

136 Washington SE, STE F

ALBUQUERQUE, NM 87108



OFFERING MEMORANDUM

KW COMMERCIAL
6240 Riverside Plaza Lane NW, Suite 100
Albuquerque, NM 87120

PRESENTED BY:

NICHOLAS GIBSON
Director
O: 505.297.5164
nick@kwcnm.com

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ALBUQUERQUE, NM

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136 WASHINGTON

PROPERTY INFORMATION

1

- EXECUTIVE SUMMARY
- PROPERTY DETAILS
- ADDITIONAL PHOTOS
- ADDITIONAL PHOTOS
- ADDITIONAL PHOTOS

Executive Summary



OFFERING SUMMARY

SALE PRICE:	\$155,000
LOT SIZE:	1.016 Acres
BUILDING SIZE:	1,248 SF
RENOVATED:	2008
ZONING:	MIXED-USE – MODERATE INTENSITY ZONE DISTRICT (MX-M)
TRAFFIC COUNT:	25,000
PRICE / SF:	\$124.20

PROPERTY OVERVIEW

Washington Square is conveniently located on Washington just off of Central Ave. Prime location for small office or retail business. Completely remodeled in 2008: New facade, divider walls, roof, plumbing, HVAC, and electrical. Parking 4.4/1,000. High visibility with great curb appeal. Good visibility: 25,000 vehicles per day at Washington and Central. Flexible zoning allows for MX-M uses. Condo Association (\$250) dues include water, sewer, refuse, annual real estate taxes, maintenance of common walls and roof. Save \$100s a month with Condo Association dues - Real estate taxes are \$2,500/year, water and sewer are \$900/year, and reserve maintenance can be \$1,000s/year.

Owner will consider Owner Financing with 20% down payment, 25 year amortization at 8% interest with 5 year call back on loan.

PROPERTY HIGHLIGHTS

Property Details

SALE PRICE

\$155,000

LOCATION INFORMATION

Building Name	136 Washington
Street Address	136 Washington Street SE STE F
City, State, Zip	Albuquerque, NM 87108
County/Township	Bernalillo

BUILDING INFORMATION

Building Size	1,248 SF
Price / SF	\$124.20
Year Built	1962
Last Renovated	2008
Building Class	C
Tenancy	Single
Number Of Floors	1
Load Factor	Yes
Condition	Good

PROPERTY DETAILS

Property Type	Retail
Property Subtype	Street Retail
Zoning	MIXED-USE – MODERATE INTENSITY ZONE DISTRICT (MX-M)
Lot Size	1.016 Acres
APN#	101705727917442201
Traffic Count	25,000
Waterfront	Yes

PARKING & TRANSPORTATION

Street Parking	Yes
Parking Type	Surface
Parking Ratio	10.0
Number Of Spaces	50

UTILITIES & AMENITIES

Security Guard	Yes
Handicap Access	Yes
Freight Elevator	Yes
Centrix Equipped	Yes
Leed Certified	Yes

Additional Photos



Additional Photos



Additional Photos



136 WASHINGTON

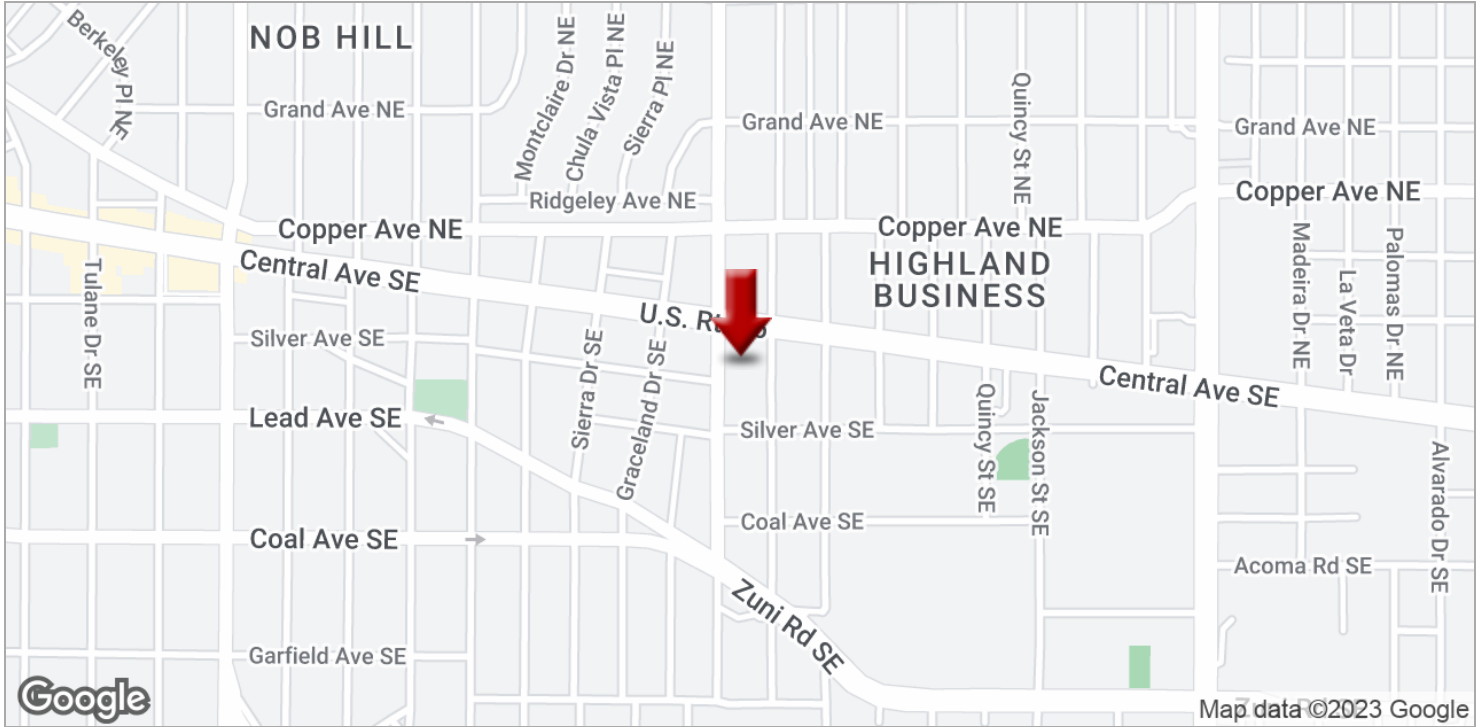
LOCATION INFORMATION

2

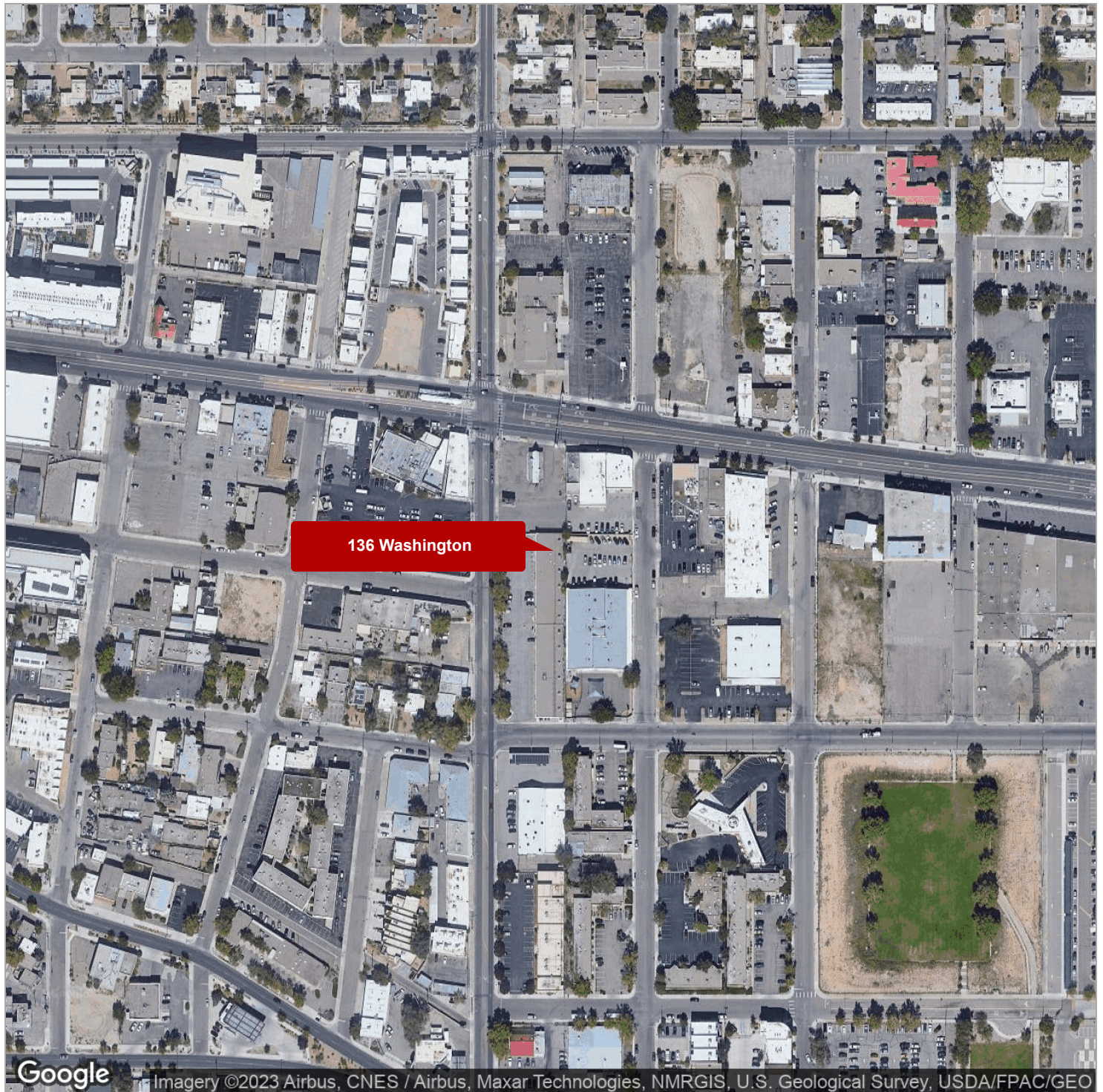
LOCATION MAPS

AERIAL MAP

Location Maps



Aerial Map



136 WASHINGTON

DEMOGRAPHICS

3

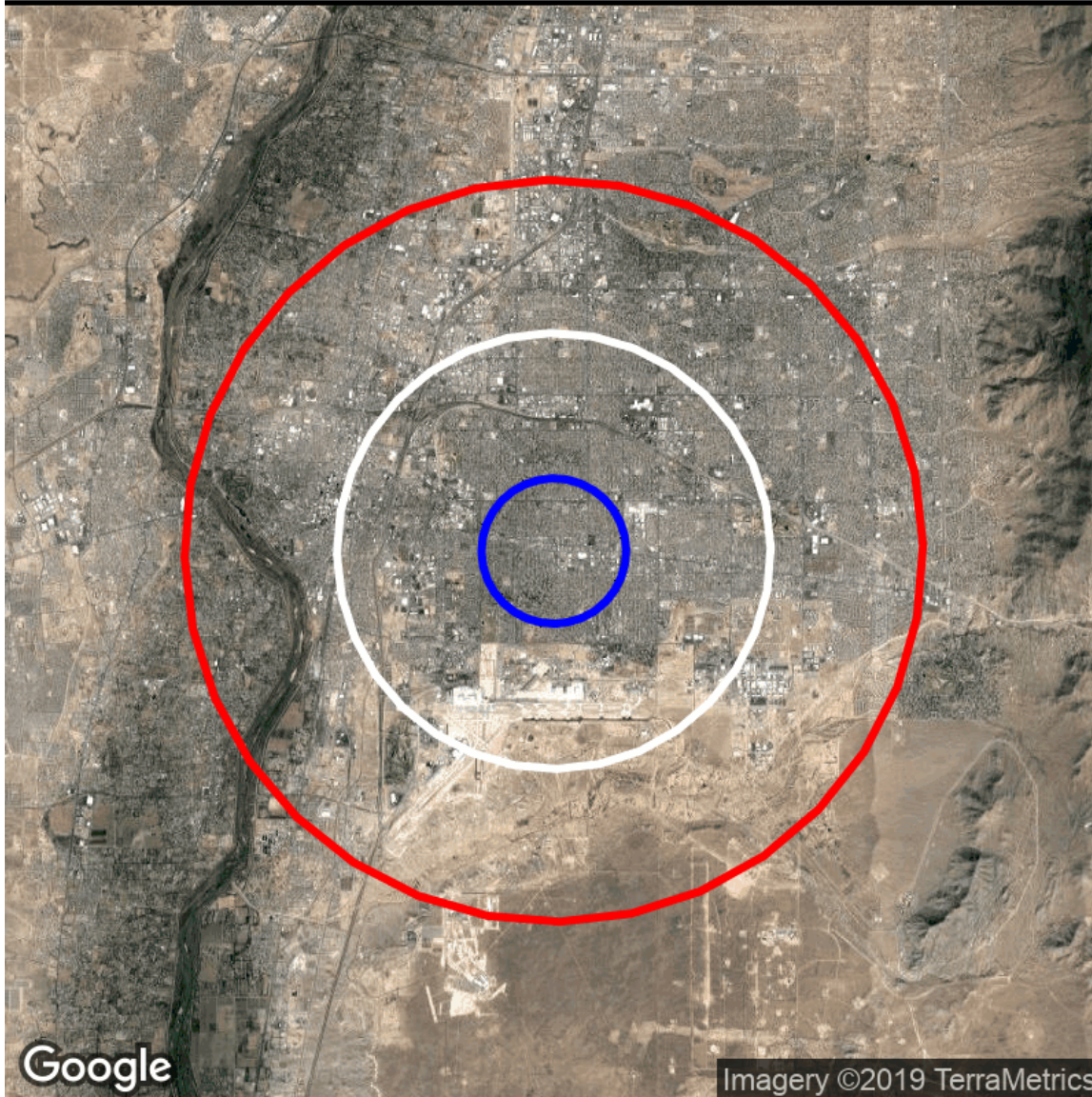
DEMOGRAPHICS

KEY FACTS

RETAIL LOGOS

TRAFFIC COUNTS

Demographic Report

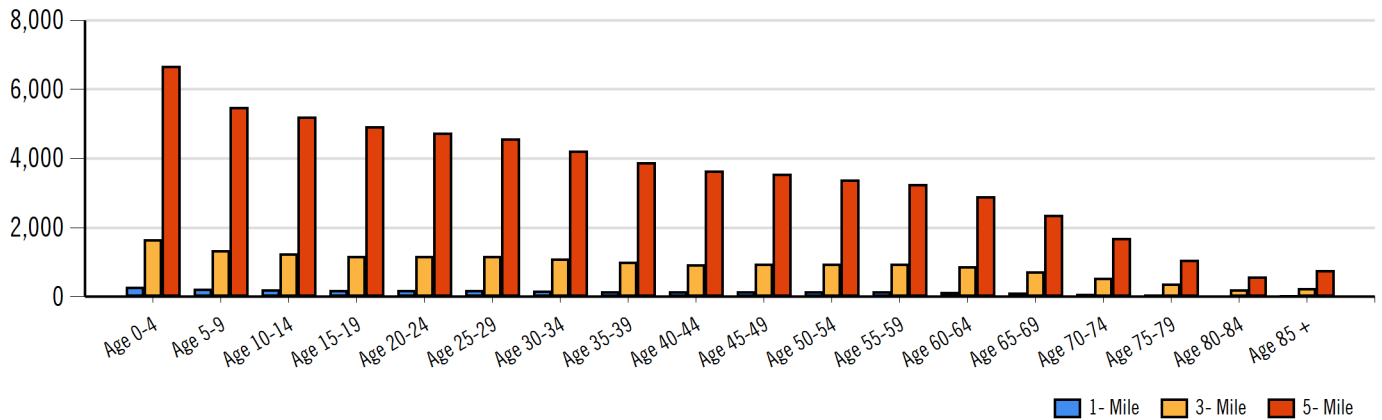


136 Washington St SE

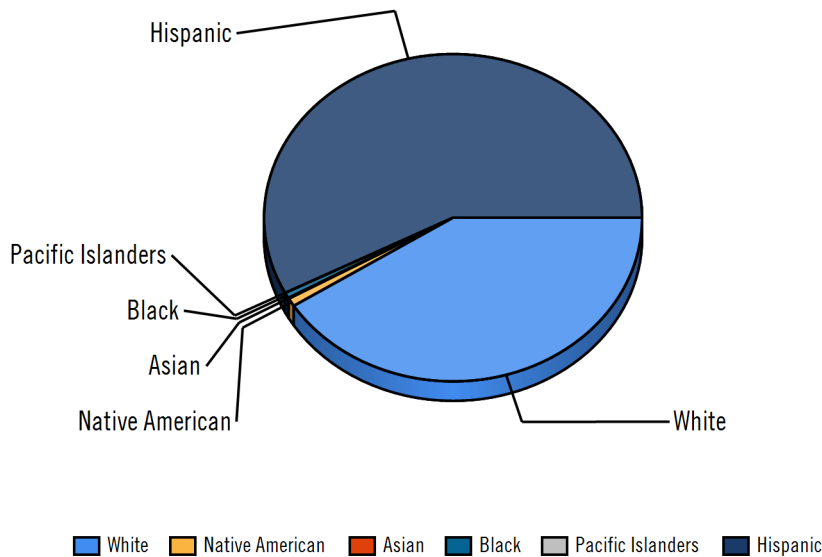
Population

Distance	Male	Female	Total
1- Mile	1,345	1,405	2,749
3- Mile	8,328	8,363	16,692
5- Mile	31,255	31,728	62,982

Population by Distance and Age (2018)



Ethnicity within 5 miles



Home Ownership 1 Mile



Home Ownership 3 Mile



Home Ownership 5 Mile



Employment by Distance

Distance	Employed	Unemployed	Unemployment Rate
1-Mile	1,093	84	1.07 %
3-Mile	6,823	482	3.52 %
5-Mile	26,631	1,662	4.42 %

