responsibility

Each Owner of a Lot shall be responsible for the maintenance of its Lot and the Improvements constructed thereon, including the maintenance and repair of any utility lines which service said Owner's Lot and/or Improvements.

6.3 Maintenance by Association

At such time as Declarant assigns its maintenance responsibilities for the Common Areas to the Association, the aforesaid maintenance responsibilities shall be delegated to the Association. The Association shall recover its costs and expenses of such maintenance from the Owners through assessments pursuant to Article VII.

ARTICLE VII

ALLOCATION OF COMMON AREA MAINTENANCE, INSURANCE AND ADMINISTRATIVE COSTS AND PROPERTY TAXES

7.1 Allocation of Common Area Expenses

The cost of maintaining the Common Areas and facilities and all real property taxes attributable to the Common Areas, if any, and the insurance and administrative costs for the Association (collectively "Common Area Expenses") shall be allocated pro rata based upon gross Lot square footage among all of the Owners of Lots



within the Property. Each Lot shall bear its pro rata share of the Common Area Expenses ("Common Area Assessments").

7.2 Computation of the Common Area Expenses

The Common Area Expenses shall include all costs incurred by the Association to perform its obligations set forth in this Declaration, the Design Guidelines, the By-Laws, and the Articles including but not limited to all actual out-of-pocket administrative, maintenance, insurance and tax costs and a reasonable reserve; all of such costs to be determined in accordance with generally accepted accounting principles consistently applied.

7.3 Common Area Assessments

The estimated Common Area Expenses shall be assessed in advance by the Association and billed to each Owner not less frequently than once each calendar quarter. The Common Area Assessments shall be paid by each Owner promptly upon receipt thereof. The amount, if any, by which any Common Area Assessment received from any Owner by the Association exceeds such Owner's actual share of Common Area Expenses for a calendar year shall be credited against the Common Area Assessment for that Owner for the ensuing calendar year.

7.4 Enforcement of Common Area Assessment Lien

7.4.1 Declarant, in its capacity as owner of the Property hereby covenants and agrees to pay, and each subsequent Owner of a Lot, by acceptance of title thereto, whether or not it shall be so expressed in any conveyance of said Lot, is deemed to covenant and agree to pay all Common Area Assessments as set forth in this Article, with Common Area Assessments to be fixed, established, and collected from time to time as provided in this Declaration. The Common Area Assessments, together with interest thereon as hereafter set forth and together with the cost of collection thereof, shall be the personal obligation of said owner and shall be a charge on each Lot and shall be a continuing lien upon each Lot against which each Common Area Assessment is made ("Assessment Lien").

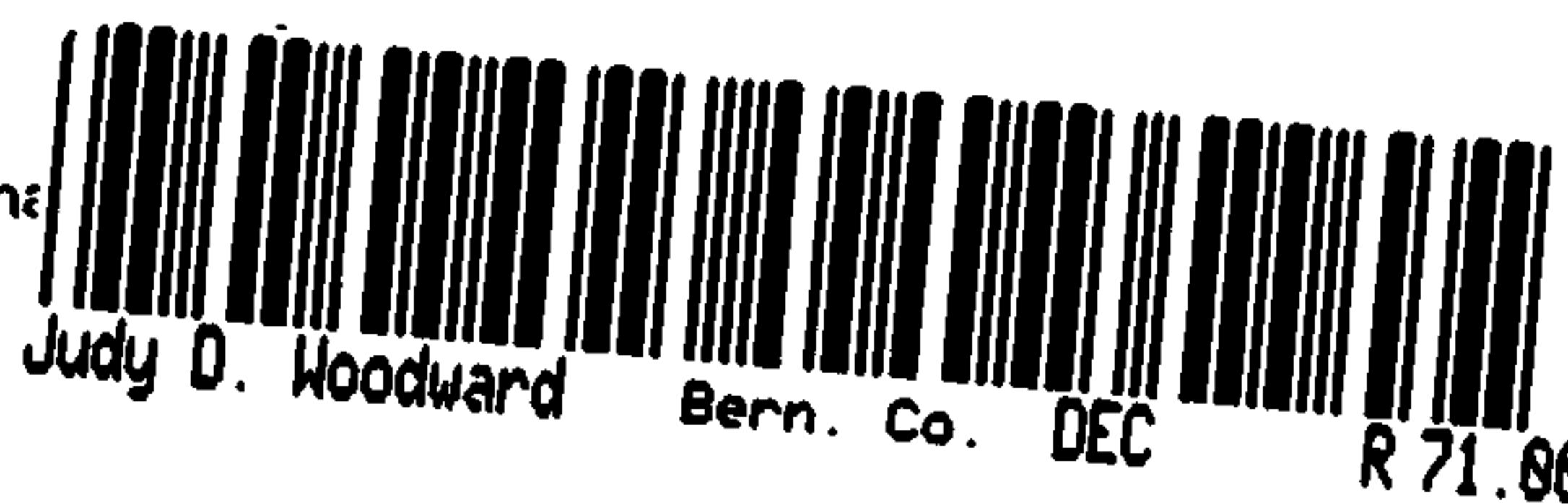
7.4.2 In the event that any Owner shall fail to pay that Owner's Common Area Assessment within 30 days after the due date thereof, the Association may record a claim of the Assessment Lien signed by an officer of the Association, which claim shall contain: (1)



a statement of the amount unpaid, and the interest accrued thereon; (2) a legal description of the Lot owned by such delinquent Owner; and (3) the name of the delinquent Owner. Such claim when properly filed shall be effective to establish the Assessment Lien against the interest of the delinquent Owner in his Lot, together with interest on the amount of the Common Area Assessment from the date thereof, at a rate equal to one and one-half percent (1 1/2%) per month, plus recording fees, cost of title search obtained in connection with or the foreclosure thereof, and court costs and reasonable attorney's fees which may be incurred in the enforcement of such a lien or in collection action on the delinquent Common Area Assessment.

7.4.3 The Assessment Lien, when so established against the Lot described in said claim, shall be prior or superior to any right, title, interest, lien, or claim which may be or may have been acquired in or attached to the real property interests in the Lot subject to the Assessment Lien subsequent to the time of filing such claim for record, other than (1) the lien for real property taxes and assessments, or (2) the lien of any Mortgage, the proceeds of which were used acquire, improve and develop the Lot subject to the lien. The Assessment Lien shall be for the benefit of the Association and may be enforced and foreclosed in the manner provided for foreclosing mortgages and judgment liens in a suit or action brought by the Association in any court of competent jurisdiction, if brought within two years of the filing of such claim.

7.4.4 Upon the timely curing of any default for which a notice of claim of Assessment Lien was filed, the Association is hereby authorized to file or record, as the case may be, an appropriate release of such claim, upon payment by the defaulting Owner of a fee, to cover the costs of preparing and filing or recording such release, together with the payment of such other costs, interest, or fees as shall have been incurred. The Assessment Lien and the rights to foreclose hereunder shall be in addition to, and not in substitution for, all other rights and remedies which the Association may have hereunder and by law, including a suit to recover a money judgment for unpaid assessments against the delinquent Owner.



