APPLICATION FOR SPECIAL EXCEPTION
CITY OF ALBUQUERQUE, PLANNING DEPARTMENT

Office of the Zoning Hearing Examiner
600 2nd Street, NW, Suite 300, 87102
505.924.3918

APPLICATION INFORMATION–PLEASE PRINT

Myers, Oliver & Price, P.C. (John A. Myers) — TELEPHONE (INCLUDE AREA CODE) (H) 505-247-9080
PROFESSIONAL / AGENT NAME (FIRST, LAST)

1401 Central Avenue, NW — (W) ___-___-___
MAILING ADDRESS

Albuquerque, New Mexico 87104 — (C) ___-___-___
CITY STATE ZIP CODE

Wright Real Estate, LLC — (H) ___-___-___
OWNER NAME (FIRST, LAST–IF ANY)

4959 E. Red Rock Drive — (W) ___-___-___
MAILING ADDRESS

Phoenix, Arizona 85018 — (C) ___-___-___
CITY STATE ZIP CODE

LEGAL DESCRIPTION OF PROPOSED SPECIAL EXCEPTION–PLEASE PRINT

4201 Montano, NW, Albuquerque, New Mexico — 87120
STREET ADDRESS OF SPECIAL EXCEPTION — ZIP CODE

Lot 384-A
LOT(S) — TRACT(S) — BLOCK(s)

Taylor Ranch Addition
SUBDIVISION / ADDITION / MRGCD MAP NO

101206218118630505
UNIFORM PROPERTY CODE

CRITERIA FOR DECISION– I have been given the Criteria for Decision requirements. Initial Here

EXPLANATION OF REQUEST– On additional sheet(s) of paper, please state why you want this Special Exception, based on the Criteria for Decision Requirements.

DRAWINGS OF REQUEST– **ATTACH THREE (3) COPIES.** Please follow instructions on the back of this form and attach the appropriate drawings.

TRAFFIC ENGINEERING REVIEW– **REQUIRED FOR ALL WALLS, FENCES, AND CARPORTS IN THE FRONT AND STREET SIDE YARD SETBACKS.** Call the Traffic Investigations Supervisor at 505.857.8685 for Site Plan Review. Delay of your case will result if you do not obtain comments from the Traffic Analysis Supervisor. Initial Here

ACKNOWLEDGEMENT– I hereby acknowledge that, to the best of my knowledge, this application is correct and complete and that I have received one or more signs that I have agreed to post and maintain as provided and where instructed. I understand that failure to properly post sign(s) is grounds for deferral of my case

SIGNATURE John A. Myers — DATE March 11, 2010

2010080071

ZONING ENFORCEMENT OFFICE INTERNAL USE ONLY

PROJECT #: 1008223 **APPLICATION #:** 10 ZHE 80071

APPLICATION FOR: (CHECK AS APPROPRIATE)
- ☐ (ZHE01) Conditional Use
- ☐ (ZHE02) Expansion of a NonConforming Use
- ☐ (ZHE03) NonConforming Use / Status Established Building

☒ (ZHE04) Variance:
- ☒ Distance ☐ Setback
- ☐ Height ☐ Parking
- ☐ Size ☐ Other

SECTION NO. 14-16-2-16(B)(5) REFERENCE SECTION NO: _____

(LEGAL AD) ACTION DESCRIPTION A variance of 25' to the required 25' separation from a residential zone for a proposed drive thru

SECTOR DEVELOPMENT AREA: Coors Corridor

ZONED: SU-1 C1 permissive & conditional uses ZONE MAP PAGE: E-12 NO. OF SIGNS ISSUED: 2