136 Washington St SE



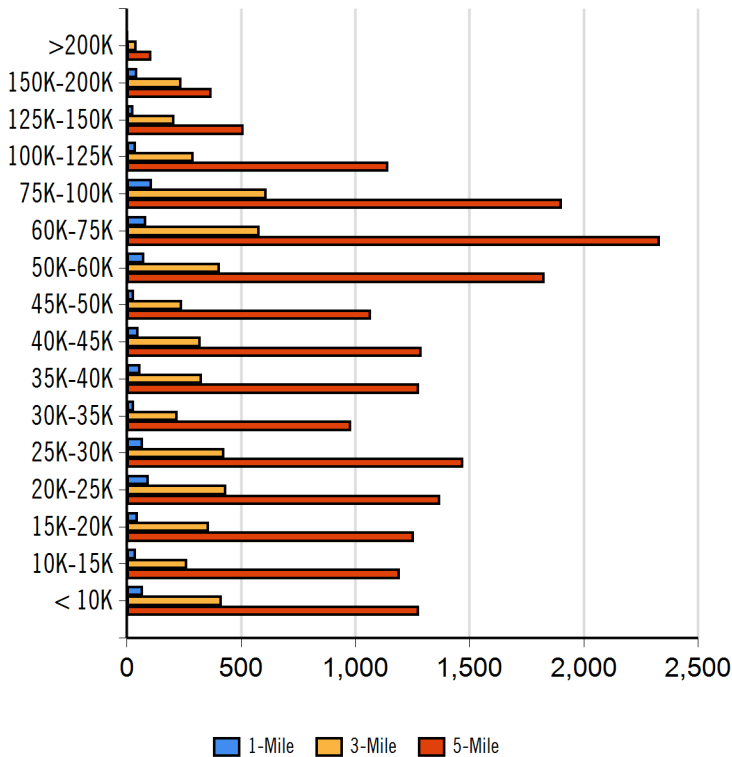
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Labor & Income

	Agriculture	Mining	Construction	Manufacturing	Wholesale	Retail	Transportaion	Information	Professional	Utility	Hospitality	Pub-Admin	Other
1-Mile	4	2	233	71	29	81	26	20	72	269	123	64	65
3-Mile	15	17	1,327	362	218	519	294	123	611	1,565	675	449	445
5-Mile	120	99	4,414	1,389	894	2,614	1,207	549	2,309	5,970	2,865	1,599	1,882

Household Income



Radius	Median Household Income
1-Mile	\$6,437.07
3-Mile	\$27,180.16
5-Mile	\$33,762.54

Radius	Average Household Income
1-Mile	\$8,724.06
3-Mile	\$34,861.24
5-Mile	\$40,501.03

Radius	Aggregate Household Income
1-Mile	\$49,900,490.61
3-Mile	\$311,174,962.68
5-Mile	\$1,022,116,680.28

Education

	1-Mile	3-mile	5-mile
Pop > 25	1,645	10,087	35,940
High School Grad	440	2,938	11,491
Some College	188	1,550	6,028
Associates	45	543	1,556
Bachelors	117	759	2,554
Masters	30	209	594
Prof. Degree	14	103	352
Doctorate	9	91	301

Tapestry

	1-Mile	3-mile	5-mile
Vacant Ready For Rent	14 %	57 %	57 %
Teen's	16 %	60 %	89 %
Expensive Homes	11 %	53 %	21 %
Mobile Homes	53 %	186 %	255 %
New Homes	13 %	40 %	163 %
New Households	10 %	39 %	78 %
Military Households	3 %	35 %	28 %
Households with 4+ Cars	30 %	129 %	130 %
Public Transportation Users	2 %	5 %	7 %
Young Wealthy Households	0 %	0 %	9 %

This Tapestry information compares this selected market against the average. If a tapestry is over 100% it is above average for that statistic. If a tapestry is under 100% it is below average.



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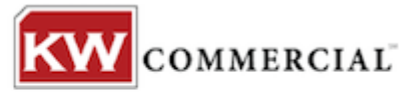
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Expenditures

	1-Mile	%	3-Mile	%	5-Mile	%
Total Expenditures	38,409,949		238,634,323		824,159,081	
Average annual household	44,620		45,112		42,485	
Food	5,874	13.16 %	5,913	13.11 %	5,630	13.25 %
Food at home	3,921		3,934		3,795	
Cereals and bakery products	556		558		538	
Cereals and cereal products	197		199		192	
Bakery products	358		359		346	
Meats poultry fish and eggs	787		790		766	
Beef	185		185		178	
Pork	142		144		141	
Poultry	148		149		144	
Fish and seafood	124		124		120	
Eggs	64		64		63	
Dairy products	394		392		375	
Fruits and vegetables	783		789		762	
Fresh fruits	114		115		112	
Processed vegetables	153		154		151	
Sugar and other sweets	147		146		140	
Fats and oils	124		125		121	
Miscellaneous foods	740		743		717	
Nonalcoholic beverages	343		342		332	
Food away from home	1,953		1,979		1,834	
Alcoholic beverages	311		315		287	
Housing	16,337	36.61 %	16,535	36.65 %	15,797	37.18 %
Shelter	9,825		9,951		9,501	
Owned dwellings	5,676		5,795		5,399	
Mortgage interest and charges	2,826		2,874		2,662	
Property taxes	1,905		1,942		1,793	
Maintenance repairs	943		978		943	
Rented dwellings	3,403		3,411		3,450	
Other lodging	745		745		651	
Utilities fuels	3,925		3,985		3,870	
Natural gas	360		364		349	
Electricity	1,591		1,611		1,578	
Fuel oil	147		150		143	
Telephone services	1,213		1,238		1,202	
Water and other public services	611		619		597	
Household operations	1,086	2.43 %	1,100	2.44 %	1,023	2.41 %
Personal services	305		306		278	
Other household expenses	781		794		745	
Housekeeping supplies	561		557		527	
Laundry and cleaning supplies	155		153		148	
Other household products	324		323		302	
Postage and stationery	81		81		76	
Household furnishings	939		940		874	
Household textiles	71		69		65	
Furniture	198		194		169	
Floor coverings	21		22		20	
Major appliances	123		133		133	
Small appliances	81		82		77	
Miscellaneous	443		437		408	
Apparel and services	1,231	2.76 %	1,201	2.66 %	1,120	2.64 %
Men and boys	233		224		201	
Men 16 and over	192		184		164	
Boys 2 to 15	41		39		36	
Women and girls	439		436		414	



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Women 16 and over	366	362	341
Girls 2 to 15	73	74	73
Children under 2	88	87	85

Expenditures (Continued)

	1-Mile	%	3-Mile	%	5-Mile	%
Total Expenditures	38,409,949		238,634,323		824,159,081	
Average annual household	44,620		45,112		42,485	
Transportation	6,096	13.66 %	6,204	13.75 %	5,889	13.86 %
Vehicle purchases	1,369		1,382		1,290	
Cars and trucks new	675		701		653	
Cars and trucks used	658		644		602	
Gasoline and motor oil	1,990		2,023		1,964	
Other vehicle expenses	2,329		2,391		2,265	
Vehicle finance charges	156		161		152	
Maintenance and repairs	805		818		775	
Vehicle insurance	1,081		1,124		1,069	
Vehicle rental leases	286		287		267	
Public transportation	406		407		368	
Health care	3,489	7.82 %	3,571	7.92 %	3,420	8.05 %
Health insurance	2,311		2,362		2,271	
Medical services	714		732		692	
Drugs	351		361		348	
Medical supplies	112		114		108	
Entertainment	2,654	5.95 %	2,685	5.95 %	2,535	5.97 %
Fees and admissions	469		473		422	
Television radios	978		994		964	
Pets toys	974		983		928	
Personal care products	575		576		539	
Reading	50		51		47	
Education	1,125		1,081		936	
Tobacco products	404		406		409	
Miscellaneous	711	1.59 %	733	1.62 %	686	1.61 %
Cash contributions	1,189		1,236		1,162	
Personal insurance	4,567		4,599		4,021	
Life and other personal insurance	152		156		144	
Pensions and Social Security	4,414		4,443		3,877	

Distance	Year	Estimated Households			Housing Occupied By		Housing Occupancy		
		Projection	2000	Change	1 Person	Family	Owner	Renter	Vacant
1-Mile	2020	5,603	4,241	29.62 %	1,082	4,280	4,684	919	517
3-Mile	2020	10,635	8,105	28.72 %	1,959	8,164	8,549	2,086	726
5-Mile	2020	30,845	22,955	33.62 %	5,196	24,074	24,095	6,750	1,526
1-Mile	2023	4,938	4,241	14.19 %	952	3,774	4,398	540	1,188
3-Mile	2023	9,368	8,105	13.31 %	1,724	7,192	8,035	1,333	2,076
5-Mile	2023	27,310	22,955	18.57 %	4,592	21,322	22,660	4,650	5,241



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Key Facts

136 Washington St SE, Albuquerque, New Mexico, 87108 (1 mile)
136 Washington St SE, Albuquerque, New Mexico, 87108
Ring of 1 mile

Prepared by Nicholas Gibson
Latitude: 35.07787
Longitude: -106.59528

KEY FACTS

15,736

Population

43.1

Median Age



Average Household Size

\$45,674

Median Household Income

BUSINESS



1,149

Total Businesses



10,176

Total Employees

INCOME



\$45,674

Median Household Income



\$37,657

Per Capita Income



\$31,192

Median Net Worth

EDUCATION

7%

No High School Diploma



15%

High School Graduate



27%

Some College



51%

Bachelor's/Grad/Prof Degree

EMPLOYMENT



75%

White Collar



12%

Blue Collar



13%

Services

4.1%

Unemployment Rate

Households By Income

The largest group: <\$15,000 (17.1%)

The smallest group: \$150,000 - \$199,999 (4.3%)

Indicator	Value	Difference	
<\$15,000	17.1%	+4.4%	
\$15,000 - \$24,999	13.0%	+1.5%	
\$25,000 - \$34,999	10.3%	+0.2%	
\$35,000 - \$49,999	12.5%	-0.9%	
\$50,000 - \$74,999	16.0%	-2.7%	
\$75,000 - \$99,999	9.9%	-2.5%	
\$100,000 - \$149,999	10.5%	-1.8%	
\$150,000 - \$199,999	4.3%	-0.2%	
\$200,000+	6.5%	+2.1%	

Bars show deviation from Bernalillo County

Key Facts

136 Washington St SE, Albuquerque, New Mexico, 87108 (3 miles)
136 Washington St SE, Albuquerque, New Mexico, 87108
Ring of 3 miles

Prepared by Nicholas Gibson
Latitude: 35.07787
Longitude: -106.59528

KEY FACTS

112,399

Population



Average Household Size

34.3

Median Age

\$36,237

Median Household Income

BUSINESS



6,869

Total Businesses



126,892

Total Employees

INCOME



\$36,237

Median Household Income



\$24,679

Per Capita Income



\$14,577

Median Net Worth

EDUCATION

13%

No High School Diploma



22%

High School Graduate



30%

Some College



35%

Bachelor's/Grad/Prof Degree

EMPLOYMENT



64%

White Collar



15%

Blue Collar



21%

Services

5.8%

Unemployment Rate

Households By Income

The largest group: <\$15,000 (20.8%)

The smallest group: \$150,000 - \$199,999 (2.6%)

Indicator	Value	Difference	
<\$15,000	20.8%	+8.1%	
\$15,000 - \$24,999	15.4%	+3.9%	
\$25,000 - \$34,999	12.4%	+2.3%	
\$35,000 - \$49,999	13.5%	+0.1%	
\$50,000 - \$74,999	16.5%	-2.2%	
\$75,000 - \$99,999	8.6%	-3.8%	
\$100,000 - \$149,999	7.6%	-4.7%	
\$150,000 - \$199,999	2.6%	-1.9%	
\$200,000+	2.8%	-1.6%	

Bars show deviation from Bernalillo County

Key Facts

136 Washington St SE, Albuquerque, New Mexico, 87108 (5 miles)
136 Washington St SE, Albuquerque, New Mexico, 87108
Ring of 5 miles

Prepared by Nicholas Gibson
Latitude: 35.07787
Longitude: -106.59528

KEY FACTS

245,364

Population



Average Household Size

36.1

Median Age

\$39,158

Median Household Income

BUSINESS



15,015

Total Businesses



237,640

Total Employees

INCOME



\$39,158

Median Household Income



\$24,687

Per Capita Income



\$22,437

Median Net Worth

EDUCATION

12%

No High School Diploma



24%

High School Graduate



32%

Some College



32%

Bachelor's/Grad/Prof Degree

EMPLOYMENT



White Collar

64%



Blue Collar

15%



Services

21%



5.7%

Unemployment Rate

Households By Income

The largest group: <\$15,000 (18.1%)

The smallest group: \$150,000 - \$199,999 (2.5%)

Indicator	Value	Difference	
<\$15,000	18.1%	+5.4%	
\$15,000 - \$24,999	14.7%	+3.2%	
\$25,000 - \$34,999	12.3%	+2.2%	
\$35,000 - \$49,999	14.2%	+0.8%	
\$50,000 - \$74,999	17.6%	-1.1%	
\$75,000 - \$99,999	9.7%	-2.7%	
\$100,000 - \$149,999	8.4%	-3.9%	
\$150,000 - \$199,999	2.5%	-2.0%	
\$200,000+	2.6%	-1.8%	

Bars show deviation from Bernalillo County

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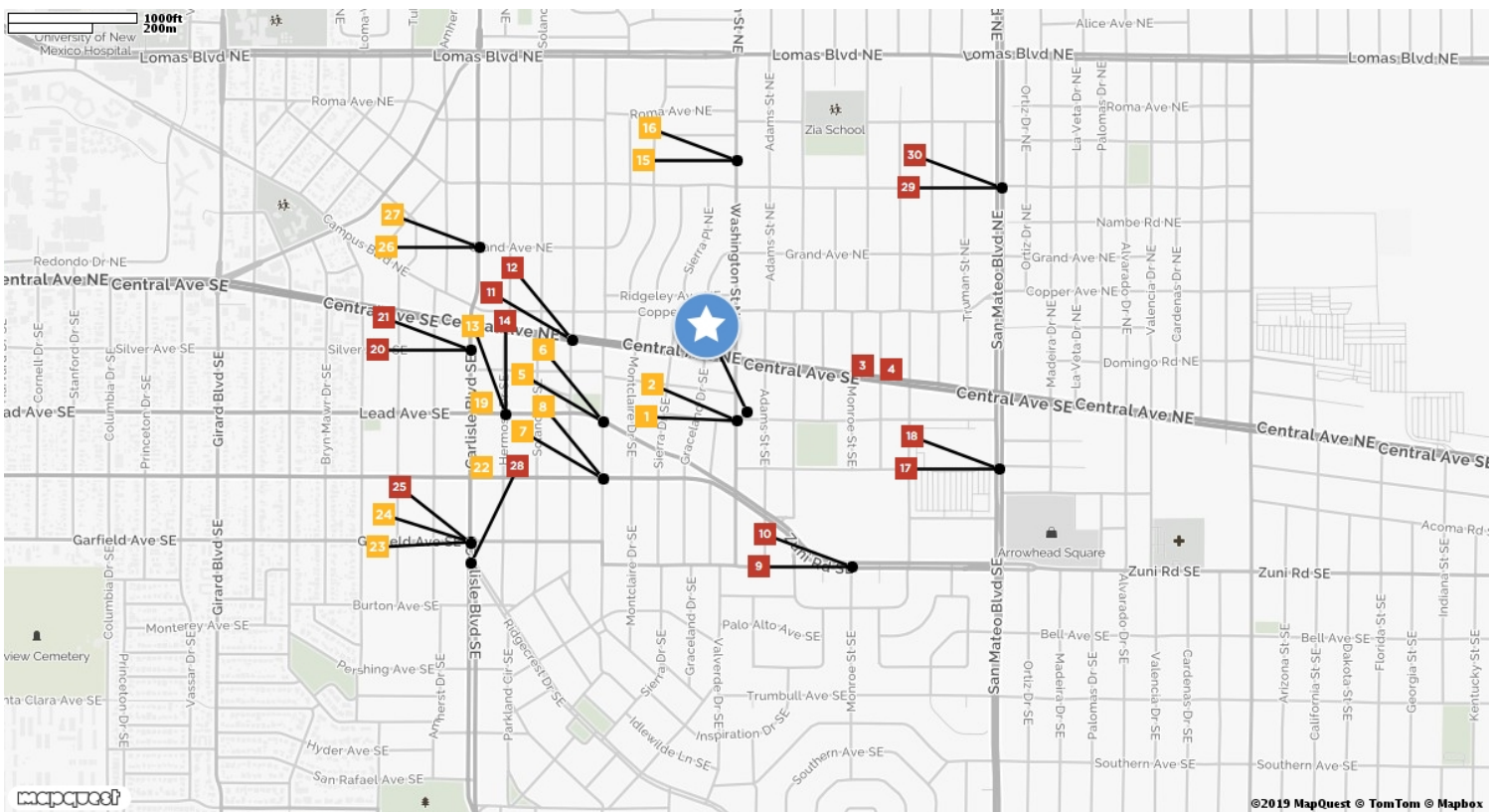
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Traffic Counts



NORTH OF ZUNI SOUTH OF CENTRAL Year: 2014	1 6,016	WASHINGTON Year: 2016	2 5,587	EAST OF WASHINGTON WEST OF SAN MATEO Year: 2014	3 24,886	CENTRAL Year: 2016	4 23,812	LEAD Year: 2016	5 7,139
EAST OF ALISO NORTHWEST OF WASHINGTON Year: 2014	6 7,461	EAST OF CARLISLE SOUTHWEST OF WASHINGTON Year: 2014	7 7,818	COAL Year: 2016	8 7,480	ZUNI Year: 2016	9 14,411	EAST OF WASHINGTON WEST OF SAN MATEO Year: 2014	10 13,744
EAST OF CARLISLE WEST OF WASHINGTON Year: 2014	11 23,288	CENTRAL Year: 2016	12 22,282	LEAD Year: 2016	13 10,672	EAST OF CARLISLE WEST OF ALISO Year: 2014	14 7,647	NORTH OF CENTRAL SOUTH OF LOMAS Year: 2014	15 8,312
WASHINGTON Year: 2016	16 7,719	NORTH OF ZUNI SOUTH OF CENTRAL Year: 2014	17 25,855	SAN MATEO Year: 2016	18 24,738	NORTH OF COAL SOUTH OF LEAD Year: 2014	19 8,220	NORTH OF LEAD SOUTH OF CENTRAL Year: 2014	20 11,687
CARLISLE Year: 2016	21 11,159	CARLISLE Year: 2016	22 7,849	CARLISLE Year: 2016	23 7,023	NORTH OF GARFIELD SOUTH OF COAL Year: 2014	24 7,356	NORTH OF RIDGECREST SOUTH OF GARFIELD Year: 2014	25 10,775
CARLISLE Year: 2016	26 7,947	NORTH OF CENTRAL SOUTH OF LOMAS Year: 2014	27 8,323	CARLISLE Year: 2016	28 10,288	SAN MATEO Year: 2016	29 28,851	NORTH OF CENTRAL SOUTH OF LOMAS Year: 2014	30 30,153



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136 WASHINGTON

ADDITIONAL INFORMATION

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SURVEY PLAT

ZONE MAP

MX-M_ZONING

COVENANTS

LEGEND

- POWER POLE
- POWER POLE WITH FEED
- POLE ANCHOR
- OVERHEAD UTILITIES
- TREE
- WALL
- CHAIN LINK FENCE
- ROOF DRAIN
- WATER VALVE
- SANITARY SEWER MANHOLE
- TELEPHONE PEDestal
- CONCRETE PARKING BUMPER
- HANDICAP PARKING
- CONCRETE AREA
- BOLLARD
- IRRIGATION CONTROL VALVE
- CLEAN OUT
- SEIN
- WATER METER
- GAS METER

LINE TABLE

LINE	LENGTH	BEARING
L1	8.03'	N89°24'53"W
L2	6.04'	N00°15'07"E
L3	6.35'	N89°35'09"W
L4	6.35'	N00°15'14"E

0004 2007114488

2007114488

Scale 1" = 20'

LOTS 11 THROUGH 24, BLOCK 28 VALLEY VIEW ADDITION

WITHIN
SECTION 23, TOWNSHIP 10 NORTH, RANGE 3 EAST
NEW MEXICO PRINCIPAL MERIDIAN
CITY OF ALBUQUERQUE
BERNALILLO COUNTY, NEW MEXICO
MAY 2007

INDEXING INFORMATION FOR COUNTY CLERK

Owner: Evergreen Washington Ltd. Co.
Section: 23 Township: 10 North Range: 3 East
Subdivision: Valley View Addition

136 WASHINGTON STREET S.E.

10043 ACRES GROSS
(43,747 SQ. FT.)

EXISTING BUILDING

SINGLE STORY / BLOCK AND METAL FRAME CONSTRUCTION
(15,541 SQ. FT. AT GROUND LEVEL)

EXISTING BUILDING

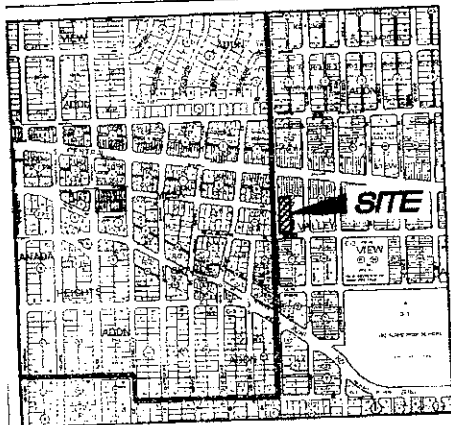
TRACT A, BLOCK 28
VALLEY VIEW ADDITION
Files 4-4-85, Vol. 126, Page 150

TRACT A, BLOCK 28
VALLEY VIEW ADDITION
Files 4-4-85, Vol. 126, Page 150

SURVOTEK, INC.

