

January 9, 2012

Carmen Marrone, Current Planning Manager  
Catalina Lehner, Senior Planner  
Planning Department  
600 2nd St. NW  
Albuquerque, NM 87102

*Re: North Andalusia at La Luz, Project #1003859 (Amendment to the North Andalusia at La Luz Site Development Plan for Subdivision and Site Development Plan for Building Permit- Large Retail Facility)*

Dear Ms. Marrone and Ms. Lehner:

For the Record in the above-referenced matter, would you please include either (a) this letter or (b) the text of Zone Code's provisions relating to permissive uses allowed in property zoned for O-1 uses (§ 14-16-2-15, Office and Institution Zone)? The relevant portions of Section 14-16-2-15 read as follows:

“(A) Permissive Uses...

(12) Parking lot, providing it complies with the following:

(a) Paving, all of which shall be maintained level and serviceable.

1. The lot must be graded and surfaced with one of the following:

a. Blacktop or equal: Two inches of asphalt concrete on a prime coat over a four inch compacted subgrade, or a surface of equal or superior performance characteristics.

b. For parking lots of 20 or fewer spaces, Gravel: A layer at least two inches thick of gravel sized from 3/8 minimum to one inch maximum diameter, at least ½ inch of which shall be maintained on the surface; gravel shall be kept off the right-of-way.

2. If street curbs and gutters exist adjacent to the parking lot property on a side where lot egress is allowed, the surfacing shall be blacktop for the width of the egress drive(s) and shall extend inward from the property line a minimum of 25 feet along all normal lines of egress traffic flow from the lot.

(b) The lot shall have barriers which prevent vehicles from extending over the sidewalk or abutting lots, or beyond the sides of a parking structure.

(c) A solid wall or fence at least six feet high shall be erected on sides which abut land, other than public right-of-way land, in a residential zone. (See also § 14-16-3-10 of this Zoning Code.) However:

1. Such wall or fence shall be three feet high in the area within 11 feet of a public sidewalk or planned public sidewalk location.

2. If the wall or fence plus retaining wall would have an effective height of over eight feet on the residential side, the Zoning Hearing Examiner shall decide the required height; such decision shall be made by the same process and criteria required for a conditional use.

(d) In a parking structure there shall be a six-foot solid wall on every parking level where the structure is within 19 feet of privately owned land in a residential zone.

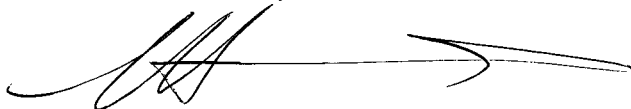
(e) Ingress or egress shall be designed to discourage parking lot traffic from using local residential streets for more than 150 feet, unless no reasonable alternative is available.

(f) A parking lot hereafter developed shall include landscaping planted and maintained according to a Landscaping Plan approved by the Planning Director; however, the Planning Commission may waive this requirement where it is found not useful to achieving the intent of this Zoning Code."

The other relevant provision is the definition of "parking lot" contained at Section 14-16-1-5, which reads: "An area or structure used for temporary parking of automobiles and pickup-size trucks, providing four or more parking spaces, not within the public right-of-way, none of which are required off-street parking."

Yours sincerely,

MICHELLE HENRIE, LLC

A handwritten signature in black ink, appearing to be 'MH' followed by a long horizontal stroke that curves upwards at the end.

Michelle Henrie, Attorney

cc. Ron Bohannon, Tierra West, LLC, Applicant's agent

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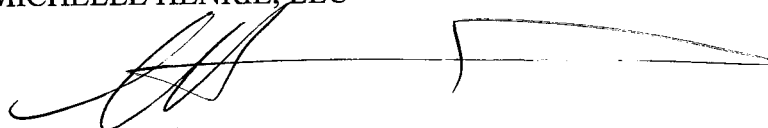
*Re: North Andalucia at La Luz, Project #1003859 (Amendment to the North Andalucia at La Luz Site Development Plan for Subdivision and Site Development Plan for Building Permit- Large Retail Facility)*

Dear Ms. Marrone and Ms. Lehner:

For the Record in the above-referenced matter, would you please include the text of Zone Code's Large Retail Facility Regulations, (§ 14-16-3-2), including the pre-application requirements contained at Section 14-8-2-7? A copy of these provisions as of September 13, 2001 is attached to this letter (I do not believe there have been any amendments since that date).

Yours sincerely,

MICHELLE HENRIE, LLC



Michelle Henrie, Attorney

enclosure

cc. Ron Bohannon, Tierra West, LLC, Applicant's agent

## Section 14-16-3-2

### (D) *Large Retail Facility Regulations.*

#### (1) *Applicability.*

(a) Provisions of this section and § 14-8-2-7, Responsibilities of Applicants and Developers, shall apply to the following, as determined by the Environmental Planning Commission (EPC):

1. New construction of a large retail facility;
2. Change of use from a non- large retail facility to a large retail facility as defined in § 14-16-1-5;

3. Building expansion of more than 50% of the existing square footage.

(b) Building expansion of 10% to 50% of the existing square footage of an existing large retail facility shall be subject to the following requirements:

1. Pre-application discussion with the Planning Review Team (PRT).

2. Compliance with the large retail facilities design regulations as determined by the EPC. The EPC before issuing final design regulations shall request input from neighborhood associations with boundaries that are within 200 feet of the proposed project.

(c) Building expansion up to 10% of the existing square footage and building renovation of an existing large retail facility shall comply with the design regulations in this section to the extent possible as determined by the Planning Director.

(2) *Location and Access of Large Retail Facility.* The following regulations manage the location and design of large retail facilities. These regulations are necessary for the proper functioning and enjoyment of the community. They protect the quality of life within surrounding residential areas, support efficient traffic flows, and provide consistent regulations for such facilities. Large retail facilities shall be located to secure adequate street capacity to transport pedestrians and vehicles to and from large retail facilities, and discourage traffic from cutting through residential neighborhoods. The regulations result in efficient and safe access for both vehicles and pedestrians from roadways in the Metropolitan Transportation Plan to neighborhoods in the vicinity of large retail facilities. The Planning Director, after initial review of a large retail facilities proposal, may require the site to comply with the next level of large retail facilities regulations.

(a) Large retail facilities containing 75,000 to 90,000 sq. ft. net leasable area are:

1. Permitted in C-2, C-3, M-1, M-2, IP, SU-1 and the SU-2 Zones for uses consistent with C-2, C-3, M-1, M-2, IP Zones; and
2. Permitted in C-1 zones if the project site or site plan reviewed for subdivision is greater than seven acres.
3. Required to be located adjacent to and have primary and full access to a street designated as at least a collector in the Mid-Region Council of Governments' Metropolitan Transportation Plan and having at least two through traffic lanes.

(b) Large retail facilities containing 90,001 to 124,999 sq. ft. net leasable area are:

1. Permitted in C-2, C-3, M-1, M-2, and IP zones and SU-1 and SU-2 zones for uses consistent with C-2, C-3, M-1, M-2, IP Zones; and
2. Required to be located adjacent to and have primary and full access to a street designated as at least a collector in the Mid-Region Council of Governments' Metropolitan Transportation Plan and having at least four through traffic lanes.

(c) Large retail facilities containing 125,000 square feet or greater of net leasable area are:

1. Permitted in the C-2, C-3, M-1, M-2, IP, SU-1 and SU-2 for uses consistent with C-2, C-3, M-1, M-2, IP Zones; and
2. Required to be located within 700 feet of the intersection of two roadways, both of which are designated as at least a collector street in the Mid-Region Council of Governments' Metropolitan

Transportation Plan and shall have full access to these roadways. One of the adjacent roadways shall have at least four through traffic lanes and the other adjacent roadway shall have at least six through traffic lanes or is designated a limited access principal arterial in the Mid-Region Council of Governments' Metropolitan Transportation Plan and have a minimum of four lanes.

3. If an arterial or collector street has yet to be built to its full cross-section and does not have the required number of lanes, the large retail facility may have access onto the roadway if the roadway is identified on the Metropolitan Transportation Plan as having the required number of lanes at full build-out.

4. If access control policies prohibit access onto one of the adjacent roadways, a local road may be used as access if it has direct access to at least two roadways that are identified on the Long Metropolitan Transportation Plan, does not pass directly through a residential subdivision and at least one of the intersections is signalized.

5. If access to a location fulfills the criteria of this section but control policies outside the city jurisdiction prohibit access onto one of the adjacent arterial or collector streets, the remaining arterial or collector street may serve as the sole access if it has direct access to two intersections with an arterial and the intersections are signalized.

6. If warrants are met, the intersection of the primary driveway and the arterial street shall be signalized, unless prohibited by the City Traffic Engineer for safety reasons, at the expense of the applicant. The applicant may place the name of the development on the mast-arm of the signal.

(3) *Site division.* These regulations create block sizes for large retail facility that are walkable and support land use changes over time. The site plans for subdivision in Phase One and the Final Phase, if proposed, shall subdivide or plan the site as follows:

(a) The entire site shall be planned or platted into maximum 360 foot by 360 foot blocks except as provided in Items (c) and (d) of this division (D)(3).

(b) Primary and secondary driveways (or platted roadways) that separate the blocks shall be between 60 feet and 85 feet wide and shall include the following:

1. Two ten-foot travel lanes;
2. Two parallel or angle parking rows or a combination of such on both sides of the driveway rights of way are permitted but not required;
3. Two six-foot landscaped buffers with shade trees spaced approximately 30 feet on center;
4. Two eight-foot pedestrian walkways constructed of material other than asphalt;
5. Pedestrian scale lighting that provides at least an illumination of 1.2 to 2.5 foot candles or the equivalent foot lamberts; and
6. Standup curb.

(c) One block can be expanded to approximately 790 feet by 360 feet if a main structure (including retail suite liners) covers more than 80% of the gross square footage of a block.

(d) If the site dimensions result in irregular block sizes, blocks of different dimensions are allowed provided:

1. The block sizes achieve the intent of this section;
  2. Approval is granted by the EPC;
  3. The narrow side of the block abuts the adjacent street that provides the primary access;
- and
4. The center of the long side has a major entrance, including a forecourt.

(4) *Development Phasing and Mixed-Use Component.* The large retail facility regulations address the build-out of a large site over time in order to guide the transition from more vehicle-oriented "big box" type retail development with large surface parking fields to finer-scaled, pedestrian oriented, mixed-use development, replacing surface parking with some parking structures, producing a village

center that is integrated into the surrounding neighborhoods. This transition reflects actual trends in development and creates a better, more marketable, and higher use development.

(a) Site development plans for Phase One shall be submitted to the EPC for approval. If future and/or final phases are proposed on the site, site development plans containing a level of detail appropriate for the phasing of the development shall also be submitted to the EPC for approval.

(b) *Mixed Use Component.* Mixed use development is strongly encouraged in both Phase One and the Final Phase of the site plans for all large retail facilities.

(5) *Site Design.* These regulations are intended to create pedestrian connections throughout the site by linking structures, make pedestrian connections to external neighborhoods and other uses, and to provide landscaping compatible with the site's scale for pedestrian shade and aesthetic beauty. The regulations will result in an active pedestrian street life, replace large off-street parking fields with parking structures and transit options, conserve energy and water, and meet the goals of the Albuquerque/Bernalillo County Comprehensive Plan and the Planned Growth Strategy. The following subsections (a) through (n) apply to all large retail facility sites:

(a) *Context:* The design of structures shall be sensitive to and complement the aesthetically desirable context of the built environment, e.g., massing, height, materials, articulation, colors, and proportional relationships.

(b) *Off-Street Parking Standards:*

1. If a structure or structures, including retail suite liners, occupies more than 80% of a planned or platted block, the off street parking shall be placed on another block.

2. Parking shall be distributed on the site to minimize visual impact from the adjoining street. Parking shall be placed on at least two sides of a building and shall not dominate the building or street frontage. Parking areas may front onto roadways identified as limited access in the Mid-Region Council of Governments' Metropolitan Transportation Plan, provided that they are adequately screened with landscape walls and plantings. If a project has multiple phases the final phase site plan, if proposed, shall show the elimination of surface parking areas but may include parking structures.

3. If the site is planned into 360 foot by 360 foot lots as called for in these regulations, parking requirements may be met by spaces located on a block immediately adjacent to the structure creating the parking demand.

4. Every third double row of parking shall have a minimum ten foot wide continuous walkway dividing that row. The walkway shall be either patterned or color material other than asphalt and may be at-grade. The walkway shall be shaded by means of trees, a trellis or similar structure, or a combination thereof. Tree wells, planters or supports for shading devices may encroach on the walkway up to three feet. In no case shall the walkway be diminished to less than five feet width at any point.