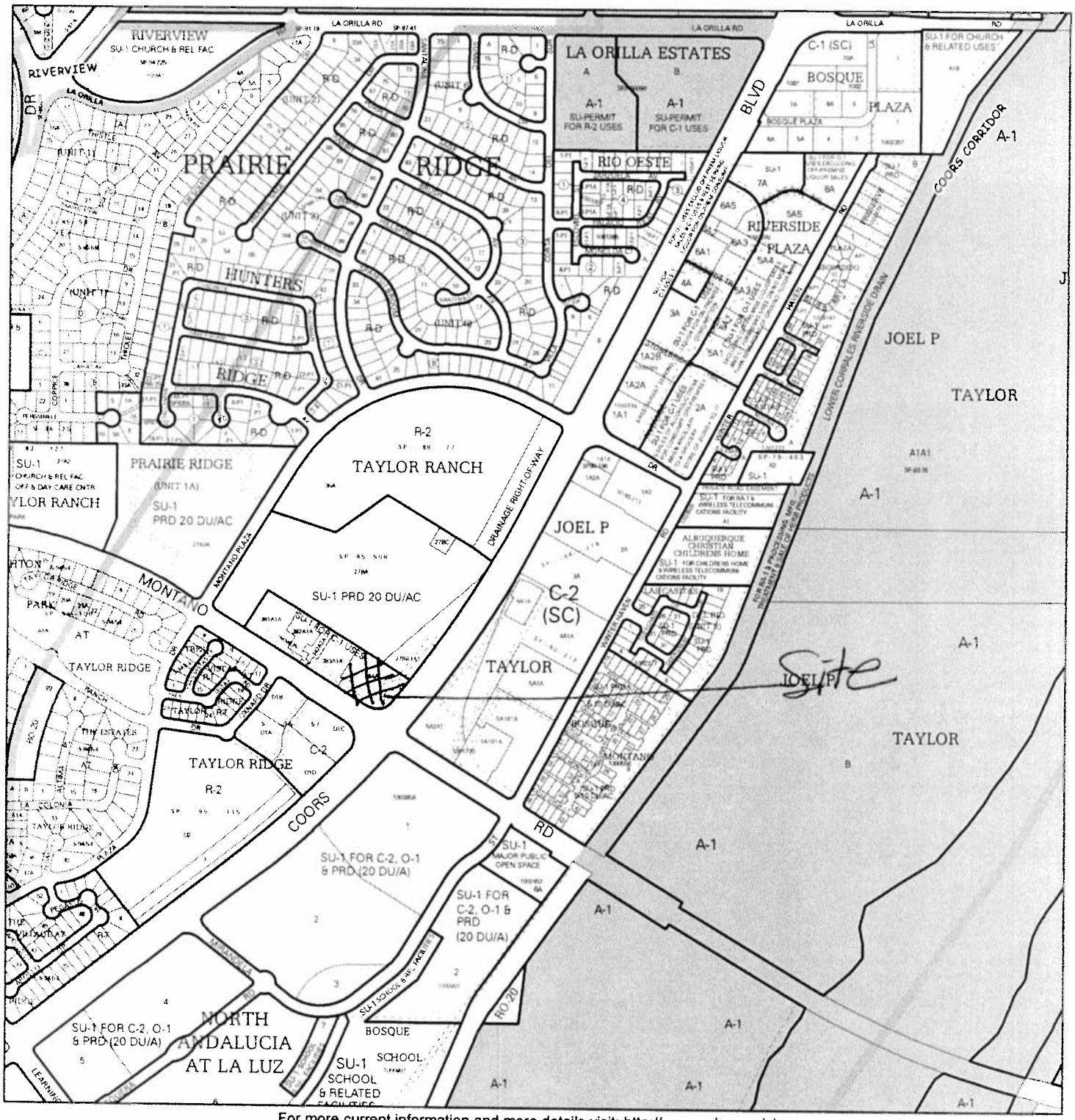
4201 Montano Rd. NW
POST SIGN(S) / STREET ADDRESS OF PROPOSED SPECIAL EXCEPTION

David Kilpatrick 3-11-2010
APPLICATION RECEIVED BY Z.E.O. (PRINT FULL NAME) DATE

04-20-10
DATE OF PUBLIC HEARING

Revised February 2009

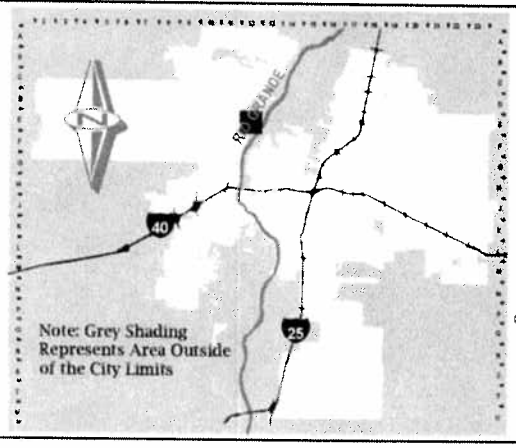
City of Albuquerque
Treasury Division
3/11/2010 4:55PM
WS# 006 TRANS# 0033
RECEIPT# 0011727 FEE: $ 1/275
PERMIT# 2010080071 TRSLJS
Trans Amt $145.00
APN Fee (APN) 441018 / 4971000 $ 35.00
Conflict Manag. Fee (CMP) 441032 / 3424000 $ 10.00
ZHE Actions (ZHE) 441006 / 3451000 $ 100.00
CK $145.00
CHANGE $0.00



