HYDROLOGY

M15/D4A2

N-2 OFFICE BIDG.

M15-D4A2

PLANS

INFORMATION SHEET

PROJECT TITLE N-Z Office Building TYPE OF SUBMITTAL Preliminary Information

ZONE ATLAS PAGE NO. M-15-2 CITY ADDRESS Randolph Rd & Randolph Ct.

LEGAL DESCRIPTION Lots 1 & 2 N-Z Commercial Office Center

ENGINEERING FIRM Chavez-Grieves Consult. Engrs CONTACT Victor J. Chavez

ADDRESS 4520 Montgomery Blvd., N.E. PHONE 881-7376

OWNER N-Z Development Company CONTACT

ADDRESS PHONE

ARCHITECT Burns Peter Groups CONTACT Ron Peters

ADDRESS 8000 Pennsylvania Circle, N.E. PHONE 265-3645

SURVEYOR N/A CONTACT

ADDRESS PHONE

CONTRACTOR N/A CONTACT

ADDRESS PHONE

PRE-DESIGN MEETING:

____ YES
_X_ NO
____ COPY OF CONFERENCE RECAP SHEET PROVIDED

PLEASE CHECK TYPE OF APPROVAL EXPECTED WITH THIS SUBMITTAL

____ SKETCH PLAT APPROVAL
____ PRELIMINARY PLAT APPROVAL
____ SITE DEVELOPMENT PLAN APPROVAL
____ FINAL PLAT APPROVAL
____ BUILDING PERMIT APPROVAL
____ CERTIFICATE OF OCCUPANCY APPROVAL
____ ROUGH GRADING PERMIT APPROVAL
____ GRADING/PAVING PERMIT APPROVAL
_X_ OTHER Design Information (SPECIFY)

RECEIVED
DEC 19 1984
DESIGN HYDROLOGY SECTION

DATE SUBMITTED 12-19-84

BY: Victor J. Chavez

P.S. Please forward to Fred Aguirre for his review and comment as per telephone conversation.

CHAVEZ GRIEVES / CONSULTING ENGINEERS, INC.

4520 MONTGOMERY BLVD., SUITE 3
ALBUQUERQUE, N.M. 87109
(505) 881-7376

December 19, 1984

Mr. Fred Aguirre
Hydrology Dept.
City of Albuquerque
2nd and Central
Albuquerque, New Mexico

Dear Fred:

Attached is a copy of Sheet M-15-Z indicating the site of the proposed NZ Office Building to be constructed on Lots 1 and 2 of the NZ Commercial Office Center.

The present development plans call for construction of one, two-story building to be located over the existing property line between Lots 1 and 2. The same property line is also the center line of a sanitary sewer and storm drain easement.
As mentioned in our earlier conversations, the structure is presently planned to provide for a 48 foot wide by 16 foot high opening centered over the existing easement. The 16 foot height restricts the use of the area over the easement and should be reduced if possible to minimize its economic impact.

We, hereby, request the approval of this proposed development scheme and an indication of the minimum clearance required by City regulation. Please indicate your decision by signing in the place provided below and returning a copy of this letter to our office.

Your timely assistance in this matter is appreciated.

Sincerely yours,
CHAVEZ-GRIEVES CONSULTING EINGINEERS, INC.

David H. Grieves for Victor J. Chavez

Victor J. Chavez, P.E.

VJC:dm
Encl.

Approved: _____

Date : _____

Minimum Required Clearance: _____

GREG AND cc
FEED cc
CDS

CITY OF ALBUQUERQUE

ALBUQUERQUE, NEW MEXICO

INTER-OFFICE CORRESPONDENCE January 11, 1985 REF. NO.

TO: Dwayne Sheppard, City Engineer

FROM: Stephen K. Bowman, Assistant City Attorney SKB

SUBJECT: NZ Commercial Office Center

I have reviewed the letter and attachments from Chavez-Grieves. As I understand the situation, the Developer wishes to utilize the airspace over our existing easement in his building plans.

Generally, the owner of the land subject to an easement may make any use of the land which does not interfere with exercise of the rights granted by the easement. Thus the question becomes whether the Developer's building plans will significantly interfere with our easement rights to install and maintain sanitary and storm drain facilities.

I do not know if we have facilities in place within this easement at the present time. If we do, we need to consider whether the 16 foot "ceiling" (and any paving activities contemplated on the ground) will make it difficult or impossible to maintain the facilities. If f cilities are not yet in place, the question is whether the Developer's improvements will make it difficult or impossible to install the facilities and perform subsequent maintenance.

Another possibility would be for the Developer to grant us an alternate easement and pay for relocation of any facilities already in place. However, because these are gravity flow facilities, substantial redesign costs may be involved which should also be borne by the Developer.

Please w/Engr & See if feasible

I would be glad to discuss this with you further at your convenience.

SKB/mop

S.D. & San. Sewer / Clearance Requested 15'4" - 16' orig. request.
Easement only - Pedestrian Way -
1/16/85 - Per tel. con w/ Mr. Chavez - will send copy of Site plan.
Note: If only a pedestrian way w/no vehicular - traffic,
I think we could live w/ requested "h" - provided
Suitable agreement - Section re: holding City harmless
allowing for unlimited access for repairs of facilities
w/no restoration of improvements responsibility on City.
1/16/85

WHO TO DRAFT? MED

CITY OF ALBUQUERQUE

ALBUQUERQUE, NEW MEXICO

INTER-OFFICE CORRESPONDENCE January 28, 1985 REF. NO._____

TO: Steve Bowman, Assistant City Attorney

FROM: Denise Wilcox, Administrative Assistant, MDD/ENG dw

SUBJECT: NZ COMMERCIAL OFFICE CENTER (Your memo to Dwayne Sheppard, dated January 11, 1985)

Dwayne has requested that Legal draft proposed agreement (see attached). Suggest that the agreement include a signature slot for Water Resources concurrence since their sanitary sewer involved also.

Please advise.

Attachment

cc: Fred J. Aguirre, Design Hydrologist, MDD/ENG
Greg Olson, Assistant City Engineer/Design
File

CITY OF ALBUQUERQUE
MUNICIPAL DEVELOPMENT DEPARTMENT
PLANNING DIVISION

AGENDA ITEM 2
DEVELOPMENT REVIEW BOARD
FEBRUARY 26, 1985

DRB-85-45
(NW)

The Burns/Peters Group, agents for NZ Properties, request Site Development Plan approval for Lots 1 and 2, Block 3, NZ Commercial Office Center, zoned I-P, located at the northwest corner of Randolph Road and Randolph Court, S.E., containing approximately 2.53 acres. (M-15)

COMMENTS FROM OTHER DEPARTMENTS:

TRANSPORTATION DEPARTMENT	"The above referenced application requests site plan approval for a commercial/office site located on the northeast corner of the University Boulevard/Randolph Road intersection. This proposed site plan conflicts with two of the three alternate routes for the proposed extension of University Boulevard from the vicinity of Randolph Road to north of Gibson Boulevard. This analysis of the alternate routes is in progress and we anticipate that the technical staff anslysis will be completed within one month. The public involvement process leading to a final decision on the alternates is anticipated to require an additional 3 to 5 months. We, therefore, request that the DRB defer action on the proposed site plan."
ZONING ENFORCEMENT OFFICER	"No comment."
WATER RESOURCE DEPARTMENT	"There are existing sanitary sewer and storm sewer facilities located within a 25 foot utility easement that conflict with this development proposal. Unless they can be relocated WRD will not be able to approve this site development plan without substantial changes."
TRAFFIC ENGINEER	"See Transportation Department comments."
PUBLIC SERVICE COMPANY OF NEW MEXICO	"Public Service Company of New Mexico (PNM) has no comments regarding case no. DRB-85-45, however the site plan submitted will be reviewed."
ENVIRONMENTAL HEALTH	"Top soil disturbance permit is required prior to any earthwork."
ALBUQUERQUE PUBLIC SCHOOLS	"No adverse comment."
REAL ESTATE OFFICER	"No adverse comment."
REFUSE REMOVAL DIVISION	"No adverse comment."

IT IS REQUESTED THAT THE APPLICANT/AGENT BE PRESENT AT THE HEARING.

cc: NZ Properties, 6100 Indian School Road, NE; 87110
The Burns/Peters Group, 8000 Pennsylvania Circle, NE; 87110

New Mexico and Arizona Land Company
2810 North 3rd Street • Phoenix, Arizona 85004 • (602) 266-5455

March 5, 1985

RECEIVED
MAR 07 1985
HYDROLOGY SECTION

Mr. Randy Traynor, Chairman
Development Review Board
City of Albuquerque Planning Department
P.O. Box 1293
Albuquerque, New Mexico 87103

RE: DRB-85-45; NZ Commercial Office Center

Dear Mr. Traynor:

It has recently come to our attention that the Development Review Board has blocked the development of Lot 1A in our NZ Commercial Office Center at the request of the City Transportation Department. Apparently our development plan conflicts with alternate routes for the proposed extension of University Boulevard from the airport to Gibson Boulevard; the Transportation Department claims it needs about six months to decide which route to choose. Such a delay is unacceptable to us and we believe there are several reasons why it would be ill-advised for the Development Review Board to honor this delay request.

First, the cost of such route would be high, higher than City officials admit. The gratuitous remark has been made to us that the extension of University Boulevard through our park will increase the value of the land. We recognize this as a standard defense for a street improvement program. However, you should recognize that, in this case, that assumption is erroneous.