ARTICLE VIII

MODIFICATION

8.1 Procedure

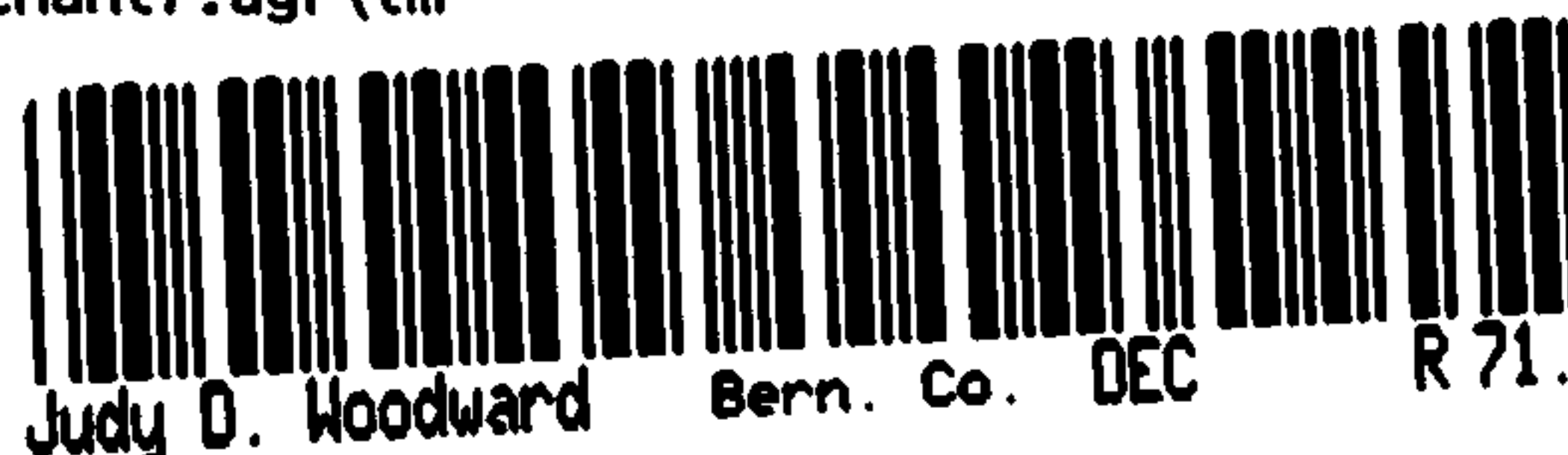
Except as otherwise provided, this Declaration or any provision hereof, or any covenant, condition, or restriction contained herein, may be terminated, extended, modified, or otherwise amended as to the whole of the Property or any portion thereof, with the written consent of the Owners of sixty percent (60%) of the Property (less Common Areas and Streets and other publicly owned portions of the Property). The calculation shall be based upon the number of acres or major portion of an acre owned by those consenting to the change as compared to the Net Acreage; provided, however, that so long as Declarant owns at least ten percent (10%) of the Net Acreage, no such termination, extension, modification or other amendment shall be effective without the written approval of Declarant. No such termination, extension, modification, or other amendment shall be effective until a proper instrument in writing has been executed, acknowledged, and recorded.

8.2 Modification by Declarant

As long as the Declarant owns ten percent (10%) of the Net Acreage or has the right to annex property pursuant to Section 2.2, Declarant acting alone may modify or amended the provisions of the Declaration, the Design Guidelines, the By-Laws, or the Articles of Incorporation; provided, however, that (i) any such modification or amendment must be within the spirit and overall intention of the development as set forth therein; (ii) prior to any such modification or amendment, Declarant shall obtain the approval of any governmental agency to such modification or amendment where such approval is necessary; and (iii) any modification or amendment shall not provide for any type of Improvements or use not permitted by this Declaration. No such modification or amendment shall be effective until a proper instrument in writing has been executed, acknowledged, and recorded.

8.3 Governmental Regulation

All valid governmental enactments, ordinances, and regulations are deemed to be a part of this Declaration, and to the extent that they conflict with any provision, covenant, condition, or restriction hereof, said conflicting governmental enactments, ordinance, and regulation shall control, and the provision, covenant, condition, or restriction hereof in conflict therewith shall be deemed (i) amended to the extent necessary to bring it



into conformity with said enactment, ordinance, or regulation while still preserving the intent and spirit of the provision, covenant, condition, or restriction; or (ii) stricken herefrom should no amendment conforming to the governmental enactment, ordinance, or regulation be capable of preserving the intent and spirit of said provision, covenant, condition, or restriction.

ARTICLE IX

ENFORCEMENT

9.1 Default and Remedies

In the event of any breach, violation, or failure to perform or satisfy any covenant, condition, or restriction which has not been cured within 30 days after written notice to do so, Declarant, or the Association at its sole option and discretion, may enforce any one or more of the following remedies or any other rights or remedies to which they may be entitled by law or equity, whether or not set forth herein. All remedies provided herein or by law or equity shall be cumulative and not mutually exclusive.

- 9.1.1 Damages. Declarant or the Association may bring suit for damages for any compensable breach of or noncompliance with any of the covenants, conditions, or restrictions of this Declaration or declaratory relief to determine the enforceability of this Declaration.
- 9.1.2 Equity. It is recognized that a violation by an Owner/Occupant of one or more of the covenants, conditions, or restrictions contained in this Declaration may cause Declarant, or the Association to suffer material injury or damage not compensable in money, and that Declarant and the Association shall be entitled to bring an action in equity or otherwise for specific performance to enforce compliance with this Declaration or an injunction to enjoin the continuance of any such breach or violation of this Declaration.

9.2 Waiver

No waiver by Declarant or the Association of a breach of this Declaration, and no delay or failure to enforce this Declaration, shall be construed or held to be a waiver of any succeeding or preceding breach of the same or any other provision of this Declaration. No waiver by Declarant or the Association of any breach or default hereunder shall be implied from any omission by Declarant or the Association to take any action on account of such



breach or default if such breach or default persists or is repeated, and no express waiver shall affect a breach or default other than as specified in said waiver. The consent or approval by Declarant or the Association to or of any act by an Owner/Occupant requiring the Declarant's/Association's consent or approval shall not be deemed to waive or render unnecessary the Declarant's/Association's consent or approval to or of any similar acts by Owner/Occupant.

9.3 Costs of Enforcement

In the event any legal or equitable action or proceeding shall be instituted to enforce any provision of this Declaration, the party prevailing in such action shall be entitled to recover from the losing party all of its costs, including court costs and reasonable attorney's fees.

9.4 Non-Exclusive Rights of Enforcement

The rights of enforcement granted to Declarant and the Association are non-exclusive. Declarant shall have the right to enforce this Declaration for as long as the Declarant owns any portion of the Property or has the right to annex property pursuant to Section 2.2. Concurrently, each Owner, its heirs, successors, and assigns, is hereby granted all of the rights of enforcement and the remedies provided to Declarant and the Association by this Article IX. Any such Owner may seek enforcement of all remedies in accordance with the provisions of this Article independently of Declarant or the Association.

ARTICLE X

TRANSFER OR ASSIGNMENT OF DECLARANT RIGHTS

10.1 Any or all of the rights, powers and obligations of the Declarant set forth in this Declaration or the By-Laws may be transferred in whole or in part to other persons or entities; provided, the transfer shall not reduce an obligation nor enlarge a right beyond that which the Declarant has under this Declaration or the By-Laws. No such transfer or assignment shall be effective unless it is in a written instrument signed by the Declarant and duly recorded. The foregoing sentence shall not preclude Declarant from permitting other persons or entities to exercise, on a one time or limited basis, any right reserved to Declarant in this Declaration where Declarant does not intend to transfer such right, in its entirety, and in such case it shall not be necessary to record any written assignment unless necessary to evidence Declarant's consent to such exercise.



ARTICLE XI

CONSTRUCTIVE NOTICE AND ACCEPTANCE

11.1 Every person or entity who now or hereafter owns, occupies, or acquires any right, title, or interest in or to any portion of the Property is and shall be conclusively deemed to have consented and agreed to every covenant, condition, and restriction contained herein, whether or not any reference to this Declaration is contained in the instrument by which such person acquired an interest in the Property.