Consulting Surveyors
8004 Valley View Drive N.E. Albuquerque, New Mexico 87114 P.O. 805-897-3377





VICINITY MAP
NOT TO SCALE

CONDOMINIUM PLAT OF
UNITS A THRU M
AND
LIMITED COMMON ELEMENT 1
SITUATE WITHIN
LOTS 11 THROUGH 24, BLOCK 28
VALLEY VIEW ADDITION
WITHIN
SECTION 23, TOWNSHIP 10 NORTH, RANGE 3 EAST
NEW MEXICO PRINCIPAL MERIDIAN
CITY OF ALBUQUERQUE
BERNALILLO COUNTY, NEW MEXICO

MAY 2007
PROPERTY UPC# 101705727917442201

GENERAL NOTES

1. Bearings are New Mexico State Plane Grid Bearings (Central Zone - NAD83) originated at the Albuquerque Control Survey Monument "B-K17".
2. Distances are ground.
3. Distances along curved lines are arc lengths.
4. Record Plat or Deed bearings and distances, where they differ from those established by this field survey, are shown in parentheses ().
5. All corners found in place and held were tagged with a brass disk stamped "HUGG L.S. 9750" unless otherwise indicated hereon.
6. All corners that were set are either a 5/8" rebar with cap stamped "HUGG L.S. 9750" or a concrete nail with brass disk stamped "HUGG L.S. 9750" unless otherwise indicated hereon.
7. Field surveys were performed during the months of April and May 2006 and May 2007.
8. Documents used in the preparation of this survey are as follows:
 - A. Plat entitled "VALLEY VIEW ADDITION, CITY OF ALBUQUERQUE, NEW MEXICO, JUNE 7, 1911", filed September 2, 1911, in Volume D1, Folio 32, records of Bernalillo County, New Mexico.
 - B. Plat entitled "PLAT OF TRACT A, BLOCK 28, VALLEY VIEW ADDITION, ALBUQUERQUE, NEW MEXICO, FEBRUARY, 1985", filed April 4, 1985, in Volume C28, Folio 180, records of Bernalillo County, New Mexico.
 - C. This property contains 66 striped regular parking spaces and 3 striped handicapped spaces. The number of spaces shown hereon are "as-built" and not intended to imply conformance to any applicable zoning ordinance or restriction.
 - D. City of Albuquerque Zone Atlas Page: G-31-2
9. No title report was provided for this property. Any possible encumbrances, conditions or restrictions that may be disclosed by such a report are not shown on this survey.

FLOOD ZONE DETERMINATION

The subject property (as shown hereon) lies within Zone "X" (areas determined to be outside 0.2% annual chance flood plain) in accordance with the National Flood Insurance Program Rate Map No. 35001C0353 E. Effective Date 11-19-03.

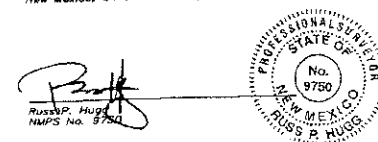
UNIT NOTES

1. Unit dimensions are exterior face of exterior walls and center line of interior walls. The Northern boundary line of Unit M is the projection of the exterior Southern wall of Unit L.
2. Exterior walls and interior walls to centerline of said interior walls are part of each unit with the exception of the Northern boundary line of Unit M which is the projection of the exterior Southern wall of Unit L.
3. The height measured from top of concrete finish floor to the top of metal support beam (bottom of roof deck) is included in each unit.
4. The HVAC roof top units are part of each unit of which the HVAC unit serves.
5. The roof and supporting metal trusses and metal beams are Common Area.

SURVEYORS CERTIFICATION

I, Russ P. Hugg, New Mexico Professional Surveyor Number 9750, hereby certify that this Condominium Plat was prepared from an actual ground survey performed by me or under my supervision; that I am responsible for this survey; that this survey is true and correct to the best of my knowledge and belief; and that this Condominium Plat and the field survey upon which it is based meet the Minimum Standards for Surveying in New Mexico and contains all the information required by Section 47-7B-9, N.M.S.A. 1978.

IN WITNESS WHEREOF, this certificate is executed at Albuquerque, New Mexico, on this 10th day of May, 2007.



SURV+TEK, INC.

Consulting Surveyors
3004 Valley View Drive N.E., Albuquerque, New Mexico 87114 Fax: 505-997-3377 Phone: 505-997-3358

SHEET 1 OF 4

060321LEGALDESC

Land Records Corp. FT ALB10017 BE 2007120432.039

Land Records Corp. FT ALB10017 BE 2007120432.040

UNITS A THROUGH M
AND
LIMITED COMMON ELEMENT 1
SITUATE WITHIN
LOTS 11 THROUGH 24, BLOCK 28
VALLEY VIEW ADDITION
WITHIN

SECTION 23, TOWNSHIP 10 NORTH, RANGE 3 EAST
NEW MEXICO PRINCIPAL MERIDIAN
CITY OF ALBUQUERQUE
BERNALILLO COUNTY, NEW MEXICO
MAY 2007
PROPERTY UPON 101705727917443201

LEGAL DESCRIPTION - UNIT J

A parcel of land situate within Section 23, Township 10 North, Range 3 East, New Mexico Principal Meridian, within the City of Albuquerque, Bernalillo County, New Mexico, comprising portions of Lots 20 and 21, Block 28, Valley View Addition, as the same is shown and designated on said plat, filed for record in the office of the County Clerk of Bernalillo County, New Mexico, on September 2, 1911, in Volume D1, Folio 32, being more particularly described by survey performed by Russ P. Hugg, New Mexico Professional Surveyor Number 9750 using New Mexico State Plane Grid Bearings (Central Zone - NAD27) and ground distances as follows:

Beginning at the Southwest corner of the parcel herein described, said point being the Northwest corner of Unit J and also being on the Easterly boundary line of Limited Common Element 1, from whence the Southwest corner of Lot 24 (a concrete nail with brass disk stamped "HUGG LS 9750" found in place), Block 28, Valley View Addition, as the same is shown and designated on said plat, filed for record in the office of the County Clerk of Bernalillo County, New Mexico, on September 2, 1911, in Volume D1, Folio 32, bears S 39°29'09" W, 118.47 feet distant; Thence,

- N 00°15'14" E, 28.67 feet along said Easterly boundary line of said Limited Common Element 1 to the Northwest corner of the parcel herein described, said point being the Southwest corner of Unit H; Thence,
- S 89°44'46" E, 44.79 feet along the Southerly boundary line of said Unit H to the Northeast corner of the parcel herein described, said point being the Southeast corner of said Unit H; Thence,
- S 00°15'14" W, 28.67 feet to the Southeast corner of the parcel herein described, said point being the Northeast corner of said Unit J; Thence,
- N 89°44'46" W, 44.79 feet along the Northerly boundary line of said Unit J to the point of beginning of the parcel herein described.

Said parcel contains 0.0295 acres (1,284 Square Feet), more or less.

LEGAL DESCRIPTION - UNIT K

A parcel of land situate within Section 23, Township 10 North, Range 3 East, New Mexico Principal Meridian, within the City of Albuquerque, Bernalillo County, New Mexico, comprising portions of Lots 21 and 22, Block 28, Valley View Addition, as the same is shown and designated on said plat, filed for record in the office of the County Clerk of Bernalillo County, New Mexico, on September 2, 1911, in Volume D1, Folio 32, being more particularly described by survey performed by Russ P. Hugg, New Mexico Professional Surveyor Number 9750 using New Mexico State Plane Grid Bearings (Central Zone - NAD27) and ground distances as follows:

Beginning at the Southwest corner of the parcel herein described, said point being the Northwest corner of Unit K and also being on the Easterly boundary line of Limited Common Element 1, from whence the Southwest corner of Lot 24 (a concrete nail with brass disk stamped "HUGG LS 9750" found in place), Block 28, Valley View Addition, as the same is shown and designated on said plat, filed for record in the office of the County Clerk of Bernalillo County, New Mexico, on September 2, 1911, in Volume D1, Folio 32, bears S 50°09'15" W, 97.95 feet distant; Thence,

- N 00°15'14" E, 28.67 feet along said Easterly boundary line of said Limited Common Element 1 to the Northwest corner of the parcel herein described, said point being the Southwest corner of Unit I; Thence,
- S 89°44'46" E, 44.79 feet along the Southerly boundary line of said Unit I to the Northeast corner of the parcel herein described, said point being the Southeast corner of said Unit I; Thence,
- S 00°15'14" W, 28.67 feet to the Southeast corner of the parcel herein described, said point being the Northeast corner of said Unit K; Thence,
- N 89°44'46" W, 44.79 feet along the Northerly boundary line of said Unit K to the point of beginning of the parcel herein described.

Said parcel contains 0.0295 acres (1,284 Square Feet), more or less.

LEGAL DESCRIPTION - UNIT L

A parcel of land situate within Section 23, Township 10 North, Range 3 East, New Mexico Principal Meridian, within the City of Albuquerque, Bernalillo County, New Mexico, comprising portions of Lots 22 and 23, Block 28, Valley View Addition, as the same is shown and designated on said plat, filed for record in the office of the County Clerk of Bernalillo County, New Mexico, on September 2, 1911, in Volume D1, Folio 32, being more particularly described by survey performed by Russ P. Hugg, New Mexico Professional Surveyor Number 9750 using New Mexico State Plane Grid Bearings (Central Zone - NAD27) and ground distances as follows:

Beginning at the Southwest corner of the parcel herein described, said point being the Northwest corner of Unit L and also being on the Easterly boundary line of Limited Common Element 1, from whence the Southwest corner of Lot 24 (a concrete nail with brass disk stamped "HUGG LS 9750" found in place), Block 28, Valley View Addition, as the same is shown and designated on said plat, filed for record in the office of the County Clerk of Bernalillo County, New Mexico, on September 2, 1911, in Volume D1, Folio 32, bears S 85°34'51" W, 82.45 feet distant; Thence,

- N 00°15'14" E, 28.67 feet along said Easterly boundary line of said Limited Common Element 1 to the Northwest corner of the parcel herein described, said point being the Southwest corner of Unit J; Thence,
- S 89°44'46" E, 44.79 feet along the Southerly boundary line of said Unit J to the Northeast corner of the parcel herein described, said point being the Southeast corner of said Unit J; Thence,
- S 00°15'14" W, 28.67 feet to the Southeast corner of the parcel herein described, said point being the Northeast corner of said Unit L; Thence,
- N 89°44'46" W, 44.79 feet along the Northerly boundary line of said Unit L to the point of beginning of the parcel herein described.

Said parcel contains 0.0295 acres (1,284 Square Feet), more or less.

LEGAL DESCRIPTION - UNIT M

A parcel of land situate within Section 23, Township 10 North, Range 3 East, New Mexico Principal Meridian, within the City of Albuquerque, Bernalillo County, New Mexico, comprising portions of Lots 23 and 24, Block 28, Valley View Addition, as the same is shown and designated on said plat, filed for record in the office of the County Clerk of Bernalillo County, New Mexico, on September 2, 1911, in Volume D1, Folio 32, being more particularly described by survey performed by Russ P. Hugg, New Mexico Professional Surveyor Number 9750 using New Mexico State Plane Grid Bearings (Central Zone - NAD27) and ground distances as follows:

Beginning at the Southwest corner of the parcel herein described, said point being the Southwest corner of Unit M and also being on the Easterly boundary line of Limited Common Element 1, from whence the Southwest corner of Lot 24 (a concrete nail with brass disk stamped "HUGG LS 9750" found in place), Block 28, Valley View Addition, bears S 86°11'14" W, 75.11 feet distant; Thence,

- N 00°15'14" E, 28.10 feet along said Easterly boundary line of said Limited Common Element 1 to the Northwest corner of the parcel herein described, said point being the Southwest corner of Unit K; Thence,
- S 89°44'46" E, 44.79 feet along the Southerly boundary line of said Unit K to the Northeast corner of the parcel herein described, said point being the Southeast corner of said Unit K; Thence,
- S 00°15'14" W, 28.10 feet to the Southeast corner of the parcel herein described, said point being the Northeast corner of said Unit M; Thence,
- N 89°44'46" W, 44.79 feet to the point of beginning of the parcel herein described.

Said parcel contains 0.0295 acres (1,304 Square Feet), more or less.



LEGAL DESCRIPTION - UNIT M

A parcel of land situate within Section 23, Township 10 North, Range 3 East, New Mexico Principal Meridian, within the City of Albuquerque, Bernalillo County, New Mexico, comprising a portion of Lot 24, Block 28, Valley View Addition, as the same is shown and designated on said plat, filed for record in the office of the County Clerk of Bernalillo County, New Mexico, on September 2, 1911, in Volume D1, Folio 32, being more particularly described by survey performed by Russ P. Hugg, New Mexico Professional Surveyor Number 9750 using New Mexico State Plane Grid Bearings (Central Zone - NAD27) and ground distances as follows:

- Beginning at the Northwest corner of the parcel herein described, said point being on the Southerly boundary line of Unit L, from whence the Southwest corner of said Lot 24 (a concrete nail with brass disk stamped "HUGG LS 9750" found in place), Block 28, Valley View Addition, bears S 87°31'41" W, 111.85 feet distant; Thence,
- S 89°44'46" E, 7.98 feet along the Southerly boundary line of said Unit L to the Northeast corner of the parcel herein described, said point being the Southwest corner of said Unit L; Thence,
- S 00°15'14" W, 8.09 feet to the Southwest corner of the parcel herein described; Thence,
- N 89°44'53" W, 8.03 feet to the Southwest corner of the parcel herein described; Thence,
- N 00°35'07" E, 8.04 feet to the point of beginning of the parcel herein described.

Said parcel contains 0.0011 acres (50 Square Feet), more or less.

LEGAL DESCRIPTION - LIMITED COMMON ELEMENT 1

A parcel of land situate within Section 23, Township 10 North, Range 3 East, New Mexico Principal Meridian, within the City of Albuquerque, Bernalillo County, New Mexico, comprising portions of Lots 11 through 24, Block 28, Valley View Addition, as the same is shown and designated on said plat, filed for record in the office of the County Clerk of Bernalillo County, New Mexico, on September 2, 1911, in Volume D1, Folio 32, being more particularly described by survey performed by Russ P. Hugg, New Mexico Professional Surveyor Number 9750 using New Mexico State Plane Grid Bearings (Central Zone - NAD27) and ground distances as follows:

Beginning at the Southwest corner of the parcel herein described, from whence the Southwest corner of said Lot 24 (a concrete nail with brass disk stamped "HUGG LS 9750" found in place), Block 28, Valley View Addition, bears S 89°42'10" W, 87.04 feet distant; Thence,

- N 00°15'14" E, 338.71 feet to the Northwest corner of the parcel herein described; Thence,
- S 89°35'08" E, 8.10 feet to the Northeast corner of the parcel herein described, said point being on the Easterly boundary line of Unit A; Thence,
- S 00°15'14" W, 338.69 feet along the Westerly boundary lines of Units A through L to the Southwest corner of the parcel herein described, said point being the Southwest corner of Unit L; Thence,
- N 89°44'46" W, 8.10 feet to the point of beginning of the parcel herein described.

Said parcel contains 0.0630 acres (2,743 Square Feet), more or less.

SURV TEK, INC.