NZ Commercial Office Center is designed as a business community -- a neighborhood. It is a homogenous unit, like residential neighborhoods. That fact is readily apparent by just looking at the land itself, as now developed. The recorded CCR's buttress the fact. Turning private Randolph Court into a dedicated arterial roadway would destroy the character of the park. Instead of office and light industrial, the land would become commercial frontage, sporting numerous retail outlets requiring numerous access points and parking facilities. Access to these businesses would have to be restricted by the City to facilitate traffic flow and insure safety. The entire concept of a business park filled with the "right kind" of employers operating in a quiet and orderly fashion would be gone.

Your planners are of the mistaken notion that the only condemnation required would be a portion of one lot in the development. The fact is that the City would be liable for the taking of the entire park, at a compensation cost of perhaps ten times the amount now suggested. There is adequate case law to support the fact of this kind of condemnation and consequent compensation. As an aside, I must add that it is ironic that, on the one hand, the City of Albuquerque espouses and encourages business parks like ours because they attract the "right kind" of employers yet, on the other hand, is quick to toss one aside if it appears to represent the path of least resistence.

Second, the NZ Commercial Office Center does not represent your path of least resistence. New Mexico and Arizona Land Company, through its subsidiary, NZ Development Corporation, has spent four years and well over $1,000,000 purchasing, planning, and developing this park. Care and thought has been given to design and amenities, and cooperation with the City regulatory agencies has been meticulous. Even your City Planner, Mr. Hagan, has commented that the park is "one of the better efforts in town." (Albuquerque Journal, 3/24/83). Several lots have been sold, several are being negotiated for sale, and Uptown Associates (our partnership with a subsidiary of United of Omaha) has borrowed $1.6 million to build an office building that is now ready for bidding. We are dug in and we have made sure the City supervised and approved our digging along the way. Our plans have been and are now no surprise to the City. We do not intend to abandon this investment now.

This brings me to our third reason. We believe the City is estopped from extending University Boulevard through our business park. Although the City's extension plan for University Boulevard is news to us, we were informed at your last Board meeting that these plans have been in the works for five years. If so, why were we not so informed in 1982 when we submitted the replat for approval? or in 1982 when we sought approval for the construction of Randolph Court? or in 1983 when the Traffic Engineer approved the constructions plans for the Randolph Joint Venture building on Lot 13? or in 1984 when we submitted the replat of Lots 1 and 2 for approval? If this road extension has been contemplated for five years, as claimed, then it is rather obvious that the City's failure to speak up at one of the several permitting stages constitute misrepresentations by omission, upon which we relied to our detriment. The law is well settled in allowing recovery by victims of such action.

New Mexico and Arizona Land Company's presence in New Mexico is a long-standing one, over 75 years. When we have developed our lands, we have acted in a first-class manner and according to the rules. We expect the City to do likewise. Accordingly, please review the equities, practicalities and consequences of the proposed routes through or adjacent to our park immediately, and deny the Transportation Department's delay request at once. We suffer measurable damage each day we are delayed.

Very truly yours,

NEW MEXICO AND ARIZONA LAND COMPANY

W. Michael Kelley
Vice President and
General Counsel

WMK:hg

cc: Harry Kinney, Mayor
Fred Aguirre, City Engineering Division
Robert Fosnaugh, Traffic Division
Jon Estsgaard, Water Resources Department
Marty Valdez, Parks and Recreation Department
Boyd A. Carnaby, United of Omaha
Ron Peters, Burns/Peters Group
R.L. Menk, Pres., Chairman and CEO,
New Mexico and Arizona Land Company

New Mexico and Arizona Land Company
2810 North 3rd Street • Phoenix, Arizona 85004 • (602) 266-5455

Cabt
OC-CPR

Dwane,
For your information
This is a subsequent
letter to the initial complaint
letter.

RECEIVED
MAR 23 1985
HYDROLOGY SECTION

March 18, 1985

Mr. Randy Traynor, Chairman
Development Review Board
City of Albuquerque Planning Department
P.O. Box 1293
Albuquerque, New Mexico 87103

RE: DRB-85-45; NZ Commercial Office Center

Dear Mr. Traynor:

Before the Development Review Board meeting on March 26 to consider the above site approval request, I want to try to make clear to you our position about the City's obligation to approve this request and the equitable and fair play considerations involved therein. To that end, I have here outlined for you the state of the law concerning inverse condemnation so that you may have a chance to review it before the meeting.

While this meeting may be only routine and the decision unmomentous for your Board, it is critical to us, particularly since we have been led to believe this project presented no problems:

INVERSE CONDEMNATION CAUSED BY
PRE-CONDEMNATION ACTIVITIES

Inverse condemnation is a well-established principle of law which allows citizens to be compensated when a governmental body actually takes private property for a public purpose without formal condenmation proceedings and shows no intention of initiating such proceedings. It is important to note that there does not have to be an actual invasion of the physical property itself. The invasion of a property right, that is, the right to use and enjoyment, constitutes inverse condemnation. Rohan, Zoning and Land Use Controls, Sec. 52A.03(3), (1984). Inverse condemnation is recognized in New Mexico by statute, NMSA 42A-1-29.

In recent years, many courts have begun to recognize that "a taking" occurs where government, under the guise of its authorized police power, prohibits the development of property that would increase the cost of acquiring that property by condemnation later. Courts now recognize that, although this

kind of action is called "governing," it really represents nothing more than an attempt by a city to establish an economic advantage over those it is pretending to govern.

In the Southwest, an early Texas case formed the cutting edge of this recognition. In Kirschke v. City of Houston, 330 S.W.2d 629 (Tex. Civ. App., 1959), Kirschke was refused a building permit because it appeared the property would be needed for a highway. When asked to purchase the property, the City refused. The Texas court declined to say that this constituted a "taking", but did say this:

> "We think there is little question but that appellants [Kirschke] in the present case under the facts alleged had, and still have, the right to compel the City and its officials, by mandamus or possibly a mandatory injunction, to issue them a building permit. Upon the refusal of the City to issue such permit, appellants could proceed with the construction of their improvements without a permit and enjoin the City from interfering therewith, since the City by refusing such permit, is in effect illegally interfering with appellants' property rights and a lawful and legitimate use of their property prior to a legal taking thereof." 330 S.W.2d at 631; citations omitted.

In 1975, the Texas Court of Civil Appeals overturned the portion of Kirschke which refused to recognize that a taking had occurred. (The above quoted portion was not affected.) In San Antonio River Authority v. Garrett Brothers, 528 S.W.2d 266 (Tex. Civ. App., 1975) the developer was refused water line and sewer line improvement permits on property which the River Authority was considering for acquisition. The Authority defended itself by claiming it was doing nothing more than exercising its governmental function. The Court was not impressed, and held that this action, even if temporary, constituted a compensable taking:

> "An unreasonable interference with the right of access to one's property is recognized as a compensable taking... Our courts have adopted the view that interference with the right of access is not rendered uncompensable merely because the interference is temporary... No valid reason exists for holding that unreasonable

> interference with the right to use property should not be regarded as a compensable taking... The question before us is whether prohibitions on use of property which have as their purpose the prevention of private development that would increase the cost of planned future acquisition of such property by the government is the type of case in which payment of compensation is required... Where government acts in this context, it can no longer pretend to be acting as a neutral arbiter. It is no longer an impartial weigher of the merits of competing interest among its citizens. Instead, it has placed a heavy governmental thumb on the scales to insure that in the forthcoming dispute between it and one, or more, of its citizens, the scales will tip in its own favor. 528 S.W.2d at 273-4; citations omitted.

This Court reached the same decision again in City of Austin v. Teague, 556 S.W. 2d 400 (Tex. Civ. App., 1977).

The Kansas Supreme Court has reached the same decision, based on similar facts, ie, the denial of permits to improve property which may be acquired later by condemnation. The courts of Michigan, Louisiana, New York, Nevada, California, Oregon, South Dakota, and Colorado have ruled likewise. The citations to these cases are omitted here, but are available. The trend is in the direction of these cases.

The New Mexico courts, at least at the appellate level, have apparently not yet had the opportunity to address this question. I am told, however, that trial courts in New Mexico have considered delay-type cases and have ruled in favor of the citizen. The appellate courts have often held that the right of access is a property right and may not be taken without compensation. Hill v. State Highway Commission, 516 P.2d 199 (1973); State Hwy. Commission v. Chavez, 456 P.2d 868 (1969); State v. Silva, 378 P.2d 595 (1962). And they have also held that an actual taking is not necessary to be compensable; it is sufficient if there are consequential damages. Public Service of New Mexico v. Catron, 646 P. 2d 561 (1982). Loss of rental income due to a delay in issuing a building permit, such as the delay requested by the City of Albuquerque Transportation Department here, constitutes consequential damages.

The point of all of this citation and quotation is to demonstrate that the City of Albuquerque should not take lightly the consequences of any delay in approving the site plan for Lot 1A in NZ Commercial Office Center. Courts frown on the misuse of government's police power to establish an advantage over the people it governs, such as the prohibition of development in order to limit value in contemplation of eminent domain proceedings. As I have exhibited above, there is authority and precedent for the proposition that a private citizen, having been wrongly refused a necessary development permit, may proceed without that permit or file suit to force the issuance of the permit.

We recognize that time and inertia are the best tools the City of Albuquerque has in these kinds of controversies, but they are not so for us. Not only does delay cost us rental income from the building we want to construct, it interferes with our ability to sell other lots in the Park, at least two of which could be under negotiation now but for the City's stalling.

These damages are not speculative nor imaginary; they are affecting us now. We simply cannot afford to wait and we don't think we should have to, especially in view of the fact that the City has allowed us to make expensive preparations for this project over the past year without once alerting us of its plans.