ARTICLE XII

WAIVER

12.1 Neither Declarant nor its successor or assigns shall be liable to any Owner or Occupant of the Property by reason of any mistake in judgment, negligence, nonfeasance, action, or inaction related to the enforcement or failure to enforce any provision of this Declaration. Every Owner or Occupant of any of the Property by acquiring its interest therein agrees that it will not bring any action or suit against Declarant for any such damages or to seek equitable relief because of same.

ARTICLE XIII

RUNS WITH LAND

13.1 All covenants, conditions, restrictions, and agreements contained in this Declaration are made for the direct, mutual, and reciprocal benefit of each and every Lot and Owner; shall create mutual equitable servitudes upon each Lot in favor of every other Lot; shall create reciprocal rights and obligations between respective Owners and Occupants of all Lots and privity of contract and estate between all grantees of said Lots, their heirs, successors, and assigns; and shall operate as covenants running with the land for the benefit of all other Lots, except as provided otherwise herein.

ARTICLE XIV

RIGHTS OF MORTGAGES

14.1 No breach or violation of this Declaration shall defeat or render invalid the lien of any mortgage or similar instrument securing a loan made in good faith and for value with respect to



the purchase, development, permanent financing or refinancing of any Lot or portion thereof; provided that this Declaration shall be binding upon and effective against any subsequent Owner of any Lot or any portion thereof whose title is acquired by foreclosure, trustee's sale, deed in lieu of foreclosure, or otherwise pursuant to such lien rights.

ARTICLE XV

CAPTIONS

15.1 The captions of Articles and Sections herein are used for convenience only and are not intended to be a part of this Declaration or in any way to define, limited, or described the scope and intent of the particular Article or Section to which they refer.

ARTICLE XVI

EFFECT OF INVALIDATION

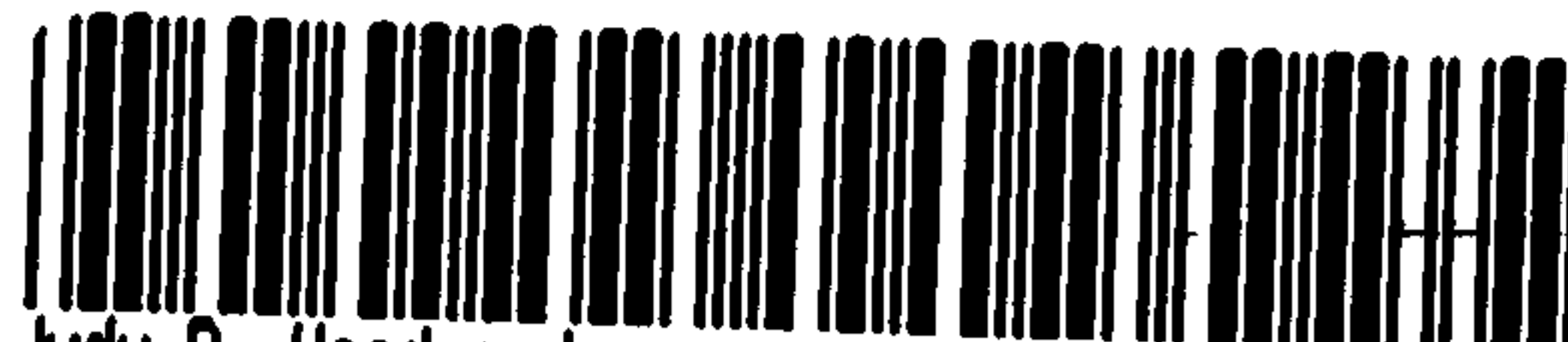
16.1 If any provision of this Declaration is held to be invalid by any court, the invalidity of such provision shall not affect the validity of the remaining provisions hereof.

ARTICLE XVII

RATIFICATION

17.1 Golden Ventures, MLJ, Skillins and Waterman hereby subjects the property described on Exhibit "C" which is attached hereto and incorporated herein by reference to the terms and provisions of this Declaration and hereby ratifies and affirms all of the rights and obligations created hereby.

SEE SIGNATURE AND NOTARY PAGES ONE, TWO, THREE, FOUR AND FIVE ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE.



SIGNATURE AND NOTARY PAGE ONE TO
DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
FOR BROADWAY INDUSTRIAL CENTER

BROADWAY DEVELOPMENT COMPANY, L.L.C.,
a New Mexico Limited Liability Company

By: Robert E. Waterman
ROBERT E. WATERMAN,
Managing Member

Dated: 12/21, 1998

STATE OF NEW MEXICO)
)
COUNTY OF BERNALILLO)

This instrument was acknowledged before me on December
21, 1998, by ROBERT E. WATERMAN, Managing Member of BROADWAY
DEVELOPMENT COMPANY, L.L.C., a New Mexico Limited Liability
Company.

MY COMMISSION EXPIRES:
OFFICIAL SEAL

KENNETH A. HUNT

NOTARY PUBLIC STATE OF NEW MEXICO
Notary Public Filed with Secretary of State

My Commission Expires 6-2-2001

Kenneth A. Hunt
NOTARY PUBLIC



SIGNATURE AND NOTARY PAGE TWO TO
DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
FOR BROADWAY INDUSTRIAL CENTER

GOLDEN VENTURES, LLC, a California
limited liability company

By: *Clay Latimer*
CLAY LATIMER

Dated: DEC. 21, 1998

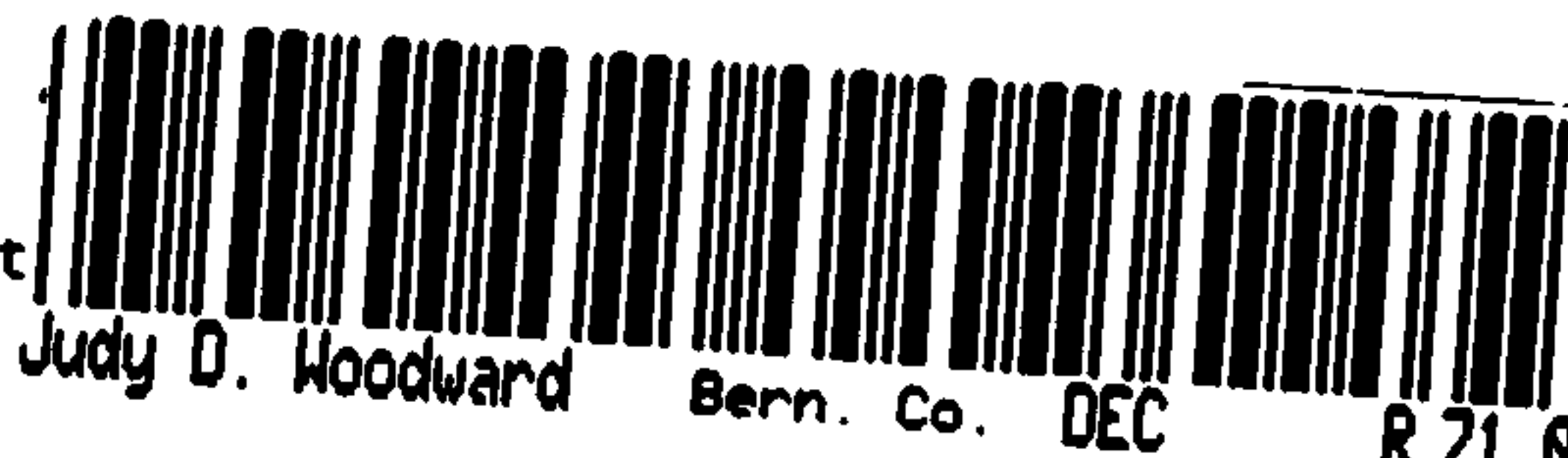
Its: E.V.P.

STATE OF New Mexico)
COUNTY OF Bernalillo)

This instrument was acknowledged before me on 21st
December, 1998, by Clay R. Latimer,
of GOLDEN VENTURES, LLC, a California limited
liability company.