For more current information and more details visit: http://www.cabq.gov/gis

AGIS
Albuquerque Geographic Information System

Map amended through: 3/10/2009



Zone Atlas Page:

E-12-Z

Selected Symbols

- SECTOR PLANS
- Design Overlay Zones
- City Historic Zones
- H-1 Buffer Zone
- Petroglyph Mon.
- Escarpment
- 2 Mile Airport Zone
- Airport Noise Contours
- Wall Overlay Zone

0 750 1,500 Feet

ZONING HEARING EXAMINER'S SPECIAL EXCEPTION APPLICATION CHECKLIST

TO APPLY FOR A SPECIAL EXCEPTION, THE FOLLOWING DOCUMENTS MUST BE SUBMITTED (PLEASE CHECK BOX):

[X] Three (3) copies of the site plan.

[X] Drawing showing the following:

a. All dimension of property and buildings and all structures on adjoining lots that are within 25 feet of the proposed Special Exception.
b. If the Special Exception request is a variance, please show clearly the point of variance and the height, width, and any appropriate dimensions of structures and/or parking spaces.

[X] Letter stating why applicant is requesting this Special Exception, based on the Criteria for Decision Requirements.

[X] Zone Atlas page with parcel **clearly marked**.

[X] Copy of Ordinance, referencing Section Number that pertains to request.

[ ] Traffic Engineering Review – Any request for constructing a structure (carport, wall/fence, shade structure, etc.) in the front and street side yard must contact the Traffic Engineer.

[X] Applicant is strongly encouraged to go to Office of Neighborhood Coordination (Plaza del Sol, Basement) to obtain names of Neighborhood Associations that may be affected by this request.

[X] Yellow Signs - Sign must be posted in a conspicuous location fifteen (15) days prior to the hearing. Failure to do so may result in a deferral (delay of hearing).

[ ] If applicant requires an **INTERPRETER**, check box in KIVA.

[ ] Applicant received Special Exception Booklet.

Enforcement Officer David Kilpatrick
(PLEASE PRINT NAME)

Date: 3-11-2010

PLEASE ATTACH THIS FORM TO THE ORIGINAL APPLICATION FOR ZHE OFFICE

(5) Drive-up service window, except where listed as permissive in this zone, provided that the vehicle movement plan is approved by the Traffic Engineer, and further provided that the service window and any associated order board are located at least 75 feet from any residential zone. Drive-up service windows in existence upon the effective date of this Zoning Code shall be considered as approved conditional uses.

(6) Fireworks sales, provided the use is limited to 45 days in one calendar year.

(7) Games within a completely enclosed building, operated for profit, and not permissive in this zone.

(8) Kennel, provided:

(a) It is in a completely enclosed building.

(b) It is no closer than 30 feet from any residential zone.

(c) The noise from the kennel does not exceed the ambient noise level as defined in § 9-9-2, Noise Control, when measured 30 feet from any exterior wall of the kennel.

(9) Mortuary.

(10) One mobile home for a watchman or caretaker on the same premises developed with a commercial building or use provided that the mobile home shall not be within 100 feet of a lot in a residential zone or a dwelling unit in any zone.

(11) Outdoor storage or activity except as specifically listed as a permissive or conditional use in this section and as further provided below:

(a) The outdoor storage or activity is part of a use on the same premises, which use is a permissive only within a building in this zone.

(b) Outdoor uses which would impact their environs with appearance, light, noise, odor, or similar environmental problems likely to be unpleasant to neighboring premises and uses shall not be approved.

(c) Outdoor conditional uses may justify special buffering to prevent the activity from negatively impacting adjacent land.

(d) Outdoor restaurant seating located within 75 feet of a residential zone.

(12) Park-and-ride joint-use facilities, if it is determined that under the conditions imposed there will not be a shortage of on-site parking for the activities on the site; in such situations, no parking variance is required.