Consulting Surveyors
6384 Valley View Drive N.W. Albuquerque, New Mexico 87114 Tel: 505-897-3356
Fax: 505-897-3377

UNIT SIZES AND COMMON AREA PERCENTAGE

UNIT LETTER	SQUARE FOOTAGE	% OF COMMON AREA (1)
A	1,347	8.68%
B	1,284	8.26%
C	1,284	8.26%
D	1,284	8.26%
E	1,284	8.26%
F	1,284	8.26%
G	1,284	8.26%
H	1,284	8.26%
I	1,284	8.26%
J	1,284	8.26%
K	1,284	8.26%
L	1,304	8.40%
M	50	0.32%
LCE 1	2,743	N/A

(1) AREA FOR LOT 1 NOT INCLUDED IN PERCENTAGES

HORIZONTAL UNIT BOUNDARY

UNIT LETTER	DISTANCE FROM FINISH FLOOR TO TOP OF METAL SUPPORT BEAM
A	9.33'
B	9.33'
C	9.33'
D	9.33'
E	9.33'
F	9.33'
G	9.33'
H	9.33'
I	9.33'
J	9.33'
K	9.33'
L	9.33'
M	9.33'
LCE 1	N/A

UNIT AND LCE TIES TO PROJECT TIE POINT

UNIT LETTER	BEARING & DISTANCE FROM S.W. CORNER UNIT TO S.W. CORNER LOT 24, BLOCK 28, VALLEY VIEW ADDITION
A	S 13°23'14" W, 329.76'
B	S 14°37'25" W, 301.91'
C	S 16°06'37" W, 274.22'
D	S 17°55'46" W, 246.77'
E	S 20°12'04" W, 219.62'
F	S 23°06'27" W, 192.92'
G	S 26°56'01" W, 166.87'
H	S 32°08'27" W, 141.84'
I	S 38°29'09" W, 118.47'
J	S 50°09'15" W, 97.95'
K	S 60°34'51" W, 82.45'
L	S 66°11'34" W, 75.11'
M	S 67°31'41" W, 111.85'
LCE 1	S 85°42'10" W, 87.04'

LEGEND

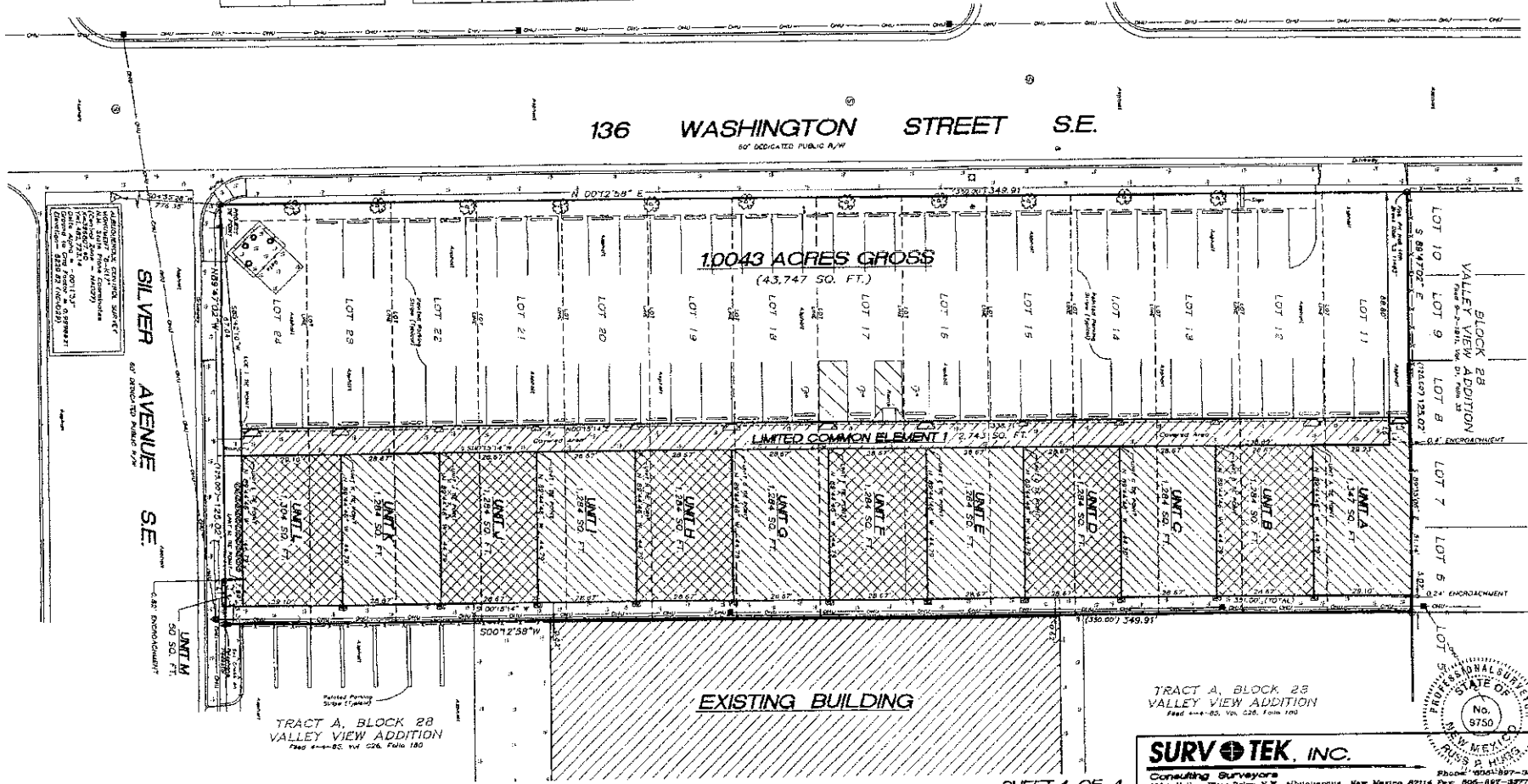
- POWER POLE
- POWER POLE WITH FEED
- POLE ANCHOR
- OVERHEAD UTILITIES
- TREE
- WALL
- CHAIN LINK FENCE
- ROCK DRAIN
- WATER VALVE
- SEWAGE SINKER HATCH
- TELEPHONE PEDestal
- CONCRETE PARKING SUMMER
- HANDICAP PARKING
- CONCRETE AREA
- BOLLARD
- IRRIGATION CONTROL VALVE
- CLEAN OUT
- SGH
- WATER METER
- GAS METER

LINE TABLE

LINE	LENGTH	BEARING
L1	8.03'	N88°24'55"W
L2	6.04'	S00°15'02"E
L3	6.03'	S00°14'14"W
L4	6.35'	N88°34'08"W
L5	6.35'	N00°15'14"E
L6	8.10'	S88°35'04"E
L7	8.10'	N88°44'46"W

Scale 1" = 20'

CONVEYANCE PLAN OF
UNITS A THRU M
AND
LIMITED COMMON ELEMENT 1
SITUATE WITHIN
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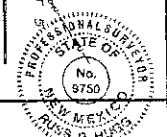
060321LEGALDESC

SHEET 4 OF 4

TRACT A, BLOCK 28
VALLEY VIEW ADDITION
Feet 44-85, Vol. 226, Page 180

SURV TEK, INC.
Consulting Surveyors

8384 Valley View Drive N.W., Albuquerque, New Mexico 87114 Fax: 505-867-3377



Land Records Corp. FT ALB10017 BE 2007120432.042

IDO Zoning

1 of 2

X

IDO Zoning

IDO Zone District: MX-M

IDO District Definition: Moderate Intensity

IDO Zoning Description:

IDO Category: Mixed-Use

Old Zoning Designation: CCR-3

Old Zoning Description:

Old Zoning Category: COMMERCIAL

[Link to Allowable Use Table](#)

[Add to Results](#) | [View Additional Details](#)



MIXED-USE – MODERATE INTENSITY ZONE DISTRICT (MX-M)

Purpose: The purpose of the MX-M zone district is to provide for a wide array of moderate-intensity retail, commercial, institutional and moderate-density residential uses, with taller, multi-story buildings encouraged in Centers and Corridors



The following excerpt from Table 4-2-1 shows the allowable uses for the MX-M zone district only (highlighted). See the Integrated Development Ordinance (IDO) for the complete list of uses allowed in all zone districts and use definitions (Table 4-2-1 and Subsection 14-16-6-7, respectively).

- ⇒ Permissive uses (P) are allowed in this zone by right, without any other approvals
- ⇒ Conditional uses (C) require approval at a public hearing (see Subsection 14-16-6-6(A) for more info)
- ⇒ Accessory uses (A) must be in addition to an allowed primary use (either P or C)

The column on the far right (also highlighted), provides IDO section references for Use-specific Standards that may apply to a use. These Use-specific Standards may change the allowable uses depending on the context of the site or may impose requirements on the development.

If you are having trouble finding a use, contact the ABC-Z Project Team at 924-3860.

Notes:

1. Check the project website for links to the Integrated Development Ordinance, the Allowable Uses Table, and excerpts from the Allowable Uses Table for each zone district.
<https://abc-zone.com/faq/how-can-i-figure-out-what-uses-are-allowed-my-zone>
2. Check the IDO to see if there are any Use-specific Standards or an Airport Protection Overlay zone that may change the allowable uses on your property. (See IDO Part 4 and Section 3-3, respectively). For more information, see these FAQs:
<https://abc-zone.com/faq/what-use-specific-standard>
<https://abc-zone.com/faq/what-airport-protection-overlay-apo-zone>
3. Check the IDO to find development standards for your zone district and any context-specific standards that apply to your property. (See IDO Parts 2 and 5.) For more information, see this FAQ:
<https://abc-zone.com/faq/how-do-i-find-out-what-development-standards-apply-my-property>
4. Check the IDO to find review and approval processes that may apply to a zone district, your project, or your property. (See IDO Part 6.) For more information, see this FAQ:
<https://abc-zone.com/faq/how-does-ido-handle-reviewapproval-process-development-decisions>

Excerpt from Table 4-2-1: Allowable Uses

P = Permissive Primary C = Conditional Primary A = Permissive Accessory CA = Conditional Accessory

CV = Conditional if Structure Vacant for 5 years or more T = Temporary Blank Cell = Not Allowed

Zone Category >>	Residential						Mixed-use				Non-Residential										Use-specific Standards
	R-A	R-1	R-MC	R-T	R-ML	R-MH	MX-T	MX-L	MX-M	MX-H	NR-C	NR-BP	NR-LM	NR-GM	NR-SU	NR-PO					
																A	B	C			
Zone District >>																					
PRIMARY USES THAT MAY BE ACCESSORY IN SOME ZONE DISTRICTS																					
RESIDENTIAL USES																					
Household Living																					
Dwelling, townhouse				P	P	P	P	P	P	P								4-3(B)(5)			
Dwelling, live-work				C	C	P	P	P	P	P	CA	CA						4-3(B)(6)			
Dwelling, multi-family					P	P	P	P	P	P								4-3(B)(7)			
Group Living																					
Assisted living facility or nursing home				C	P	P	P	P	P	P											
Community residential facility, small	P	P		P	P	P	P	P	P	P								4-3(B)(8)			
Community residential facility, medium					P	P	P	P	P	P								4-3(B)(8)			
Community residential facility, large						P	P	P	P	P								4-3(B)(8)			
Group home, small					C	P	P	P	P									4-3(B)(9)			
Group home, medium					C	C	C	P	P	P								4-3(B)(9)			
Group home, large						C			C	C								4-3(B)(9)			
Sorority or fraternity						P	C	P	P	P											
CIVIC AND INSTITUTIONAL USES																					
Adult or child day care facility			C	C	C	P	P	P	P	P	P	P	A	A							
Community center or library	C	P		P	P	P	P	P	P	P	C	C	C	C		P		C			
Elementary or middle school	C	C		C	P	P	P	P	P	P	P	P	CV			P		C			
High school	C	C		C	C	P	P	P	P	P	P	P	C			P					
Hospital									P	P	P	P									
Museum or art gallery				CV	CV	C	P	P	P	P	P	P	P	P		P	A				
Overnight shelter										C	C	C	C	C							
Parks and open space	P	P		P	P	P	P	P	P	P	P	P	C	C	A	P	P	P			
Religious institution	P	P		P	P	P	P	P	P	P	P	P	CV	CV							
Sports field							CV	C	P	P	P	P	P	C		P		C			
University or college						CV	CV	C	P	P	P	P	CV	CV							
Vocational school						CV	P	P	P	P	P	P	P	P							

Excerpt from Table 4-2-1: Allowable Uses

P = Permissive Primary C = Conditional Primary A = Permissive Accessory CA = Conditional Accessory

CV = Conditional if Structure Vacant for 5 years or more T = Temporary Blank Cell = Not Allowed

Zone Category >>	Residential						Mixed-use				Non-Residential										Use-specific Standards
	R-A	R-1	R-MC	R-T	R-ML	R-MH	MX-T	MX-L	MX-M	MX-H	NR-C	NR-BP	NR-LM	NR-GM	NR-SU	NR-PO					
																A	B	C			
Zone District >>																					
COMMERCIAL USES																					
Agriculture and Animal-related																					
Community garden	P	P	P	P	P	P	P	P	P		P	P	P	C	C		A	A	A	4-3(D)(1)	
Kennel	C							C	C		P	P	P	P						4-3(D)(4)	
Nursery	P								A		P	P	P	P		A	A				
Veterinary hospital	C						C	P	P	P	P	P	P	P						4-3(D)(5)	
Other pet services	C						C	P	P	P	P	P									
Food, Beverage, and Indoor Entertainment																					
Auditorium or theater						A	A	A	P	P	P	P	P	P						4-3(D)(7)	
Bar							C	C	P	P	P	P	P	P						4-3(D)(8)	
Catering service									P	P	P	P	P	P							
Health club or gym			A		A	A	P	P	P	P	P	P	P	A						4-3(D)(9)	
Nightclub									P	P	P	P	P							4-3(D)(8)	
Residential community amenity	P	P	P	P	P	P	P	P	P	P								C		4-3(D)(10)	
Restaurant							C	P	P	P	P	P	P	P						4-3(D)(8)	
Tap room or tasting room							C	C	P	P	P	P	P	P						4-3(D)(8)	
Other indoor entertainment							C	P	P	P	P	P	P	P		P		C		4-3(D)(11)	
Lodging																					
Hotel or motel							P	P	P	P	P	P	P	P						4-3(D)(14)	
Motor Vehicle-related																					
Car wash								P	P	P	P	P	P	P						4-3(D)(15)	
Light vehicle fueling station								C	P	P	P	P	P	P						4-3(D)(17)	
Light vehicle repair								P	P	P	P	P	P	P						4-3(D)(18)	
Light vehicle sales and rental								C	P	P	P	P	P	P						4-3(D)(19)	
Paid parking lot			A		A	A	C	P	P	A	P	P	P	P	A	A	A			4-3(D)(21)	
Parking structure			A		A	A	CA	P	P	P	P	P	P	P	A					4-3(D)(21)	
Offices and Services																					
Bank							P	P	P	P	P	P	P	CV						4-3(D)(22)	
Blood services facility									C	C	C	P	P	P							
Club or event facility							C	P	P	P	P	P	P	CV		P	P	C		4-3(D)(23)	
Commercial services								P	P	P	P	P	P	P							
Medical or dental clinic							P	P	P	P	P	P	P	P						4-3(D)(25)	
Mortuary								C	P	P	P	P	C		A						
Office							P	P	P	P	P	P	P	P							

Excerpt from Table 4-2-1: Allowable Uses

P = Permissive Primary C = Conditional Primary A = Permissive Accessory CA = Conditional Accessory

CV = Conditional if Structure Vacant for 5 years or more T = Temporary Blank Cell = Not Allowed

Zone Category >>	Residential						Mixed-use				Non-Residential										Use-specific Standards
	R-A	R-1	R-MC	R-T	R-ML	R-MH	MX-T	MX-L	MX-M	MX-H	NR-C	NR-BP	NR-LM	NR-GM	NR-SU	NR-PO					
																A	B	C			
Zone District >>																					
Personal and business services, small							P	P	P	P	P	P	P	P					4-3(D)(26)		
Personal and business services, large									P	P	P	P	P	P					4-3(D)(26)		
Research or testing facility							P	P	P	P	P	P	P	P					4-3(D)(27)		
Self-storage								C	C	P	P	P	P	P			A		4-3(D)(28)		
Outdoor Recreation and Entertainment																					
Drive-in theater									C	C	C	C	C						4-3(D)(30)		
Residential community amenity	P	P	P	P	P	P	P	P	P	P								A			
Other outdoor entertainment	CA	CA	CA	CA	CA	CA	A	A	A	A	P	P	P	A		P		P	4-3(D)(31)		
Retail Sales																					
Bakery goods or confectionery shop							CV	P	P	P	P	P	P	P							
Building and home improvement materials store									C	C	P	P	P	C					4-3(D)(32)		
Farmers’ market	T		T	T	T	T	T	P	P	P	P	P	CV	CV		P	A	CA	4-3(D)(33)		
General retail, small			A			A	A	P	P	P	P	P	P	P					4-3(D)(34)		
General retail, medium									P	P	P	C	C						4-3(D)(34)		
General retail, large									C	C	P	P							4-3(D)(34)		
Grocery store								P	P	P	P		P	P					4-3(D)(35)		
Liquor retail							C	A	P	P	P	C	C	C					4-3(D)(36)		
Pawn shop								C	P	P	P	P	P	P					4-3(D)(37)		
Transportation																					
Helipad									CA	CA	A	P	P	P	A				4-3(D)(39)		
Park-and-ride lot						C	C	C	P	C	C	P	C	C	A	A			4-3(D)(40)		
Transit facility						C	C	C	P	P	P	P	P	P							
INDUSTRIAL USES																					
Manufacturing, Fabrication, and Assembly																					
Artisan manufacturing							C	P	P	P	P	P	P	P					4-3(E)(1)		
Telecommunications, Towers, and Utilities																					
Geothermal energy generation	A	A	A	A	A	A	A	A	A	A	A	P	P	P		A	A		4-3(E)(6)		
Solar energy generation	P	P	P	P	P	P	P	P	P	P	P	P	P	P	A	P	P	P	4-3(E)(7)		
Utility, electric	P	P	P	P	P	P	P	P	P	P	P	P	P	P	A	A	A	A	4-3(E)(8)		
Utility, other major	P	P	P	P	P	P	P	P	P	P	P	P	P	P	A	A	A	A			

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Zone Category >>	Residential						Mixed-use				Non-Residential										Use-specific Standards
	R-A	R-1	R-MC	R-T	R-ML	R-MH	MX-T	MX-L	MX-M	MX-H	NR-C	NR-BP	NR-LM	NR-GM	NR-SU	NR-PO					
																A	B	C			
Zone District >>																					
Wind energy generation							A	A	A	A	A	A	A	C	A	A	A		4-3(E)(9)		
Wireless Telecommunications Facility																					4-3(E)(10)
Architecturally integrated	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A					
Co-location	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A					
Freestanding							P	P	P	P	P	P	P	P	A						
Roof-mounted			A		A	A	A	A	A	A	A	A	A	A	A						
Public utility co-location	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A					
Waste and Recycling																					
Recycling drop-off bin facility						A	A	A	A	A	P	P	P	P					4-3(E)(11)		
Wholesaling and Storage																					
Outdoor storage								CA	C	C	C	A	P	P					4-3(E)(15)		
Warehousing									C	C	P	P	P	P					4-3(E)(16)		
Wholesaling and distribution center									C	C	P	P	P	P					4-3(E)(17)		
ACCESSORY AND TEMPORARY USES																					
ACCESSORY USES																			4-3(F)(1)		
Agriculture sales stand	A	A	A	A	A	A	A	A	A	A	A	A	CA	CA			A		4-3(F)(2)		
Animal keeping	A	A	A	A	A	A	A	A	A	A	A	A	A	A				CA	4-3(F)(3)		
Automated Teller Machine (ATM)			A		A	A	A	A	A	A	A	A	A	A		T	T				
Drive-through or drive-up facility								CA	A	CA	A	A	A						4-3(F)(4)		
Dwelling unit, accessory		A		A	A	A	A	A	A		A	A	A	A	A		A		4-3(F)(5)		
Dwelling unit, accessory without kitchen	CA	CA		CA	A	A	A	A	A		A	A	A	A	A		A		4-3(F)(5)		
Family care facility	A	A	A	A	A	A	A	A	A	A									4-3(F)(6)		
Garden	A	A	A	A	A	A	A	A	A	A	A	A	A				A				
Home occupation	A	A	A	A	A	A	A	A	A	A									4-3(F)(9)		
Independent living facility				A	A	A	A	A	A	A									4-3(F)(10)		
Mobile food truck	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A				4-3(F)(11)		
Mobile vending cart							A	A	A	A	A	A	A	A				A	4-3(F)(12)		
Outdoor animal run	A							CA	CA		CA		A	A					4-3(F)(13)		
Outdoor dining area							CA	A	A	A	A	A	A	A	A				4-3(F)(14)		
Parking of more than 2 truck tractors and 2 semitrailers for more than 2 hours									A	A	A	A	A	A							