5. Parking requirements for a large retail facility with a mixed use component may use "best practice" standards for shared parking such as *Driving Urban Environments: Smart Growth Parking Best Practices*, a publication of the Governor's Office of Smart Growth, State of Maryland. Refer to § 14-16-3-1 for shared parking requirements.

(c) *On-Street Parking Standards:*

1. Arterial or collector roadways abutting a large retail facility with a posted speed limit of 35 miles or less per hour shall have on-street parking utilizing a parking/queuing lane under the following standards and if approved by the Traffic Engineer:

a. On-street parking may use the existing adjacent outside lanes on an arterial or collector.

b. The parking/queuing lane may be provided by moving the curb lines within the property line and dedicating the parking/queuing lane to the city. The existing through lanes shall not be used as the parking/queuing lane unless a traffic analysis indicates that this will not result in unacceptable degradation of traffic flow, though existing can be restriped in a narrower configuration to provide space for the parking/queuing lane.

c. The parking/queuing lane has a maximum width of 16'.

d. Curb extensions/bump-outs shall be constructed at the ends of each block and shall include landscaping to be maintained by the property owner pursuant to a maintenance agreement with the city.

e. Street trees shall be planted pursuant to the Street Tree Ordinance, Chapter 6, Article 6, ROA 1994.

2. The regulations for parking credits and reductions set forth in § 14-16-3-1(E)(6) shall apply to this subsection except that 100% of the on-street parking shall be credited towards the project's parking requirements.

(d) *Signage.*

1. Signage shall comply with the shopping center regulations for signage, § 14-16-3-2(B).
2. All signage shall be designed to be consistent with and complement the materials, color and architectural style of the building(s).
3. All free-standing signs shall be monument style.
4. The maximum height of any monument sign shall be 15 feet.
5. Building-mounted signage that faces residential zoning shall not be illuminated.
6. Building-mounted signs shall consist of individual channel letters. Illuminated plastic panel signs are prohibited.

(e) Drive-up windows must be located on or adjacent to the side or rear walls of service or retail structures and the window shall not face a public right of way.

(f) *Petroleum Products Retail Facility.*

1. Facilities shall be located at a street or driveway intersection.
2. The frontage of the principal structure shall face and line the two streets and follow the set-back and glazing standards for retail suite liner.
3. Fuel pumps, service facilities, ATMs, storage areas, and repair bays are to be screened from the major street by the principal structure.
4. If the structure between the street and the fueling island is not at least the length of the canopy that is over the fueling island, or if there is no service facility structure, the perimeter of the facility shall be screened by either a landscaped berm three feet in height or a wall at least three feet in height.

(g) *Truck Bays.*

1. Truck bays adjacent to residential lots must be separated from the adjacent lot by a minimum of 40 feet. A minimum 15 foot wide landscape buffer and a six-foot high solid masonry wall shall be provided along the property line. The landscape buffer shall contain evergreen trees or trellises with climbing vines to provide year round screening and buffering from noise. Dock and truck well facilities must also be screened with a masonry wall that extends vertically eight feet above the finish floor level and horizontally 100 feet from the face of the dock. Screen walls shall be designed to blend with the architecture of the building. Trucks may not be moved or left idling between the hours of 10:00 p.m. and 6:30 a.m. if the truck bays are located within 300 feet of a residential structure unless negotiated with adjacent property owners and approved by the EPC.

2. Truck bays not adjacent to residential lots must be screened with a masonry wall extending vertically eight feet above the finish floor level and horizontally 100 feet from the face of the dock to screen the truck. Screen walls shall be designed to blend with the architecture of the building.

(h) *Landscaping.* The following landscaping requirements shall apply:

1. Landscaped traffic circles are encouraged at the intersection of interior driveways or platted streets.
2. One shade tree is required per eight parking spaces. Shade trees may be located at the center of a group of four to eight parking spaces, clustered in parking row end caps, or located along

internal pedestrian ways. Shade trees lining a pedestrian way internal to a parking area may count as a canopy tree of a parking space. Trees in landscape buffer areas shall not count as parking space trees.

3. Shade trees along pedestrian walkways shall be spaced approximately 25 feet on center.

4. Water conservation techniques shall be utilized where possible and as approved by the City Hydrologist or City Engineer. Such techniques may include water harvesting and permeable paving. Water from roof runoff should be directed or stored and used to assist all trees and landscaping. Parking spaces that meet infiltration basins or vegetated storm water controls should be bordered by permeable paving. Grasses and other ground vegetation should be near edges to help filter and slow runoff as it enters the site.

(i) *Pedestrian walkways.* Internal pedestrian walkways shall be planned and organized to accommodate the inter-related movement of vehicles, bicycles, and pedestrians safely and conveniently, both within the proposed development and to and from the street, transit stops, and the surrounding areas. Pedestrian walkways shall contribute to the attractiveness of the development and shall be a minimum of eight feet in width and constructed of materials other than asphalt. Pedestrian walkways along internal driveways or streets internal to the site shall also be lined with shade trees and pedestrian scale lighting. Pedestrian crosswalks shall be constructed of patterned concrete or a material other than asphalt and may be at grade.

(j) A pedestrian plaza or plazas shall be required of all large retail facility development as follows:

1. Large retail facility sites that include a main structure less than 125,000 square feet in size shall provide public space pursuant to § 14-16-3-18(C)(4) of the Zoning Code.

2. Large retail facility sites that include a main structure 125,000 square feet or greater shall provide pedestrian plaza space in the amount of 400 square feet for every 20,000 square feet of building space. A minimum of 50% of the required public space shall be provided in the form of aggregate space that encourages its use and that serves as the focal point for the development. The aggregate space required shall:

- a. Be linked to the main entrance of the principal structure and the public sidewalk or internal driveway;
- b. Include adequate seating areas. Benches, steps, and planter ledges can be counted for seating space;
- c. Have a portion (generally at least 40%) of the square footage of the plaza area landscaped with plant materials, including trees;
- d. Be designed for security and be visible from the public right of way as much as possible;
- e. Have pedestrian scale lighting and pedestrian amenities such as trash receptacles, kiosks, etc.

(k) *Lighting.*

1. Ornamental poles and luminaries, a maximum of 16 feet in height, shall be used as pedestrian scale lighting.

2. The maximum height of a light pole, other than those along pedestrian walkways, shall be 20 feet, measured from the finished grade to the top of the pole.

3. All on-site lighting fixtures shall be fully shielded to prevent fugitive light from encroaching into adjacent properties and/or right-of-way.

(l) *Outdoor Storage.* Outdoor storage as part of a mixed use development or within a C-1 or C-2 zoned site is not allowed. Outdoor uses such as retail display shall not interfere with pedestrian movement. Where the zoning permits and where outdoor storage is proposed, it shall be screened with the same materials as the building.



(m) *Transit stops.* If transit stops exist or are planned adjacent to a large retail facility, they shall include a covered shelter with seating provided at the developer's expense. Either the interior of the structures shall be lighted or the area surrounding the structures shall be lighted to the same standards as pedestrian walkways. If the transit stop is within the public right-of-way, the city shall assume ownership of the shelter and responsibility for maintenance.

(n) *Storm Water Facilities and Structures.* The following regulations apply to site hydrology:

1. Impervious surfaces shall be limited by installing permeable paving surfaces, such as bricks and concrete lattice or such devices that are approved by the City Hydrologist, where possible.
2. Where possible, transport runoff to basins by using channels with landscaped pervious surfaces. Landscaped strips may be converted into vegetative storm-water canals but must be shallow to avoid defensive fencing.
3. Ponds, retention and detention areas shall be shallow to prevent the need for defensive/security fencing yet have the capacity to manage storm waters in a 100 year event.
4. Trees, shrubs, and groundcover shall be included in storm water basins.
5. Bare patches shall be re-vegetated as soon as possible to avoid erosion, according to a landscaping and maintenance plan.

(o) Energy efficient techniques shall be utilized to reduce energy and water consumption where possible and as approved by the City Hydrologist or City Engineer.

(6) *Main Structure Design.* The following subsections (a) through (d) apply to main structures:

(a) *Setback.*

1. Main structures shall be screened from the adjacent street by means of smaller buildings, retail suite liners, or 20 foot wide landscape buffers with a double row of trees.
2. Where the front facade of a retail suite liner is adjacent to a street, the maximum front setback shall be ten feet for private drives and 25 feet for public roadways.
3. Main structures abutting residentially zoned land shall be set back from the property line at least 60 feet.

(b) *Articulation.*

1. Facades that contain a primary customer entrance and facades adjacent to a public street or plaza or an internal driveway shall contain retail suite liners, display windows, or a recessed patio at a minimum depth of 20 feet, or a combination of all three, along 50% of the length of the façade. Where patios are provided, at least one of the recessed walls shall contain a window for ease of surveillance and the patio shall contain shading and seating. Where retail suite liners are provided, they shall be accessible to the public from the outside.
2. Every 30,000 gross square feet of structure shall be designed to appear as a minimum of one distinct building mass with different expressions. The varied building masses shall have a change in visible roof plane or parapet height. Massing and articulation are required to be developed so that no more than 100 feet of a wall may occur without an offset vertically of at least 24 inches.
3. For the retail suite liner, the vertical offset shall be a visible change (minimum 6 inches), a change in material may be used for articulation at the same interval and the visible change in roof plane or parapet height shall be a minimum of 18 inches.
4. Facades adjacent to a public right-of-way or internal driveway and facades that contain a primary customer entrance shall contain features that provide shade along at least 40% of the length of the façade for the benefit of pedestrians.

(c) *Materials.*

1. Engineered wood panels, cyclone, chain-link, and razor-wire fencing are prohibited.
2. Design of the external walls and the principal entrance must include three of the below listed options:

- a. Multiple finishes (i.e. stone and stucco);
- b. Projecting cornices and brackets;
- c. Projecting and exposed lintels;
- d. Pitched roof forms;
- e. Planters or wing-walls that incorporate landscaped areas and can be used for sitting;
- f. Slate or tile work and molding integrated into the building;
- g. Transoms;
- h. Trellises;
- i. Wall accenting (shading, engraved patterns, etc.);
- j. Any other treatment that meets the approval of the EPC.

(d) *Landscaping.*

1. The buffer for main structures across the street from residentially-zoned land shall be at least 23 feet wide and include two rows of street trees. The trees shall be located pursuant to the guidelines set forth in *Crime Prevention Through Environmental Design Recommendations*. The landscaping of the berm shall provide year-round screening.

2. The public sidewalk adjacent to the main structure may be located within the berm and between the rows of trees. The sidewalk must be a minimum of seven feet behind the curb.

(7) *Mixed-Use Component.* The following subsections (a) through (g) apply to Mixed Use Development:

(a) *Uses and building forms.* The mixed use component may include a mix of the following building forms and uses:

- 1. Apartments or condominiums.
- 2. Apartments or condominiums over storefronts.
- 3. Courtyard housing.
- 4. Live-work.
- 5. Townhouses.
- 6. Lofts.
- 7. Lofts over flex.
- 8. Senior housing.
- 9. Mixed income housing including a minimum of 20% affordable at 80% or less of Area Median Income (AMI) for fee simple unit and 60% or less of AMI for rental units. If rental units are multiple sizes, only a maximum of 50% of the rental units set aside for 60% or less of AMI shall be the size of the smallest size category of rental unit in the project.
- 10. Office building.
- 11. Office over storefronts.
- 12. Civic, cultural, and community buildings.
- 13. Parking structures with commercial or housing liners.
- 14. Schools, both traditional and technical vocational.

(b) *Density.*

- 1. Minimum density: 12 dwelling units per acre.
- 2. Minimum FAR: .30.
- 3. Maximum density: As determined by the EPC.

(c) *Building Heights.* Heights within the mixed use portion of the large retail facility site may vary depending on location. Structures adjacent to residentially zoned parcels shall be subject to the height requirements of the O-1 Zone and shall not exceed 26 feet in height within 85 feet of a lot zoned specifically for houses. The heights of buildings along the central driveway or street and adjacent to a major arterial or freeway may exceed four stories so long as the average building height of all structures in the mixed use site does not exceed the maximum of four stories and no individual structure exceeds a height of seven stories.

(d) *Building Setbacks.*

[Not included]

(e) *Street Frontage.* All street frontages in the mixed-use component shall be:

1. Lined by buildings with windows and primary entries, not garage doors; parking areas shall be located to the rear or side of the building.
2. Building facades shall occupy at least 50% of the street frontage.