(13) Photo direct off-set printing, perforating, scoring, cutting, and other light duty printing services provided:

(a) The number of persons engaged in the business is limited to five excluding secretarial, clerical, and delivery personnel; and

Supplement to Application for Special Exception

Applicant: Armstrong Development Properties, Inc.
Attn.: Scott Maier
1610 Wynkoop Street, Suite 120
Denver, Colorado 80202
Telephone: 303-893-2901
Fax: 303-893-2906
Email: smaier@agoc.com

November 23, 2009

City of Albuquerque Planning Department
600 2nd Street NW
Albuquerque, NM 87103

RE: CVS Authorization for Submittals to City of Albuquerque
NWC Montano Road and Coors Boulevard, Albuquerque, NM 87112

To Whom It May Concern:

As the current fee-owner of 1.6124 acres of property located at the northwest corner of Montano Road and Coors Boulevard in Albuquerque, NM, I hereby authorize Myers, Oliver and Price, Bohannan Huston, Inc., Jacobs Global Buildings, Southwest Signs, Armstrong Development Properties, Inc. and its agents to act on our behalf for the applications and submittals for CVS/pharmacy at the above referenced site.

Please feel free to contact me with any questions or concerns.

Sincerely,

Wright Real Estate, L.L.C.,
a New Mexico limited liability company

Julian Wright
Managing Member

March 3, 2010

Mr. Roberto Albertorio
Zoning Hearing Examiner
Planning and Zoning Department
City of Albuquerque

Re: 4201 Montano Blvd., NW
CVS Pharmacy

Dear Mr. Albertorio:

Armstrong Development Properties, Inc. ("Armstrong") is the contract purchaser of the above referenced property. Armstrong hereby authorizes Myers, Oliver & Price, P.C. (John A. Myers, Esq.) to act as its agent in connection with the application for special exception for a variance to the required setback of a drive thru window from 75' to 50'. Myers, Oliver & Price, P.C. (John A. Myers, Esq.) is further authorized to act as Armstrong's agent in any appeals process, if any.

Armstrong Development Properties, Inc.,
a Pennsylvania corporation

By: _____
Its: R.E. Manager

H:\Armstrong Development\Coors & Montano\Armstrong Authorization Letter.doc

REASONS FOR REQUEST

The property the subject of this request is located at the northwest corner of Coors Blvd. NW and Montaño Blvd. NW and is legally described as follows (the "**Property**"):

> Lot 384A, Taylor Ranch Addition as the same is shown and described on the plat recorded in the Bernalillo County, New Mexico real estate records on October 3, 2003 in Book 2003C, Page 301.

The Property is zoned "SU-1 for C-1 Permissive and Conditional Uses and Full Service Liquor within 500 feet of a Residential Zone". Section 14-16-2-16(B)(5) of the Zoning Ordinance provides as a Conditional Use in the C-1 zone:

> Drive-up service window...provided that the vehicular movement plan is approved by the Traffic Engineer, and further provided that the service window and any associated order board are located at least 75 feet from any residential zone.

Section 14-16-1-22(F) of the Zoning Ordinance provides that:

> If the resolution approving SU-1 references the regulations of another zone...the referenced zone regulations shall apply unless a variance is approved.

This is a request for a variance pursuant to Section 14-16-4-2 of the Zoning Ordinance to permit a pharmacy drive-up service window to be located fifty feet (50') from the Property zoned SU-1 for a Planned Residential Development located to the north of the Property, therefore, a request for a twenty-five foot (25') variance to the drive-up service window setback regulation (the "**Drive-Up Setback Regulation**").

1. The Property is exceptional as it relates to the Drive-Up Setback Regulation for the following reasons:

(a) The Property is exceptional as compared with other land in the vicinity subject to the same regulations by reason of the physical characteristic of the Property. The grade of the Property, at its north boundary, is approximately twenty-seven feet (27') below the grade of the residential property to the north. A photograph of the retaining wall supporting the grade change between the north boundary of the Property and the residential property to the north is attached as Attachment #1. We assume that this substantial grade change existed at the time that the Drive-Up Setback Regulation was adopted, subject to some cutting and filling to convert a natural slope to a grade difference supported by a retaining wall.

(b) The Property is exceptional as compared with other land in the vicinity subject to the same regulations by reason of the conditions or use of the Property. In 2003, the City's Development Review Board approved a site development plan for the development of the Property as an Eckard's Pharmacy (the "**Eckard's Site Plan**"). A copy of the Eckard's Site Plan is attached hereto as Attachment #2. The Eckard's Site Plan has a drive-up service window on the north side of the Eckard's building, fifty feet (50') from the residential property to the north. We are unable to ascertain why the City approved the drive-up service window in apparent contradiction of the Drive-Up Window Regulations. The Eckard's building, parking and traffic circulation were constructed in reliance upon the approval of the Excerd's Site Plan. Eckard's did not occupy the building and it was used for a restaurant which did not use the drive-up service window. Now the Property is proposed for re-use as a CVS Pharmacy with an associated drive-up service window. A copy of the proposed site plan for the CVS Pharmacy is attached as Attachment #3. The layout of the building and the site precludes the location of the drive-up service window at another location on the building. Therefore, existence of the building located on the Property with a traffic circulation plan designed to accommodate a drive-up service window on its north side is an exceptional "condition or use of the parcel". This exceptional condition resulted from the governmental action of approval of the Eckard's Site Plan.