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	R-A	R-1	R-MC	R-T	R-ML	R-MH	MX-T	MX-L	MX-M	MX-H	NR-C	NR-BP	NR-LM	NR-GM	NR-SU	NR-PO					
																A	B	C			
Zone District >>																					
Other use accessory to non-residential primary use							A	A	A	A	A	A	A	A	A			A	4-3(F)(18)		
Other use accessory to residential primary use	A	A	A	A	A	A	A	A	A	A									4-3(F)(19)		
TEMPORARY USES																					
Circus									T		T	T	T						4-3(G)(1)		
Construction staging area, trailer, or office	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T		4-3(G)(2)		
Dwelling unit, temporary	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T		4-3(G)(3)		
Fair, festival, or theatrical performance	T	T	T	T	T	T	T	T	T	T	T				T	T	T		4-3(G)(4)		
Hot air balloon takeoff/landing	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	4-3(G)(6)		
Open air market							T	T	T	T	T						T		4-3(G)(7)		
Park-and-ride facility, temporary						T	T	T	T	T	T	T	T	T	T		T		4-3(G)(8)		
Real estate office or model home	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T				4-3(G)(9)		
Seasonal outdoor sales							T	T	T	T	T	T	T	T					4-3(G)(10)		
Temporary use not listed			T			T	T	T	T	T	T	T	T	T	T		T		4-3(G)(11)		

**DECLARATION OF CONDOMINIUM OWNERSHIP
AND OF
EASEMENTS, RESTRICTIONS AND COVENANTS
FOR
WASHINGTON SQUARE CONDOMINIUM**

THIS DECLARATION is made and submitted, effective as of the date it is filed for record by Evergreen Washington, Ltd. Co. a New Mexico limited liability company, (hereinafter jointly called "Declarant"), pursuant to and in compliance with the New Mexico Condominium Act, Section 47-7A-1, et seq. NMSA 1978, hereinafter called the "Act".

WHEREAS, it is the desire and intention of the Declarant to submit the real property located at 136 Washington SE, in the City of Albuquerque and the County of Bernalillo, New Mexico and described on the plat of survey titled: Condominium Plat of Units A thru M and Limited Common Element 1; situate within Lots 11 through 24, Block 28, Valley View Addition prepared by Surv-Tek, Inc., N.M.P.L.S. No. 9750, dated May 10 2007, and filed for record on August 15, 2007, as Document # 2007118488 in the records of Bernalillo County, New Mexico (Survey). Declarant hereby submits the Property together with all improvements, buildings, structures and other permanent fixtures of whatsoever kind thereon, all easements, rights, servitudes and privileges belonging to or in any way appertaining thereto, and all chattels intended for use in connection therewith (hereinafter called "The Property") to the condominium form of ownership pursuant to the provisions of the Act; and

WHEREAS, the Declarant has elected to establish for its benefit and for the mutual benefit of all future owners of the Property, or any part hereof, certain easements and rights in, over and upon the aforementioned Property and certain mutually beneficial restrictions and obligations with respect to the use, conduct and maintenance thereof; and

WHEREAS, the Declarant has aimed further to declare that the several buyers, grantees, mortgagees and other persons acquiring any interest in the Property at all times shall enjoy the benefit of, and at all times shall hold their respective interests subject to the rights, easements, privileges and restrictions hereinafter set forth, all of which are declared to be in furtherance of a plan to promote and to protect the ownership and to facilitate the proper administration of the Property and are established for the purpose of enhancing and perfecting the value of the Property as well as the desirability and attractiveness of the Property,

NOW THEREFORE, the Declarant declares as follows:

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DEC R: \$91.00 M. Toulouse, Bernalillo County



ARTICLE I
SUBMISSION TO THE NEW MEXICO CONDOMINIUM ACT

1. **Submission of Property.** The Declarant hereby submits the Property as WASHINGTON SQUARE CONDOMINIUM, all as more particularly described on Exhibit A-1 and shown on Exhibit A-2 hereto, which Exhibits are fully incorporated herein by reference, as being subject to the Act, as amended from time to time, and subject to the rights, easements, privileges, covenants and restricted hereinafter set forth, which shall be deemed to run with the land and shall be a burden and a benefit to all owners of the Property or any part thereof, to Declarant, its successors and assigns, and any other persons acquiring or owning an interest in the Property, their grantees, successors, assigns, heirs, personal representatives, executors and administrators forever.

2. **Name.** The name of the Condominium shall be WASHINGTON SQUARE CONDOMINIUM. The Condominium is located in Bernalillo County, New Mexico.

ARTICLE II
DEFINITIONS AND DESCRIPTION OF EXHIBITS

1. **Definitions.** Certain words and terms used in this Declaration are defined as follows:

(a) **LAND:** The real property described on Exhibit A-1 attached hereto.

(b) **BUILDING:** The single Building located upon Lots 11-24 Block 28, Valley View Addition, as more particularly described on Exhibit A-1, which has a common description of 136 Washington SE, Albuquerque, NM 87108 consisting of 15,501 gross square feet which is hereby identified as a condominium development designed for separate ownership and occupancy.

(c) **CONDOMINIUM UNIT OR UNIT:** That area comprised of a portion of the Building, and identified as one of twelve (12) separate Condominium Units (hereafter the "Condominium Unit" or "Unit") as follows:

Unit Identification	Unit Size	Percentage Interest
Unit A	1,347 USF	8.69%
Unit B	1,284 USF	8.29%
Unit C	1,284 USF	8.29%
Unit D	1,284 USF	8.29%
Unit E	1,284 USF	8.29%
Unit F	1,284 USF	8.29%
Unit G	1,284 USF	8.29%
Unit H	1,284 USF	8.29%
Unit I	1,284 USF	8.29%

Unit J	1,284 USF	8.29%
Unit K	1,284 USF	8.29%
Unit L	1,304 USF	8.41%
Total	15,501USF	100%

Each Condominium Unit shall consist of the space within the floors and walls and upper boundaries as identified on the Plat and Plans. The size of each Unit is the total number of interior square feet determined by reference to the dimensions shown on the Plat and Plans as Exhibit A-3. The Unit shall consist of all Owner provided improvements located within the walls as shown on Exhibit A-3, on or above the slab and within or below the ceiling grid system. Specifically, the ceiling grid, the ceiling tiles, the light fixtures and the HVAC diffusers and air grills or grates shall be included as part of the Unit. The special exhausts, venting and other specialized equipment provided by the Unit Owner or installed as part of the tenant improvements within the Unit shall be included as Unit. The Condominium plans and plat, as attached hereto as Exhibit A-5 which Exhibit is fully incorporated herein, shall be filed of record simultaneously herewith. In the case of any two Condominium Units which share a common wall or other common structural elements, such Units shall be considered to be composed of two separate Units, divided by the plane passing through the center line of said common walls. Each Condominium Unit has an exclusive easement for the use of a Condominium subject to the rights of the other Condominium Unit Owners as established by this Declaration.

(d) Unit M as shown exhibit A-3 is dedicated as common area space and is to be used for telephone, electrical equipment as well as storage for any equipment or tools necessary to maintain the common area.

(e) CONDOMINIUM OWNER: The person, persons or entity owning a Unit in fee simple absolute and a Percentage Interest in fee simple of the Common Elements.

(f) OWNER OR UNIT OWNER: A Condominium Owner.

(g) INDIVIDUAL CONDOMINIUM OWNERSHIP OR CONDOMINIUM OWNERSHIP: A part of the Property consisting of one Condominium Unit and the Percentage Interest in the Common Elements. A Condominium Ownership is what is owned by a Condominium Owner as the term "Condominium Owner" is heretofore defined.

(h) ASSOCIATION: The Washington Square Condominium Association, Inc., a New Mexico non-profit corporation.

(i) COMMON ELEMENTS: All parts and portions of the Building and the Land other than the Condominium Units A through L as here above described and defined and shown on the Survey and Unit M as described above. The Common Elements shall consist of the slabs, foundations, geothermal wells, columns, girders, beams, exterior walls, attached yard walls, porches, patios, supports, primary Building

plumbing, primary Building electrical wiring, all exterior doors and windows, all utility installations such as conduit, wires, water and sewer connections. All Common Elements are held in common ownership by all Condominium Owners and includes all property rights not specifically granted to the Condominium Owners. In the event of conflict or duplication, the definition of Condominium Unit shall prevail.

(i) **LIMITED COMMON ELEMENTS:** Parts of the undivided Common Elements which may now exist or be added in the future, such as courtyards which have been set aside for the exclusive use and enjoyment of one or more but fewer than all of the Units.

(j) **PERCENTAGE INTEREST:** The undivided interest in the Common Elements appurtenant to each Unit.

(k) **COMMON EXPENSE LIABILITY:** The share of liability for Common Expenses allocated to each Unit in §5 and Article 5 below.

(l) **SPECIAL EXPENSES:** Charges against a particular individual Condominium Owner for expenses of administration, maintenance, operation and other services for such Condominium Owner and for his special benefit as distinguished from common expenses for the general benefit of the Property as a whole or with the Common Elements as a whole.

(m) **DECLARANT:** Paseo Nuevo Development, Ltd. Co., a New Mexico limited liability company or the assignee thereof.

Any item not defined in this Declaration shall be as defined in the Condominium Act.

2. **Exhibits.** The following described and lettered Exhibits are attached hereto and made a part hereof and fully incorporated by reference:

(a) Exhibit A-1. Plat of Lots 11 through 24, Block 28, Valley View Addition prepared by Surv-Tek, Inc., N.M.P.L.S. No. 9750, dated May 10 2007.

(b) Exhibit A-2. Condominium Plat of Units A thru M and Limited Common Element 1, situate within Lots 11-24, Block 28, Valley View Addition, dated May 2007.

ARTICLE III BUILDINGS, CONDOMINIUMS, COMMON ELEMENTS AND FACILITIES AND EASEMENTS

1. **Description of Project.** There are twelve(12) Condominium Units and unit M held as common area as described above in one Building located upon the Property hereinabove described. The Building is one story, and is shown on the attached Exhibit A-4. The Building is constructed of the following principal materials: steel and block

frame, concrete slab, EFIS exterior walls, gypsum wall board, built-up tar and gravel roof, and stucco, painted metal and store front glass exterior wall surfaces.

2. **Description of Common Elements.** The Common Elements (exclusive of the Limited Common Elements) are shown on the attached Exhibit A-5. The Common Elements include all Property rights not identified as elements of the Condominium Units and include the following:

(a) The Land on which the Building is located, all easements, servitudes, rights and privileges belonging to or in any way appertaining thereto;

(b) Except for items previously defined as constituting the Condominium Units and their Limited Common Elements, all other improvements not associated with a single Unit;

(c) Unit M as described on the survey plat and held as a common area;

(d) The grounds, driveways, parking areas, curbs, walks and walkways;

(e) The chattels used for the maintenance of the Property;

(f) The utility meters and collection and distribution lines to the point they enter the Condominium Units, to the extent the meters and lines are not owned by a utility company, and to the extent the lines are not inside an individual Unit;

(g) All other parts of the Property necessary for common use or convenient to its existence, maintenance and safety;

(h) The roof surfaces of the Building;

(i) The exterior glass, CMU block, stucco and exterior painted surfaces of the Units;

(j) The landscaping and irrigation systems; and

(k) The easements benefitting the Property.

3. **Description of Limited Common Elements.** Limited Common Elements are set aside for the exclusive use and enjoyment of one or more but fewer than all of the Units. Additionally, Limited Common Elements shall consist of:

(a) Any separate entry ways, exterior facilities or fences designed to serve a single Unit located outside the Units boundaries;

(b) Any chute, flue, duct, wire, conduit, bearing wall, bearing column or any other fixture lying partially within and partially outside the designated boundaries of a Unit but serving only a certain Unit.

4. **Ownership of Condominium Units.** Each Condominium Owner shall own a Condominium Unit in fee simple absolute. Each Condominium Unit consists of the space shown on the attached Exhibit A-5 together with all interior walls, floor coverings, ceilings, interior surfaces, and fixtures therein and appurtenant thereto, but does not include the Land occupied by the Condominium Unit, the slab, roof, HVAC equipment, except the HVAC diffusers, or the adjacent Common Elements or parking spaces. Each Condominium Owner possesses an exclusive perpetual easement to that portion of the Land, slab and foundations upon which his Condominium Unit, together with certain adjacent elements are located which are designated as Common Elements.

(a) No Condominium Owner shall by deed, plat, or otherwise, subdivide or in any other manner, cause a Condominium Unit to be separated into any Units, tracts or parcels smaller than the whole Condominium Unit.

(b) No Condominium Owner shall own any pipes, wires, conduit or public utility lines running through his Condominium Unit and serving more than his Condominium Unit or its Limited Common Elements, except as a tenant-in-common with all other Condominium Owners.

5. **Ownership of Common Elements.** All the land described on Exhibit A-1 above, is held in undivided common ownership by all the Condominium Owners. Subject to Declarant's development and ownership rights in relation to Property depicted on Exhibit A-2, each Condominium Owner shall own, the percentage shown on Exhibit A-4 including the voting rights as shown as a percentage thereon.

(a) The above-referenced percentage, which is set forth in Exhibit A-4, shall be the Percentage Interest attributable to each Unit's Common Expense Liability and votes in the Association.

(b) Each Declaration shall have the right to use the Common Elements for all reasonable purposes incident to the use his Condominium Unit only for the purposes set forth in this Declaration, which right shall be appurtenant to and shall run with each Condominium Unit.

(c) The Percentage Interest of each Condominium Owner in the Common Elements shall remain constant. It may not be altered or changed without the unanimous consent of the Condominium Owners, which consent and approval shall be expressed in an amendment to this Declaration and filed of record.

6. **No Severance or Partition of Common Elements, Limited Common Elements or of Ownership Thereof.** The Common Elements, Limited Common Elements, and the Percentage Interest of each Owner of a Condominium Unit in the Common Elements, Limited Common Elements shall not be partitioned, severed or separated from the Condominium Unit to which they are appurtenant. No Condominium Owner shall execute any deed, lease, mortgage or other instrument affecting title to his Condominium

Unit unless he includes therein both his title or interest in the Condominium Unit and his Percentage Interest or title in the Common Elements appurtenant thereto. Any such deed, lease, mortgage or other instrument purporting to affect the one without including also the other, shall be deemed and taken to convey, encumber or affect the title or interest so omitted, even though the interest is not expressly mentioned or described. The Common Elements are not subject to partition, and any purported conveyance, encumbrance, judicial sale or other voluntary or involuntary transfer of any Percentage Interest in the Common Elements without the Unit to which that interest is allocated is void.

7. **Easements.** The following easements and rights are hereby established, granted and dedicated:

(a) Each Condominium Ownership shall have the following easements:

(1) An exclusive, perpetual easement for the use of his Condominium Unit and its Common Elements subject to the rights of the other Condominium Unit Owners as established by this Declaration;

(2) An exclusive, perpetual easement to that portion of the Limited Common Elements, as designated and described in the attached Exhibit A-5 for use of that Condominium Unit;

(3) A perpetual easement and right-of-way for his mutual benefit for the purpose of ingress and egress to and from the Condominium Unit and for the purposes of paving, provided however, vehicles may not be driven or parked on areas other than designated easements or parking areas, as set forth on Exhibit A-5;

(4) An easement across all Common Elements for pedestrian access and egress, subject to any rules and regulations of the Association;

(5) An easement over the surfaces of all Common Elements and Limited Common Elements as may be reasonably necessary for maintenance of his Condominium Unit;

(6) An easement across all Condominium Units, Limited Common Elements and Common Elements for existing utility lines and for maintenance and replacement thereof; and

(7) A non-exclusive perpetual easement and right-of-way from the Property set forth on Exhibit A-5 to the city street(s) providing access and utility easements to the Condominium.

(b) The Association and the board and its agents shall have a non-exclusive right and easement to have such access and make such use of the Common Elements, Limited Common Elements and Condominium Units as may be necessary or appropriate for the performance of the Association's duties and functions which it is obligated or

permitted to perform pursuant to this Declaration, including but not limited to emergency repairs and maintenance, repair or construction of the Common Elements. Some of the Common Elements are located within or may be conveniently accessible only through a particular Unit or Limited Common Elements. If entry through a particular Unit or limited common element is reasonably necessary by the Association for performance of the Association's duties or functions, the Association and its agents may enter a particular Unit or limited common element for such purposes. Any such entry shall be made with as little inconvenience to the affected Unit Owner or occupants as practicable, and any damage caused thereby and/or damage caused during the process of exercise of the Association's duties or functions shall be repaired by the Association. In addition, the Association should have the right to grant permits, licenses and easements over the Common Elements for utilities, roads and other purposes necessary for the proper operation or maintenance of the Property.

(c) The Association has the right, power, authority and license to execute and deliver such reasonable easements for public utility and communications purposes as the Association deems necessary and/or proper from time to time for utilities such as heat, electricity, telephone, gas, sewer, water, meters, radio, television, cable, satellite, electronic, optical, communication and television, which easements may include reasonable installation of equipment and lines which traverse along, across, over, under or through any of the Common Elements.

(d) Notwithstanding the foregoing the Declarant and Declarant's assigns shall have, possess and retain an easement through all the Common Elements and all the Limited Common Elements as may be reasonably necessary for the purpose of construction of Condominium Units, to landscape, improve or install appurtenances to the property to build, modify or erect Condominium Units, walls, fences and other improvements, to complete the Condominium project, to service or repair any Unit, to discharge the Declarant's obligations or to exercise Declarant's special rights.

(e) The Association shall have easements to erect and maintain a "marquee" sign at a prominent place on the Property and to erect and maintain other directory, traffic, parking and direction signs in and about the Property as the Association in its discretion deems appropriate.