(f) *Articulation.* Mixed-use structures shall have a change in visible roof plane or parapet height for every 50 feet in length, however each distinct roof length does not have to equal 50 feet in length. Massing and articulation are required to be developed so that no more than 50 feet of wall may occur within a six foot minimum change in the visible vertical offset, or at the same interval a change in material may be used for articulation and the visible change in roof plane or parapet height shall be a minimum of 18 feet.

(g) *Entrances and Glazing.* Each ground floor use shall have one entrance minimum for each 50' or less of building frontage length.

(h) *Materials.* The materials standards for the mixed use component are as follows:

1. Engineered wood panels, cyclone, chain-link, and razor-wire fencing are prohibited.
2. Arcades, awnings, cantilevers, portals and shed roofs may be made of metal, fabric, concrete tile, clay tile, or slate (equivalent synthetic or better).
3. A mixed-use component shall include at least four of the following design features:
  - a. Balconies.
  - b. Projecting cornices and brackets.
  - c. Eaves.
  - d. Exposed lintels.
  - e. Multiple veneers (i.e. stone and stucco).
  - f. Pitched roof forms.
  - g. Planter boxes.
  - h. Slate or tile work and molding integrated into the building.
  - i. Transoms.
  - j. Trellises.
  - k. Wall accenting (shading, engraved patterns, etc.).
  - l. Any other treatment that meets the intent of this section and that receives the approval of the EPC.

(i) *On-Premise Signage.*

1. Appropriate signage includes blade signs, awning signs, and wall-mounted or hanging metal panel signs. Internally illuminated box signs, billboards, roof-mounted, free-standing, any kind of animation, and painted window signs, and signs painted on the exterior walls of buildings are not allowed. No flashing, traveling, animated, or intermittent lighting shall be on or visible from (i.e. through windows) the exterior of any building.

2. Wall signs are permitted within the area between the second story floor line and the first floor ceiling within a horizontal band not to exceed two feet in height. Letters shall not exceed 18 inches in height or width and three feet in relief. Company logos or names may be placed within this horizontal band or placed or painted within ground floor or second story office windows and shall not be larger than a rectangle of eight square feet. Projecting signs may not be more than 24 inches by 48 inches and a minimum ten feet clear height above the sidewalk and may be hung below the third story level. Signs may not project more than 36 inches perpendicular to the right-of-way beyond the façade. Lettering on awnings is limited to nine inches in height.

(8) *Maintenance Agreement for Vacant or Abandoned Site.* Large retail facilities sometimes are vacated due to changing conditions in the retail market. To maintain a quality built environment, large retail facilities shall be maintained during periods of abandonment or vacancies at the same standard as when occupied. The owner of a site shall sign a maintenance agreement with the city that the site will be maintained when vacant to the following minimal standards, among others as deemed appropriate by the Planning Director:

- (a) The landscaping shall be watered, pruned and weeded.
- (b) The parking areas shall be cleaned of dirt and litter.
- (c) The building facades shall be kept in good repair, cracked windows shall be replaced and graffiti removed.
- (d) Outdoor security lighting shall be maintained and operated.
- (e) Hydrology systems shall be kept in good working order.

('74 Code, § 7-14-40B) (Am. Ord. 23-2007)

#### **Section 14-8-2-7**

(A) Applicants for approval of amendments of the zone map, site development plans (except houses and accessory buildings), major subdivisions, vacations of public right-of-way, mapping historic districts, landmarking sites, and issuance or transfer of liquor licenses shall, prior to filing the application, make a reasonable attempt to give written notification of their proposal to any recognized and non-recognized neighborhood or homeowner association which covers, abuts, or is across public right of way from the subject site. Certified letters, return receipt requested, mailed to the two designated neighborhood association representatives on file at the City Office of Neighborhood Coordination constitutes a reasonable attempt to notify an association. Failure by an applicant to show proof of either notification in person or a reasonable attempt to give written notification of its proposal to such designated association representatives shall be grounds for a neighborhood association to request deferral of a hearing. The application for such hearing shall include a signed statement that such notification has been sent.

(B) Development of large retail facilities. Prior to submitting an application for a project that includes a large retail facility, the applicant shall perform the following:

(1) Pre-application discussion with the Planning Review Team (PRT) to include the following:

(a) Complete the pre-application form and appropriate checklists.

(b) Review of the request for appropriateness as related to the design regulations for large retail facility and various applicable plans, policies, and ordinances including the Comprehensive Zoning Code and/or the Subdivision Ordinance. The review shall cover, but is not limited to, the location requirements for a large retail facility, mixed use component requirements, proposed phases of development, and the neighborhood traffic management requirements.

(c) Identify all appropriate actions and procedures needed to obtain approval. This shall include, but not be limited to, the pre-application development review meeting with stakeholders.

(d) Identify a preliminary schedule/time frame for approval.

(e) Determine a filing date for the application if appropriate.

(f) Determine if a Traffic Impact Study (TIS) is required. If a TIS is required, the City Traffic Engineer or his designee staff shall issue the developer a written scope for the TIS. The written scope shall be distributed to the applicant within seven working days of the City Traffic Engineer being contacted by the applicant's traffic engineer.

(g) Upon completion of the meeting the Planning Department shall prepare a report of the pre-application session. The report shall include an outline of their preliminary direction based upon the information submitted. A copy of the report shall be provided to the developer and included in the case report for the site plan.

(h) The developer, if he or she chooses, may also submit a report on the meeting into the case file.

(2) Notice of pre-application meeting.

(a) The applicant shall coordinate with the Office of Neighborhood Coordination to set up a pre-application public meeting. The applicant shall notify affected Neighborhood Associations per § 14-8-2-7 and all property owners within 100 feet of the subject site (excluding right-of-way). Notice shall be delivered by first class mail a minimum of 10 days prior to the public meeting. In addition, the

applicant shall post a sign(s) of at least 4 feet by 6 feet advertising the pre-application public meeting for at least 10 consecutive calendar days prior to the meeting.

(b) Notices shall include the date, time and place of the pre-application public meeting, the meeting purpose, a description and 8.5 x 11 drawing(s) of the proposed development, and any other information that the Planning Director and the Office of Neighborhood Coordination deem necessary. Drawings shall contain enough pertinent information to visually describe the development proposal.

(c) The Office of Neighborhood Coordination shall post meeting dates on the Planning Department's website and shall contact neighborhood associations by e-mail.

(3) Pre-application public meeting.

(a) The meeting shall be conducted and recorded by a facilitator.

(b) The applicant shall provide a visual and narrative presentation of the project concept, and shall identify existing traffic conditions and proposed traffic conditions as preliminarily identified in the TIS scope related to the project.

(c) Meeting attendees may identify any additional traffic problems that should be scoped and/or studied.

(d) The facilitator shall compile and maintain a list of issues and concerns pertaining to the project and shall inform meeting attendees on how they can remain involved in the process.

(e) The City Traffic Engineer shall attend the pre-application public meeting and shall consider the additional traffic problems in determining the scope that shall be addressed in the TIS, which shall be paid for by the applicant and reviewed by the city.

(f) Additional meetings may be held upon the request of those attending the meeting and as deemed useful by the facilitator. The facilitator shall prepare a report to be placed in the applicant's case file detailing the reasons for conducting additional meetings.

(4) Traffic studies. If, in the opinion of the Traffic Engineer, or upon a receipt by the Planning Director and the Traffic Engineer of a petition that includes a list of traffic issues created by the development of the large retail facility from 67% of the residences within 500 feet of the subject site, a Neighborhood Area Traffic Study is warranted, it shall be specified by the City Traffic Engineer with input from the meeting attendees and the applicant. Neighborhood area traffic study or studies and cut through studies shall be paid for by the applicant and overseen by the City Traffic Engineer. The study shall include, at a minimum, the following:

(a) A baseline count of the vehicles per day traveling the local street;

(b) A cut-through traffic study on those streets identified by the meeting attendees;

(c) Current conditions and full build-out conditions.

(5) Traffic mitigation.

(a) If the neighborhood area traffic study identifies current problems associated with traffic, speeding, and problem intersections on more than one local street in the neighborhood(s) and provides recommendations to resolve these problems, the city shall initiate a neighborhood traffic management program in the area.

(b) If the neighborhood area traffic study identifies problems with the build-out conditions, or any phase of the project before a building permit is issued, the applicant shall post a financial guarantee in a form acceptable to the City Attorney and an amount determined by the traffic engineer, to pay for mitigation measures necessitated by the development.

(c) Before a building permit is issued, the applicant shall post an additional 2% of the costs of the mitigation measures identified in the TIS as a contingency for future study and mitigation (contingency amount).

(d) Within two weeks of issuing an occupancy permit, the City Traffic Engineer and or the Planning Director shall provide notice to all residences and property owners within 200 feet of the project that a cut through study will occur within 12 months of issuing an occupancy permit for the applicant's development. At least one year after issuing a certificate of occupancy, the applicant shall conduct a follow-up neighborhood area traffic study to determine if additional traffic mitigation measures are necessary as a result of the development. The City Traffic Engineer shall issue notice of the traffic study to the property owners within two hundred feet of the large retail facility at least two weeks before the commencement of the study. Such notice shall provide direction as to how the recipient can provide input into the study. If additional traffic mitigation measures are necessary, they shall be paid for by the applicant and the contingency amount of the applicant's bond shall not be released until the city accepts these mitigation measures. If the neighborhood area traffic study determines there is no need for further mitigation measures attributable to the development, the contingency amount shall be released.

(e) Projects identified as a result of the neighborhood traffic management program are not to be included in or to be considered part of the Component Capital Improvement Program (CCIP) except that improvements identified on the CCIP shall be eligible for impact fee credits.

('74 Code, § 7-11-7) (Ord. 14-1987; Am. Ord. 23-2007; Am. Ord. 42-2007)

## History of the Southeast Corner of Coors and Montano

- 1984- The Coors Corridor Plan was significant for four reasons:
1. Policy 5 indicated appropriate intersection spacing, and designated Dellyne Ave/Coors as the appropriate location for a signalized intersection south of Coors/Montano (Fig. 14).
  2. Policy 5 also indicated that the Dellyne Ave/Coors intersection should function as a "loop" or bypass road around the Coors/ Montano intersection (Fig 14).
  3. Policy 8 indicates that a 100' buffer strip should be established on the west of the Lower Corrales drain in order to protect and preserve the Bosque and its wildlife from encroachment from development.
  4. Fig. 32 shows that the Coors/Montano area was intended to be master planned under a sector plan.
- 1985- The Northwest Mesa Annexation was approved by the Municipal Boundary Commission in October 1985. Annexed properties included Parcel 4-D (southeast corner of Coors/Montano). Zoning for Parcel 4-D was approved as: commercial and office uses at the southeast corner of Coors/Montano, residential (up to 20 DU), and open space between the Lower Corrales drain and the Rio Grande. The annexation records are significant because they show a comprehensive intent to locate commercial uses east of Coors per the Northwest Mesa Area Plan. In fact, the Planning Division opposed allowing commercial uses on Parcel 4-A, west of Coors, precisely because commercial uses were planned (and approved) east of Coors at Parcel 4-D in conformance with the Northwest Mesa Area Plan. Parcel 4-D—as well as other lands annexed and not annexed—were owned by Ray A. Graham, III.
- 1992- The City granted easements to Ray A. Graham, III allowing him vehicular, pedestrian and livestock access to his property from the Montano Road and Montano Bridge (not yet built) Right-of-Way. The importance of this document is that it reiterates the Coors Corridor Plan's intent for a road intersecting with Winterhaven to be built on Mr. Graham's property.
- 1998- Mr. Graham continued annexing and zoning his property holdings. In 1998, Tracts 1, 2, 3, and 4 (later sold to Bosque School) were the subject of a Road Agreement between Mr. Graham and the City. This Agreement involves access into Mr. Graham's property from Coors—a road now known as Learning Road—aligned in accordance with the Coors Corridor Plan. This Agreement is clear: the intent of Mr. Graham in reserving a "Private Road Parcel" was that it could later be dedicated to the City in connection with the subdivision plat process.
- 1999- In 1999, Tracts 1, 2, 3, and 4 were deeded to Bosque Preparatory School, who replatted the Tracts into Lot 4A. The Plat references a Private Road Easement at note 8. This Private Road Easement allowed the School to use the private portion of Learning Road. The Easement is important because it reaffirms the intent that the private portion of Learning Road is supposed to be dedicated to the City. Also, in Paragraph 5, the School acknowledges that its property "is part of a master planned community."
- 2002- Mr. Graham's master planned community became closer to reality when he platted 230.8 acres in January 2002. This plat states at Sheet 2, in conformance with the Coors Corridor

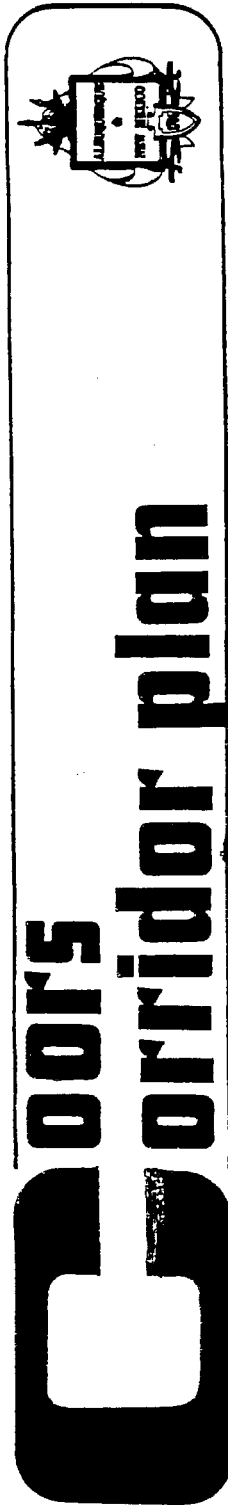


Plan, that "Learning Road shall be extended in the future to provide a connection to Montano Road at existing Winterhaven Road."