I hope that I have been able to outline for you our feelings and beliefs about this dispute, and the urgency with which we await for your Board's decision on March 26.

Very truly yours,

W. Michael Kelley
Vice President and
General Counsel

WMK:hg

cc: Harry Kinney, Mayor
Fred Aguirre, City Engineering Division
Robert Fosnaugh, Traffic Division
Jon Estsgaard, Water Resources Department
Marty Valdez, Parks and Recreation Department
Boyd A. Carnaby, United of Omaha
Ron Peters, Burns/Peters Group
R.L. Menk, Pres., Chairman and CEO
New Mexico and Arizona Land Company
George Meacham, T.E. Division Engineer

DRAINAGE INFORMATION SHEET

PROJECT TITLE: NZ COMMERCIAL-OFFICE CENTER ZONE ATLAS/DRNG. FILE #: M-15/D8B

LEGAL DESCRIPTION: LOT 1A, NZ COMMERCIAL-OFFICE CENTER

CITY ADDRESS: 1601 RANDOLPH ROAD SE, ALBUQUERQUE

ENGINEERING FIRM: ANDREWS, ASBURY & ROBERT CONTACT: ROBERT FOGLESONG

ADDRESS: 149 JACKSON NE, ALBUQUERQUE PHONE: 265-6631

OWNER: NZ LAND COMPANY CONTACT: ROBERT MENK

ADDRESS 6100 INDIAN SCHOOL RD NE PHONE: 881-6644

ARCHITECT: BURNS/PETERS GROUP CONTACT: TYLER MASON

ADDRESS: 8000 PENNSYLVANIA CIR NE PHONE: 265-3645

SURVEYOR: ANDREWS, ASBURY & ROBERT INC CONTACT: GAYLE JEWELL

ADDRESS: 149 JACKSON NE, ALBUQUERQUE PHONE: 265-6631

CONTRACTOR: N/A CONTACT:

ADDRESS: PHONE:

PRE-DESIGN MEETING:

____ YES

_X_ NO

____ COPY OF CONFERENCE RECAP SHEET PROVIDED

RECEIVED APR 05 1985 HYDROLOGY SECTION

DRB NO. 85-45 - 3/26/85

EPC NO.

PROJECT NO.

TYPE OF SUBMITTAL:

____ DRAINAGE REPORT

_X_ DRAINAGE PLAN

____ CONCEPTUAL GRADING & DRAIN. PLAN

____ GRADING PLAN

____ EROSION CONTROL PLAN

____ ENGINEER'S CERTIFICATION

CHECK TYPE OF APPROVAL SOUGHT:

____ SKETCH PLAT APPROVAL

____ PRELIMINARY PLAT APPROVAL

____ SITE DEVELOPMENT PLAN APPROVAL

____ FINAL PLAT APPROVAL

_X_ BUILDING PERMIT APPROVAL

____ FOUNDATION PERMIT APPROVAL

____ CERTIFICATE OF OCCUPANCY APPROVAL

____ ROUGH GRADING PERMIT APPROVAL

____ GRADING/PAVING PERMIT APPROVAL

OTHER ____ (SPECIFY)

DATE SUBMITTED: April 5, 1985

BY: ANDREWS, ASBURY & ROBERT, INC.

Rev. 11/84

ANDREWS, ASBURY & ROBERT, INC.
Consulting Engineers
149 Jackson, NE, Albuquerque, New Mexico 87108
(505) 265-6631

John A. Andrews, P.E.
Charles T. Asbury, P.E.
John B. Robert, P.E. & L.S. (1915 - 1984)

April 4, 1985

RECEIVED
APR 05 1985
HYDROLOGY SECTION

Mr. Fred Aguirre
City Engineering/Hydrology
City of Albuquerque
PO Box 1293
Albuquerque, NM 87103

SUBJECT: LOT 1A, NZ COMMERCIAL-OFFICE CENTER

Dear Mr. Aguirre:

Attached you will find the information sheet and one copy each of the drainage and grading plan (sheet C2) and drainage and grading details (sheet C2.1) for the subject project.

The proposed drainage system is in accordance with the City of Albuquerque's Development Process Manual and the approved drainage report for this area entitled "Drainage Report for NZ Commercial-Office Center" (M15-D8).

The drainage system provides for the controlled discharge of the developed runoff from the site. Off site flows, generated from areas to the east of the site, will be directed to the existing concrete lined channel located adjacent to the north boundary of the site, per requirements of the aforementioned report.

Also, enclosed for your information is a copy of the filed plat of Lot 1A, NZ Commercial-Office Center.

Please call if you have any questions.

Very truly yours,

Robert S. Foglesong

ROBERT S. FOGLESONG, P.E. & L.S.

mt-406

Attachments

cc: Tyler Mason w/o attachments

City of Albuquerque
P.O. BOX 1293 ALBUQUERQUE, NEW MEXICO 87103

DESIGN HYDROLOGY SECTION
123 Central NW, Albuquerque, NM 87102
(505) 766-7644

May 23, 1985

Mr. Robert Foglesong
149 Jackson NE
Albuquerque, N.M. 87107

RE: DRAINAGE PLAN FOR NZ LAND COMPANY (M15/D8B) RECEIVED APRIL 5, 1985.

Dear Mr. Foglesong:

I have reviewed the above referenced plan and forward the following comments:

1. Require coordination with City design section for the concrete surface inlets.

2. Require concurrence from the owner to the northeast of your site to grade on his property.

If you should have any questions, please contact this office at 766-7644.

Sincerely,

Carlos A. Montoya

Carlos A. Montoya
City/County Flood Plain Admin.

CAM/cl

AGREEMENT

It is mutually agreed by the undersigned owners that the grading shown on the Grading & Drainage Plan for 1601 Randolph Road, SE (DRB #85-43) may be executed in order to accommodate the grading on each lot.

Owner of Lot 1A of NZ Commercial Office Center, a replat of Tract 3, amended Newport Industrial Park West, Unit 1, Oct. 1981, filed Feb. 6, 1985, Vol. 26, Folio 63.

NEWPORT PARK ASSOCIATES

Date: 6/4/85

By: Blaine Connerley
Blaine Connerley
Managing Partner

Owner of Lot 3 of NZ Commercial Office Center, a replat of Tract 3, amended Newport Industrial Park West, Unit 1, Oct. 1981

NEWPORT PARK ASSOCIATES

Date: 06/04/85

By: Robert L. Menk
Robert L. Menk
Managing Partner

RECEIVED
JUN 06 1985
HYDROLOGY SECTION

DRAINAGE INFORMATION SHEET

PROJECT TITLE: NZ COMMERCIAL-OFFICE CENTER ZONE ATLAS/DRNG. FILE #: M-15/ D88

LEGAL DESCRIPTION: LOT 1A, NZ COMMERCIAL-OFFICE CENTER

CITY ADDRESS: 1601 RANDOLPH ROAD SE, ALBUQUERQUE

ENGINEERING FIRM: ANDREWS, ASBURY & ROBERT CONTACT: ROBERT FOGLESONG

ADDRESS: 149 JACKSON NE, ALBUQUERQUE PHONE: 265-6631

OWNER: NZ LAND COMPANY CONTACT: ROBERT MENK

ADDRESS 6100 INDIAN SCHOOL RD NE PHONE: 881-6644

ARCHITECT: BURNS/PETERS GROUP CONTACT: TYLER MASON

ADDRESS: 8000 PENNSYLVANIA CIR NE PHONE: 265-3645

SURVEYOR: ANDREWS, ASBURY & ROBERT INC CONTACT: GAYLE JEWELL

ADDRESS: 149 JACKSON NE, ALBUQUERQUE PHONE: 265-6631

CONTRACTOR: N/A CONTACT:

ADDRESS: PHONE:

RECEIVED JUN 06 1985 HYDROLOGY SECTION

PRE-DESIGN MEETING:

____ YES DRB NO. 85-45

_X_ NO EPC NO.

____ COPY OF CONFERENCE RECAP SHEET PROVIDED PROJECT NO.

TYPE OF SUBMITTAL:

____ DRAINAGE REPORT

_X_ DRAINAGE PLAN

____ CONCEPTUAL GRADING & DRAIN. PLAN

____ GRADING PLAN

____ EROSION CONTROL PLAN

____ ENGINEER'S CERTIFICATION

_X_ Reply to Review Comments ~~June 6, 1985~~ May 23, 1985

CHECK TYPE OF APPROVAL SOUGHT:

____ SKETCH PLAT APPROVAL

____ PRELIMINARY PLAT APPROVAL

____ SITE DEVELOPMENT PLAN APPROVAL

____ FINAL PLAT APPROVAL

_X_ BUILDING PERMIT APPROVAL

____ FOUNDATION PERMIT APPROVAL

____ CERTIFICATE OF OCCUPANCY APPROVAL

____ ROUGH GRADING PERMIT APPROVAL

____ GRADING/PAVING PERMIT APPROVAL

____ OTHER _____ (SPECIFY)

DATE SUBMITTED: April 4, 1985 (originally) June 6, 1985

ANDREWS, ASBURY & ROBERT, INC.

BY: Robert D. Foglesong

Rev. 11/84

ANDREWS, ASBURY & ROBERT, INC.
Consulting Engineers
149 Jackson, NE, Albuquerque, New Mexico 87108
(505) 265-6631

John A. Andrews, P.E.
Charles T. Asbury, P.E.
John B. Robert, P.E. & L.S. (1915 - 1984)

June 6, 1985

RECEIVED
JUN 06 1985
HYDROLOGY SECTION

Mr. Carlos Montoya
City/County Flood Plain Administrator
Design Hydrology Section
City of Albuquerque
PO Box 1293
Albuquerque, NM 87103

SUBJECT: DRAINAGE PLAN FOR NZ OFFICE BUILDING
(M15/D8B)

Dear Mr. Montoya:

As per your review comments dated May 23, 1985, enclosed is one copy of the approved Special Order 19 for construction of the concrete surface inlets within City right-of-way for the NZ Office Building project.