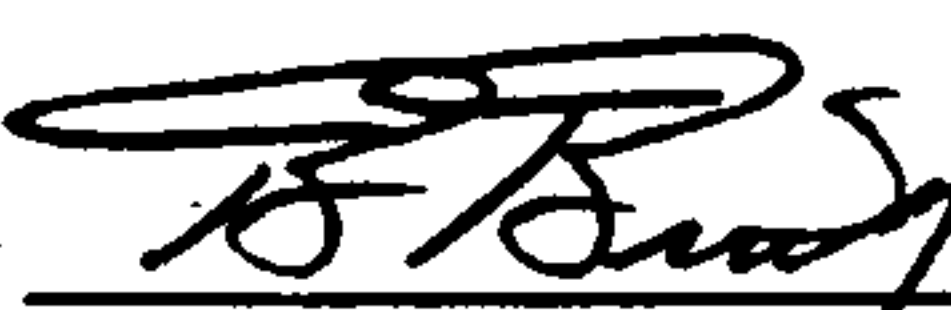
MY COMMISSION EXPIRES:
February 2, 2001

Elizabeth A. Smith
NOTARY PUBLIC



SIGNATURE AND NOTARY PAGE THREE TO
DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
FOR BROADWAY INDUSTRIAL CENTER

MLJ, Ltd., a New Mexico limited partnership

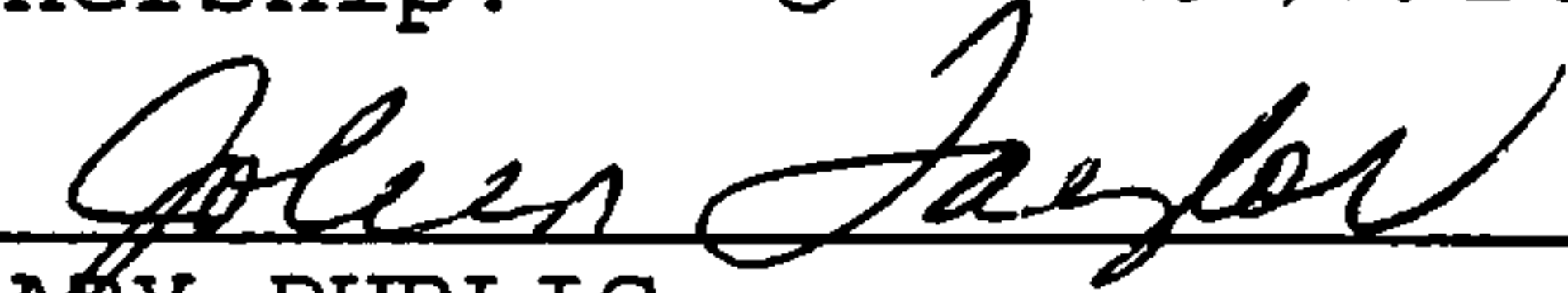
By: 
PRESIDENT, DIXBY ELECTRA INC
Its: GENERAL PARTNER

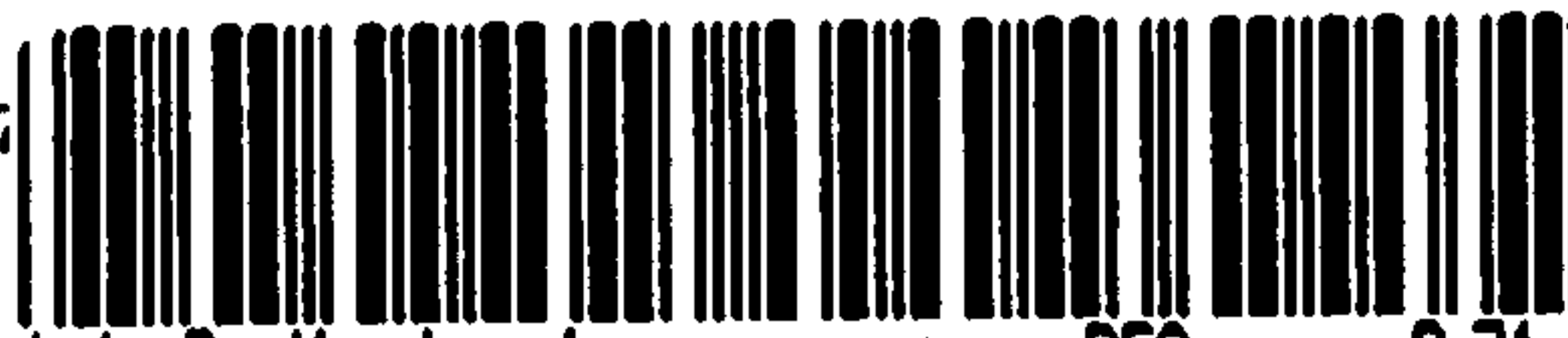
Dated: Dec 21, 1998

STATE OF NEW MEXICO)
)
COUNTY OF BERNALILLO)

This instrument was acknowledged before me on December 21
1998, by Bruce Dwyer, President Dixby Elec. of
MLJ, Ltd., a New Mexico limited partnership. Gen Partner

MY COMMISSION EXPIRES:
2-27-2002


NOTARY PUBLIC



SIGNATURE AND NOTARY PAGE FOUR TO
DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
FOR BROADWAY INDUSTRIAL CENTER



JOHN R. SKILLIN

Dated: 12-23-98, 1998



GRIETJE J. SKILLIN

Dated: 12-22, 1998

STATE OF NEW MEXICO)
)
COUNTY OF Bernalillo)

This instrument was acknowledged before me on December 23,
1998 by JOHN R. SKILLIN, a married man.