- 2003- Similarly, the 2003 Site Plan for Subdivision shows Learning Road connecting to Winterhaven, looping around Tract 6B which is 68 acres zoned for commercial, office, and higher density residential (PRD) uses. The "Vehicular Access" note at Sheet 1 indicates that "Learning Road is a signalized intersection and the main entry road off Coors Boulevard to the [228 acre] project." Also important in this site plan—and reflected in subsequent proposed site plans—is the 100' buffer strip established on the west of the Lower Corrales drain in accordance with the Coors Corridor Plan. This buffer strip is required to protect and preserve the Bosque and its wildlife from encroachment from development.
- 2004- By 2004, Silver Leaf Ventures, LLC had acquired an interest in the Ray Graham properties. They proposed commercial and office uses in the northerly portion of Tract 6B totaling 256,405 sq ft. A Traffic Impact Study was prepared for this proposal. The proposal was later scaled back, approved at EPC (in the scaled-back form), but never advanced.
- 2005- In 2005, Silver Leaf replatted the property to include: the roads that are now paved on the property (Antequera, which runs parallel to Learning Road, and Mirandela), a new buffer lot west of the School property (Tract 7), and a separately platted lot equal to the private portion of Learning Road (Tract 8). Bosque School then acquired Tracts 7 and 8, as well as Tract 9 north of the School. (It subsequently subdivided Tract 9 and sold a portion of it to the ABCWUA.)
- 2006- An Agreement between the Daskalos family (Silver Leaf Ventures) and Bosque School relates to easements and other arrangements between the parties relating to Silver Leaf's desire to develop its real estate located at Coors and Montano. Included in this Agreement is a \$25,000 payment to Bosque School to plant landscaping to "shield Bosque School from the commercial development planned by Silver Leaf." This provision is an important indication that the School prefers to be shielded from the commercial project, not incorporated into it.

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City of Albuquerque, New Mexico / Municipal Development Department / Planning Division



1984

## policy 5 intersections

Distance between major signalized intersections on Coors Boulevard shall be as far apart as is possible and practical to encourage continuous traffic flow.

There shall be a minimum distance of approximately one-half mile for signalized intersections. Limited access locations for right-turn-off and right-turn-on traffic movement shall be placed with careful consideration for proximity to full intersections and to provide reasonable access to property within the corridor. Limited access locations shall be a minimum distance of approximately one-quarter mile from full intersections or from other limited access locations.

An exclusive right-turn lane shall be provided at all major one-half mile signalized intersections and one-quarter mile right-turn only intersections.

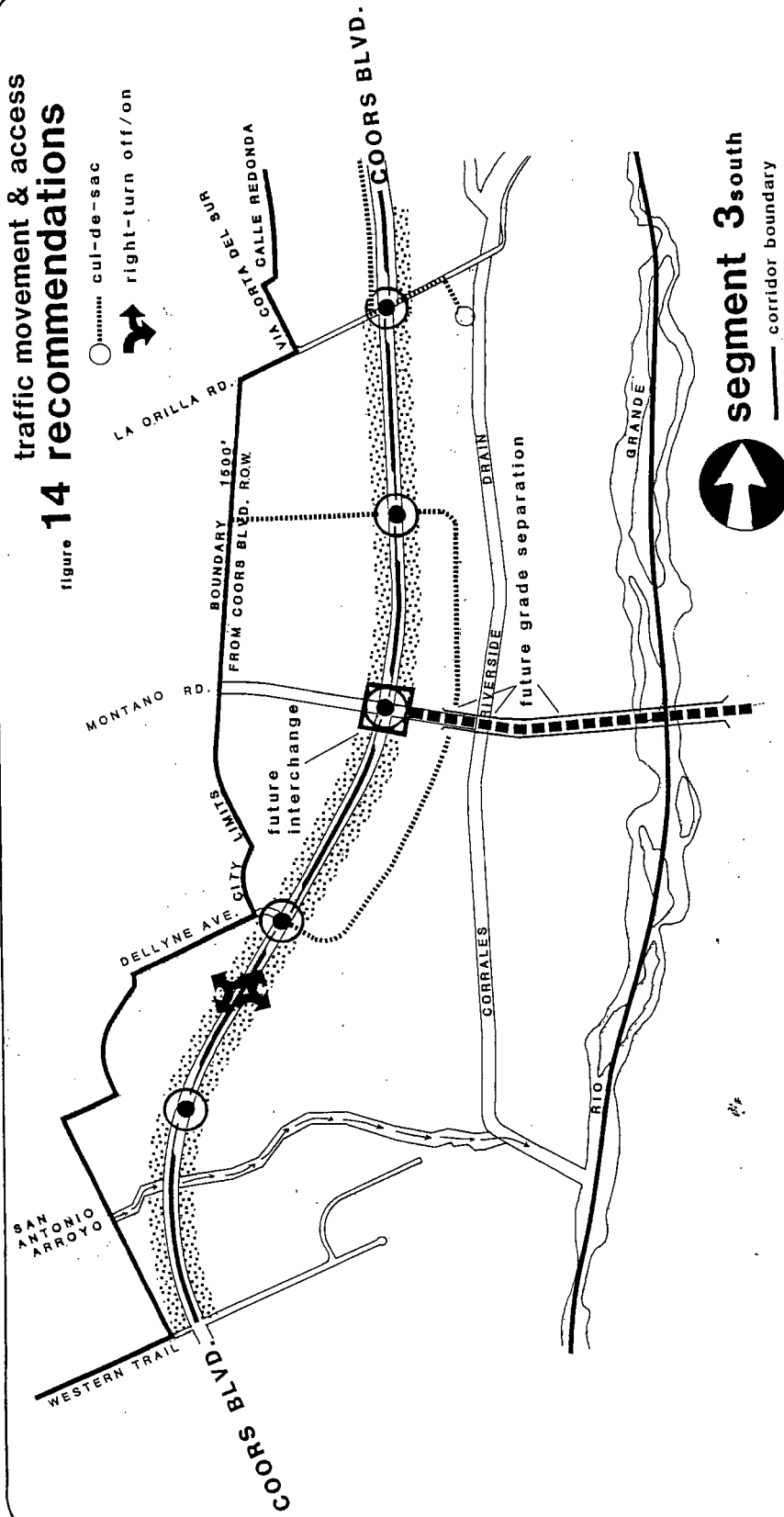
At the signalized one-half mile intersections a radius sufficient to accommodate channelized right-turns shall be utilized to improve pedestrian crossing conditions by reducing crossing time and by providing a pedestrian refuge area, as well as enhancing vehicular operation. The specific design shall be determined by the Traffic Engineer.

The proposed traffic signals shown along Coors Boulevard shall be installed when the warrants contained in The New Mexico Manual and Specifications for a Uniform System of Traffic Control Devices are met at each location.

### **rationale:**

Maximum practical distance between traffic signals and points of limited access is essential to accomplish the best possible traffic flow to accommodate the anticipated traffic volumes on Coors Boulevard. One-half mile spacing for major signalized intersections will allow speeds in the range of 35 to 40 miles per hour in both directions along Coors Boulevard.

figure 14 traffic movement & access recommendations



ITEM	EXISTING CONDITIONS 1982	RECOMMENDATIONS
7. CIRCULATION STREETS	eastside is mostly undeveloped westside	develop plans for access to parcels from facilities other than Coors Blvd.
8. TRAFFIC SIGNALS	1-Montano Road	5-La Luz area, Dellyne, Montano, 1/2 mile north of Montano, La Orilla (at minimum spacing)
9. STREET LIGHTS	only at major intersections	only at major intersections and areas of access
10. BUS ROUTE	northbound and southbound as far as Paradise Blvd.	improve bus stop areas, provide shelters
11. SIDEWALK	none	proposed trail
12. BIKEWAY	both sides of Coors Blvd.	recommend alternate route away from Coors Blvd.
13. LANDSCAPING	none in R.O.W.	develop streetscape plan



## policy 8 buffer strip

A 100-foot-wide buffer strip shall be established west of the Corrales Riverside Drain throughout Segment 3. The buffer strip shall remain in a natural condition and shall not be used for development.

### rationale:

A 100-foot-wide buffer will serve to protect and preserve the bosque and its wildlife from encroachment from development. The River Bosque area has been designated as a State park. This buffer strip provides a minimum amount of protection for this area.





CITY OF ALBUQUERQUE  
MUNICIPAL DEVELOPMENT DEPARTMENT  
PLANNING DIVISION

\*REGARDING  
PARCEL 4-A  
WEST OF COORS  
(NOT ANDALUCIA @ LA LUZ)

AGENDA NUMBER: 4  
ENVIRONMENTAL PLANNING COMMISSION  
January 16, 1985  
Z-85-138

Z-85-138

4A.

SU-1 for C-1, O-1, and Planned Residential Development (20 du/acre) for Tract R, Taylor Ranch Subdivision (SP-80-426) located on the southwest corner of Coors and Montano Road N.W., containing approximately 64.40 acres. (E-12)

In addition, the DO Design Overlay Zone shall apply, guided by the design guidelines and regulations adopted as part of the Coors Corridor Plan, Ordinance 72-1984 and as may subsequently be amended.

PLANNING DIVISION COMMENTS TO THE ENVIRONMENTAL PLANNING COMMISSION 10/31/85:

4A. This parcel, situated at the southwest corner of Coors and Montano Road, is currently undeveloped. The zoning for land across Montano Road to the north, a part of the Taylor Ranch Master Plan, was established as SU-1 for a Planned Residential Development (20 du/ac). Across the street is a C-1 (County) zoned parcel which was established through the Courts.

To the west is a developed R-1 subdivision as well as a townhouse development which is presently under construction along La Colina Drive. An amendment to the Northwest Mesa Area Plan in 1983 established that commercial zoning be located only east of Coors Boulevard. The Coors Corridor Sector Plan recommended that a Sector Plan be prepared for this area. However, as is the case at the Coors/Paradise intersection most of the land has been either previously zoned or developed west of Coors Boulevard and some to the north and east of the Coors/Montano Road intersection.

In addition, the property owners have been unable to proceed due to the inability of the City and AMAFCA to complete a drainage study for the area that would be involved in a Sector Plan.

Considering the steep terrain of this tract the Planning Division feels strongly that residential zoning is appropriate for this tract. However, that portion of the tract at the northwest corner is directly across the street from an existing office development and would be appropriate for some type of neighborhood commercial or office development under site plan control.

RECOMMENDATION: C-1 ZONING FOR THE NORTHWEST 5.1 ACRES OF THIS TRACT.  
SU-1, PLANNED RESIDENTIAL DEVELOPMENT (20 DU/AC) FOR THE BALANCE OF THE TRACT.

THEREFORE, BE IT RESOLVED THAT Z-85-138 Subarea 4A be deferred to December 19, 1985 public hearing.

ADDITIONAL PLANNING DIVISION COMMENTS TO THE ENVIRONMENTAL PLANNING COMMISSION 12/19/85:

AREA 4A

This tract of land is located at the southwest corner of Coors and Montano Road, N.W. This tract will have access only from Delyne Avenue and Montano Road. The land uses and zoning adjacent to this tract are residential.

Across Coors Road is the provision for 45 acres of C-2 and O-1 uses established by an amendment to Northwest Mesa Area Plan. Seventeen of these acres have been developed. Another 22.5 acres commercial/office zoning being recommended to be established in Area 4D-2 based on the Northwest Mesa Plan amendment.