Also, enclosed is a copy of the agreement between the owners of Lot 1A and Lot 3, which allows embankment to be placed on the lot adjacent to the project.

We trust this will provide enough information for a timely approval of the Drainage Plan for this project.

Please call if you have any questions.

Very truly yours,

Robert S. Foglesong

ROBERT S. FOGLESONG, P.E. & L.S.

mt-406

Enclosures

cc: Tyler Mason w/enclosures

City of Albuquerque
P.O. BOX 1293 ALBUQUERQUE, NEW MEXICO 87103

DESIGN HYDROLOGY SECTION
123 Central NW, Albuquerque, NM 87102
(505) 766-7644

June 10, 1985

Mr. Robert Foglesong
Andrews, Asbury & Roberts
149 Jackson NE
Albuquerque, NM 87108

RE: DRAINAGE PLAN FOR NZ COMMERCIAL-OFFICE CENTER (m15/D8B)
RECEIVED JUNE 6, 1985

Dear Mr. Foglesong:

I have reviewed the "Drainage Facilities Within City R/W" document and concurrence letter and find them appropriate.

However, it has been brought to my attention that there is an encroachment agreement in the city process. We will require the agreement to be accomplish prior to Hydrology sign-off. Also, the drainage plan should show this drainage easement.

The plat submitted April 5, 1985 also does not have the drainage easement. Please address why the plat does not show this easement.

If you should have any questions, please contact this office at 766-7644.

Sincerely,

Carlos A. Montoya
City/County Flood Plain Admin.

CAM/cl

DRAINAGE INFORMATION SHEET

PROJECT TITLE: NZ COMMERCIAL-OFFICE CENTER ZONE ATLAS/DRNG. FILE #: M15/D8B

LEGAL DESCRIPTION: LOT 1A, NZ COMMERCIAL-OFFICE CENTER

CITY ADDRESS: 1601 RANDOLPH ROAD SE, ALBUQUERQUE

ENGINEERING FIRM: ANDREWS, ASBURY & ROBERT CONTACT: ROBERT FOGLESONG

ADDRESS: 149 JACKSON NE, ALBUQUERQUE PHONE: 265-6631

OWNER: NZ LAND COMPANY CONTACT: ROBERT MENK

ADDRESS 6100 INDIAN SCHOOL RD NE PHONE: 881-6644

ARCHITECT: BURNS/PETERS GROUP CONTACT: TYLER MASON

ADDRESS: 8000 PENNSYLVANIA CIR NE PHONE: 265-3645

SURVEYOR: ANDREWS, ASBURY & ROBERT INC CONTACT: GAYLE JEWELL

ADDRESS: 149 JACKSON NE, ALBUQUERQUE PHONE: 265-6631

CONTRACTOR: N/A CONTACT:

ADDRESS: PHONE:

PRE-DESIGN MEETING:

____ YES

X NO

____ COPY OF CONFERENCE RECAP SHEET PROVIDED

RECEIVED JUN 14 1985 HYDROLOGY SECTION

DRB NO. 85-45

EPC NO.

PROJECT NO.

TYPE OF SUBMITTAL:

____ DRAINAGE REPORT

X DRAINAGE PLAN

____ CONCEPTUAL GRADING & DRAIN. PLAN

____ GRADING PLAN

____ EROSION CONTROL PLAN

____ ENGINEER'S CERTIFICATION

CHECK TYPE OF APPROVAL SOUGHT:

____ SKETCH PLAT APPROVAL

____ PRELIMINARY PLAT APPROVAL

____ SITE DEVELOPMENT PLAN APPROVAL

____ FINAL PLAT APPROVAL

X BUILDING PERMIT APPROVAL

____ FOUNDATION PERMIT APPROVAL

____ CERTIFICATE OF OCCUPANCY APPROVAL

____ ROUGH GRADING PERMIT APPROVAL

____ GRADING/PAVING PERMIT APPROVAL

OTHER Response to review comments (SPECIFY)

DATE SUBMITTED: June 14, 1985

ANDREWS, ASBURY & ROBERT, INC.

BY: Robert S. Foglesong

Rev. 11/84

ANDREWS, ASBURY & ROBERT, INC.
Consulting Engineers
149 Jackson, NE, Albuquerque, New Mexico 87108
(505) 265-6631

John A. Andrews, P.E.
Charles T. Asbury, P.E.
John B. Robert, P.E. & L.S. (1915 - 1984)

June 13, 1985

RECEIVED
JUN 14 1985
HYDROLOGY SECTION

Mr. Carlos Montoya
City/County Flood Plain Administrator
Design Hydrology Section
City of Albuquerque
PO Box 1293
Albuquerque, NM 87103

SUBJECT: DRAINAGE PLAN FOR NZ OFFICE BUILDING

Dear Mr. Montoya:

As per your review comments dated June 10, 1985, the existing utility easement will be shown as such on the drainage and grading plan (sheet C2).

The plat submitted on April 5, 1985, and enclosed herein again indicates the easement to which you are referring as an existing 25' utility easement as recorded on the subdivision plat for NZ Commercial-Office Center (filed June 16, 1982, enclosed). As was originally planned, two utilities would be constructed within this easement; i.e., sanitary sewer and storm drain. Therein lies the reason the existing 25' utility easement is referred to as a "utility easement" and not a "drainage ease +" or a "sanitary sewer easement" or a "sanitary sewer and drainage easement .

If you have any questions, please don't hesitate to call.

Very truly yours,

ROBERT S. FOGLESONG, P.E. & L.S.

mt-406

Enclosures

cc: Tyler Mason w/copy of review letter only

CITY OF ALBUQUERQUE

ALBUQUERQUE, NEW MEXICO

INTER-OFFICE CORRESPONDENCE June 13, 1985 REF. NO._____

TO: Fred J. Aguirre, Design Hydrologist, MDD/Eng

FROM: Adelia W. Kearny, Assistant City Attorney

SUBJECT: N-Z Commercial Office Center-Agreement

RECEIVED JUN 17 1985 DH0165 HYDROLOGY SECTION

Please review the enclosed. A copy has been provided to Tyler Mason for their review.

The exact name of the N-Z must be confirmed.

The recording information on both the N-Z property and the Drainage Easement will have to be provided.

Exhibit "A" must be attached indicating the perimeters of both the Air Space Grant and the Pedestrian Grant. See attached.

In Section 2, the lowest and highest elevation of the Air Space Grant will have to be agreed upon.

In Section 9, N-Z's address will have to be inserted.

Will you and the others receiving copies of this Agreement please review it and provide information, comments and approval, if appropriate, as soon as possible.

Thank you.

AWK/mk

cc: Greg Olson, Assistant City Engineer/Design
Walter H. Nickerson, Chief Engineer/WRD
Tyler Mason, A.I.A.

Walt: I was just informed by NZ's architect (Tyler) that DRB case No. 85-45 may have resolved Water's concern with this project by requiring NZ to pay for resources of a WRD line.
Does WRD still want to review + sign off on the final of this Agreement?
AK

CITY OF ALBUQUERQUE

ALBUQUERQUE, NEW MEXICO

INTER-OFFICE CORRESPONDENCE REF. NO._____

June 21, 1985

TO: Denise Wilcox, Administrative Assistant; Engineering Division

FROM: Carlos A. Montoya, P.E.; Design Hydrology Section

SUBJECT: NZ COMMERCIAL OFFICE CENTER AGREEMENT

Attached to this memo is the agreement for the referenced site with our comments. Please forward them to Legal for review. Thank you.

CAM/bsj

Fred:

The 16' clearance will be adaquite with a 45 wide easement, we may even be able to go 14' high.

I would sagest that Vic look at moving the pipe and easement to between lots 2 and 3

Jim Fitch
1/16/85

DISCUSSION DRAFT

A G R E E M E N T

THIS AGREEMENT, between the City of Albuquerque, New Mexico, a municipal corporation ("City") and N-Z Development Company ("N-Z"), is made in Albuquerque, New Mexico and is entered into as of the date of final execution of this Agreement.

1. Recital. N-Z is the owner of certain real property:

Lots 1 and 2, inclusive, of the N-Z COMMERCIAL OFFICE CENTER as the same are shown on the plat filed in the Bernalillo County, New Mexico real estate records in Book ____, Page ___, on _____, 19__ (the "Property",.

The City is the owner of a sanitary sewer and storm drain easement which is located along the approximate center line between Lots 1 and 2, as shown on the _____ filed in the Bernalillo County, New Mexico real estate records in Book ____, Page ____, on _____, 19__ ("Drainage Easement").

N-Z intends to develop the Property and construct a two-story building to be located on both sides of and over, but straddling and not touching, the Drainage Easement ("N-Z Building").

The City requires that the N-Z Building not encroach physically on the Drainage Easement, that N-Z permit the Drainage Easement to be used only for pedestrian purposes, and that sufficient air space over the Drainage Easement is retained so that the City can repair, maintain and perform other work on the Drainage Easement. The City agrees to the construction of the N-Z Building provided N-Z complies with the provisions of this Agreement and all other City requirements.