(f) If construction, reconstruction, repair, shifting, settlement or other movement of any portion of the improvements results either in the common areas encroaching on any Unit, or in a Unit encroaching on the common areas or on another Unit, a valid easement is created for both the encroachment and its maintenance. The easement shall extend for whatever period the encroachment exists.

(g) By acceptance of a deed of conveyance, each Condominium Owner thereby grants a right of access to his Condominium Unit to the Board or its agents for the purpose of enabling the Board to exercise its duties, powers and responsibilities.

(h) The filing for record of this Declaration and/or reference to this Declaration, and for acceptance of a deed of conveyance, shall be sufficient to create and reserve such easements and rights to the respective grantee, mortgagee, trustee or any other obligee of any Unit as fully and completely as if such easements and rights were recited for and set forth in their entirety in such documents.

(i) All easements and rights described herein are perpetual easements appurtenant to the Condominium Units and affect, bind and burden the Property shown on Exhibit A-5. The said easements run with the land, perpetually in full force and effect, and at all times shall inure to the Declarant, its successors and assigns, all Condominium Units and Unit Owners, Owners of development rights, purchasers, mortgagees and other parties having an interest in the Property, or any part or portion thereof.

8. **Assessment and Ad Valorem Taxation.** The entire Condominium, including the Land, Building and Common Elements shall be assessed as a single parcel for ad valorem taxes, under the name and address of the Association. The Association shall, from the maintenance fund, timely pay all ad valorem taxes and other assessments applicable to the Property, and shall assess the Unit Owners for their respective share of ad valorem taxes and assessments. Each Unit shall be responsible to pay the Association its share of ad valorem taxes and their assessments on the Property in a timely basis, so as to avoid imposition of any fees, penalties or interest. Any offending Unit Owner who fails to timely pay such Condominium Unit's share of ad valorem taxes and/or assessments shall be liable to the Association for all fees, penalties and interest ultimately paid by the Association as a result of the failure of such Unit Owner to timely pay assessments for ad valorem taxes.

9. **Maintenance of Condominium Units.** Except as otherwise set forth in Article IV, Section 2 of this Declaration (see below), maintenance of the Condominium Units, including plumbing, wiring, storage yards and including patios, HVAC Units with related equipment, ducting and wiring, and appliances and appurtenances solely serving the Unit, is the responsibility of the individual Condominium Owners. Each Condominium Owner shall maintain his Condominium Unit in a first class condition, at the sole expense of that Condominium Owner. All repairs and replacements shall be substantially similar to the original construction and installation.

10. **Maintenance of Common Elements.** Maintenance of the Common Elements and access easement(s) shall be performed by the Association pursuant to the provisions of Articles IV and V. All repairs and replacements shall be substantially similar to the original construction and installation.

11. **Maintenance of Limited Common Elements.** Maintenance of the Limited Common Elements shall be performed by the individual Condominium Owners. Rear yards, fences and other portions of Condominium Units which are defined as Limited Common Elements shall be maintained by the Owners thereof. Furthermore, the Owners

of the Condominium Units shall maintain and keep the landscaping within their Limited Common Elements in good, presentable and clean condition.

12. **Damage caused by Owner or Occupant.** Notwithstanding any duty of the Association' established herein, any damage to the Property or the Common Elements or Limited Common Elements caused by negligence, abuse or misuse of any Unit Owner or occupant shall be the responsibility of the offending Unit Owner or occupant. If the Association incurs expenses to repair, maintain or remedy such condition, the Association shall be entitled to recover its costs and expenses thereby incurred from the offending Unit Owner or occupant and shall in addition be entitled to recover its costs, expenses and reasonable attorneys' fees thereby incurred. All such costs and expenses incurred by the Association shall be a lien on the Unit of the offending Owner or occupant.

ARTICLE IV ADMINISTRATION OF THE PROPERTY

1. **Association of Condominium Owners and Board of Directors.** The administration of the Property shall be vested in a New Mexico non-profit corporation known as WASHINGTON SQUARE CONDOMINIUM ASSOCIATION, INC. ("Association"), controlled by all the Condominium Owners as the sole members of said Association. The Association shall have all of the rights and powers set forth in the Act subject to any specific limitations contained in the Declaration. The Association shall act through a Board of Directors (hereinafter referred to as "Board"), in the manner set forth in the Association's Bylaws. Every person or entity that is a record Owner of a fee or undivided fee interest in any Unit shall be a member of the Association and shall nominate a person to serve on the Board. If the Owner is a corporation or other entity, the Owner shall designate a single person who is to be a member of the Association and serve on the Board, PROVIDED, HOWEVER, that the Declarant or persons designated by Declarant may exclusively appoint and remove the officers and the Board for a period to terminate no later than the earlier of:

- (a) Four months after conveyance of 75% of the total useable square feet; or
- (b) One year after Declarant has ceased to offer Units for sale; or
- (c) Two years after the first Unit is conveyed.

Declarant may voluntarily surrender the right to appoint and remove officers and members of the Board before termination of that period.

2. **General Powers and Duties of the Board of Directors.** The Board shall have the duty and such powers as shall be reasonably required to direct, administer, manage and protect the Property in accordance with the provisions of this Declaration and said Bylaws; and, without limiting the foregoing, the Board shall have the duty and power to acquire and pay for, from the maintenance fund hereinafter provided for, the following:

(a) Maintenance of roofs, exterior windows, exterior doors, exterior stucco and painted exterior surfaces of the Condominium Units and Limited Common Elements and painted exterior trim of the Condominium Units and Limited Common Elements;

(b) Maintenance of the Common Elements;

(c) Sewer, water, waste removal, and necessary utility services for the Common Elements and sewer, water and waste removal for the Condominium Unit;

(d) Insurance as is provided for in this Declaration;

(e) Repair and maintenance of easements, driveways and parking areas to accommodate automobiles for the Owners, employees and invitees of the Condominium Units, including the Association's share of maintenance of common access easements;

(f) Any other materials, supplies, furniture, labor, services, maintenance, repairs, structural alterations, insurance or assessments which the Board is required to secure or pay for, pursuant to the terms of these restrictions or By Law or which, in its option, shall be necessary or proper for the benefit of all of the Condominium Owners and the administration, maintenance and operation of the Property as first class Condominium Building or for the enforcement of these restrictions;

(g) Any amount necessary to defend against or discharge any mechanics lien or other encumbrance levied against the entire Property or any part thereof which may in the opinion of the Board constitute a cloud or lien against the Property or against the Common Elements, rather than merely against the interests therein of the undivided Condominium Ownership. Where one or more Condominium Owners are responsible for the existence of such lien, they shall be jointly and severally liable for the cost of discharging it and any costs incurred by the Board by reason of said lien or liens shall be specially assessed to said Condominium Owners;

(h) Landscaping, gardening, snow removal, painting, cleaning, maintenance, decorating, plastering, re-stucco, repair and replacement of the Common Elements, including landscaping and walls (but not including the Condominium Units which the Owners of the Condominium Units shall maintain and repair) and such furnishings and equipment for the Common Elements as the Board shall determine are necessary and proper, and the Board shall have the exclusive right and duty to acquire the same for the Common Elements;

(i) The services of any person or firm, including bookkeepers, accountants and attorneys, employed by the Board in furtherance of its general powers and duties hereinabove stated; and

(j) Any assessments for maintenance of the common easement serving the Property.

3. **Discretionary Powers.** Notwithstanding the foregoing, the Board shall have the power, but not the duty, to:

(a) To equitably designate or assign to any Owner or Condominium Unit the exclusive use of designated parking places located upon the Common Elements or to equitably designate such parking places for the use of invitees, as the Board may determine to be reasonably required.

(b) To establish common signposts and directories as the Board may determine to be reasonably necessary to direct the public to the occupants of the Condominium Units, and to adopt rules and regulations concerning signs within the Property, and to charge occupants of the Condominium Units for the cost of purchasing and/or maintaining signs of a common design, color and scheme;

(c) To hire employees or firms to maintain any of the Common Elements, and to hire employees or firms to water and to maintain landscaping, including landscaping within common and Limited Common Elements;

(d) To establish and dedicate easements across Common Elements and Limited Common Elements as may be necessary for the benefit of the Owners or the maintenance or improvement of the utility systems serving the Property;

(e) To construct improvements on the Common Elements for the mutual benefit of all the Condominium Owners and to charge access or use fees to Owners for use thereof or for the right of use thereof;

(f) To adopt a plan for the beautification, repair or maintenance of all of the exterior stucco surfaces of Units so as to provide a uniform coloration, paint or texture of the exterior of such Units;

(g) To enter into management contracts or agency contracts for the management of the Association and/or the maintenance of the Common Elements;

(h) To maintain and repair any Condominium Unit or the Common Elements thereof, if such maintenance or repair is necessary or desirable in the discretion of the Board, to protect the Common Elements or to preserve the esthetic nature of the Condominium, the common facilities or any other portion of the Buildings, and the Condominium Owner or Owners of said Condominium Unit have failed or refused to perform said maintenance or repair within 20 calendar days after written notice of the necessity of said maintenance or repair delivered by the Board to said Owner or Owners, of a Condominium Unit, provided that the Board shall levy a special assessment against such Condominium Owner and the Unit for the special expense of said maintenance or repair of his Condominium Unit. The Board or its officers or agents may enter any Condominium Unit when necessary in connection with any maintenance, repair or construction of Common Elements accessible there from, and for making emergency repairs to prevent damage to the Common Elements or to another Condominium Unit for

which the Board is responsible. Such entry shall be made with as little inconvenience to the Condominium Owners as practicable, and any damage caused thereby to the Condominium Unit shall be repaired by the Board at the expense of the maintenance fund. All such special expenses incurred relative thereto by the Association shall be a lien against the Condominium Unit for which such expenses are incurred, which lien may be foreclosed in the same manner as mechanics and materialmen's liens are foreclosed under New Mexico law;

(i) To adopt such reasonable rules and regulations as it may deem advisable for the use, maintenance, conservation and beautification of the Property, and the health, comfort, safety and general welfare of said Condominium Owners and occupants of said Property. Without limiting the generality of the foregoing, such rules and regulations may govern leases and renting of Condominium Units. Such rules and regulations shall not become effective until approved by a majority of the total votes of the Board;

(j) To enter into contracts for maintenance of all the Condominium Units or Limited Common Elements. If substantially similar work is necessary for all the Units and such work is approved by advance affirmative vote of at least seventy-five percent (75%) of the total votes of the Association;

(k) To enter into management agreements for the performance of all or any part of the Association's duties and/or powers;

(l) To allocate commonly metered utility, refuse, garbage or sewer charges in and equitable manner, and to assess the Unit Owners therefore, and to administer such charges through the Maintenance fund, or to sub-meter any utilities and to charge Unit Owners for sub-metered consumption;

(m) To allocate assessments to the Unit Owners for ad valorem taxes and insurance taking into account any increased ad valorem taxes and insurance premiums which are increased by the development, improvement or use of a particular Condominium Unit. If there is an increase in taxes or insurance premiums, written notice thereof will be provided to the Owners; and

(n) To do any other thing authorized by the Act or this Declaration.

4. Limitation of the Powers of the Board of Directors.

(a) The Board's powers hereinabove enumerated shall be limited in that the Board shall have no authority to acquire and pay for out of the maintenance fund any capital addition and/or improvement, other than for purposes of maintaining, replacing or restoring portions of the Common Elements, subject to all the provisions of this Declaration nor shall the Board authorize any structural alteration, capital additions to, or capital improvements for the Common Elements for which Unit Owner may be assessed the construction or acquisition cost, without in each case the prior approval of voting members holding at least a majority of the total votes of the Association.

(b) All vouchers for payments of expenditures by the Board shall be signed by such officer or officers, agent or agents of the Board and in such manner as from time to time shall be determined by written resolution of the Board. In the absence of such determination by the Board, such vouchers shall be signed by the Treasurer and countersigned by the Chairman of the Board or the President.

ARTICLE V ASSESSMENTS FOR MAINTENANCE, TAXES AND INSURANCE

1. **Fire Insurance.** The Board shall acquire and pay for insurance against loss or damage to the Condominium Units and any structures or improvements which are Common Elements or Limited Common Elements and are to be insured for physical damage as set forth in Article VIII, Section 2. The amount of such insurance shall not be less than one hundred percent (100%) of the then current replacement value of the Condominium Units, which value shall be determined by agreement of the Board and the applicable insurance company engaged by the Board to provide fire and extended loss insurance coverage for the Condominium Units. The policy shall, insofar as is possible, also insure the Board and the Association and the Units Owners from liability for occurrences on or about the common and Limited Common Elements.

2. **Creation of Maintenance Fund and Obligation for Assessments.** The Board shall establish a "maintenance fund" for the administration, maintenance, repair, replacement and improvement of the roofs and exterior surfaces of the Condominium Units and Common Elements of the Property, for fire and extended loss, and premises and directors liability insurance, for maintenance of easements serving the Property, for payment of ad valorem taxes, for the exercise and performance of its powers and duties, as hereinabove set forth, and for the benefit of all the Condominium Owners and the administration, maintenance and operation of the Property as a first class Condominium or for the enforcement of the restrictions set forth in this Declaration, which fund shall be financed or funded by assessments as hereinafter provided, paid by all Condominium Owners. The maintenance fund shall include estimated costs of all additional insurance required to be procured by the Board. The fund shall be administered on a fiscal year basis, which fiscal year shall end on December 31 of each year.

(a) Each year, on or before the 31st day in October, the Board shall adopt a proposed budget for the Condominium and shall estimate the total amount necessary ("estimated cash requirements") to pay the cost of wages, materials, insurance, services and supplies which will be required for the administration, maintenance, repair, replacement and improvement of the Common Elements of the Property during the coming fiscal year for the exercise and performance of the powers and duties of the Board, and for the benefit of all the Condominium Owners and the administration, maintenance and operation of the Property as a first class Condominium Building or for the enforcement of the restrictions set forth in this Declaration, together with a reasonable amount, not to be less than two (2) months of assessments, considered by the Board to be necessary for a reserve for contingencies and replacements, including replacements of

any Common Elements the Association is obligated to maintain. This amount is hereafter referred to as the "estimated cash requirement" of the Association and is the basis for the Board's regular assessments. Within three (3) days after the adoption of any proposed budget for the Condominium, the Board will provide a summary of the budget to all Unit Owners and shall set a date for a meeting of the Unit Owners to consider ratification of the budget not less than fourteen (14) nor more than thirty (30) days after mailing of the summary. Unless at that meeting a majority of all the Unit Owners reject the budget, the budget is ratified, whether or not a quorum is present in the event the proposed budget is rejected, the periodic budget last ratified by the Unit Owners shall be continued until such time as Unit Owners ratify a subsequent budget proposed by the Board. In the event of a rejection of the proposed budget, the Board may meet concurrently with the Unit Owners, and adoption of a subsequent budget may be affected at such concurrent meeting.

(b) On or before fifth (5th) day of each month, each Condominium Owner shall be obligated to pay the Board, or as it may direct, one-twelfth (1/12th) of the annual maintenance assessments attributable to each Unit. The Board may set other periodic due dates and/or intervals for collecting assessments.

3. **Initial Assessments.** At the time any third party purchases a Condominium Unit, whether from Declarant or from a Condominium Owner subsequent to Declarant, the purchaser shall pay the Association an initial fee of \$500.00, however, such amount may later be increased by the Board. All such assessments shall be paid by the purchasers of Condominium Units to the Association and shall be placed by the Association in its maintenance fund not attributable to any special purpose. All other maintenance fund assessments shall be levied against the individual Owners in the same percentage as their undivided interest in the Common Elements as set forth in Article III, paragraph 8 all shown on Exhibit A-3. Declarant shall not be subject to the initial assessments. Declarant shall be responsible for monthly assessments for individual Units held by Declarant at such time and in the same amount as other Unit Owners are required to pay.

4. **Management of the Maintenance Fund and Collection of Assessments.** The maintenance fund and assessments shall be managed and assessments shall be collected in the following manner:

(a) On or before the date of the annual meeting of each calendar year, the Board shall supply to all Condominium Owners an itemized accounting of the administration, maintenance and other expenses for the preceding calendar year actually incurred and paid, together with a tabulation of the amounts collected pursuant to the estimates provided, and showing the net amount over or short of the actual expenditures plus reserves. Subject to the establishment of reasonable reserves, any amount accumulated in excess of the amount required for actual expenses and reserves shall be credited on a pro-rata basis to the next installment(s) due from Condominium Owners under the current year's estimate, until exhausted, and any net shortage shall be added on a pro-rata basis to the installments due over the succeeding year after rendering of the accounting.

(b) The Board shall build up and maintain a reasonable reserve for contingencies and replacements. Extraordinary expenditures not originally included in the annual estimate which may become necessary during the year shall be charged first against such reserve. If said estimated cash requirement proves inadequate for any reason, including non-payment of any Condominium Owner's assessment or for casualty losses or unexpected expenses, the Board may at any time levy a further assessment, which shall be assessed the Condominium Owners. The Board shall serve notice of such further assessment on all Condominium Owners by a statement in writing, giving the amount and reasons therefore, and such further assessment shall be paid by the Condominium Owners within thirty (30) days of the date of mailing thereof.

(c) When the first Board elected takes office, it shall determine the estimated cash requirement as hereinabove defined, for the period commencing thirty (30) days after such election and ending on December 31st of the calendar year in which said election occurs. Assessments shall be levied against the Condominium Owners during said period as provided in this Article.

(d) The failure or delay of the Board to prepare or serve the proposed budget or any accounting or assessment on any Condominium Owner shall not constitute a waiver or release in any manner of such Condominium Owners obligation to pay the maintenance assessments and necessary reserves, as herein provided, whenever the same shall be determined or incurred, and in the absence of any proposed budget or adjusted estimate, the Condominium Owners shall continue to pay the maintenance assessments at the then existing rate established for the previous period which is due not more than thirty (30) days after such new proposed budget or adjusted estimate shall have been mailed or delivered. The Board may retroactively establish or levy any assessment which could have otherwise been established or levied.

(e) The Board shall keep full and correct detailed books of account and records in chronological order of the receipts and expenditures affecting the Common Elements, specifying and itemizing the maintenance and repair expenses of the Common Elements and any other expenses incurred. The records and the vouchers authorizing the payment shall be available for inspection by any Condominium Owner or any representative of any Condominium Owner duly authorized in writing, at such reasonable time or times during normal business hours as may be requested by the Owner. Upon fifteen (15) days' notice to the Board and payment of a reasonable fee, any Condominium Owner shall be furnished a statement of his account, setting forth the amount of any unpaid assessments or other charges due and owing from such Condominium Owner.