Non-residential land uses cannot be supported on this tract because of access limitations, the existing provision for office and commercial uses on the east side of Coors, and the surrounding zoning.

A small neighborhood commercial area would be appropriate for this site to serve the surrounding residential uses and the small office complex on the north side of Montano. This commercial area would best be located at the northwest corner of the tract due to the topography of the site.

The land on the west side of Coors offers no supporting land uses for other than residential zoning, a introduction of these uses could promote other requests for commercial and office zoning along the west of Coors north and south of Montano. This would be in opposition to both the Northwest Mesa Area Plan and the Coors Corridor Plan.

RECOMMENDATION:

THE PLANNING DIVISION RECOMMENDS THE ESTABLISHMENT OF SU-1, PLANNED RESIDENTIAL DEVELOPMENT (20 DU/ACR C-1 USES (5.1 ACRES AT THE NORTHWEST CORNER OF THE TRACT).

In addition, the DO Design Overlay Zone shall apply, guided by the design guidelines and regulations adopted as part of the Coors Corridor Plan, Ordinance 72-1984 and as may subsequently be amended.



Schedule B  
Section 11  
Exception 14

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GRANT OF EASEMENTS

This Grant of Easements between the City of Albuquerque, New Mexico, a municipal corporation existing under the laws of the state of New Mexico ("Grantor"), and Ray A. Graham III, a married man dealing with his separate property ("Grantee"), is effective as of the date Grantor signs this Grant of Easements.

1. Recital. Grantor is the owner of the following described real property ("Grantor's Property"):

TRACT E - See attached Exhibit A for description.

TRACT F - See attached Exhibit B for description.

TRACT G - See attached Exhibit C for description.

MONTANO ROAD RIGHT-OF-WAY - See attached Exhibit D for description.

Grantee is owner of the following real property ("Grantee's Property"):

A tract of land located in Sections 25, 35 and 36, Township 11 North, Range 2 East, N.M.P.M., Bernalillo County, New Mexico. See attached Exhibit E for description.

2. Tract E and F Easement. Grantor grants to Grantee a permanent, non-exclusive easement ("Tract E and F Easement") upon Tract F and that part of Tract E that is not required for a roadway slope for vehicular, pedestrian and livestock access to and from Grantee's Property through Tracts E and F.

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3. Montano Easement. Grantor grants to Grantee a permanent, non-exclusive easement (the "Montano Easement") upon the Montano Road Right-of-Way beginning at the Lower Corrales Drain Extension on the north side of Montano Road, continuing east along the slope of the north side of Montano Road, then south along the east end of the Montano Bridge footing, then west along the south side of Montano Road, ending at the Lower Corrales Drain Extension on the south side of Montano Road for pedestrian and livestock access to and from Grantee's Property. The Montano Easement will be at least 20 feet wide.

4. Winterhaven Access Easement. Grantor grants to Grantee a non-exclusive easement ("Winterhaven Access Easement") at the intersection of the Montano Road Right-of-Way and Winterhaven Road as follows:

a. Until such time as Winterhaven Road is extended south of Montano Road, Grantee will have a right of access from the south side of the Montano Road Right-of-Way to Grantee's Property, such access point to be opposite the intersection of Winterhaven Road and the north side of Montano Road.

b. When Winterhaven Road is extended south of Montano Road and until such time, if any, as Montano Road is constructed as a divided grade road at the point of its intersection with Winterhaven Road, there will be direct ingress and egress between Winterhaven Road and

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Montano Road. The ingress and egress shall allow a left turn from westbound Montano Road to Winterhaven Road and the ability of northbound cars on Winterhaven Road to make a left turn to westbound Montano Road.

c. At such time, if any, as Montano Road is reconstructed as a divided grade road at the point of its intersection with Winterhaven Road, then Winterhaven Road will be extended underneath Montano Road and there will be no access between Winterhaven Road and Montano Road. Grantor will not be obligated to extend Winterhaven Road south of Montano Road, however, Grantor will extend Winterhaven Road underneath Montano Road, so that Grantee will continue to have access to Grantee's Property from Winterhaven Road.

d. When Montano Road is constructed as a divided grade road at the point of its intersection with Winterhaven Road and if Grantor extends Winterhaven Road south of Montano Road, then Grantor will allow access from Winterhaven Road to Grantee's Property east of Winterhaven Road via the gravel road described in Paragraph 3 of the Stipulated Judgment (defined below in paragraph 5). Grantor will pay the cost to reconfigure the gravel road on Grantee's Property to match the grade of Winterhaven Road upon implementation of the grade separated condition. Grantee will have the right to maintain a gate for access to the gravel on the east side of Winterhaven Road.

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5. Grant of Easement for Temporary Access.

Grantor grants to Grantee, for the period of construction of the Montano Bridge, a temporary, non-exclusive easement upon Grantor's Property for vehicular, pedestrian and livestock access to and from Grantee's Property through Grantor's Property.

6. No Gift. Grantor grants these easements as part of a Stipulated Judgment between Grantor, Grantee and others, entered February 10, 1992 in Cause No. CV-89-1293, in the Second Judicial District Court, County of Bernalillo, State of New Mexico (the "Stipulated Judgment"). This Grant of Easements is not a gift or donation.

7. Termination and Reconveyance. The Tract E and F Easement, the Montano Easement and the Winterhaven Access Easement will have perpetual terms, unless otherwise stated in this Grant of Easements or the Stipulated Judgment, and except that if the Montano Easement is not used for the movement of cattle for any period of three (3) consecutive years, the Montano Easement will terminate and ownership of the Montano Road Right-of-Way property will automatically and immediately revert to and re-vest in Grantor and in the successors or assigns of Grantor, without any action on the part of Grantor, or the successors or assigns of Grantor, as fully and completely as if this Grant of Easements had never been signed by

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Grantor, as of the end of the three year period. The Easement for Temporary Access will terminate upon completion of construction of the Montano Bridge.

8. Miscellaneous. As part of the consideration for this Grant of Easements and as part of the Stipulated Judgment, Grantor will fence portions of Grantee's Property and provide access, gates and other improvements and maintenance as set out in the Stipulated Judgment. The duties of Grantor and Grantee as set out in the Stipulated Judgment are incorporated into this Grant of Easements. In the event the Montano Bridge is not built, Grantee will retain Grantee's present access rights to Grantee's Property, providing for reasonable access from the Montano Road Right-of-Way.

9. Binding Effect. This Grant of Easement will inure to the benefit of and bind the heirs, devisees, personal representatives, mortgagees, lessees, tenants, successors and assigns of Grantor and Grantee and will run with Grantee's Property and Grantor's Property.

DATED: March 13, 1992.

GRANTOR:

CITY OF ALBUQUERQUE, NEW MEXICO, a municipal corporation existing under the laws of the state of New Mexico

By [Signature]  
Its [Signature]

GRANTEE:

[Signature]  
RAY A. GRAHAM III, a married man dealing with his separate property

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Judy C. Woodward Bern. Co. AGRE R 17.88

Schedule B  
Section 75  
Exception 20

ROAD AGREEMENT

Ray A. Graham III, a married man dealing with his sole and separate property ("Graham") and the City of Albuquerque, a municipal corporation ("City") agree:

1. Recitals.

Graham is the owner of certain property located in Bernalillo County, New Mexico, which property is the subject of an annexation application (City File Z-98-71/AX-98-9) (the "Annexation"). The land to be annexed consists of approximately 26 acres of undeveloped land, further shown on Exhibit A attached hereto (the "Annexed Land"). A portion of the Annexed Land is further described on Exhibit A attached hereto as the "Private Road Parcel". Graham owns other lands presently located within Bernalillo County and adjacent to the Annexed Land (the "Adjacent Vacant Land"). The Adjacent Vacant Land is noted on Exhibit A.

Upon completion of the Annexation, Graham or his successor will process a subdivision plat consistent with the parcels shown on Exhibit A (the "Subdivision Plat"). Tracts 1, 2, 3 and 4 (as shown on Exhibit A) will be served by the Private Road Parcel, pursuant to a private access easement to be granted by Graham or his successor in favor of the owner(s) of Tracts 1, 2, 3 and 4 (the "Private Road Easement"), and to be recorded in the real estate records of Bernalillo County, New Mexico.

2. Private Road Parcel.

Graham reserves the Private Road Parcel for dedication in fee to the City at such time as the City Traffic Engineer requires such dedication. Until that time, the Private Road Parcel will serve as a road easement for the benefit of the Annexed Land, pursuant to the Private Road Easement. The Private Road Easement, with recording information, will be noted on the Subdivision Plat. The Private Road Easement will provide that, upon the dedication of the Private Road Parcel to the City, the Private Road Easement will become void and of no further effect.

3. Construction of Public Road.

Graham or any subsequent owner of the Private Road Parcel may construct a road thereon. If (i) such road is constructed and maintained in accordance with all construction standards and requirements of the City, (ii) the plans and specifications for such improvements are approved in advance by the Design Review Committee ("DRC") and (iii) City Construction Management approves a certification from a registered engineer that such improvements have been constructed as required by the DRC, then, upon dedication of the Private Road Parcel to the City free and clear of all liens and encumbrances, the City will accept the improvements and the land as a public road. The City reserves the right to require

repair and/or replacement of the street improvements equal to that at the time of construction as a condition to acceptance of the Private Road Parcel as a public road.

4. Miscellaneous.

This Agreement is binding upon and inures to the benefit of, the parties, their successors and assigns, as governed by the laws of the State of New Mexico, and may be modified only in writing executed by both parties.

DATED December 28, 1998

Ray A. Graham III  
RAY A. GRAHAM III

CITY ENGINEER

By

Its

Aring (194) Engineer

CITY OF ALBUQUERQUE

By

Its

Post. Director for Pub

G:\GRAHAM\BOSQUEPR\CPI\LEGAL\CC\ROADEN.AGR  
12/9/98

STATE OF NEW MEXICO )  
COUNTY OF BERNALILLO ) ss.

Subscribed and sworn to before me this 28th day of December  
1998 by Ray A. Graham III.

Notary Public

My Commission Expires:

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STATE OF NEW MEXICO )  
COUNTY OF BERNALILLO ) ss.

I Subscribed and sworn to before me this 27<sup>th</sup> day of January,  
1998 by John K. D'Amico, Notary Public of the City of Albuquerque,  
a municipal corporation.

My Commission Expires: 7:30 PM

July 8, 2002

Robert K. D'Amico  
Notary Public

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# EXHIBIT

## LEGAL DESCRIPTION FOR PRIVATE ROAD PARCEL

A CERTAIN TRACT OF LAND SITUATED IN SECTION 36, T11N, R2E, N.M.P.M., BERNALILLO COUNTY, NEW MEXICO AND BEING MORE PARTICULARLY DESCRIBED, USING NEW MEXICO STATE PLANE GRID BEARINGS (BEARING BASIS ACS NM448-6A (X=366640.72, Y=1507308.30) TO ACS NM448-7A (X=369804.62, Y=1510014.99) N49 27'12"W ) AND GROUND DISTANCES, AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF THE HEREIN DESCRIBED TRACT, SAID CORNER BEING LOCATED ON THE CITY OF ALBUQUERQUE MUNICIPAL BOUNDARY, FROM WHENCE THE ACS MONUMENT NM448-7A BEARS N10 39'53"E A DISTANCE OF 1598.24 FEET; THENCE,

S89 42'31"E, 64.94 FEET ALONG THE CITY OF ALBUQUERQUE MUNICIPAL BOUNDARY TO A POINT; THENCE,

S22 46'48"W, 183.08 FEET TO A POINT; THENCE,

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N22 46'48"E, 158.24 FEET TO A POINT, SAID POINT BEING THE POINT OF BEGINNING

SAID TRACT CONTAINS 2.7707 ACRES MORE OR LESS.