2. Grant of Air Space Use. The City hereby grants to N-Z the right to use the air space directly above the Drainage Easement at the location shown on Exhibit "A" attached hereto, and subject to all other terms of this Agreement. The lowest limit of this air space grant which can be utilized by N-Z will be 15' feet 0" inches above the highest elevation of the Drainage Easement at the location of the N-Z Building site, and the upper limits of this air space grant shall be _____ feet _____ inches above the highest elevation of the Drainage Easement at the location of the N-Z Building site ("Air Space Grant").

15'-0" 15

OK from Jim Finn

A. Use. The Air Space Grant is to be used by N-Z only as a location for construction of the N-Z building.

DISCUSSION DRAFT

The parties understand and agree that it is not the City's intention to grant any right to use the surface of the Drainage Easement for construction of the foundation or any part of the N-Z Building.

B. Term. The Air Space Grant will exist until breach of this Agreement by N-Z or abandonment by N-Z.

3. Grant of Pedestrian Use. The City hereby grants N-Z the right to use the Drainage Easement for pedestrian purposes only at the location shown on Exhibit "A" attached hereto, and subject to all other terms of this Agreement ("Pedestrian Grant").

A. Use. The use of the Pedestrian Grant is limited to N-Z's installation and use of a pedestrian walkway and related paving and landscaping within the Drainage Easement area encompassed by the exterior perimeters of the N-Z building.

B. Term. The Pedestrian Grant will exist until breach of this Agreement by N-Z or abandonment by N-Z.

4. Maintenance of Drainage Facilities. The City has the right at any time to enter the Drainage Easement, within the Pedestrian Grant, and to perform whatever repair, maintenance, installation or operation of the drainage facilities the City sees fit.

The City will give N-Z prior notice before entering the Pedestrian Grant if reasonably possible under the circumstances.

5. Restoration of Pedestrian Grant Property. After performing repair, maintenance, installation, operation or other related activities within the Pedestrian Easement, the City will not be financially or otherwise responsible for rebuilding or restoring the Pedestrian Grant and has no responsibility for repaving or re-landscaping any damaged N-Z property.

Agreement to include retaining wa and steps.

6. N-Z Use of Air Space and Pedestrian Grants. N-Z may use the Air Space and Pedestrian Grants in any manner which is consistent with the City's grant herein so long as such use does not disturb or disrupt the function of the Drainage Easement. N-Z has no right to use the Air Space Grant or the Pedestrian Grant for construction of buildings, roadways or any other structure. If any N-Z use of the Grants interferes with the City's repair, maintenance, installation, operation or other use of the Drainage Facilities, N-Z agrees to cease such use within seventy-two (72) hours of receipt of written notice from the City.

DISCUSSION DRAFT

7. Indemnification. N-Z 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 N-Z's use of the Air Space Grant or Pedestrian Grant.

8. Liability. The City will not be liable for any damage to N-Z's property or improvements which result from the City's activities permitted by this Agreement. However, N-Z will reimburse the City for any damage to the Drainage Easement caused by N-Z.

9. Notice. Written notice provided for herein will be accomplished by mailing the same to:

N-Z:

N-Z Development Company

_____

Albuquerque, New Mexico _____

CITY OF ALBUQUERQUE:

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

Written notice may be made, either personally or by regular United States mail, postage paid.

N-Z may change its address by giving written notice, certified mail, return receipt requested, to the City Engineer at the above address.

10. Covenants Running with the Property. The covenants of N-Z set forth herein are binding on N-Z, its heirs, assigns and successors, and on the Property, and will run with the Property until released by the City.

N-Z DEVELOPMENT COMPANY

By:_____

Title:_____

DISCUSSION DRAFT

CITY OF ALBUQUERQUE

Approved By:

_____
Chief Administrative Officer
Dated:_____

RECOMMENDED:

_____
City Engineer

_____
Water Resources Department

ATTEST:

_____
City Clerk

Approved as to form:

_____
Assistant City Attorney

Reviewed by:

_____
City Attorney

STATE OF NEW MEXICO)
) ss.
COUNTY OF BERNALILLO)

The foregoing instrument was acknowledged before me this ____ day of _____, 1985, by _____, _____ of N-Z Development Company on behalf of said company.

_____
Notary Public

My Commission Expires:
_____

STATE OF NEW MEXICO)
) ss.
COUNTY OF BERNALILLO)

The foregoing instrument was acknowledged before me this ____ day of _____, 1985, by Bob V. Stover, Chief Administrative Officer of the City of Albuquerque, a municipal corporation on behalf of said corporation.

_____
Notary Public

My Commission Expires:
_____

8000 Pennsylvania Circle NE Albuquerque, New Mexico 87110 Telephone 505•265 3645

THE BURNS•PETERS GROUP, P.A.

July 2, 1985

Mr. Charles Volz
Chief Building Official
Buildings and Inspection
Municipal Development Department
City of Albuquerque
P. O. Box 1293
Albuquerque, New Mexico 87103

Re: Plancheck Process

Dear Mr. Volz:

Permit me to discuss a few items regarding the Plancheck Process.

1. A series of chance events has led to lengthy delay in obtaining a building permit for an office building (1601 Randolph Road SE). First, the property is zoned IP, which required a DRB Hearing (February 26, 1985) for the site plan. At this hearing the Transportation Department required a 30 day deferral in order to study a proposed relocation of University Blvd. SE. We had been previously unaware of this study. Next, it was during this time that the review period in the Hydrology Department increased to 45-60 days (due to increased work and decreased staff), adding further delay. Finally, due to the location of an elevated portion of the building over an existing storm sewer drainage easement, it was necessary to obtain a letter from the City Attorney's office establishing a legal agreement to use the easement. This process was initiated during the DRB process in March, but due to personnel changes at the City Attorney's office, is yet to be completed. Hydrology has been unwilling to sign-off on the permit until this agreement is completed. Hydrology has been unwilling to sign-off on the permit until this agreement is completed. All other rejects have been signed-off. The plans were submitted for permit in mid-April. More than 60 days have passed (more than 100 since the first DRB Hearing) and no permit has been issued as of this writing.

status?

2. There are rejects which require information to be furnished which may not be available to an Architect prior to receiving the bids for a construction project. Many Owners require that building permits be obtained prior to receiving bids for a project, so that any changes in design required for the building permit are costed into the bid (instead of having to issue a Change Order after the bid). The UBC rejects for wood trusses with metal

William L. Burns, AIA Ronald L. Peters, AIA Donald F. Fletcher, AIA Jack R. Alley, AIA Roger Easley

connectors, and for exterior finish systems on stud walls require information usually provided in shop drawings. Shop drawings are not prepared until after bids are received and a construction contract is awarded. In a competitive bid situation, the Architect does not know which manufacturer of wood trusses or exterior finish systems will be selected until the contract is awarded. These rejects preclude an Owner from obtaining a building permit prior to receipt of bids for a construction project. Is it possible for these rejects to be conditional, pending receipt of shop drawings? Are the rejects necessary at all? These elements of buildings must still comply with code requirements regardless of review for building permit.

3. Availability of Personnel for Reject Sign-off:
The AIA Building Performance and Regulations Committee met with Tony Reynolds of MDD on July 17, 1984, to discuss consolidation of the Plancheck and Process Improvement. At that meeting, I was under the impression that the following actions have been taken by the City: 1) consolidation of Refuse Plancheck with Zoning; 2) authorization for Zoning to sign-off minor traffic rejects when the Traffic Plan Reviewer was unavailable; 3) Traffic Plan Reviewer to be available from 8-12 a.m. daily; 4) Environmental Health Plan Reviewer to be available full-time, daily with topsoil permit sign-off. All except number 2) appear to be in effect. My question is, how can Zoning handle traffic rejects in the afternoon if Zoning is only available for reject sign-offs from 8-12 a.m. daily? I had hoped that the goal of MDD was to create a plan review/reject sign-off/preliminary review service which would be available at all Plancheck stops during all business hours. I recognize that budget economics may limit full-time availability; however, there presently exists a great discrepancy from department to department as to the degree of service available to the public.

4. Other aspects of the permit process are generally good. However, it would be helpful to design professionals if procedural changes could be given more publicity. For example, I learned of the requirements for structural calculations for exterior finish systems, and for indicating all changes on the permit sets (in addition to written Addenda or Change Orders) for the first time through

Plancheck rejects. Had I received prior notification of these changes, I could have prevented some time-consuming attempts to address these items. Notification could be sent to members of the Albuquerque Chapter of the AIA, to holders of Development Process Manuals and/or to presidents of professional organizations (AIA, NSPE, AGC, etc.).

Thank you for allowing me to bring these matters to your attention.

Sincerely,

Tyler Mason

Tyler Mason, AIA
THE BURNS/PETERS GROUP, P.A.

TM/dc

City of Albuquerque
P.O. BOX 1293 ALBUQUERQUE, NEW MEXICO 87103

DESIGN HYDROLOGY SECTION
123 Central NW, Albuquerque, NM 87102
(505) 766-7644

July 9, 1985

Robert Foglesong
Andrews, Asbury & Robert
149 Jackson, NE
Albuquerque, New Mexico 87108

RE: DRAINAGE PLAN FOR NZ COMMERCIAL-OFFICE CENTER
(M-15/D8B) RECEIVED JUNE 14, 1985

Dear Mr. Foglesong:

The referenced plan dated June 14, 1985, is approved for building permit sign-off.

Please attach a copy of this approved plan along with the appropriately approved "Drainage Easements Within City Right-Of-Way" document to both construction sets prior to Hydrology sign-off.

If you have any questions or comments regarding this project, please call me at 766-7644.