MY COMMISSION EXPIRES:
9-12-2001

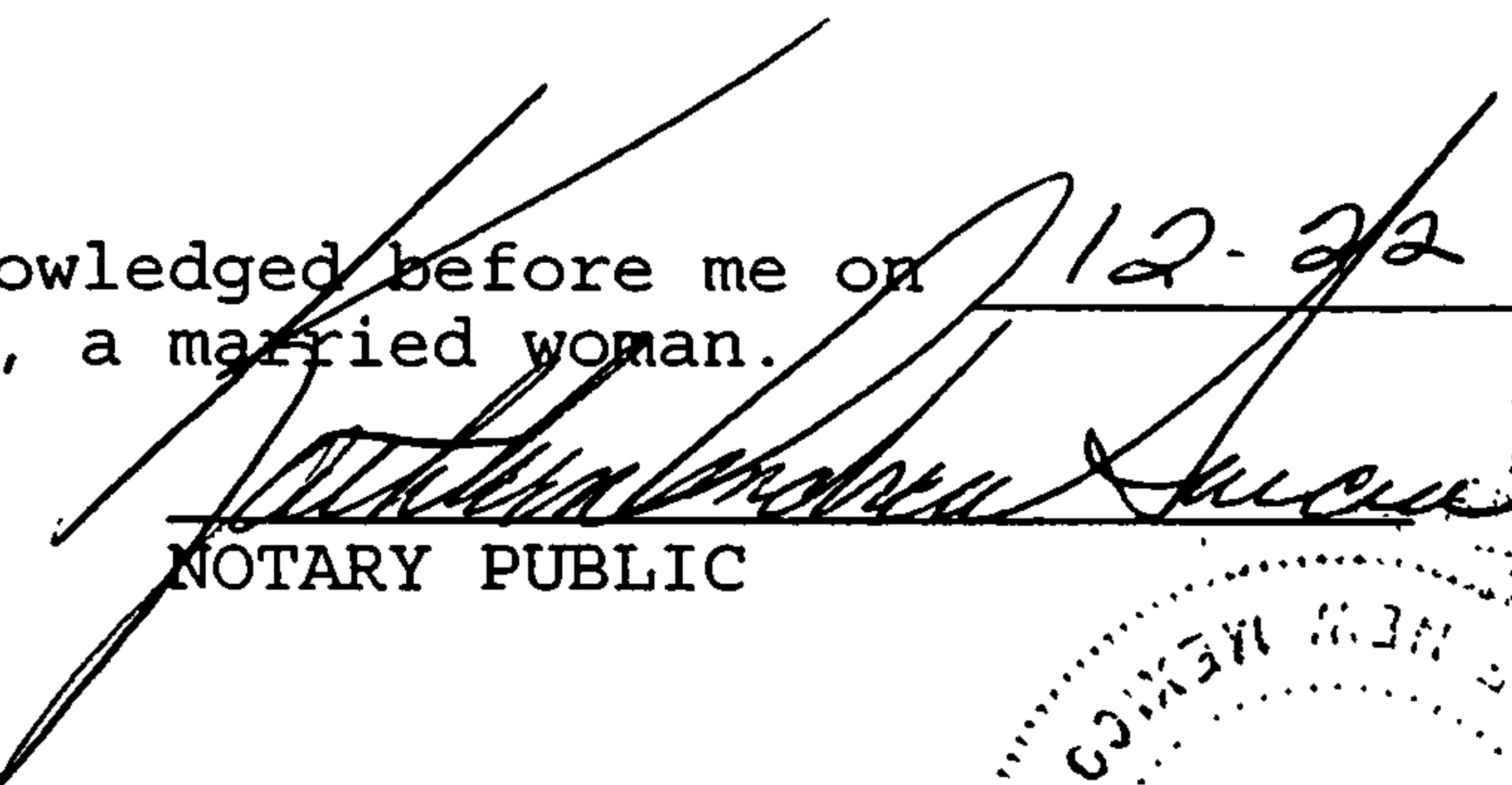


NOTARY PUBLIC

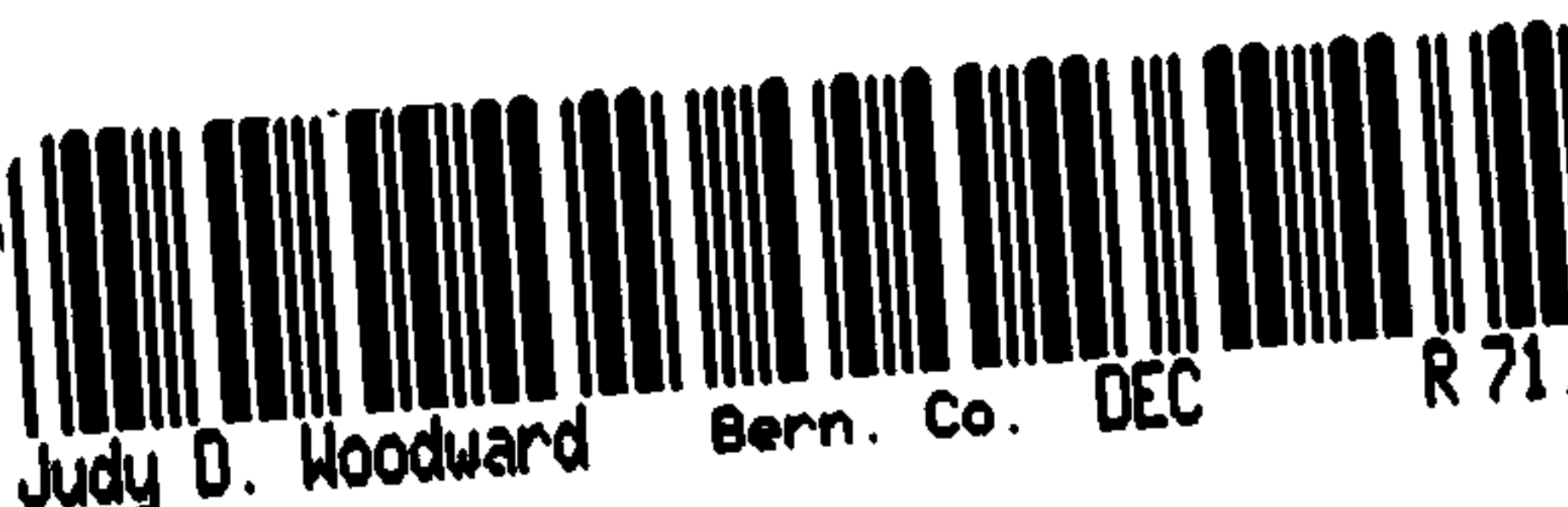
STATE OF NEW MEXICO)
)
COUNTY OF Dona Ana)

This instrument was acknowledged before me on 12-22,
1998, by GRIETJE J. SKILLIN, a married woman.

MY COMMISSION EXPIRES:
5/24/2001

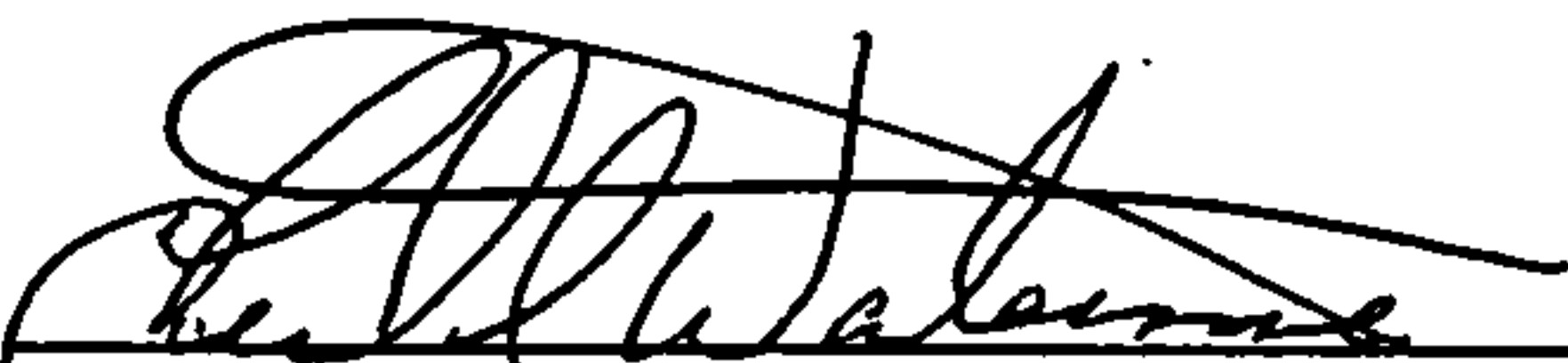


NOTARY PUBLIC



SIGNATURE AND NOTARY PAGE FIVE TO
DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
FOR BROADWAY INDUSTRIAL CENTER

WATERMAN, INC.,
a New Mexico corporation

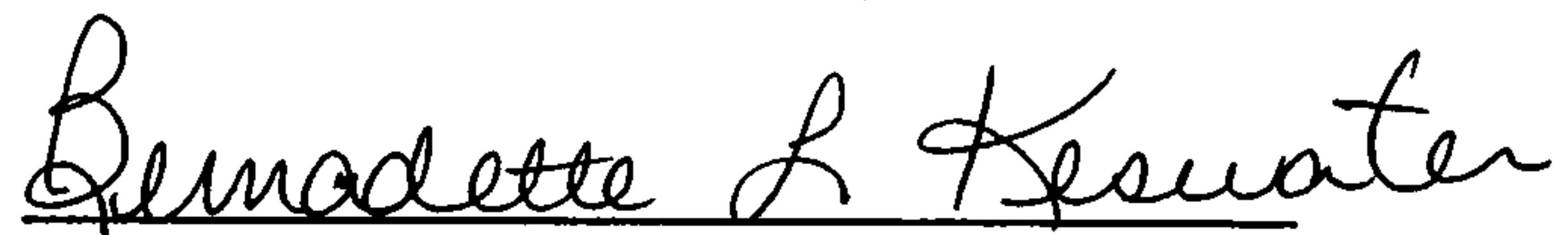
By: 
TED WATERMAN, President

Dated: Dec 22, 1998

STATE OF NEW MEXICO)
)
COUNTY OF BERNALILLO)

This instrument was acknowledged before me on December 22,
1998, by TED WATERMAN, President of WATERMAN, INC., a New Mexico
corporation.