I, JEAN J. BORDENAVE, A DULY REGISTERED PROFESSIONAL ENGINEER AND LAND SURVEYOR IN THE STATE OF NEW MEXICO HEREBY CERTIFY THAT THE ABOVE LEGAL DESCRIPTION WAS PREPARED BY ME FROM ACTUAL FIELD SURVEYS AND IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

*Jean J. Bordenave* 12/22/98  
JEAN J. BORDENAVE NMPE & LS NO. 5118

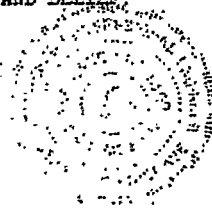


EXHIBIT A

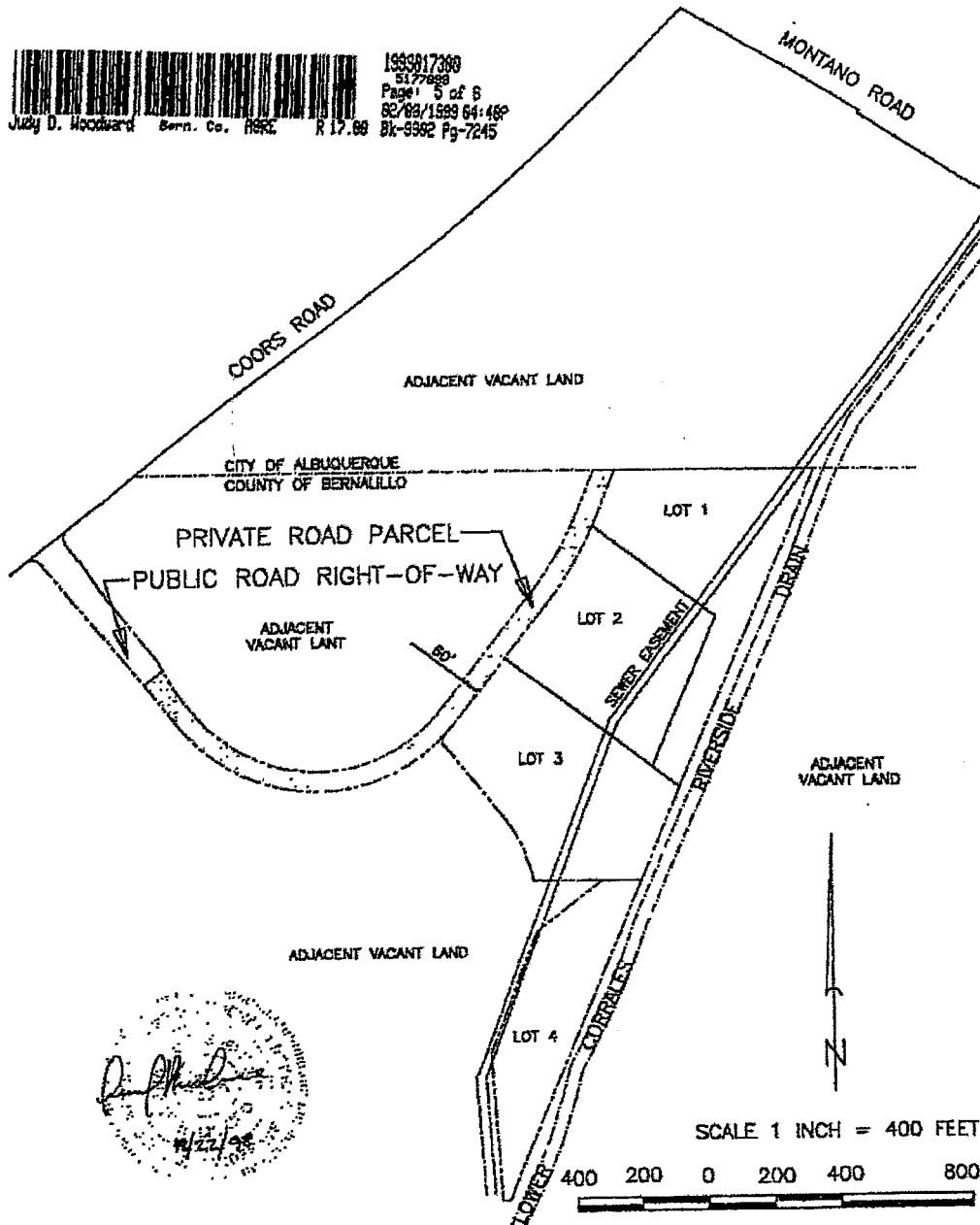
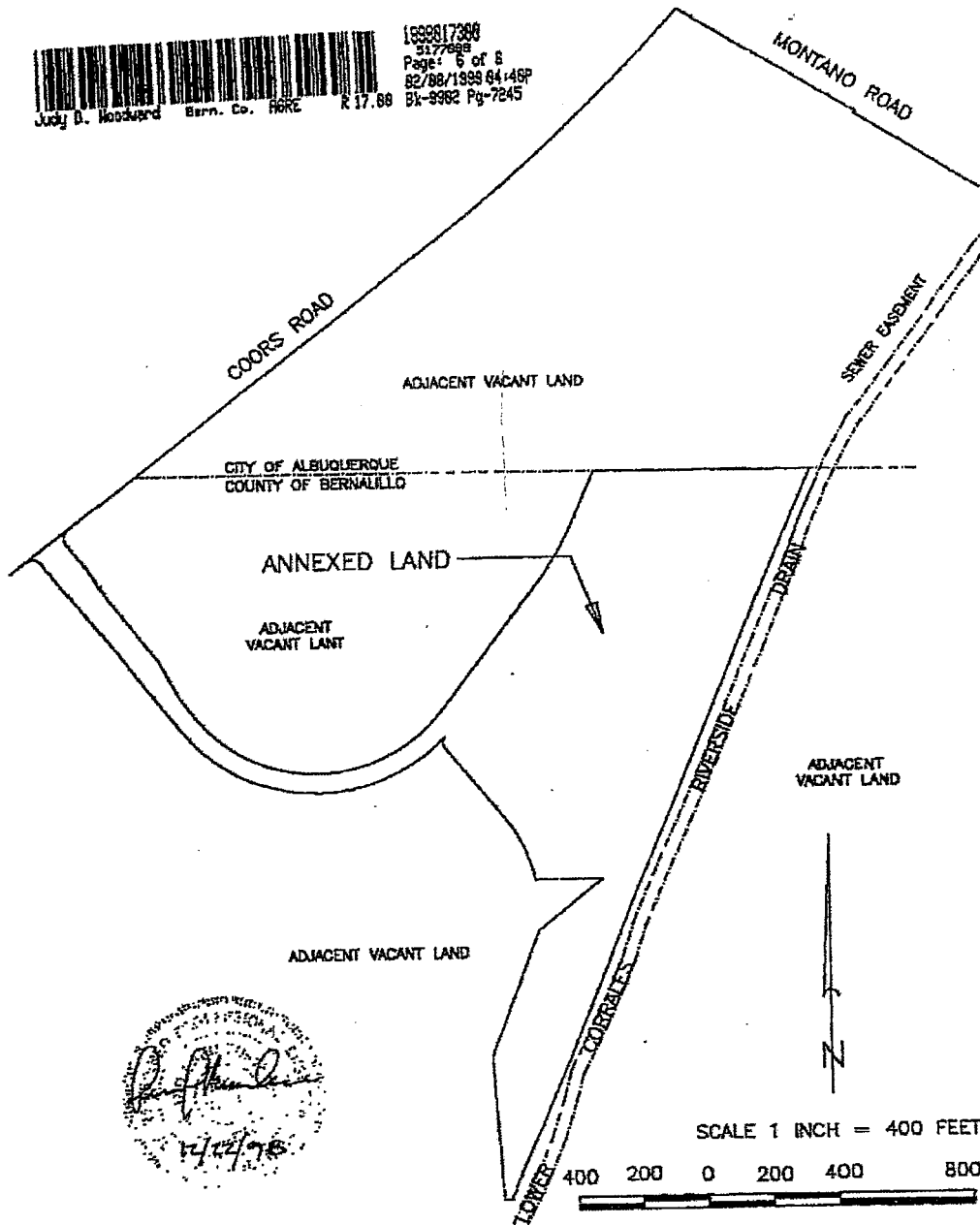


EXHIBIT A



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Page: 6 of 8  
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1999

Schedule B  
Section II  
Exception 10 PRIVATE ROAD EASEMENT

OVENWEST CORPORATION, New Mexico corporation ("Grantor") and  
BOSQUE PREPARATORY SCHOOL, a New Mexico non-profit corporation  
("Grantee") agree:

1. Recitals. Grantor owns fee simple title to certain property located in Bernalillo County, New Mexico upon which Grantee intends to construct a private roadway, as more particularly described on Exhibit A attached hereto (the "Roadway"). Grantee owns land adjacent to and in the vicinity of the Roadway ("Grantee's Property"), which will be served by the Roadway.

2. Easement for Access; Plans. In consideration of the sum of \$100,000, receipt of which is hereby acknowledged, Grantor grants to Grantee, for the benefit of Grantee and Grantee's Property, a perpetual easement appurtenant to Grantee's Property for the purpose of ingress and egress by vehicular and pedestrian traffic over the Roadway, and for the purpose of allowing utility lines serving Grantee's lands to cross under the Roadway. Grantor also hereby assigns and delivers to Grantee all of Grantor's right, title and interest in and to Grantor's existing engineering plans and specifications for infrastructure improvements related to the Roadway.

3. Construction; Maintenance. Grantee will construct a road and other infrastructure upon the Roadway as required by the City of Albuquerque (the "City") and will complete the Roadway not later than one (1) year after the date of this Easement.

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Page: 1 of 5  
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Judy D. Woodward Bern. Co. DISC

Grantee will maintain the Roadway so that the Roadway continues to satisfy all City of Albuquerque public road requirements, for so long as the Roadway is a private road. Grantee acknowledges that the Roadway is subject to that certain Road Agreement dated December 28, 1998, recorded February 8, 1999 in Book 9902 Page 7245, records of Bernalillo County, New Mexico (the "Road Agreement"). When the Roadway is dedicated to the City, then Roadway maintenance will be the responsibility of the City. Grantee acknowledges that Grantor may elect to dedicate the Roadway to the City at any time. In any event, Grantor will dedicate the Roadway within sixty (60) days after request by Grantee.

4. Insurance; Indemnity. Grantee will maintain liability insurance in the amount of at least \$1,000,000 per occurrence covering the Roadway, and will name Grantor as an additional insured. Grantee will indemnify Grantor against any and all claims arising from Grantee's use of the Roadway; provided however, to the extent, if at all, Section 56-7-1 NMSA 1978 is applicable to this Easement, this paragraph 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; (2) the giving of or the failure to give directions or instructions by the indemnitee, or the agents or employees of indemnitee, if such giving or failure to give



directions instructions is the primary cause of bodily injury to persons or damage to property.

5. Long Range Master Plan. Grantee acknowledges that Grantee's Property is part of a master planned community; Grantee will work in good faith with Grantor and/or its successors and assigns in any future development of the vacant lands adjacent to and in the vicinity of Grantee's Property. Grantee will join in such master plan and other zoning documents as may be proposed by Grantor or its successors so long as Grantee is not required to incur any financial obligations and so long as such documents do not impair or adversely affect Grantee's intended use of Grantee's Property.

6. Miscellaneous. This Easement is binding upon the parties, their successors and assigns, runs with the land, and inures to the benefit of Grantee's Property. This Easement may be modified only in writing, signed by Grantor and Grantee.

Dated: 2/22, 1999.

OVENWEST CORPORATION,  
a New Mexico corporation

By: Ray A. Graham III  
RAY A. GRAHAM III,  
Its President

BOSQUE PREPARATORY SCHOOL

By: Judy D. Woodward  
Its: Chair, Board of Trustees



Judy D. Woodward Bern. Co. EAST

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Page: 3 of 5

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

This instrument was acknowledged before me on Feb 22,  
1999, by Ray A. Graham III, President, Ovenwest Corporation, a  
New Mexico corporation.

[Signature]  
Notary Public

My Commission Expires:

2/22/01

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

This instrument was acknowledged before me on Feb 22, 1999,  
by Ray A. Graham III, President of BOSQUE PREPARATORY  
SCHOOL, a New Mexico nonprofit corporation.