Cordially,

Carlos A. Montoya

Carlos A. Montoya, PE.
City/County Floodplain Administrator

CAM/bsj

0404

City of Albuquerque

P.O. BOX 1293 ALBUQUERQUE, NEW MEXICO 87103

MAYOR
Harry E. Kinney

CHIEF
ADMINISTRATIVE OFFICER
XXXXXXXXXXXX
BOB V. STOVER

July 17, 1985

RECEIVED
JUL 19 1985
CITY ENGINEER

Mr. Tyler Mason, AIA
THE BURNS/PETERS GROUP, P.A.
8000 Pennsylvania Circle NE
Albuquerque, New Mexico 87103

Re: Plancheck Process, 1601 Randolph Road SE

Dear Mr. Mason:

This is in response to your letter of July 2, 1985.

Item #1: Please contact the City Transportation Department, City Legal Department and City Engineer (Dwayne Sheppard).

Item #2: Please be advised that the Albuquerque Uniform Administrative Code required that a complete building design must be approved prior to building permit issuance. See UAC Section 303 (a) Permit Issuance.

All necessary engineering calculations are required to be submitted and approved prior to issuance of the building permit. See UAC Section 302 (a) 4. Application for Peremit.

Your request that we issue the permit and review the design at a later date is analogous to the events that led to the Kansas City Hyatt Regency Hotel walkway collapse which killed 113 people in the hotel lobby. This collapse involved "shop drawing" approval - architect blaming structural engineer - structural engineer blaming steel fabricator, etc. You, as an architect, licensed by the State of New Mexico to protect the public safety and health, are responsible to provide to your client a building design that complies with all applicable laws and ordinances. This is certainly in the best interest of the building owner - you are indeed compensated to provide adequate design services. Any assertion on your part, that the City of Albuquerque/Code Administration Division delayed your project due to building code design requirements, is erroneous - such delays were caused by your failure to provide proper design information. Your statement "elements of buildings must still comply with code requirements regardless of review for

building permit" - if carried to its logical conclusion, would result in buildings being built and code compliance reviewed after construction - resulting in costly changes. This is not in the best interest of your client. Your statement "are the rejects necessary at all?" indicates a deficient knowledge of the building code.

Please be advised that public-safety is the utmost concern of my office. It is my duty to enforce the provisions of the Building Code and I will continue to require adequate design information prior to issuance of building permits.

Item #3: Our Zoning Section reviews rejects for walk-in applicants from 8:00 to 9:00 am. After 9:00 am, they review by appointment only. Zoning, however, is open in the afternoon for any minor Traffic Engineering reject review. Zoning has had permission to clear minor Traffic Engineering rejects, but, has only reviewed a few since starting this process. PLease be advised that the Zoning Section is available for such service.

Item #4: Structural calculations are required by City Ordinance regardless of whether or not the Code Administration Division periodically notifies architects. Enclosed is a complimentary copy of the City of Albuquerque Uniform Administrative Code, 1984 edition ($5.00 value) containing section references indicated in our response to your Item #2.

Thank you for taking the time to express your views of our planchecking process and if I can be of any further assistance, please contact me.

Sincerely,

Charles W. Volz

Charles W. Volz, AIA
Chief Building Official
Code Administration Division

CWV/cc
(0040C)

cc: Carl Rodolph, Director, Municipal Development Department
Dwayne Sheppard, City Engineer, Engineering Division
Robert Romero, Zoning Enforcement Officer, Zoning Section, CAD
Enclosure

NZ Commercial

Jan 28, 1985 - we sent request to legal to draft agreement acc. to CDS comments

Feb. 6, 1985 - CE called legal; Steve Bowman referred matter Jim Fitzgerald.

March 20, 1985 - Fred advised that there was some problem w/ road alignment situation

< > Jim Fitzgerald left City

May 17, 1985 - per Fred's request, sent legal 2ND copy of CDS comments & request for agreement.

CITY OF ALBUQUERQUE

ALBUQUERQUE, NEW MEXICO

INTER-OFFICE CORRESPONDENCE July 23, 1985 REF. NO._____

TO: Mr. Dwayne Sheppard, City Engineer

FROM: Carlos Montoya, City/County Flood Plain Admin. CM

SUBJECT: BACKGROUND INFORMATION FOR N-Z COMMERCIAL OFFICE

Attached to this memo is a chronological list of events pertaining to the N-Z Commercial Office. Also, the important letters, and memos are included as an attachment.

M15-D8B

CAM/cl

1. Dec. 19, 1984, Mr. Victor Chavez asks for approval of proposed development scheme and asks for minimum clearance required by City.

2. Jan. 11, 1985, comments from Mr. Stephen Bowman on Mr. Chavez request.

3. Jan 28, 1985, City Engineer request legal to draft agreement according to Mr. Sheppard's comments.

4. Feb. 26, 1985, At DRB Transportation Dept. asks for an additional 3 to 5 month deferral due alignment of University.

5. March 5, 1985 & March 18, 1985 letter from N.M. and Arizona Land Co. to Mr. Randy Traynor on alignment problem.

6. April 5, 1985, first drainage submittal Andrews, Asbury & Roberts.

7. May 17, 1985, per Fred's request, sent legal second copy of Mr. Sheppard's comments and request for agreement. Same as Jan 28, 1985, request.

8. May 23, 1985, comments by Carlos Montoya on site.

9. June 6, 1985 resubmittal of drainage plan addressing comments.

10. June 10, 1985, comments by Carlos Montoya.

11. June 13, 1985, comments by Adelia Kearny on the Agreement.

12. June 14, 1985, resubmittal of drainage plan.

13. June 21, 1985, comments on Agreement by Carlos Montoya.

14. July 9, 1985, sign-off by Hydrology for Building Permit.

Fred Aguirre

85 54681

716

M15/D8B

signed 5-4-3

7/3/85

AGREEMENT

THIS AGREEMENT, between the City of Albuquerque, New Mexico, a municipal corporation ("City") and Newport Park Associates ("Newport"), is made in Albuquerque, New Mexico and is entered into as of the date of final execution of this Agreement.

1. Recital. Newport is the owner of certain real property:

Lot 1A of the NZ COMMERCIAL-OFFICE CENTER, a subdivision, as the same is shown on the replat filed in the Bernalillo County, New Mexico real estate records in Volume C26, Folio 63, on February 6, 1985 (the "Property").

The City is the owner of a sanitary sewer and storm drain easement which is located within Lot 1A, as shown on the replat filed in the Bernalillo County, New Mexico real estate records in Volume C19, Folio 172 on June 6, 1982 ("Drainage Easement"). Newport has agreed to relocate the sanitary sewer to a new easement to be located outside the proposed building.

Newport intends to develop the Property and construct a two-story building to be located on both sides of and over, but straddling and not touching, the Drainage Easement.

The City requires that the Building not encroach physically on the Drainage Easement, that Newport permits the Drainage Easement to be used only for pedestrian purposes, and that sufficient air space over the Drainage Easement is retained so that the City can repair, maintain and perform other work on the Drainage Easement. The City agrees to the construction of the Building provided Newport complies with the provisions of this Agreement and all other City requirements.

2. Grant of Air Space Use. The City hereby grants to Newport the right to use the air space directly above the Drainage Easement at the location shown on Exhibit "A" attached hereto, and subject to all other terms of this Agreement. The lowest limit of this air space grant which can be utilized by Newport will be 15 feet above the highest elevation of the Drainage Easement at the location of the Building site, and the upper limits of this air space grant shall be 45 feet above the highest elevation of the Drainage Easement at the location of the Building site ("Air Space Grant").

A. Use. The Air Space Grant is to be used by Newport only as an area within which the Building can be constructed.

The parties understand and agree that it is not the City's intention to grant any right to use the surface of the Drainage Easement for construction of the foundation or any part of the Building.

B. Term. The Air Space Grant will exist until breach of this Agreement by Newport or abandonment by Newport.

3. Grant of Pedestrian Use. The City hereby grants to Newport the right to use the surface of the Drainage Easement only for pedestrian purposes and only at the location shown on Exhibit "A" attached hereto, and subject to all other terms of this Agreement ("Pedestrian Grant").

A. Use. The use of the Pedestrian Grant is limited to Newport's installation and use of a pedestrian walkway and related paving and landscaping within the Drainage Easement surface area encompassed by the exterior perimeters of the Building.

B. Term. The Pedestrian Grant will exist until breach of this Agreement by Newport or abandonment by Newport.

4. Maintenance of Drainage Facilities. The City has the right at any time to enter the Drainage Easement, upon the Pedestrian Grant, and perform whatever repair, maintenance, installation or operation of the drainage facilities the City sees fit.

The City will give Newport prior notice before entering the Pedestrian Grant if reasonably possible under the circumstances.

5. Restoration of Pedestrian Grant Property. After performing repair, maintenance, installation, operation or other related activities upon the Pedestrian Grant, the City will not be financially or otherwise responsible for rebuilding or restoring the Pedestrian Grant and has no responsibility for repaving or re-landscaping any damaged Newport property, including, but not limited to, retaining walls and steps. The cost of any restoration work and materials will be paid by Newport.

6. Newport Use of Air Space and Pedestrian Grants. Newport may use the Air Space and Pedestrian Grants in any manner which is consistent with the City's grant herein so long as such use does not disturb or disrupt the function of the Drainage Easement. Newport has no right to use the Air Space Grant or the Pedestrian Grant for construction of any building (other than the Building) for roadways or any other non-landscaping related structure. If any Newport use of the Grants interferes with the City's repair,

maintenance, installation, operation or other use of the facilities in the Drainage Easement, Newport agrees to cease such use within seventy-two (72) hours of receipt of written notice from the City.