2. As a result of the exceptional aspects of the Property an exceptional, substantial, and unjustified limitation is created on the owner's use of the Property. The building was constructed in a location on the Property and the parking and drive ways laid out to accommodate the drive-up service window on its north side. The highest and best use of the Property is for a pharmacy with a drive-up window. To prohibit the use of the Property for the use which it was constructed constitutes an exceptional, substantial, and unjustified limitation on the use of the Property.

3. The requested variance is appropriate to overcome the hardship.

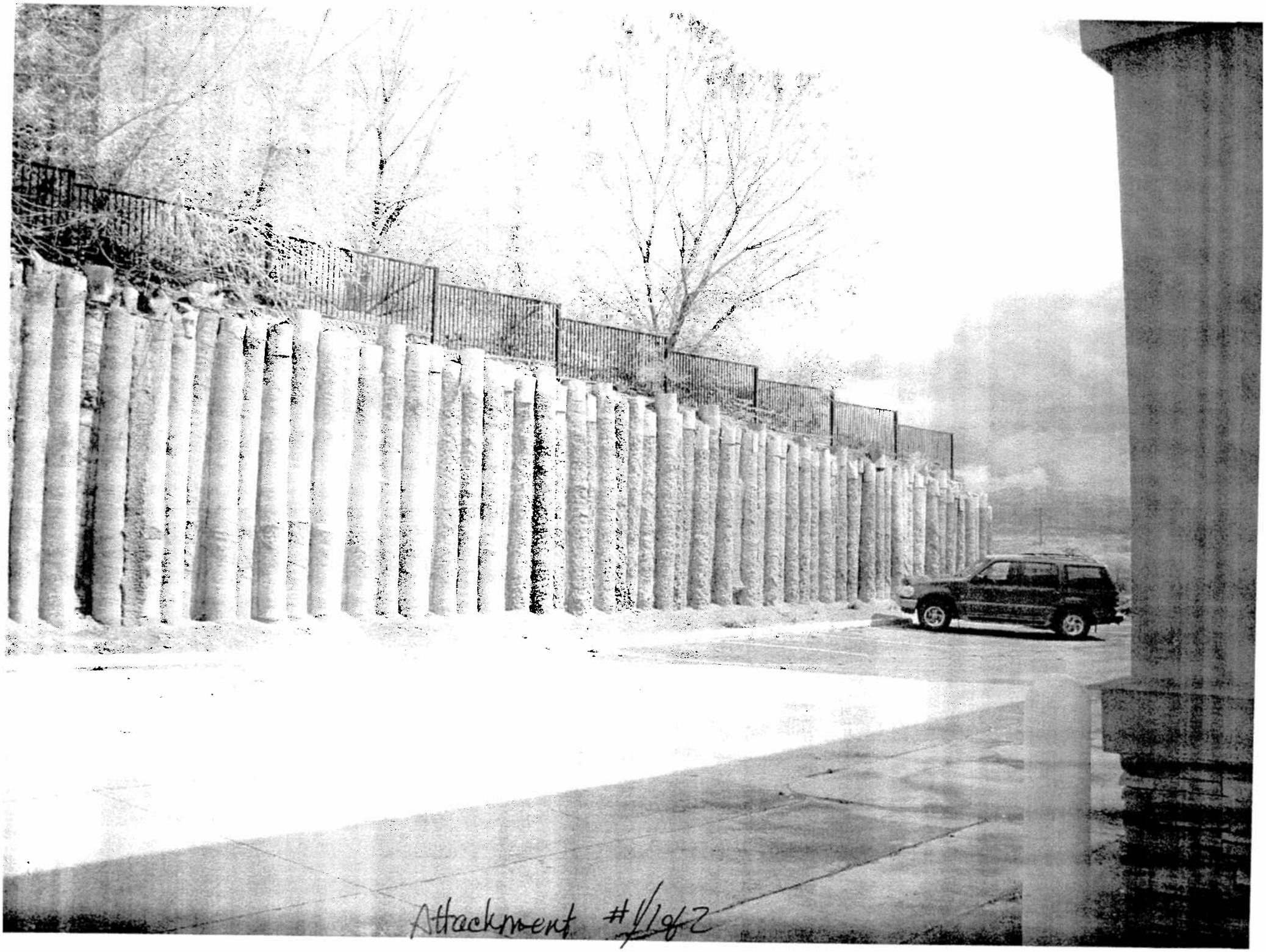
(a) The twenty-five foot (25') variance is no more than is necessary to overcome the unnecessary hardship. The north wall of the building is fifty feet (50') from the north property line, so a twenty-five feet (25') variance is what is needed and no less.