[Signature]  
Notary Public

My Commission expires:

2/22/01

G:\GRAHAM\BOSQUEPR\CPS\LEGALDOC\PVTRDAD.EAS  
2/22/99



July D. Woodward Bern. Co. LRS

R 15.00

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Page: 4 of 5

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## EXHIBIT A

### LEGAL DESCRIPTION FOR PRIVATE ROAD PARCEL

A CERTAIN TRACT OF LAND SITUATED IN SECTION 35, T11N, R2E, N.M.P.M., BERNALILLO COUNTY, NEW MEXICO AND BEING MORE PARTICULARLY DESCRIBED, USING NEW MEXICO STATE PLANE GRID BEARINGS (BEARING BASIS ACS NM448-6A (X=366640.72, Y=1507308.30) TO ACS NM448-7A (X=369804.62, Y=1510014.99) N49 27'12"W ) AND GROUND DISTANCES, AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF THE HEREIN DESCRIBED TRACT, SAID CORNER BEING LOCATED ON THE CITY OF ALBUQUERQUE MUNICIPAL BOUNDARY, FROM WHENCE THE ACS MONUMENT NM448-7A BEARS N10 39'53"E A DISTANCE OF 1598.24 FEET; THENCE,

S89 42'31" E, 64.94 FEET ALONG THE CITY OF ALBUQUERQUE MUNICIPAL BOUNDARY TO A POINT; THENCE,

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2/23/99



Judy D. Woodward

Bern. Co. ERSE

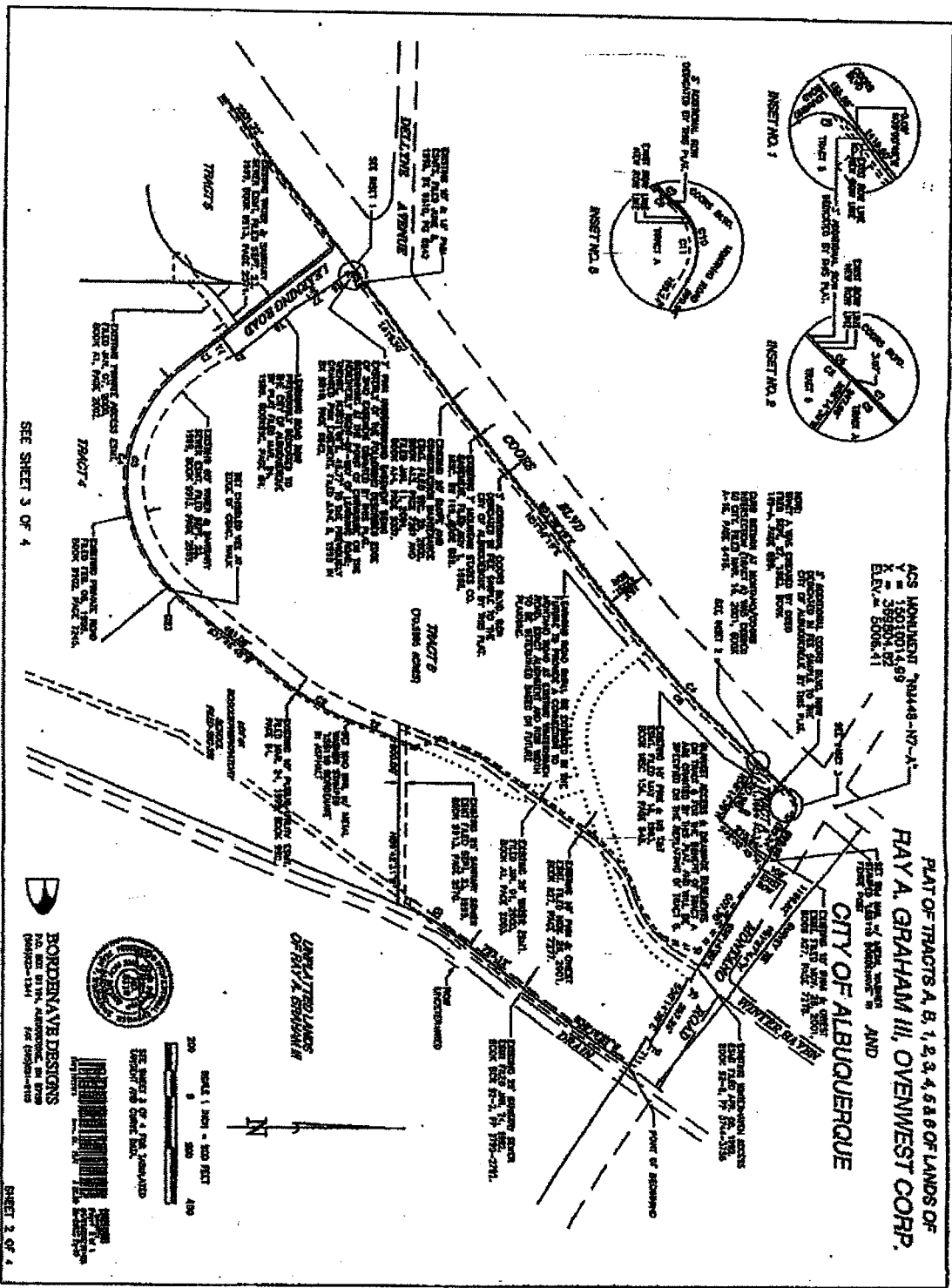
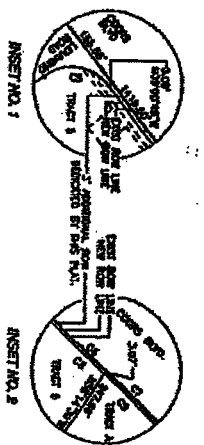
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Page: 5 of 5  
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PLAT OF TRACTS A, B, 1, 2, 3, 4, 5 & 6 OF LANDS OF  
 RAY A. GRAHAM III, OVENWEST CORP.  
 CITY OF ALBUQUERQUE



SEE SHEET 3 OF 4

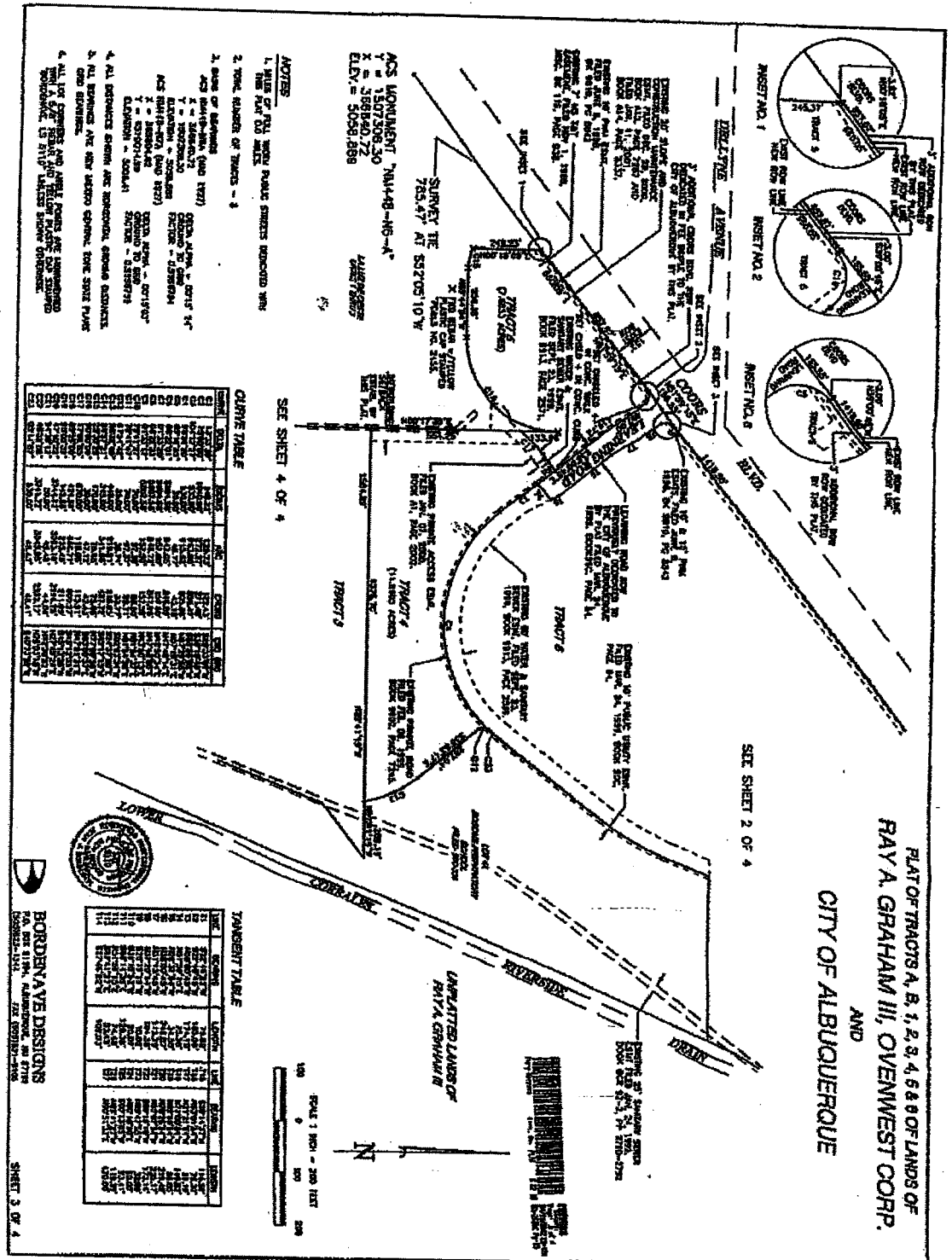
BORDENAVE DESIGNS  
 1000 N. 10TH AVENUE, SUITE 100  
 ALBUQUERQUE, NM 87102

SHEET 2 OF 4

INSET NO. 1

INSET NO. 2

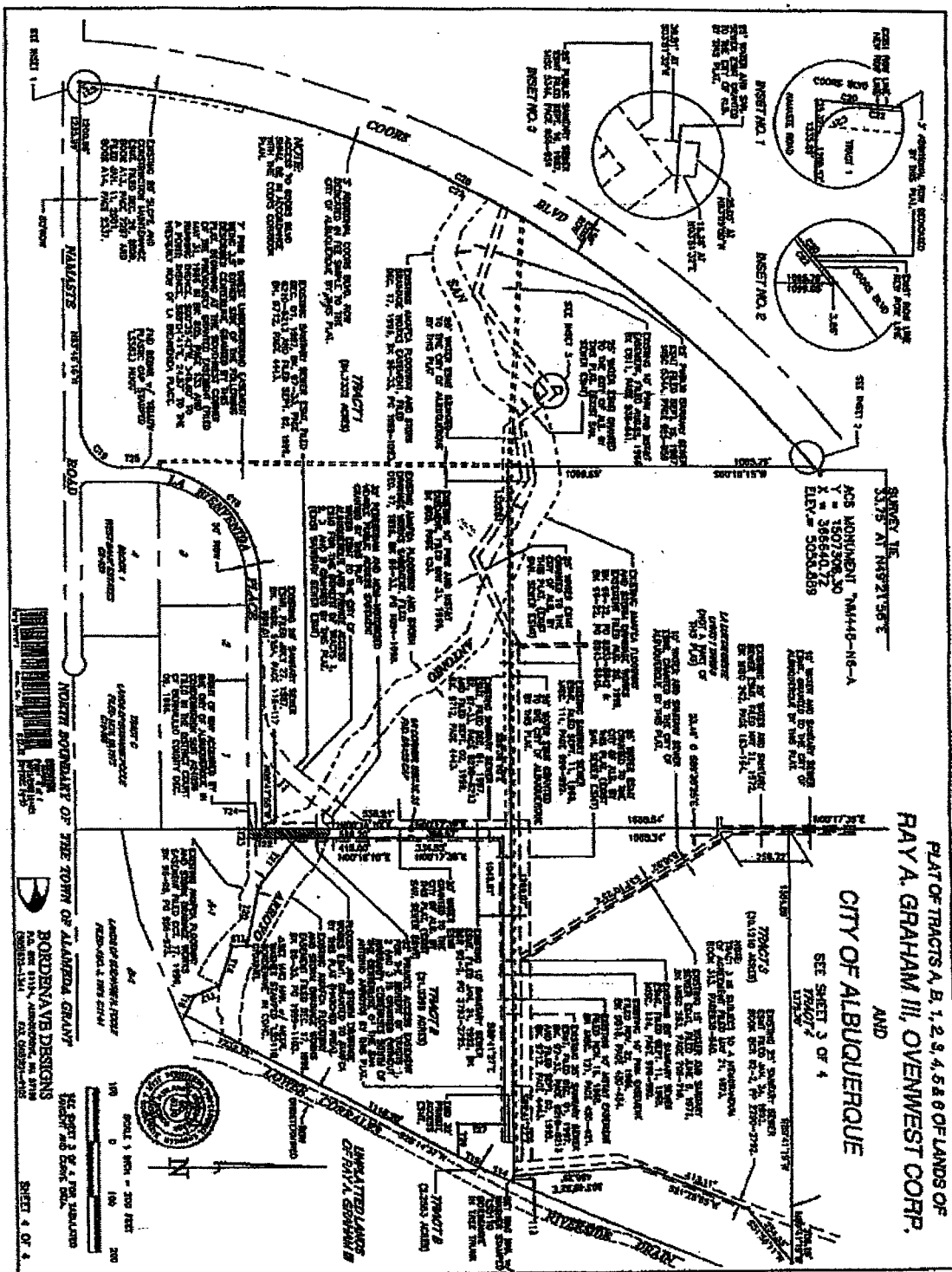
INSET NO. 3



PLAT OF TRACTS A, B, 1, 2, 3, 4, 5 & 6 OF LANDS OF  
RAY A. GRAHAM III, OWENWEST CORP.