(f) All funds collected hereunder shall be held and expended for the purposes designated herein, and (except for such special assessments as may be levied against less than all of the Condominium Owners, and for such adjustments as may be required to reflect delinquent or unpaid assessments) shall be deemed to be held for the benefit, use and account of all the Condominium Owners pro-rata with their ownership percentage as set forth on Exhibit A-3.

(g) If a Condominium Owner is in default in the payment of the aforesaid charges or assessments for sixty (60) days, after written notice, the members of the Board may accelerate any other remaining installments or charges for the current year and bring suit for and on behalf of the Board and as representatives of all Owners to enforce collection thereof or to foreclose the lien therefore as hereinafter provided; and there shall be added to the amount due the costs of said suit, together with interest and reasonable attorney's fees to be fixed by the court.

(h) To the extent permitted by the Act as from time to time amended, and by any decision or any statute or law now or hereafter effective, the amount of any delinquent and unpaid charges or assessments, and interest, collection costs and attorneys' fees shall be and become a lien or charge against the Condominium Ownership of the Condominium Owner involved when payable and may be foreclosed by an action brought in the name of the Board as in the case of foreclosure of liens against real estate. Said lien shall take effect and be in force at the time the assessment becomes due. Recordation of the claim of lien shall be required. Interest shall accrue from the assessment due date at the rate of 1.5% per month from the initial due date.

5. **Liens/Statement of Account.** Any lien for delinquent common expense assessments or other charges that the Association has on a Unit will be subordinate to a first mortgage on the Unit. If the mortgage was recorded before the delinquent assessment was due. Any encumbrancer, prospective buyer or Owner may from time to time and upon payment of a reasonable fee request in writing a statement from the Board setting forth the unpaid common expenses and assessments with respect to a Condominium Unit. Unless the request shall be complied with within fifteen (15) days, all unpaid common expenses which become due prior to the date of the making of such request shall be subordinate to the lien of an encumbrancer. Any bonafide buyer of a Unit not receiving notification of the unpaid expenses and/or assessments shall not be liable to pay such items, but in no event shall the selling Owner be relieved of such items. Otherwise, in the event of a voluntary sale of a Condominium Ownership, the grantor and grantee shall be jointly and severally liable for all unpaid common expenses and assessments for common expenses related to the Condominium Ownership to the time of such grant or conveyance. A lien for assessments is not affected by the sale or transfer of the Unit unless a foreclosure of a first mortgage is involved. The foreclosure will extinguish the lien for any assessments that were payable before the foreclosure sale, but will not relieve any prior or subsequent Unit Owner from paying further assessments.

6. **Due Dates of Assessments.** Unless otherwise specified by the Board, maintenance assessments shall be due monthly on the fifth day of each month, without notice or demand. The Association may set other due dates for payment of assessments, so long as the due dates are not in contravention of the Act.

7. **Unoccupied Units.** In the event Declarant has built unsold and unoccupied Units, Declarant shall be subject to paying the annual assessment in the same amount and on the same day as all other Unit Owners for the period of time Declarant owns the Unit or Units.

8. **Assessments Based on Special Circumstances.** Generally, each Unit shall be subject to Assessments in the percentage of each Unit's Percentage Interest in the Condominium and in the Common Elements. However, in the instances that a particular Unit contains improvements so as to disproportionately increase the value of the Building for ad valorem tax purposes or conducts activities on or within the Unit which disproportionately increases the rate of any insurance policies, the cost of water or refuse service or maintenance of the Common Elements, then the Owner of the Unit(s) disproportionately affecting such costs, ad valorem taxes, insurance rates or maintenance of the Common Elements shall be liable to pay, through increased assessments, such increases.

ARTICLE VI COVENANTS AND RESTRICTIONS AS TO USE AND OCCUPANCY

1. **Restrictions on Use.** The Condominium Units and Common Elements shall be used and occupied as follows:

(a) Each Condominium Unit and its Limited Common Elements and facilities shall be used and occupied only for private office, retail and wholesale sales, professional studios, arts and craft studios, or offices, professional and business service centers, pharmacies, medical and dental clinics, governmental offices, and/or professional purposes by the Unit Owner or the Condominium Units occupant. Light manufacturing and assembly of parts and products shall not be allowed. Notwithstanding the foregoing, all activities on the premises must comply with all applicable governmental zoning and ordinances, laws and regulations;

(b) No maintenance, changes, modification or addition to the exterior of any Condominium Unit, including by way of example and not limitation, painting of exterior trim or surfaces, building of new fences or exterior walls, re-stuccoing or addition of fixtures on the outside of the exterior wall, shall be allowed except with advance written permission of the Board;

(c) There shall be no obstruction of the Common Elements and facilities except as expressly provided herein. The Common Elements and Limited Common Elements and facilities shall be kept free and clear of rubbish, debris, stored materials, and other unsightly materials. No inoperative vehicles or large unsightly equipment shall be allowed to be parked on the common or Limited Common Elements longer than a 72 hour period. Nothing shall be altered, constructed or removed from the Common Elements and facilities or Limited Common Elements and facilities except upon the prior written consent of the Board. No waste shall be committed on the Common Elements and facilities;

(d) There are _____ () automobile parking spaces located on the land around the Building, including not less than _____ () handicapped parking

spaces. These spaces shall not be assigned to any particular Unit(s), but shall be available for Condominium Owners, their employees and invitees on a "first come" basis.

(e) Nothing shall be done or kept in any Condominium Unit or in the common elements which will increase the rate of insurance of the Condominiums, without the prior written consent of the Board. No Condominium Owner shall permit anything to be done or kept in his Condominium Unit or in the Common Elements which will result in the cancellation of insurance of the Buildings, or contents thereof, or which would be in violation of any law;

(f) There will not be allowed in or on any Limited Common Elements or Common Elements any garbage, garbage receptacles, garbage bag or trash cans, except within enclosures provided therefore by the Association. The Common Elements shall be kept free and clear of rubbish, debris and all other unsightly materials;

(g) Condominium Owners shall not cause or permit anything to be hung or displayed on the outside of windows or placed on the outside walls of any Condominium Unit, and no sign, awning, canopy, shutter, or antenna shall be fixed to or placed on the exterior walls or roof or any part thereof, without the prior consent of the Board, provided, however, one roof mounted small antenna or small twenty-four (24) inch satellite dish per Unit shall be permitted so long as it is not visible from the parking lot or from Washington Street. Window coverings or curtains, blinds or shades which are visible to outside views shall be aesthetically harmonious with the exterior design color and other Units, as determined by the Board;

(h) No pet(s), birds, reptiles or animals shall be kept in any Unit. No pet or animal shall be allowed to roam unattended onto the Common Elements or into other Units or onto the Limited Common Elements of other Units. The use of seeing eye dogs is permitted, subject to the same restrictions as are otherwise contained in this Article;

(i) No noxious or offensive activity shall be carried on in any Condominium Unit or in the Common Elements, nor shall anything be done therein, either willfully or negligently, which may be or become an annoyance or nuisance to a Condominium Owner or occupant. Without limitation, the following items shall be considered noxious, offensive, annoying or dangerous: offensive or strong odors, continuous, repeated, loud or annoying sounds or music, discharge of firearms, accumulations of trash, religious decorations, bright outdoor lights directed toward neighboring Condominium Units and long-term parking of vehicles, violation of restrictions as to use and occupancy as are set forth in this Article, and any other conduct, activity or use which would otherwise meet the definition of a "general nuisance" or "public nuisance" under common law or applicable governmental zoning and ordinances, laws and regulations;

(j) No plastic, tarpaulins, rugs, clothes, sheets, blankets, laundry of any kind or other articles shall be hung out on or exposed outside a Condominium Unit or upon the Limited Common Elements or Common Elements;

(k) No advertisements or "occupancy" or "For sale" or "For rent" or other signs or other window displays or political or commercial advertisements shall be maintained or permitted on any part of the Property or on or in any Condominium Unit or on the Limited Common Elements or Common Elements, except as permitted in paragraph below:

(l) The placement of individual signage on the face of the building above a condo unit shall be permitted at the sole expense of the condominium owner. Any maintenance of the sign will be an expense of the condominium owner. All signs identifying the occupant of a Condominium Unit shall be of a common size, color and scheme as adopted by the Association and shall be subject to the Association's rules and regulation and in accordance with the Property Sign Criteria established by Declarant. A copy of the Property Sign Criteria will be furnished to any unit owner upon request. Any Condominium Owner wishing to sell its Unit or a single agent representing such Owner may place a "For Sale" sign no larger than 20" x 36", in front of the Unit offered for sale. Notwithstanding the foregoing Declarant may place and maintain a "For Sale" or "For Rent" sign on any unsold or unoccupied Condominium Unit and at the entrance to the Property; and Declarant may hold unlimited open house showings of any unsold or unoccupied Condominium Unit;

(m) Nothing shall be done in any Condominium Unit or in, on or to the Common Elements, Limited Common Elements which will impair the structural integrity of the Buildings, which will jeopardize the soundness of the same and the safety thereof, which would structurally change the Buildings, except as is otherwise provided herein, or which would reduce the value of or impair easements, servitude, rights, privileges or hereditaments belonging to or in any way pertaining to the Property. Each Condominium Owner shall be obligated to maintain and keep his Unit in good order and repair. It shall be the responsibility of each Condominium Owner to maintain in good condition his own Condominium Unit;

(n) Except in conjunction with exercise of development rights or the Board's, duties, nothing shall be altered or constructed or removed, including parking signs, striping, trees and shrubs, from the Common Elements, except upon written consent of the Board. No waste will be permitted in the Common Elements. Condominium Owners

may not plant, remove, cut or prune trees and shrubs located in the Common Areas or their Limited Common Elements except upon written consent of the Board, provided however, Condominium Owners may plant flowers, low shrubs and otherwise carry on gardening activities upon their Limited Common Elements;

(o) No modification of, expansion of or addition to a Condominium Unit shall be allowed;

(p) All trim and exterior painted surfaces shall be uniform in color and style;

(q) No Condominium Unit shall be used to store explosive devices, materials or other dangerous instrumentalities;

(r) No Owner or occupant of any Condominium Unit shall dispose of any waste in a manner which will corrode, clog or otherwise impair sewer service for the development.

(s) Notwithstanding the generality of the foregoing allowed uses, no Condominium Owner or occupant shall use any Condominium Unit or its limited common elements for the following:

1. Retail sales of food and/or alcoholic beverages except for a small coffee shop or deli that seats no more than 12 customers and with prior written approval of the Board.
2. Any use involving discharge of odors, smoke or vapors or loud noises;
3. Residential use, including overnight stays by any person, including security personnel;
4. Processing of "wet" food, including processing of meats, fish and chicken;
5. Dismantling of automobiles;
6. Automobile servicing, lubrication or repair;
7. Use, storage or processing of explosives, dangerous or hazardous materials or toxic materials;
8. Any use otherwise prohibited by this Article; and
9. Any use otherwise prohibited by any applicable governmental zoning and ordinances, laws and regulations.
10. Any pedicure or manicure services.

2. **Board Not Liable For Damages.** The Association, the Board and its members shall not be liable, unless acting with willful misconduct, in damages to anyone submitting any plans for approval or to any Owner or lessee of any Condominium Unit subject to these protective covenants by reason of any action, failure to act, approval, disapproval, or failure to approve or disapprove, with respect to any action or plans

submitted to it. Anyone acquiring title to or leasehold interest in any Condominium Unit, or submitting plans to the Board for approval, by so doing agrees and covenants that he, she, or it will not bring an action or suit for damages against the Board, its members as individuals, or its advisers, employees or agents.

3. **Title Insurance.** It is contemplated that title insurance will be secured in connection with the transfer and re-transfer or mortgaging of the Condominium Units subject to these protective covenants and restrictions. Any title insurance company issuing title insurance on the Condominium Units and all subsequent transferees or successors in title thereto may rely conclusively on a statement executed by the Board to the effect that any given improvement or usage has been duly approved and is duly approved by the Board and the Association.

4. **Declarant's Rights.** Notwithstanding the foregoing until Declarant has fully exercised all its development rights, the Declarant shall have the right to utilize the Common Elements for construction purposes, and may store and utilize equipment and materials thereon. Declarant may, during exercise of Declarant's development rights, perform any act reasonably necessary or proper relative to performance of Declarant rights or obligations, without exception. Declarant shall further have the right to execute and file all documents which may be necessary or proper to effectuate sale of Declarant's development rights or newly constructed Units.

ARTICLE VII LEASE

1. **Lease.** A Condominium Unit may be leased or rented by its Owner, including Declarant. All leases of Units shall be written. Any Condominium Owner may lease the whole or part of his Condominium Unit to another person or persons, subject to the provisions of this Declaration and rules, regulations and supervisory powers of the Board.

2. **Rules and Regulations.** The Board may adopt rules and regulations governing the lease of Condominium Units. The rules and regulations adopted by the Board may usurp, prohibit or prevent any conduct, even if such conduct was not prohibited by the Declaration or existing rules or regulations prior to the lease.

ARTICLE VIII INSURANCE

1. **Authority to Purchase.**

(a) Insofar as is practical, all insurance policies relating to the Property shall be purchased by the Board on behalf of itself, the Association and the Unit Owners. The Board and the Unit Owners shall also be named as additional insureds. Neither the Board nor the managing agent nor the Declarant shall be liable for failure to obtain any coverages or for any loss or damage resulting from such failure if such failure is due to

the unavailability of such coverages from reputable insurance companies, or if such coverages are so available only at a demonstrably unreasonable cost.

(b) To the extent reasonably available and practical, each such policy shall provide that:

(1) The insurer waives any right to claim by way of subrogation against the Declarant, the Association, the Board, the Unit Owners, and their respective agents and employees;

(2) Such policy shall not be canceled, invalidated or suspended due to the conduct of any Unit Owner including his invitees, agents and employees, or of any member, acting within the scope of his authority for the Association, officer or employee of the Board or the managing agent without a prior demand in writing that the Board or the managing agent cure the defect and that the defect has not been cured within thirty (30) days after such demand;

(3) Such policy may not be canceled or substantially modified (including cancellation for nonpayment of premium) without at least thirty (30) days' prior written notice to the Board and, in the case of physical damage insurance, to all mortgagees;

(c) The Declarant, so long as Declarant shall own any Unit, shall be protected by all such policies as a Unit Owner, except that if Declarant maintains builders risk or similar hazard insurance on an unsold and unoccupied Unit, the Association shall not be required to purchase a fire insurance policy or coverage on such Unit; and

(d) All policies of insurance shall be written by reputable companies licensed to do business in the State of New Mexico, insofar as is practical. Physical damage policies shall be in a form and substance acceptable to the Mortgagees.

2. Physical Damage Insurance.

(a) The Board shall obtain and maintain a blanket, "all-risk" form policy of fire insurance with extended coverage, vandalism, malicious mischief, windstorm, debris removal, cost of demolition and water damage endorsements, insuring the entire Property (including all of the Units), but not including contents, equipment, furniture, wall coverings, furnishings or other personal Property supplied or installed by Unit Owners), together with all air conditioning and heating equipment and other service machinery contained therein, and covering the interests of the Unit Owners, the Association, the Board and all Unit Owners' mortgagees, as their interest may appear, (subject, however, to the loss payment and adjustment provisions in favor of the Board and the insurance trustee contained in Sections 7 and 8 of this Article VIII, in an amount equal to one hundred percent (100%) of the then current replacement cost of the Property (exclusive of the land, excavations, foundations and other items normally excluded from such coverage), without deduction for depreciation (such amount to be redetermined

annually by the Board with the assistance of the insurance company affording such coverage).

(b) To the extent reasonably available and practical, such policy shall also provide:

(1) A waiver of any right of the insurer to repair, rebuild or replace any damage or destruction. If a decision is made pursuant to these Bylaws not to do so and, in such event, that the insurer shall pay on the basis of the agreed amount endorsement as though a total loss had occurred;

(2) The following endorsements (or equivalent): (1) "no control"; (2) "contingent liability from operation of Building laws or codes", (3) "increased cost of construction" or "Condominium replacement cost", and (4) "agreed amount" or elimination of co-insurance clause;

(3) That any "no insurance" or more commonly referred to as "other issuances" clause expressly exclude individual Unit Owners' policies from its operation so that the physical damage policy purchased by the Board shall be deemed primary coverage and any individual Unit Owners' policies shall be deemed excess coverage, and in no event shall the insurance coverage obtained and maintained by the Board hereunder provide for or be brought into contribution with insurance purchased by individual Unit Owners or to their mortgagees unless otherwise required by law; and

(4) For comprehensive general liability insurance for the premises of the Condominium Units, Common Elements and Limited Common Elements with limits and coverage per Section 3 of this Article.

(c) A duplicate original of the policy of physical damage insurance, all renewals thereof, and any sub policies or certificates and endorsements issued thereunder together with proof of payment of premiums shall be delivered by the insurer to any mortgagee so requesting at least thirty (30) days prior to expiration of the then current policy. Prior to obtaining any policy of physical damage insurance or any renewal thereof the Board shall obtain an appraisal from an insurance company, or such other source as the Board may determine, of the current replacement cost of the Property (exclusive of the land, excavations, foundations and other items normally excluded from such coverage), without deduction for depreciation, for the purpose of determining the amount of physical damage insurance to be secured pursuant to this Section 2. All mortgagees shall be notified promptly of any event giving rise to a claim under such policy.

3. **Liability Insurance.** To the extent reasonably available and practical, and is not available through the Board's purchase of physical damage (fire) coverage, the Board shall obtain and maintain comprehensive general liability including libel, slander, false arrest and invasion of privacy coverage and errors and omissions coverage for directors and Property damage insurance in such limits as the Board may from time to time

determine, insuring each member of the Board, the managing agent, each Unit Owner and the Declarant against any liability to the public or to the Unit Owners (and their invitees, agents and employees) arising out of, or incident to the ownership and/or use of the Common Elements. Such insurance shall be issued on a comprehensive liability basis and shall contain, if practical: i) a cross liability endorsement under which the rights of a named insured under the policy shall not be prejudiced with respect to his action against another named insured; ii) non-owned vehicle coverage; iii) host liquor liability coverage with respect to events sponsored by the Association; iv) deletion of the normal products exclusion with respect to events sponsored by the Association; and (v) a "severability of interests endorsement which shall preclude the insurer from denying liability to a Unit Owner because of negligent acts of the Unit Owner, Association or of another Unit Owner. The Board shall review such limits once each year, but in no event shall such insurance be less than One Million Dollars (\$1,000,000.00) covering all claims for bodily injury or Property damages arising out of one occurrence. Reasonable amounts of umbrella liability insurance in excess of the primary limits may also be obtained.

4. **Fidelity Bond.** To the extent reasonably available and practical, the Board may obtain and maintain fidelity bonds or dishonest employee coverage insuring the Board against loss by any members of the Association, directors or other agents of the Association who may handle the Associations books, banking accounts or collections.