(b) The twenty-five foot (25') variance will not significantly interfere with the enjoyment of other land in the vicinity because of the twenty-seven foot (27') grade separation with the residential property to the north. Furthermore, this drive-up service window does not have a service board and loud speakers of the type which necessitate the seventy-five foot (75') setback requirement.

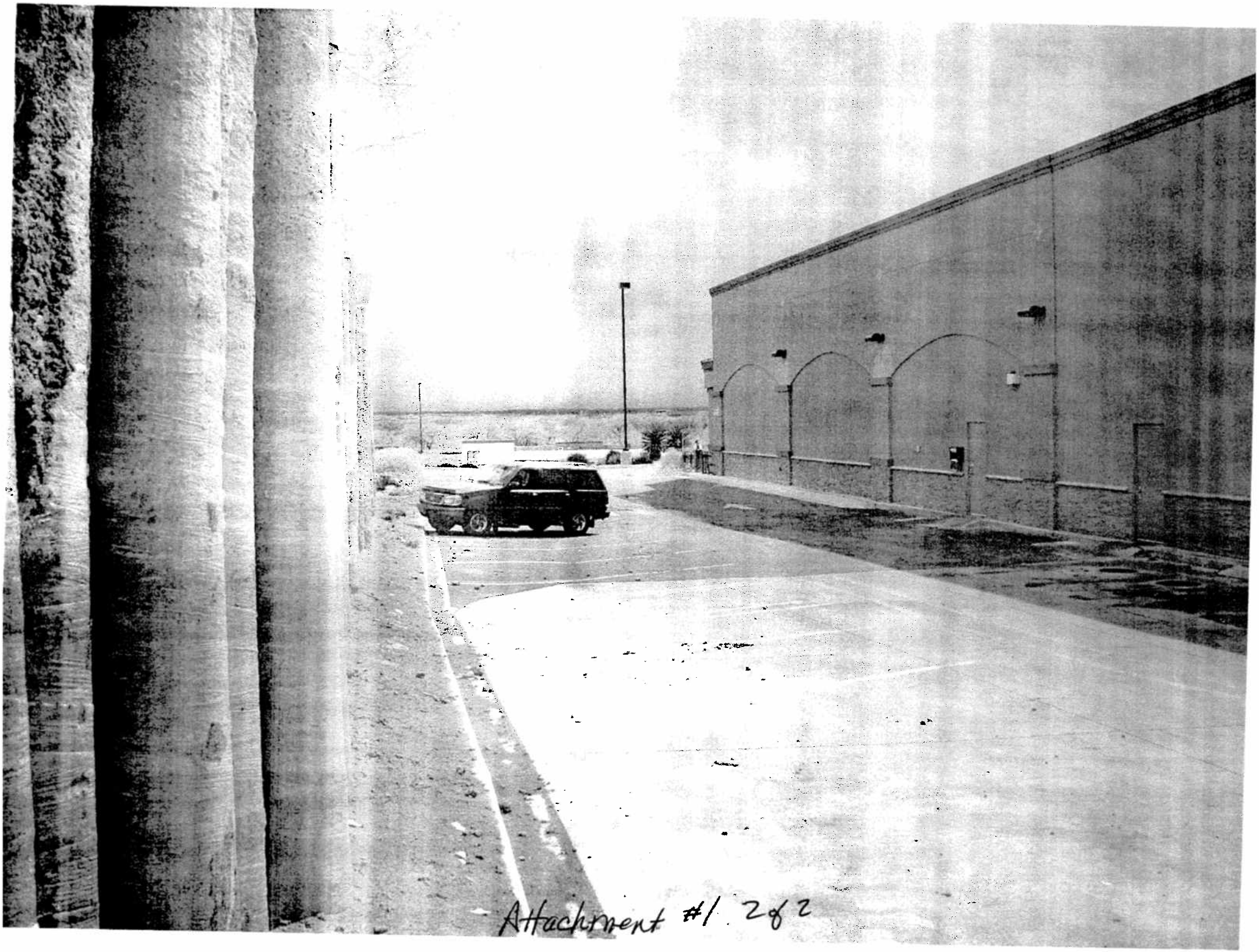
(c) This variance request is consistent with the spirit of the Zoning Ordinance, substantial justification and the general public interest. It will facilitate a neighborhood business benefitting the community on the west side of Coors Blvd. and will not be detrimental to the adjoining residential properties because of the character of the drive-up service window and the substantial grade change.