7. Indemnification. Newport 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 Newport's use of the Air Space Grant or Pedestrian Grant.

8. Liability. The City will not be liable for any damage to Newport's property or improvements which result from the City's activities permitted by this Agreement. However, Newport will reimburse the City for any damage to the Drainage Easement or facilities caused by Newport.

9. Notice. Written notice to Newport will be accomplished by mailing the same to:

Blaine Connerly
Attention: Airpark Association
6100 Indian School Road, N.E.
Albuquerque, New Mexico 87111

CITY OF ALBUQUERQUE:

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

Written notice may be made, either personally or by regular United States mail, postage paid.

Newport may change its address by giving written notice, certified mail, return receipt requested, to the City Engineer at the above address.

10. Covenants Running with the Property. The covenants of Newport set forth herein are binding on Newport, its heirs, assigns and successors, and on the Property, and will run with the Property until released by the City.

NEWPORT DEVELOPMENT COMPANY

By: Robert J. Menk

Title: President

STATE OF NEW MEXICO
COUNTY OF BERNALILLO
FILED FOR RECORD

1985 JUL -8 PM. 2:17

Book 2461 PG 716-720

DOLORES C. WALLER
COUNTY CLERK & RECORDER

CITY OF ALBUQUERQUE

Approved By:

Bob V. Stover 7-3-85

Chief Administrative Officer
Dated: _____

ATTEST:

City Clerk

RECOMMENDED:

C. H. Heyman for

City Engineer

Approved as to form:

Assistant City Attorney

Reviewed by:

City Attorney

STATE OF NEW MEXICO)
) ss.
COUNTY OF BERNALILLO)

The foregoing instrument was acknowledged before me this 28th day of June, 1985, by Robert L. Menk, _____ of Newport Park Associates on behalf of said association.

Notary Public

My Commission Expires:

August 25, 1985

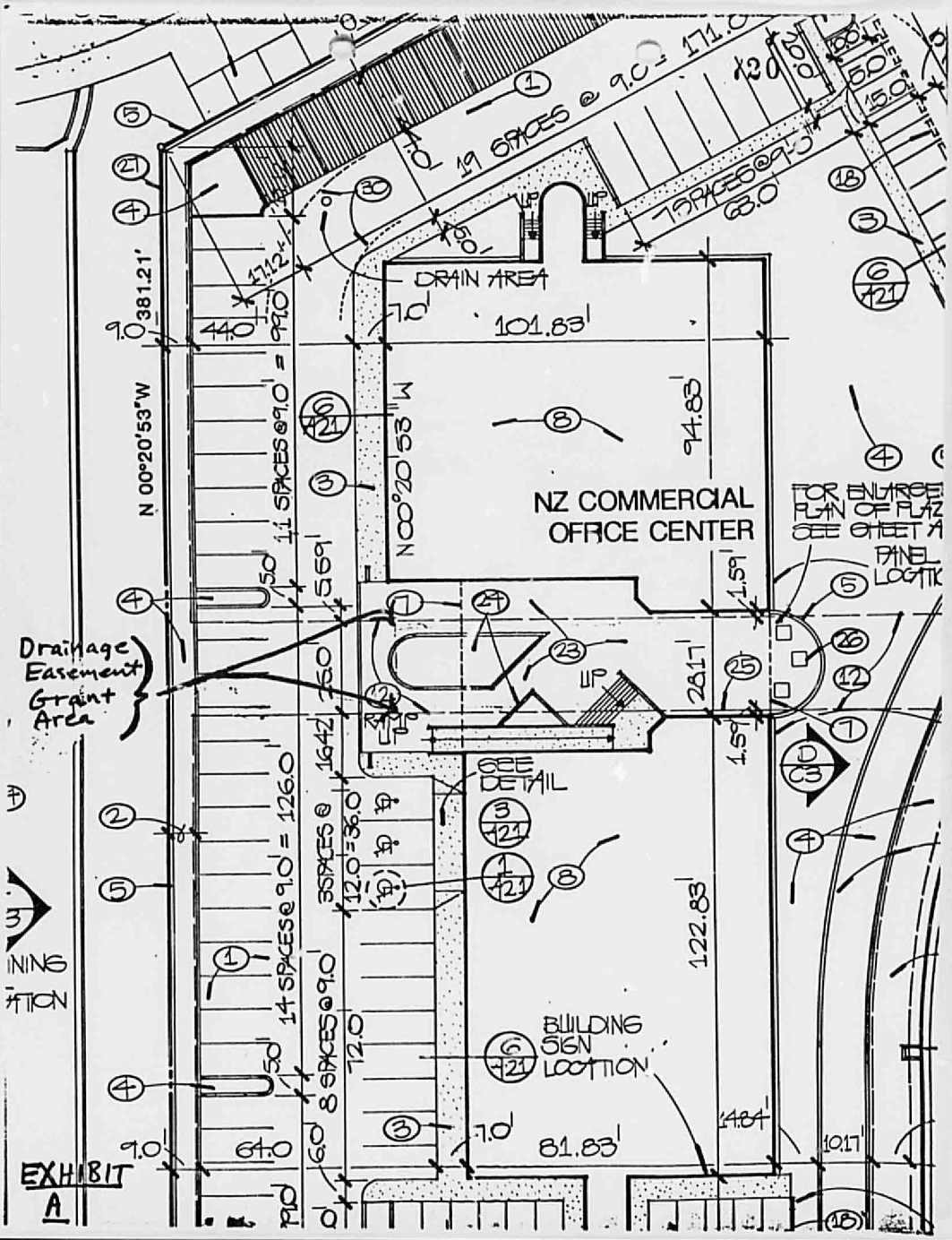
STATE OF NEW MEXICO)
) ss.
COUNTY OF BERNALILLO)

The foregoing instrument was acknowledged before me this 3rd day of July, 1985, by Bob V. Stover, Chief Administrative Officer of the City of Albuquerque, a municipal corporation on behalf of said corporation.

Notary Public

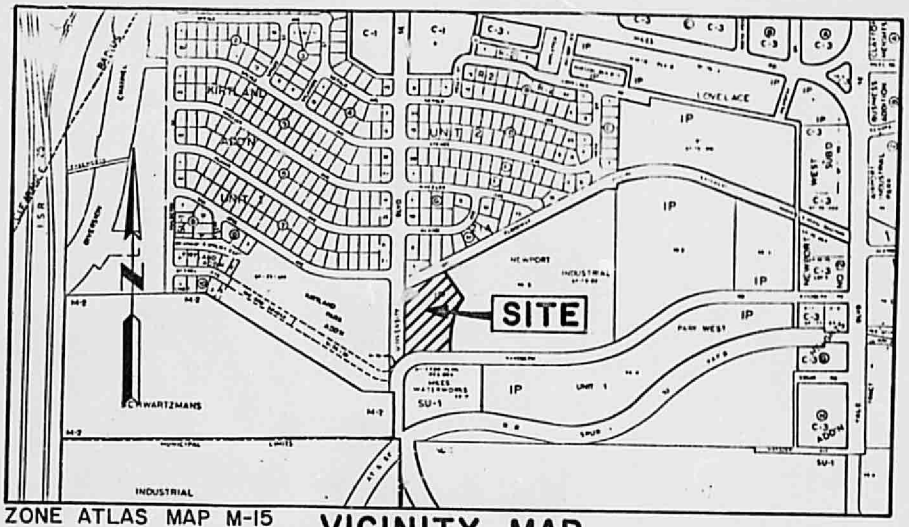
My Commission Expires:

12/18/88


NZ COMMERCIAL
OFFICE CENTER
DRAIN AREA
101.83'
94.83'
122.83'
81.83'
N 00°20'53"W
381.21'
19 SPACES @ 9.0' = 171.0'
73 SPACES @ 9.0'
11 SPACES @ 9.0' = 99.0'
14 SPACES @ 9.0' = 126.0'
8 SPACES @ 9.0'
3 SPACES @ 12.0' = 36.0'
Drainage Easement Grant Area
SEE DETAIL
BUILDING SIGN LOCATION
EXHIBIT A

CITY OF ALBUQUERQUE

DRAINAGE FACILITIES WITHIN CITY RIGHT OF WAY



ZONE ATLAS MAP M-15

VICINITY MAP

DESCRIPTION OF WORK

1. NEW SURFACE INLET, LOCATED 35' EAST OF NE PROPERTY CORNER.
2. EXTEND EXISTING SURFACE INLET, LOCATED 31.5' EAST OF NW PROPERTY CORNER

LEGAL DESCRIPTION

LOT 1A OF NZ COMMERCIAL OFFICE CENTER, A REPLAT OF TRACT 3, AMENDED NEWPORT INDUSTRIAL PARK WEST, UNIT 1, OCTOBER, 1981. FILED FEBRUARY 6, 1985, VOL. 26, FOLIO 63.

REGISTERED PROFESSIONAL ENGINEER
STATE OF NEW MEXICO
No. 3960
5-29-85
JOHN A. ANDREWS

BENCH MARK

ACS STA. 1-M15 ELEVATION = 5119.33 BRASS TABLET SET IN TOP OF CONCRETE POST @ SW CORNER OF UNIVERSITY BOULEVARD SE & SAN JOSE AVENUE SE.