MY COMMISSION EXPIRES:
5-15-2001


NOTARY PUBLIC

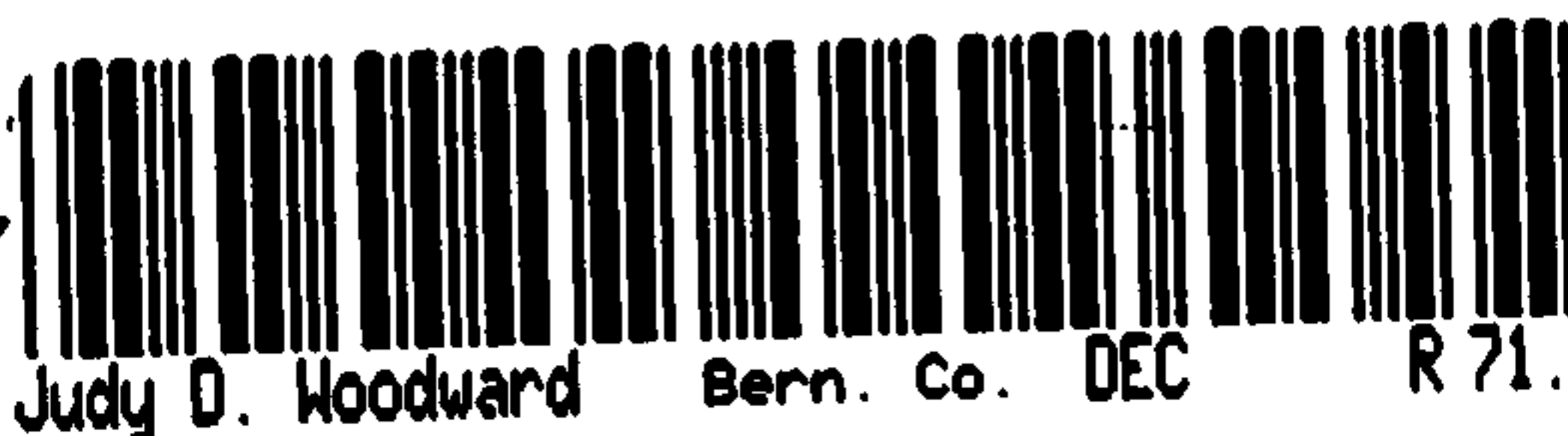


EXHIBIT "A"

Lots 1, 2, 4a, 5b and 6a of BROADWAY INDUSTRIAL CENTER SUBDIVISION, Unit 2, as the same are shown and designated on the Plat thereof, filed in the Office of the County Clerk of Bernalillo County, New Mexico, on September 11, 1998 in Book 98C, Page 280, as Document No. 1998115812.

Units C, E and F, B.D.C. Condominiums, Tract A-1-C, Lands of Broadway Development Company, as the same are shown and designated on the Condominium Plat thereof filed November 6, 1996 as Document No. 96-121592, records of Bernalillo County, New Mexico.

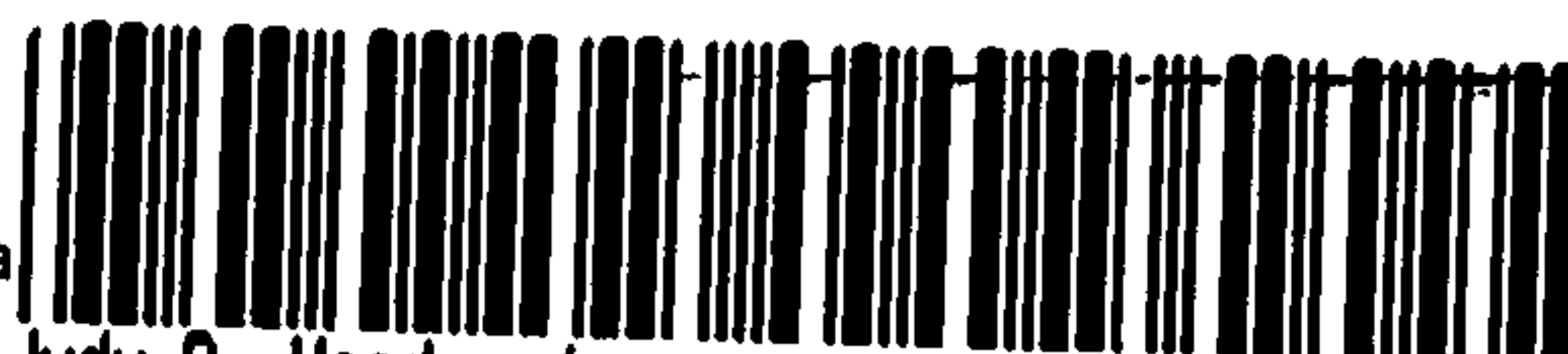


EXHIBIT "B"

Tract 24, Lands of Schwartzman as the same is shown and designated on the plat thereof, filed in the office of the County Clerk of Bernalillo County, New Mexico, on December 12, 1992, in Book BCR 92-30, Pages 696-717.

Tract 5a Broadway Industrial Center Subdivision, Unit 2, as the same is shown and designated on the Plat thereof, filed in the office of the County Clerk of Bernalillo County, New Mexico, on September 11, 1998, in Book 98C, Page 280, as Document No. 1998115812.

(only if Tract 5a is ever combined with all or any portion of Lot 6a Broadway Industrial Center, Unit 2)