Therefore, Armstrong respectfully requests a twenty-five foot (25') variance to the Drive-Up Window Regulation to permit a pharmacy drive-up window on the north side of the building on the Property.

H:\Armstrong Development\Coors & Montano\REASONS FOR REQUEST.doc

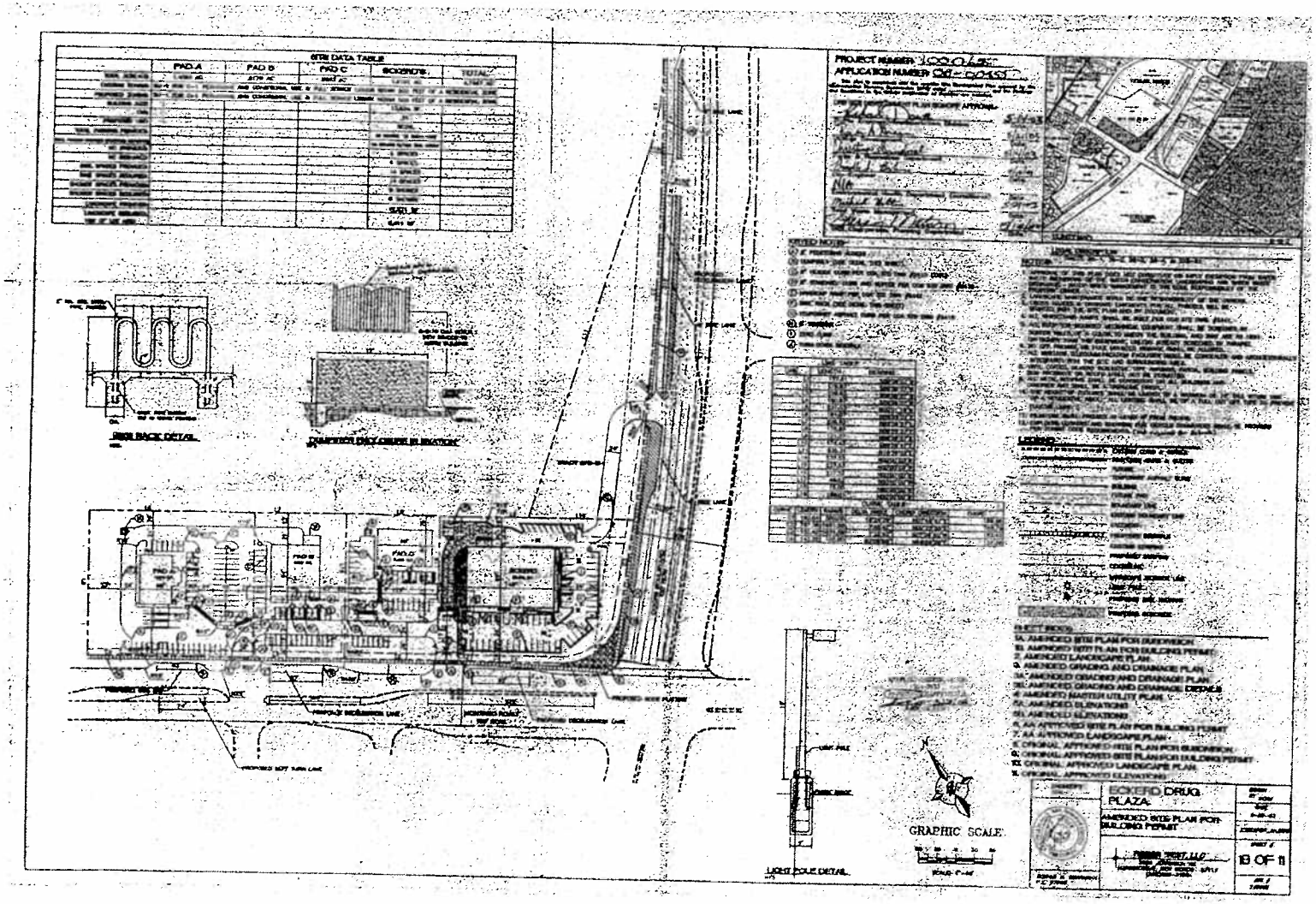
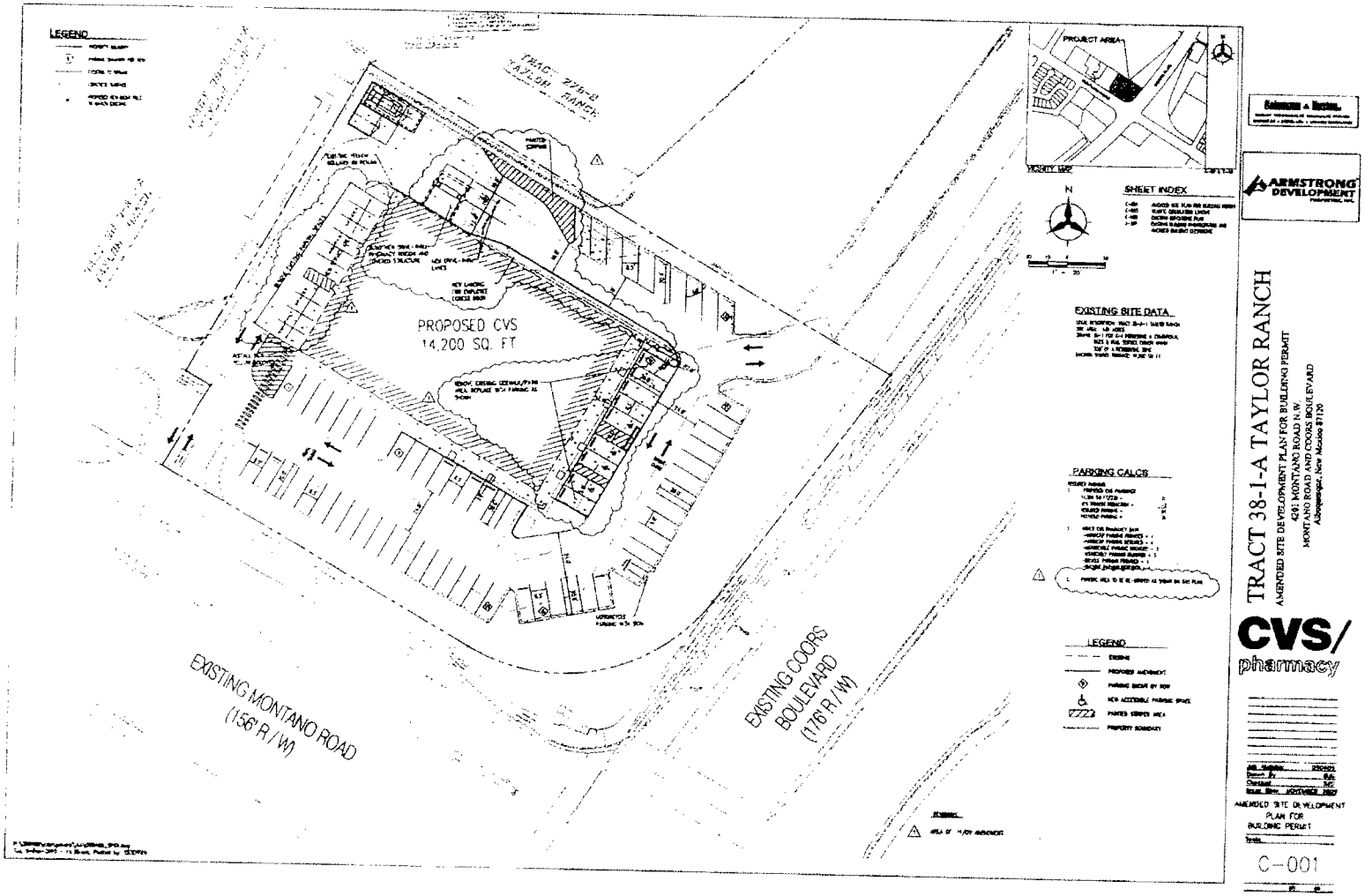


Attachment #1/1 of 2



Attachment #1 2 of 2

ATTACHMENT 2



ATTACHMENT 3