



OFFICIAL NOTICE OF DECISION

CITY OF ALBUQUERQUE
PLANNING DEPARTMENT
DEVELOPMENT REVIEW BOARD

September 16, 2009

Project# 1002131

09DRB-70281 VACATION OF PUBLIC RIGHT-OF-WAY

DAC ENTERPRISES INC agent(s) for H. HIL DAVIDSON request(s) the referenced/ above action(s) for a portion of public right-of-way for UNIVERSITY BOULEVARD NE adjacent to Tract A-2-A-1, **MUELLER SUBDIVISION** zoned C-3, located on the west side of UNIVERSITY BLVD NE between INDIAN SCHOOL RD NE and INTERSTATE ROUTE 40, containing approximately 1.0 acre. (H-15)

At the September 16, 2009 Development Review Board meeting, the vacation was approved as shown on Exhibit B in the Planning file per section 14-14-7-2(A)(1) and (B)(1)(2) and (3) of the Subdivision Ordinance.

FINDINGS:

(A)(1) The public easement vacation request was filed by the owners of a majority of the footage of land abutting the proposed vacation.

(B)(1) The public welfare is in no way served by retaining the public right of way as shown on Exhibit B, because the City of Albuquerque does not anticipate any need to utilize the existing right of way for roadway purposes.

(B)(2) There is a net benefit to the public welfare because the development made possible by the vacation is clearly more beneficial to the public welfare than the minor detriment resulting from the vacation; It is the opinion of Transportation Development that the removal of the existing right of way will provide a net benefit to the public welfare.

(B)(3) There is no convincing evidence that any substantial property right is being abridged against the will of the owner of the right, because property owners of record abutting the proposed vacation were notified by first class mail at least six days prior to the Development Review Board hearing approving the vacation and no objection regarding access or the abridgement of a substantial property right was raised.

CONDITIONS:

1. Final disposition shall be through the City Real Estate Office.
2. The vacated property shall be shown on the replat approved by the Development Review Board and the approved replat shall be filed for record with the Bernalillo County Clerk's Office within one year.

If you wish to appeal this decision, you must do so by October 1, 2009 in the manner described below.

Appeal is to the Land Use Hearing Officer. Any person aggrieved with any determination of the Development Review Board may file an appeal on the Planning Department form, to the Planning Department, within 15 days of the Development Review Board's decision.

The date the determination in question is issued is not included in the 15-day period for filing an appeal.

If the fifteenth day falls on a Saturday, Sunday or holiday as listed in the Merit System Ordinance, the next working day is considered as the deadline for filing the appeal. Such appeal shall be heard within 60 days of its filing.

You will receive notice if any other person files an appeal. Successful applicants are reminded that other requirements of the City must be complied with, even after approval of the referenced application(s).

Please note that the vacation of all plats, rights-of-way, and easements are void after one year from the final appeal date referenced above if all conditions are not met (The effective date of Development Review Board approval is the hearing date plus the 15-day appeal period.) (REF: Chapter 14 Article 14 Part 7-2 (E)(3)(6) Revised Ordinance.)



Jack Cloud, AICP, DRB Chair

Cc: DAC Enterprises, Inc. – P.O. Box 16658 – Albuquerque, NM 87191

Cc: H. Hil Davidson – 124 10th Street NW – Albuquerque, NM 87102

Marilyn Maldonado

Scott Howell

file