NOTICE TO CONTRACTOR

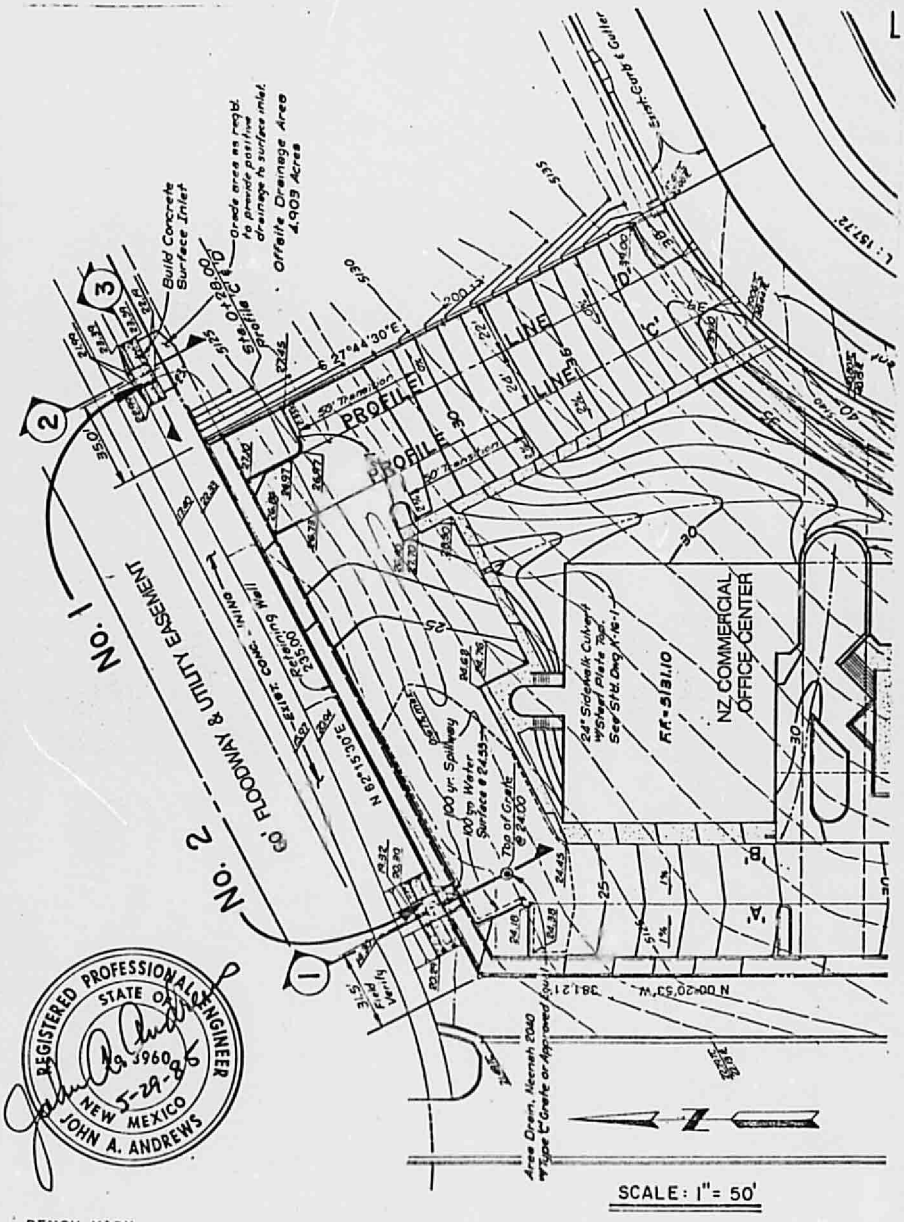
1. AN EXCAVATION/CONSTRUCTION PERMIT WILL BE REQUIRED BEFORE BEGINNING ANY WORK WITHIN CITY RIGHT-OF-WAY. AN APPROVED COPY OF THESE PLANS MUST BE SUBMITTED AT THE TIME OF APPLICATION FOR THIS PERMIT.
2. ALL WORK DETAILED ON THESE PLANS TO BE PERFORMED, EXCEPT AS OTHERWISE STATED OR PROVIDED HEREON, SHALL BE CONSTRUCTED IN ACCORDANCE WITH "PUBLIC WORKS CONTRACT NO. 85-1".
3. TWO WORKING DAYS PRIOR TO ANY EXCAVATION, CONTRACTOR MUST CONTACT LINE LOCATING SERVICE, 765-1234, FOR LOCATION OF EXISTING UTILITIES.
4. PRIOR TO CONSTRUCTION, THE CONTRACTOR SHALL EXCAVATE AND VERIFY THE HORIZONTAL AND VERTICAL LOCATIONS OF ALL OBSTRUCTIONS. SHOULD A CONFLICT EXIST, THE CONTRACTOR SHALL NOTIFY THE ENGINEER SO THAT THE CONFLICT CAN BE RESOLVED WITH A MINIMUM AMOUNT OF DELAY.
5. BACKFILL COMPACTION SHALL BE ACCORDING TO RESIDENTIAL STREET USE.

JAYNES CORPORATION — M15-D86 E-61

APPROVALS	ENGINEER	DATE	TITLE: SURFACE INLET NZ OFFICE BUILDING 1601 RANDOLPH ROAD SE	
A.C.E./DESIGN		06/04/85		
INSPECTOR	F.B.		PERMIT NO. 25080 SHEET 1 of 3	MAP NO. M-15
A.C.E./FIELD		7-9-85		

CITY OF ALBUQUERQUE

DRAINAGE FACILITIES WITHIN CITY RIGHT OF WAY



REGISTERED PROFESSIONAL ENGINEER
STATE OF NEW MEXICO
No. 3960
5-29-85
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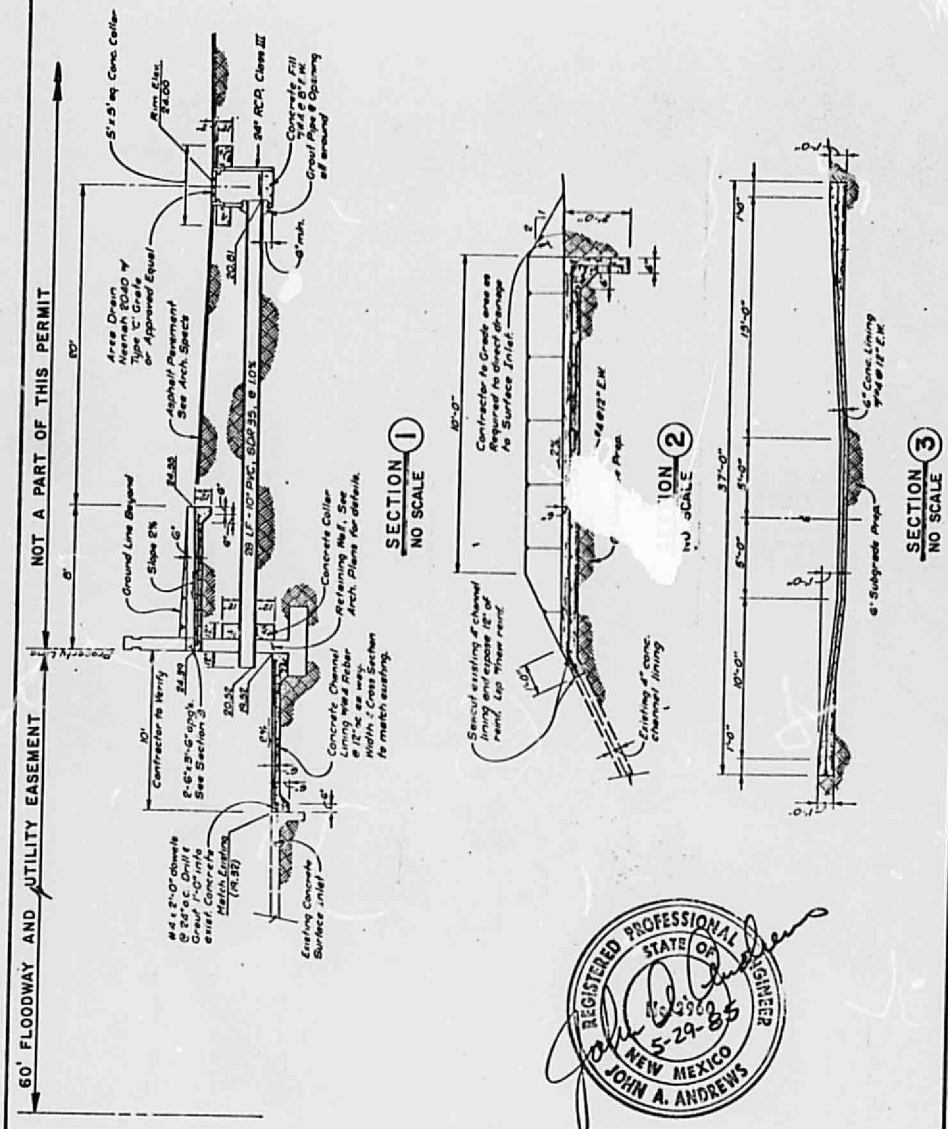
JAYNES CORPORATION

E-61

APPROVALS	ENGINEER	DATE	TITLE: SURFACE INLET NZ OFFICE BUILDING 1601 RANDOLPH ROAD SE	
A.C.E./DESIGN		06/04/85		
INSPECTOR			PERMIT NO. 25080 SHEET 2 of 3	MAP NO. M-15
A.C.E./FIELD				

CITY OF ALBUQUERQUE

DRAINAGE FACILITIES WITHIN CITY RIGHT OF WAY



JAYNES CORPORATION

E-61

APPROVALS	ENGINEER	DATE	TITLE: SURFACE INLET NZ OFFICE BUILDING 1601 RANDOLPH ROAD SE	
A.C.E./DESIGN		08/04/85		
INSPECTOR			PERMIT NO. 25080	MAP NO.
A.C.E./FIELD			SHEET 3 of 3	M-15