CITY OF ALBUQUERQUE

SEE SHEET 3 OF 4





**Albuquerque, Bernardo County, New Mexico**  
**April 2005**

June 2005

THE NEW YORK PUBLIC LIBRARY  
ASTOR LENOX TILDEN FOUNDATIONS  
300 FIFTH AVENUE  
NEW YORK 10017

Application No. 25085-01010

**UNIT APPLICATION**

7-11-64

**2019**

11/16/85

THE UNIVERSITY OF CHICAGO

Franklin D. Wright

10-2-1878

1997

...

**A LEGACY IN IMPORTS, A PASSION FOR THE FUTURE OF THE TRUCKING INDUSTRY**

1965-1966

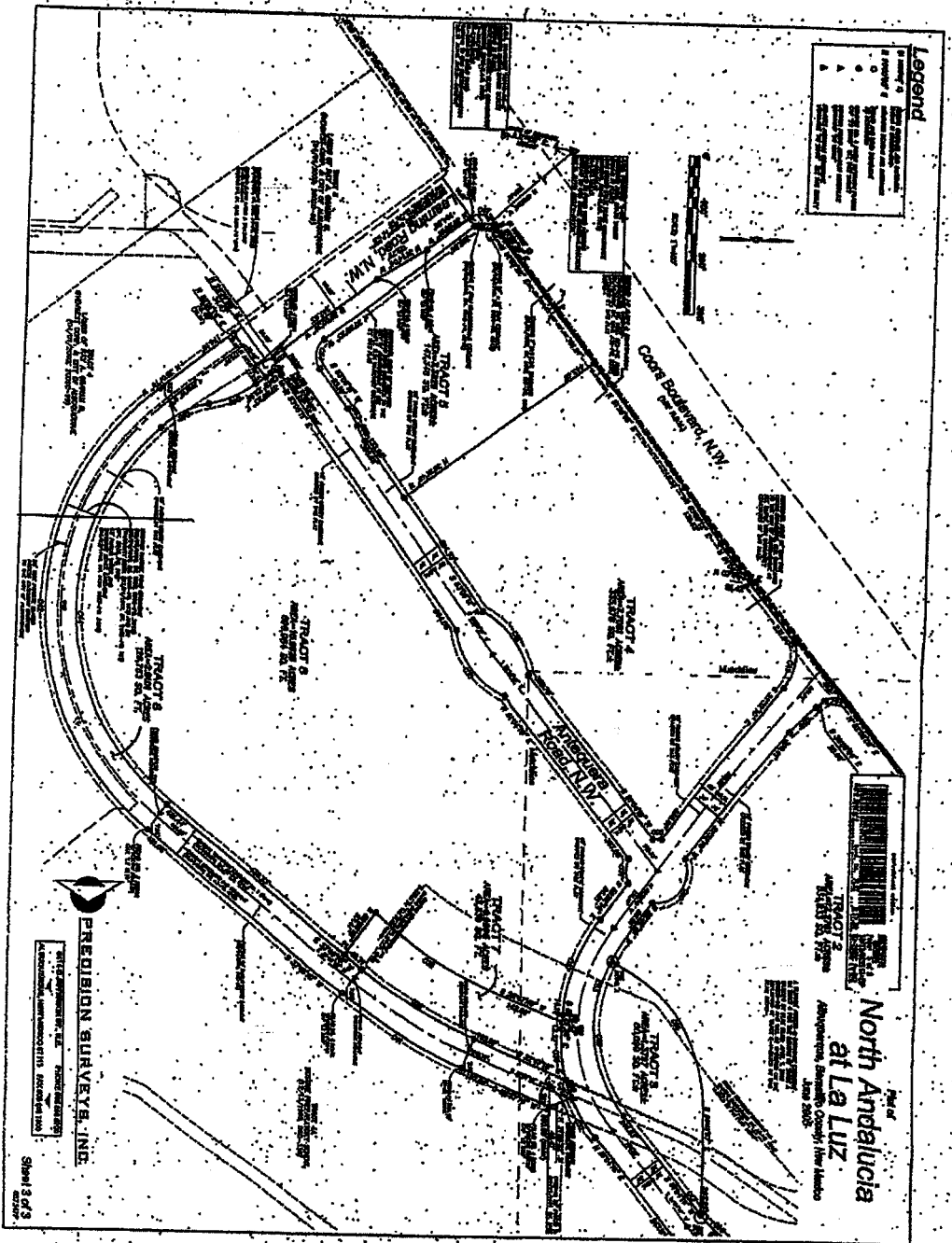
**WILLIAM J. JAMES**

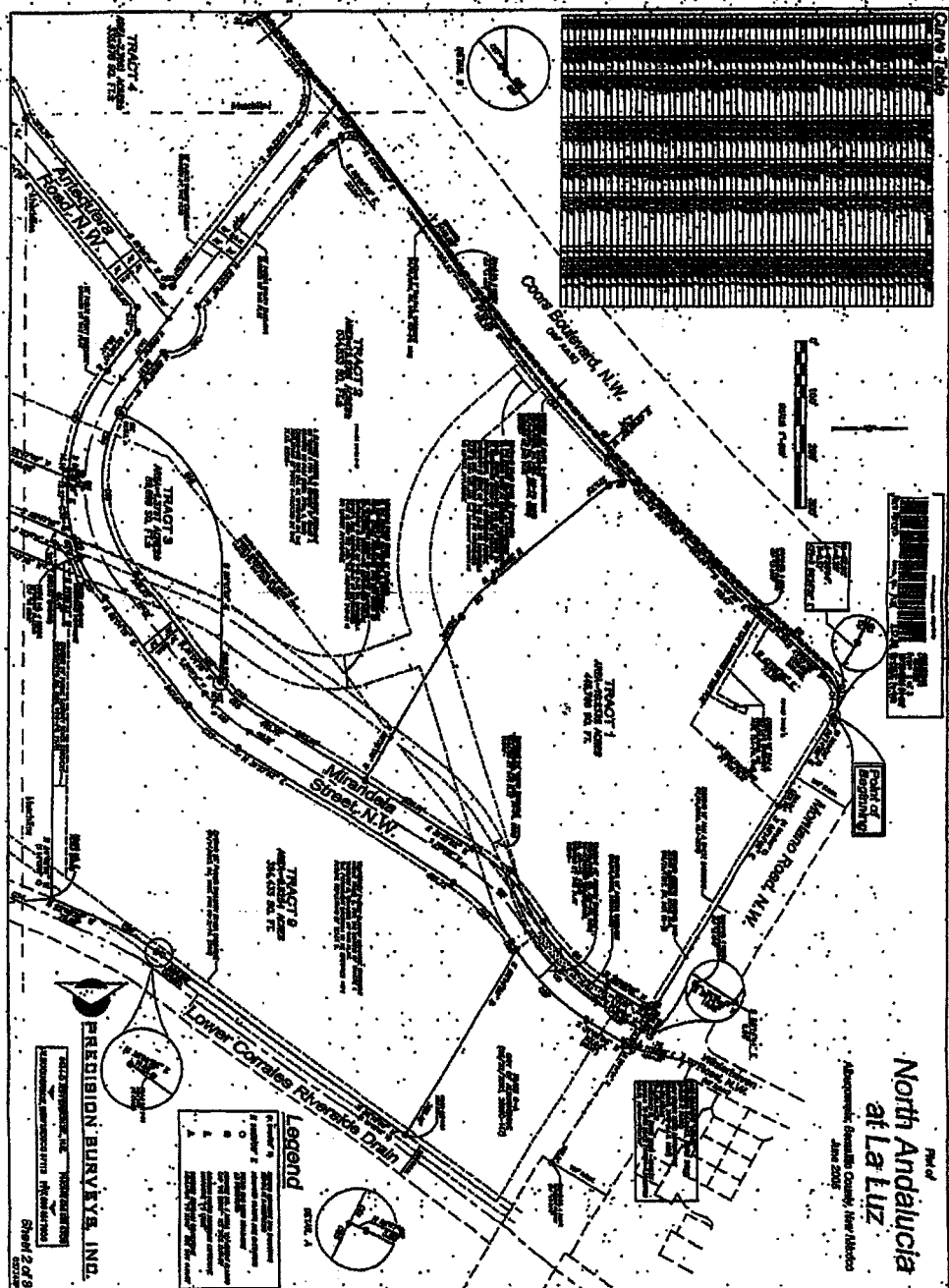
**FREEDOM**

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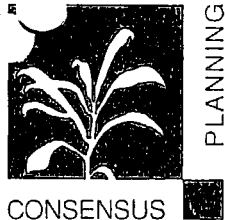
Chlorine

2005 Plat:  
Boysen School  
acquired  
Tracts 7, 8, 9









Landscape Architecture  
Urban Design  
Planning Services

924 Park Avenue SW  
Albuquerque, NM 87102

(505) 764-9801  
Fax 842-5495  
cp@consensusplanning.com  
www.consensusplanning.com

December 2, 2004

Ray Graham  
One Wind Road NW  
Albuquerque, NM 87120

Steven Kells  
35 Mill Road NW  
Albuquerque, NM 87120

Re: Andalucia, Tracts A and 6B

Dear Ray and Steve:

The purpose of this letter is to inform you and the members of the La Luz del Sol Neighborhood Association that Consensus Planning, Inc. has submitted a request for a Site Development Plan for Subdivision and Site Development Plan for Building Permit to the Environment Planning Commission (EPC) for Andalucia, Tracts 6B and A. The site is 69.6 acres and located southeast of Coors Boulevard and Montano Road.

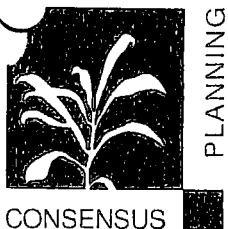
The Site Development Plan for Subdivision proposes the creation of eight tracts (see enclosed Site Development Plan for Subdivision). All six tracts are currently zoned SU-1 for C-2, O-1, and PRD (20 du/acre). The size, existing zoning, and land use for each tract is summarized in the table below:

<i>Tract</i>	<i>Acreage</i>	<i>Zoning</i>	<i>Land Use</i>
Tract 6B-1	6.78	SU-1 for C-2 Uses (23.3 acres max), O-1 Uses (11.7 acres max), and PRD (20 du/acre)	C-2 Uses
Tract 6B-2	16.12		C-2 Uses
Tract 6B-3	1.38		O-1 Uses
Tract 6B-4	7.77		PRD
Tract 6B-5	3.67		O-1 Uses
Tract 6B-6	14.61		PRD
Tract 6B-7	5.37		PRD
Tract 6B-8	8.59		PRD

#### PRINCIPALS

Shirley R. Marcotte, AICP  
Charles K. Strozien, AICP  
Christopher J. Green, ASLA

The Site Development Plan for Building Permit covers Tracts 6B-1, 6B-2, and 6B-3 of the subject site and is comprised of 24.28 acres. The proposal is for a commercial center that will include a major anchor and smaller retail, restaurant, and service uses



consistent with the C-2 and O-1 zones. The following table summarizes the size and anticipated use of each proposed unit:

<i>Unit</i>	<i>Square Feet</i>	<i>Use</i>
6B1.1	88,400	Retail
6B2.1	6,500	Retail
6B2.2	6,500	Restaurant
6B2.3	6,500	Restaurant
6B2.4	4,500	Restaurant
6B2.5	45,720	Retail
6B2.6	9,600	Retail
6B2.7	4,500	Restaurant
6B2.8	4,800	Retail
6B2.9	6,750	Bank
6B2.10	6,585	Retail
6B2.11	8,000	Retail
6B2.12	30,400	Retail
6B2.13	17,700	Retail
6B2.14	9,950	Retail
<b>Total</b>	<b>256,405</b>	

The architectural style proposed is consistent with the approved Design Standards established for Andalucia. The buildings are designed with stucco surfaces, stacked stone wainscot and tower elements, and interesting changes in wall planes. Smaller scale commercial uses are proposed along the north side of the anchor tenant building in order to soften its visual impact. Shaded outdoor seating areas are provided adjacent to the proposed freestanding restaurant sites.

The EPC hearing for this application will be held on January 20, 2004 at 8:30 AM, located at the Plaza Del Sol Building, 600 2<sup>nd</sup> Street NW. Please feel free to call me at 764-9801 to schedule a meeting on this proposal.

Sincerely,

Jacqueline Fishman, AICP  
Senior Planner II

Encl: Site Plan for Subdivision and Site Plan for Building Permit