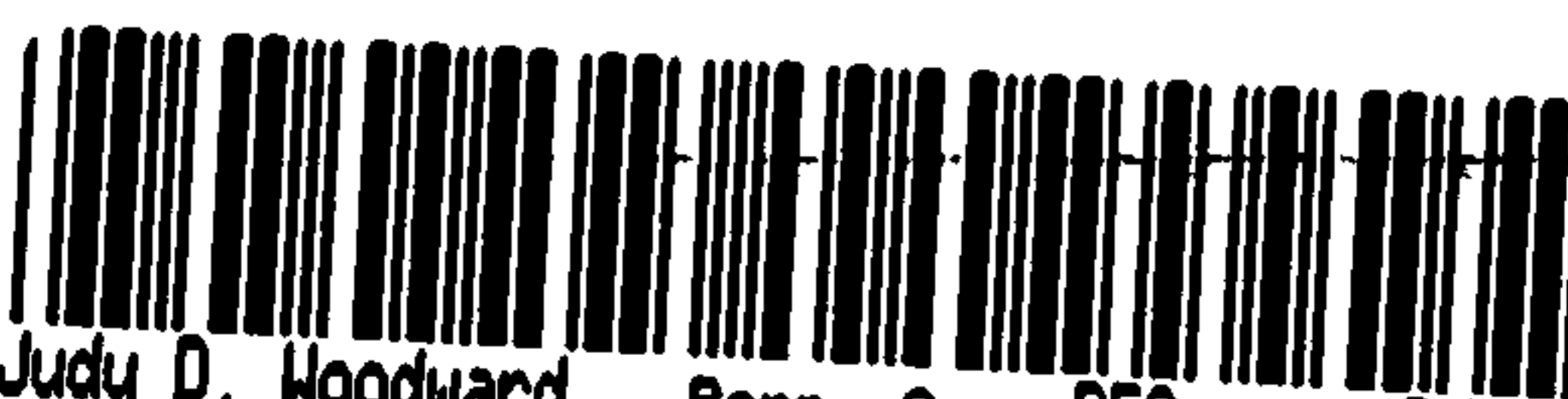
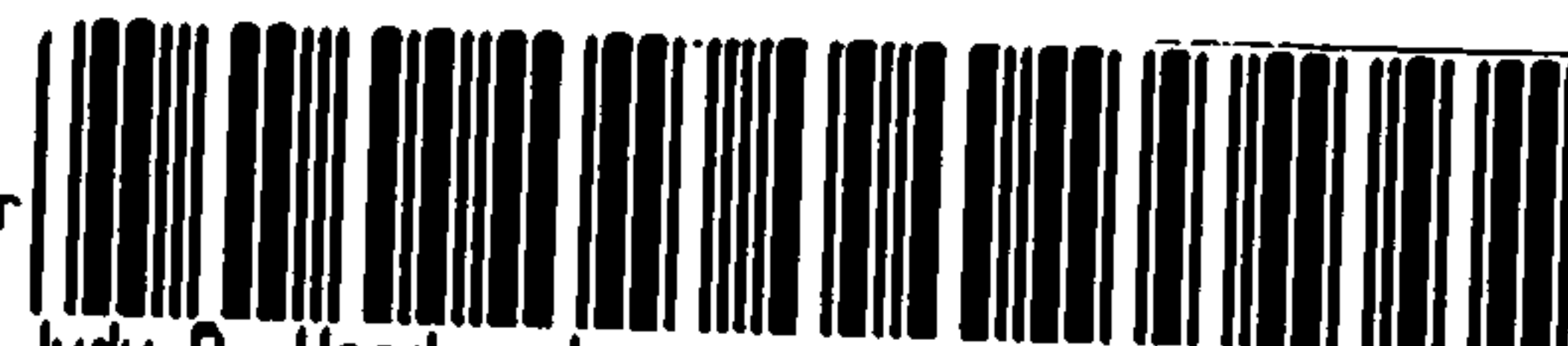


EXHIBIT "C"

Lot Three (3) of BROADWAY INDUSTRIAL CENTER SUBDIVISION, Unit 1, as the same is shown and designated on the Plat thereof, filed in the Office of the County Clerk of Bernalillo County, New Mexico, on December 5, 1997 in Volume 97C, Folio 345 as Document No. 97-120568.

Units A, B and D, B.D.C. Condominiums, Tract A-1-C, Lands of Broadway Development Company, as the same are shown and designated on the Condominium Plat thereof filed November 6, 1996 as Document No. 96-121592, records of Bernalillo County, New Mexico.





City of Albuquerque

P.O. BOX 1293 ALBUQUERQUE, NEW MEXICO 87103

August 25, 2000 ✓

James D. Hughes, P.E.
Mark Goodwin & Associates, P.A.
P. O. Box 90606
Albuquerque, NM 87199

RE: GRADING & DRAINAGE PLAN FOR MALLOY OFFICE BUILDING (M-14/
D012B), ENGINEER'S STAMP DATED AUGUST 7, 2000, SUBMITTED FOR
BUILDING PERMIT APPROVAL

Dear Mr. Hughes,

Please quantify the land treatment on this site, the peak flows,
the volume of runoff, and the capacity of the onsite retention
pond per DPM requirements for drainage reports.

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

Sincerely,

Stuart Reeder, P.E.

Stuart Reeder, P.E.
Hydrology Division

xc: Whitney Reiersen
✓ File



City of Albuquerque

P.O. BOX 1293 ALBUQUERQUE, NEW MEXICO 87103

January 14, 2004

Martin Garcia, PE
ABQ Engineering
6739 Academy Rd. NE, Suite 130
Albuquerque, NM 87109

RE: Maloy Office Building Grading & Drainage Plan
Engineer's Stamp Dated 12-19-03 (M-14/D12B)

Dear Mr. Garcia:

Based upon the information provided in your submittal received 12-19-03, the above referenced plan is approved for Building Permit. Please attach a copy of this approved plan to the construction sets prior to sign-off by Hydrology. Prior to Certificate of Occupancy release, an Engineer Certification per the DPM checklist will be required.

If you have any questions please call me at 924-3986.

Sincerely,

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

C: file



City of Albuquerque

P.O. BOX 1293 ALBUQUERQUE, NEW MEXICO 87103

Public Works Department Transportation Development Services Section

September 19, 2001

William Kleinschmidt , Registered Architect,
3016 Arno Street N.E.
Albuquerque, N.M 87107

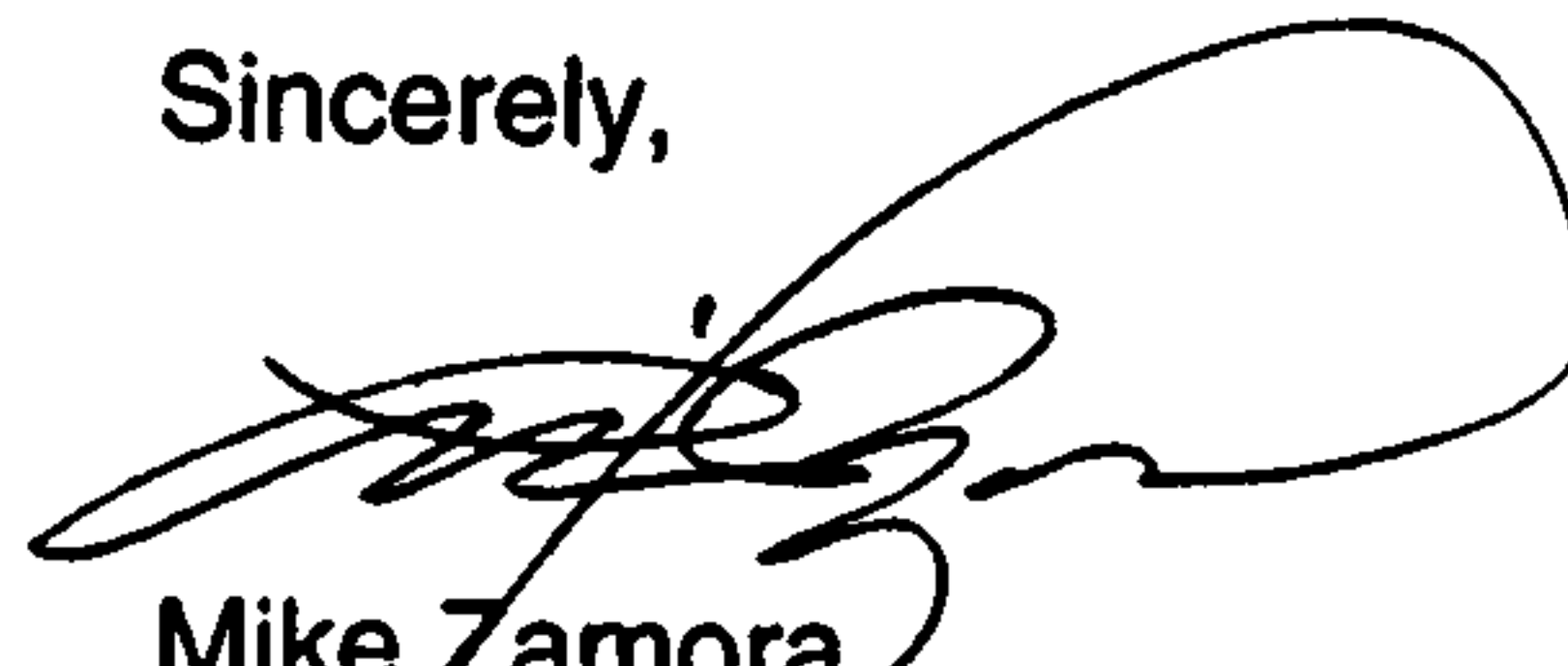
Re: Traffic Circulation Layout [TCL submittal for building permit approval for Maloy Expansion,
611 San Jose Avenue S.E. [M14/D012B],
Engineer's Stamp dated 7/11/2001.