5. **Other Insurance.** The Board shall obtain and maintain:

(a) If required by any governmental or quasi-governmental agency or lender holding a mortgage on any Condominium Unit, including without limitation the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation, flood insurance in accordance with the then applicable regulations of such agency;

(b) workers compensation insurance if and to the extent necessary to meet the requirements of law; and

(c) such other insurance as the Board may determine advisable or as may be requested from time to time by a majority of the votes of the Unit Owners.

6. **Separate Insurance.** Each Unit Owner shall have the right, at his own expense, to obtain insurance for his own Unit and for his own benefit and to obtain insurance coverage upon his contents and personal Property and for his personal, professional and premises liability as well as upon any improvements made by him to his Unit normally called Owner Improvements and Betterments coverage; provided however, that no Unit Owner shall be entitled to exercise his right to acquire or maintain such insurance coverage so as to decrease the amount which the Board, on behalf of all Unit Owners, may realize under any insurance policy maintained by the Board to be brought into contribution with insurance coverage obtained by a Unit Owner. All such policies shall contain waivers of subrogation against the Board and Association.

7. **Insurance Trustee.**

(a) All physical damage insurance policies purchased by the Board shall be for the benefit of the Association, the Unit Owners, their mortgagees and the Declarant, as their interests may appear, and shall provide that, with respect to any single loss, if the proceeds thereof exceed fifty thousand dollars (\$50,000.00) then all such proceeds shall be paid in trust to such lending institution in the metropolitan Albuquerque area with trustee powers as may be designated by the Board (which trustee is herein referred to as the insurance trustee). If a Albuquerque lending institution is not willing to serve as the insurance trustee, the Board may appoint an individual or corporate insurance trustee. If such proceeds do not exceed fifty thousand dollars (\$50,000.00) then all such proceeds shall be paid to the Board to be applied pursuant to the terms of Article VIII.

(b) The Board shall enter into an insurance trust agreement with the insurance trustee which shall provide that the insurance trustee shall not be liable for payment of premiums, the renewal of the policies, the sufficiency of coverage, the form or contents of the policies, the correctness of any amounts received on account of the proceeds of any insurance policies nor for the failure to collect any insurance proceeds. The sole duty of the insurance trustee shall be to receive such proceeds as are paid to it and to hold the same in trust for the purposes elsewhere stated in this Declaration, for the benefit of the insureds and their beneficiaries thereunder.

8. **Board as Agents.** The Board is hereby irrevocably appointed the agent for each Unit Owner, each mortgagee, other named insureds and their beneficiaries and any other holder of a lien or other interest in the Condominium or the Property to adjust and settle all claims arising under insurance policies purchased by the Board and to execute and deliver releases upon the payment of claims. Each Unit Owner appoints the Board as an attorney-in-fact for this purpose. The Board, in its discretion, and under terms and conditions which may be imposed by the Board, may relinquish its rights hereunder in favor of any Owner, if the Board determines it is appropriate to allow the Owner to negotiate with the insurer and to repair any casualty without involvement of the Board.

ARTICLE IX DAMAGE OR DESTRUCTION AND RESTORATION OF BUILDING

1. **Repair and Reconstruction.** Except as otherwise provided in Section 4 of this Article, in the event of damage to or destruction of all or any part of the Building as a result of fire or other casualty, the Board, (under the direction of the insurance trustee) shall arrange for and supervise the prompt repair and restoration of the damaged improvements including any damaged Units, and the floor coverings, HVAC equipment and appliances initially installed therein by the Declarant, and replacement thereof installed by the Unit Owner, but not including any furniture, furnishings, fixtures, equipment or other personal property supplied or installed by the Unit Owners in the

Units. Notwithstanding the foregoing, each Unit Owner shall have the right to supervise the redecorating of his own Unit.

2. Procedure for Reconstruction and Repair.

(a) **Cost Estimates.** Immediately after a fire or other casualty causing damage to the Building, the Board (under the direction of the insurance trustee) shall obtain reliable and detailed estimates of the cost of repairing and restoring such Building including any damaged Units and any floor coverings and kitchen and bathroom fixtures and appliances initially installed by Declarant, and the replacement thereof, but not including any other furniture, furnishings, fixtures or equipment installed by the Unit Owner in the Units to a condition as good as that existing before such casualty. Such costs may also include professional fees and premiums for such bonds as the insurance trustee or the Board determines to be necessary.

(b) **Assessments.** If the proceeds of insurance are not sufficient to defray such estimated costs of reconstruction and repair, or if upon completion of reconstruction and repair and funds for the payment of the costs thereof are insufficient, the amount necessary to complete such reconstruction and repair may be obtained from the appropriate reserve for replacement funds and/or shall be deemed a common cause and a special maintenance fund assessment therefore shall be levied against all Units.

(c) **Plans and Specifications.** Any such reconstruction or repair shall be substantially in accordance with the original construction of the Property.

(d) **Insurance Company or Unit Owner Performing Reconstruction and Repair.** The Board may, in its discretion, allow the insurer of the damaged improvements or the affected Unit Owner to contract for reconstruction and repair of all insured improvements. The Board may impose such requirements as the Board determines in its discretion.

3. Disbursement of Construction Funds.

(a) **Construction Funds and Disbursement.** The proceeds of insurance collected on account of casualty, and sums received by the Board (or insurance trustee) from collections of assessments against Unit Owners on account of such casualty, shall constitute a construction fund which shall be disbursed in payment of the costs of reconstruction and repair in the following manner:

(1) If the estimated cost of reconstruction and repair is less than fifty thousand dollars (\$50,000.00), then the construction fund shall be disbursed in payment of such costs upon order of the Board.

(2) If the estimated costs of reconstruction and repair is fifty thousand dollars (\$50,000.00) or more, then the construction fund shall be disbursed in payment of such costs upon approval of an architect or construction manager qualified to practice in

New Mexico and employed by the insurance trustee to supervise such work, payment to be made from time to time as the work progresses. The architect shall be required to furnish a certificate giving a brief description of the services and materials furnished by various contractors, subcontractors, materialmen, the architect and other persons who have rendered services or furnished materials in connection with the work and stating that: (i) The sums requested by them in payment are justly due and owing and that such sums do not exceed the value of the services and materials furnished; (ii) there is no other outstanding indebtedness known to such architect for the services and materials described; and (iii) the cost as estimated by such architect for the work remaining to be done subsequent to the date of such certificate does not exceed the amount of the construction fund remaining after payment of the sum so requested.

(b) **Surplus.** It shall be presumed that the first monies disbursed in payment of the cost of reconstruction and repair shall be from insurance proceeds and, if there is a balance in the construction fund after the payment of all of the costs of the reconstruction and repair for which the fund is established, such balance shall be divided among all Unit Owners in proportion to the common expense liability and shall be distributed in accordance with the priority of interests at law or in equity in each Unit.

(c) **Common Elements.** When the damage is to both Common Elements and Units, the insurance proceeds shall be applied first to the cost of repairing other Common Elements and thereafter to the cost of repairing the Units.

(d) **Certificates.** The insurance trustee or Board, as applicable, shall be entitled to rely upon a certificate executed by the president or vice president, and the secretary, certifying: (1) whether the damaged Property is required to be reconstructed and repaired; (2) the name of the payee and the amount to be paid with respect to disbursement from any construction fund or whether surplus funds to be distributed are less than the assessments paid by the Unit Owners; and (3) all other matters concerning the holding and disbursing of any construction fund. Any such certificate shall be delivered to the insurance trustee or Board as applicable promptly after the request.

4. **Reconstruction is not Required.** In the event of insubstantial damage to the Common Elements and if the Board shall elect not to repair the same then in such event any insurance proceeds received on account of such damage shall be distributed among all Unit Owners in proportion to their respective Percentage Interest in Common Elements. If the Condominium shall be terminated, the net assets of the Condominium together with the net proceeds of insurance policies, if any, shall be divided by the Board or the insurance trustee, as the case may be, among all Unit Owners in proportion to their respective interests, after first paying out of the share of each Unit Owner, to the extent sufficient therefore, the amount of any unpaid liens on his Unit in the order of priority of such liens.

5. **Waiver.** The Board may, in its discretion, allow the Unit Owner to contract for repair of all damaged improvements. The Board and the Owners of the damaged Unit may waive the provisions of Articles VIII and IX and enter into a mutually satisfactory

agreement for the disposition of insurance proceeds and/or the repair or renovation of any Unit.

ARTICLE X SALE OR CONDEMNATION OF THE PROPERTY

1. **Damage or Destruction.** In the event the Building and improvements on the Property are damaged or destroyed and beyond repair, the Condominium Owners, by affirmative vote of at least seventy five percent (75%) of the total votes of the Association cast at a meeting of the Association duly called for such purpose, may elect to sell the Property as a whole. In connection with an action approving such a sale, the Association shall determine an equitable division of sale proceeds based upon the fair market value of each of the Condominium Units. Such determination shall be binding upon all Condominium Owners, and it shall thereupon become the duty of every Condominium Owner to execute and deliver such instruments and to perform all acts as in manner and form as may be necessary to effect such sale; provided, however, that any Condominium Owner who did not vote in favor of such action and who has filed written objections thereto with the Board within twenty (20) days after the date of the meeting at which such sale was approved shall be entitled to receive from the proceeds of such sale an amount equivalent to the value of his interest, as determined by a fair market appraisal, less the amount of any unpaid assessments or charges due and owing from such Condominium Owner. In the absence of agreement on an appraiser, such Unit Owner and the Board may each select an appraiser, and the two so selected shall select a third, and the fair market value, as determined by a majority of the three so selected, shall control. If either party shall fail to select an appraiser, then the one designated by the other party shall make the appraisal. The remainder of net proceeds of sale, minus the amount paid to any objecting Owner(s) shall be divided among the other Owners in proportion to their Percentage Interests as set forth in the division of proceeds previously approved by the Association. Each Unit Owner appoints the Board as the Owners' agent and attorney-in-fact for the purpose of selling the Property as a whole, once the Association has voted to sell the Property as a whole.

2. **Condemnation.** If any condemnation proceeding involves solely the taking of all or part of a Condominium Unit, and does not involve taking of all or part of the Common Elements or Limited Common Elements, then the Condominium Owner(s) whose Units are being taken shall have the sole right to the proceeds of condemnation payable for the taking of such Unit. If the condemnation involves the taking of all or part of any Common Elements or Limited Common Elements, the Association, through the Board, shall be solely empowered to negotiate, litigate and/or settle any such condemnation. Each Unit Owner appoints the Board as the Owners' agent and attorney-in-fact for all purposes concerning condemnation of Common Elements and/or Limited Common Elements. The Association shall determine an equitable division of condemnation proceeds and such determination shall be binding upon all Condominium Owners.

ARTICLE XI REMEDIES FOR BREACH OF DECLARATION,

COVENANTS, RESTRICTIONS AND REGULATIONS

1. **Abatement and Enjoyment.** If any Condominium Owner (either by his own conduct or by the conduct of any other occupant of his Condominium Unit) or other party shall substantially violate any of the covenants or restrictions or provisions of this Declaration or the rules and/or regulations adopted by the Board, and such violation shall continue thirty (30) days after the notice in writing from the Board of such violation, or shall occur repeatedly after written notice or request to cure such violation from the Board, then the Association shall have the power to exercise a right of summary abatement (self-help) or to sue the defaulting Condominium Owner or other party in any court of jurisdiction and to obtain injunctive relief and/or actual damages against the defaulting Condominium Owner or occupant. The Association may obtain injunctive relief to compel the removal of any offending tenant, Owner, occupant or pets or animals. Any Unit Owner shall have the right to enforce any of the covenants, restrictions or provisions of this Declaration and shall be entitled to obtain injunctive relief and/or actual damages against the defaulting Condominium Owner or occupant. No bond or security shall be required of the Board, Association or any Owner as a requirement for obtaining injunctive relief. If the Association utilizes summary abatement or similar means to enforce restrictions, the Association and those acting as agents upon authority of the Association shall not be liable for damages to any offended Unit Owner, occupant or other person or entity, so long as the summary abatement has been approved by resolution of the Board. No structural aspects of the Condominium or items of construction may be altered or demolished through any summary abatement.

2. **Attorneys' Fees.** Any defaulting Owner or occupant shall be liable to pay all costs, expenses and attorney's fees incurred by the Board, the Association or an Owner in successful enforcement of the covenants or restrictions or provisions of this Declaration.

3. **Lien Foreclosure.** The Association shall have the power to sue to foreclose its lien for unpaid assessments in the same manner provided by New Mexico law for foreclosure of material men's and mechanics liens. Any defaulting Owner shall be liable to pay all costs, expenses and attorneys fees incurred by the Board or Association in successful enforcement of a lien for unpaid assessments or for successful collection of unpaid assessments.

ARTICLE XII RESTRICTIONS TO PROTECT LENDERS

1. **Mortgagee's Consent.** Except for Declarant exercise of development rights, unless at least seventy five percent (75%) of all mortgagees holding first mortgages encumbering Condominium Units shall have given their prior written approval, no material amendments to this Declaration shall be allowed. Material amendments are amendments which change or modify the Declaration with respect to the following:

- (a) voting rights;

(b) increases in assessments that raise the previously assessed amount by more than twenty-five percent (25%), assessment liens, or the priority of assessment liens;

(c) reductions in reserves for maintenance, repair, and replacement of Common Elements;

(d) responsibility for maintenance and repairs;

(e) reallocation of interests in the general or Limited Common Elements, or rights to their use except that when Limited Common Elements are reallocated by agreement between Unit Owners, only those Unit Owners and only Eligible Mortgagees holding Security Interests in such Units must approve such action;

(f) redefinition of any unit boundaries;

(g) convertibility of Units into Common Elements or of Common Elements into Units;

(h) expansion or contraction of the Condominium or the addition, annexation or withdrawal of property to or from the Condominium;

(i) hazard or fidelity insurance requirements and use of proceeds other than for repair, replacement or reconstruction;

(j) imposition of any restrictions on the leasing of Units;

(k) imposition of any restrictions on a Unit Owner's right to sell or transfer an Owner's Unit;

(l) establishment of self-management when professional management had been required previously by the Condominium Documents or any Eligible Mortgagee;

(m) restoration or repair of the Property (after a hazard damage or partial condemnation) in a manner other than specified in the Act or Condominium Documents;

(n) termination of the legal status of the Condominium for reasons other than the substantial destruction or condemnation of the Property; or

(o) any provisions which are for the express benefit of Eligible Mortgagees.

2. **Notice.** Any holder, insurer or guarantor of a mortgage on any Unit shall have the right to timely written notice of:

(a) any condemnation or casualty loss that effects either a material portion of the Property or the Unit securing its mortgage;

(b) any sixty (60) day delinquency in the payment of assessments or charges owed by the Owner of any Unit on which it holds the mortgage;

(c) a lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association; and

(d) any proposed action that requires the consent of a specified percentage of eligible mortgage holders.

To be entitled to receive the above notice, the mortgage holder, insurer or guarantor must send a written request to the Association, stating both its name and address and the Unit number and address of the Unit on which it has (or insurers or guarantees) the mortgage. The Association may impose a reasonable charge for providing such information. The charge may be made to the Unit Owner and/or to the mortgage holder, insurer or guarantor requesting the information.

ARTICLE XIII IMPLIED CONSENT OF MORTGAGEE

Any action requiring approval of mortgagees shall be deemed approved by a mortgagee if the mortgagee fails to object or consent to a written proposal for an amendment within sixty (60) days after receipt of the written proposal, provided the notice was delivered by certified or registered mail to the mortgagee's last known address to the attention, with a "return receipt" requested.

ARTICLE XIV GENERAL PROVISIONS

The following general provisions shall govern the administration and management of the Property:

1. At any meeting of Unit Owners (members), on each proposition or vote to come before the members, the Owner of each Condominium Unit shall be entitled to vote the Owner's equity interest as set forth on Exhibit A-3. When more than one person holds an interest in any Unit, the vote for such Unit shall be exercised as they among themselves determine, but in no event shall more or less than the equity interest vote be cast on behalf of any particular Unit. Every person or entity who is a record Owner of a fee or undivided fee interest in any Unit which is within the boundaries of the Property described on Exhibit A-5 of the Declaration shall be a member of the Association, provided that any such person or entity who holds such interest merely as a security for the performance of an obligation shall not be a member;

2. Notices required to be given to the Board or the Association may be delivered to any member of the Board or officer of the Association either personally or by mail addressed to such member or officer at his Condominium Unit;

3. Notices required to be given any devisee or personal representative of a deceased Condominium Owner may be delivered either personally or by mail to such party at his or her or its address appearing in the records of the court wherein the estate of such deceased Condominium Owner is being administered;

4. No covenants, restrictions, conditions, obligations or provisions contained in this Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur;

5. The invalidity of any covenant, restriction, condition, limitation or any other provisions of this Declaration, or any part of the same, shall not impact or affect in any manner the validity, enforceability or effect of the rest of this Declaration. In the event of a conflict between the provisions of the Declaration and the provisions of the Act, the conflict shall be resolved in favor of the Act;

6. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development and operation of a first class Condominium project development;

7. Until such time as Declarant has sold and conveyed at least 75% of the Condominium Units, Declarant shall have the right to amend this Declaration or any addendums hereto. However, no such amendment shall: i) allow construction of more than 14,000 useable square feet of office on the Property; ii) substantially deviate from the Condominium regime as set forth in the previously filed Declaration and/or any of the disclosure statements given to Owners of previously conveyed Units; iii) in any way withdraw, contradict or impair any development rights previously transferred to any party; or (iv) materially amend this Declaration in contravention of this Declaration's restrictions to protect lenders. Otherwise, this Declaration may be amended by the Condominium Owners by affirmative vote of at least seventy-five percent (75%) of the votes of the Association, cast at a meeting of the Association duly called for such purpose. A proposed amendment shall be deemed approved by an Owner if the Owner fails i) to vote in person or by proxy at a meeting properly called for that purpose; and ii) fails to object or approve a written proposal for an amendment within thirty (30) days

INTENTIONALLY OMITTED: SEE PAGE 34 for balance of Paragraph 7.

LIST OF EXHIBITS

Exhibit A-1. Plat of Lots 11 through 24, Block 28, Valley View Addition prepared by Surv-Tek, Inc., N.M.P.L.S. No. 9750, dated May 10 2007.

Exhibit A-2. Condominium Plat of Units A thru M and Limited Common Element 1, situate within Lots 11-24, Block 28, Valley View Addition, dated May 2007.

EXHIBIT A-1

LEGAL DESCRIPTION

Plat of Lots 11 through 24, Block 28, Valley View Addition prepared for Evergreen Washington, Ltd. Co. showing division of as shown on the Plat thereof filed for record on August 15, 2007, and recorded in Document Number: 2007118488 in the records of Bernalillo County, New Mexico, bearing a common address of 136 Washington SE, Albuquerque NM 87108.