Dear Mr. Kleinschmidt,

The TCL submitted is sufficient for acceptance by this office and is stamped and signed as such. Four copies will be required: two for submittal of building permit plans, one for this office and one to be kept by you to be used for certification of the site for final C.O. for Hydrology/Transportation.

When site is complete, a Letter of Certification, stating site was built in substantial compliance, needs to be attached to your stamped TCL and submitted to Terri Martin in the Hydrology Section of the Development Services Center of Plaza Del Sol Building.

Sincerely,



Mike Zamora
Commercial Plan Checker

cc:
Engineer
Terri Martin
Office File



City of Albuquerque

P.O. BOX 1293 ALBUQUERQUE, NEW MEXICO 87103

Public Works Department

Transportation Development Services Section

August 24, 2000

James D. Hughes, P.E., Registered Professional Engineer,
Mark Goodwin and Associates P.A.
c/o Kent Trauernicht, Registered. Arch.,
P.O. box 90606
Albuquerque, New Mexico 87199

Re: T.C.L. submittal for building permit approval for Maloy Construction Co.,
611 San Jose Ave. S.E., Broadway Industrial Center, Lot 1B, [M14/D012B],
Architect's Stamp undated.

Dear Mr. Trauernicht,

The location referenced above, undated, is not acceptable and requires modification to the Traffic Circulation Layout (T.C.L.) prior to Building Permit release as stated on the attached written comments and red-lined T.C.L. markup.

Please resubmit revised T.C.L. after addressing typed and marked up comments.
Submit Plan along with typed comments and all red-lined, mark-up copies.

Sincerely,

Mike Zamora,
Commercial Plan Checker

cc:
Engineer
Hydrology File
Office File

Written Comments: File # M-14/D012B
8/24/2000

- ▶ The Architect's stamp on the TCL must be dated. There was no address for Architect, sent his comments to Engineer's office.
- For this Plan, and all others following, call out name of subdivision and lot number or tract number on TCL.
- Better quality print needed for permit sets.
- New and existing elements noted on the TCL must be shown, labelled, and dimensioned correctly and accurately, this includes all items stated in the DPM-Section 23 - 6C.1b - items 1 through 5, street curb & gutter, site sidewalks, various drive aisle widths, porch columns or walkway columns at front or side of building adjacent to parking stalls, retaining walls, & fences (including heights at driveways, if applicable) and concrete wheel stops, etc. __Need to see clear differentiation between new construction and existing on TCL.
- Place a note on the plan stating the following:

"An as-built copy of the approved TCL (Traffic Circulation Layout) must be submitted by the designer-of-record, as required by Transportation Development, including a letter of certification that the site has been constructed in accordance with the TCL. Verification of TCL acceptability, (including random field checks) will be made before a Final Certificate of Occupancy is issued." Please call this office to obtain temporary C.O.
- Contractor selected must be made aware, by note on TCL, that any agreement with the owner (if applicable to this particular project), stating that any portions of permit construction, chosen to be completed by the owner, or his selected representative, other than that contractor, will most likely result in delay. Therefore, if this applies, Certificate of Occupancy will not be issued until all work pertinent to Transportation is finished.
- The responsibility for errors on the site plan and subsequent unauthorized field changes must be specified on the TCL, in bold type, as follows:

"The responsible Party must rectify all unapproved construction resulting from errors on the approved Site Plan." and
"This Site Plan has been approved and accepted by all parties. Any field changes not accepted by Traffic Engineer, after approval for building permit, will result in:
(1) Untimely delay of certification for final Certificate of Occupancy in order to correct unapproved work,
(2) increase in construction cost to responsible parties."
- All notes mentioned above, if applicable, should apply to all forthcoming projects, place on all Site Plans.
- ▶ Use of DPM and close review of TCL and comments in previous Building Permit plan set submittals can aid in production of TCL requiring fewer corrections to original and more expedient review time:
 - ▶ Label asphalt and thickness of parking surface per city std. or refer to a detail which illustrates the proposed method of paving and states its equivalency to standard asphalt surfacing.
 - ▶ Show, label, and dimension existing and/or new street sidewalks. City sidewalk ordinance requires minim. 4' street sidewalks along the frontage of all commercial sites being developed. _New street sidewalks must be built so back of sidewalk is at Right-of-way (property) line.
 - ▶ Dimension new or existing stalls - label "typical" or call out in individual locations, if not typical.
 - ▶ 6" high concrete standing curb, per city standard, must be constructed per DPM, Section 23.7 B6. Must prevent overhanging a property line into adjacent property, pedestrian path and to separate landscape areas from parking. _Label curb, and type (or show detail labelled "typical"), at each individual location or call out double-line style linework used to designate curbing, as "typical". _If extruded concrete is used, call out that the top of surface of landscape mulching (gravel, bark, etc.) must be from 1/2" to 1" below top of curb.
 - ▶ Concrete sidewalk, raised 6" above parking surface, needed when located at the front of parking vehicles wherever pedestrian access is desired or required or adjacent to any building. _Needed except where sloped concrete apron at overhead doors is being built. _H.C. ramp must be constructed at H.C. parking as part of sidewalk, as shown. __Show ramp and slope of ramp using arrow(s).
 - ▶ Need to know what size vehicle will be largest to use site. __Proposed use of overhead doors on commercial sites requires that plan reviewer looks for large wheelbase (refuse/UPS) vehicle to be smallest to use doors. This site layout will not allow enough room for this condition without backing from or into street. This violates provisions in the DPM, Sect. 23.6B.8b.2 & 23.7B. _Using traffic turning template, lot is not constructed to allow effective use by refuse vehicle or large vehicle as shown. Revision of lot will be necessary, using the minimum dimensions as shown.

Written Comments: File # M-14/D012B
8/24/2000

- ▶ Show and label right-of-way lines.
- Need to see that all existing obstacles in City right-of-way, in existing sidewalks, have been picked up.
- ▶ All Civil Sheets (Drainage Plan and TCL & details) must be together at front of plan set.
- Overhead doors as part of development requires added thickness asphalt surface along vehicle route per City standard, callout and designate the area on TCL. Remember, if using detail of paving section, call out subbase "Typical".
- Existing street sidewalk and C&G affecting safe vehicular or pedestrian travel will be removed and replaced. Note this statement, or equal, on TCL if conditions have not been field verified.
- Clearly indicate transition from one type of surface to the other on TCL, for example ramps, concrete/ asphalt, landscape/concrete, etc. Label each area or stipple to show varying surfaces, using a legend.
- Because of the preliminary nature of the new review process, if Zoning has not seen this layout prior to this review, any requirements by Zoning at time of their review, altering the parking layout, will void approval of TCL and new review will be needed.
- The curb cut must be constructed to 30 feet wide with minimum 15 foot radius(this site only) curb returns and uni-directional handicapped ramps.
- Property description on TCL does not match current City Zone Map. All of lot is not shown. Copy of replat or acceptable current plat, stamped by County Clerk's Office, will be needed, for office files, prior to approval for building permit.
- Linework on Drainage Plan and Landscape Plan must match T.C.L. exactly. __Resubmittal to Hydrology will be necessary.
- North arrow on TCL is not correct.
- Make sure to show all concrete wheel stops that will be installed at time of inspection for C.O., locate 18'-0" from rear of stall, use #6 rebar anchors, 18" in length. Stops installed and not shown on approved plan will be removed.
- 4" to 6" diameter concrete-filled bollards are needed on either side of overhead doors, as shown.