



City of Albuquerque

P.O. BOX 1293 ALBUQUERQUE, NEW MEXICO 87103

May 1, 2008

To all interested parties:

The following appeal is on the agenda of the **Monday, May 19, 2008** City Council meeting, which will begin at 5:00 p.m. in the Vincent E. Griego Chambers, Basement Level, 1 Civic Plaza NW:

AC-08-3 Karl E. Johnson, Luebben, Johnson & Barnhouse, LLP, Agents for S.A.F.E. House, Appeal the Decision of the Development Review Board (DRB) to Approve a Vacation of Public Right-of-Way For All Or a Portion of The East-West Alley, Block 4, Terrace Addition, Zoned SU-2/NCR, Located on the South Side of Lead Ave. SE Between Locust Ave. SE and Elm St. SE

The City Council will be voting to either "Accept" or "Reject" the Land Use Hearing Officer's recommended Decision, therefore, public testimony is generally not taken at this time. Should the City Council reject the Land Use Hearing Officer's recommended Decision, the appeal will then be scheduled for a full hearing before the City Council at a date no earlier than the next regular meeting of the full Council.

If you have any questions, I can be reached at 768-3100.

Sincerely,


Crystal Ortega
Clerk of the Council

Attachments:

Land Use Hearing Officer's Recommendation
Excerpt from the Council's Rules of Procedure

City of Albuquerque
City Council
P.O. Box 1293, Room
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Albuquerque NM, 87103

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LAND USE HEARING OFFICER'S RECOMMENDATION

APPEAL NO. AC-08-03
07DRB-70406
Project No. 1006953 / 10022637

S.A.F.E. HOUSE, Appellants,

BRAD LOGAN HALL, Party Opponent.

I. PROCEDURAL BACKGROUND

1
2
3 The matters presented in this appeal concern two parcels of land and an alleyway in S.E.
4 Albuquerque. Brad Logan Hall, through Logan Hall & Associates, Inc. (Hall), entered into a
5 contract to purchase and develop a vacant parcel of land at the corner of Locust Street and Lead
6 Avenue S.E. Apparently, to maximize development space, Hall applied to the Development Review
7 Board (DRB) to vacate a public alleyway on the South side of the vacant parcel.

8
9 The alleyway is publically owned by the City of Albuquerque. The alleyway is utilized
10 primarily by an adjacent property owner, S.A.F.E. House, a commercial business, (Appellants) and
11 the City of Albuquerque. It is undisputed Appellants' solid waste trash bins are located in the alley.
12 It is also undisputed that the alley serves as the ingress/ egress for Appellants' solid waste disposal
13 removal by the City's Solid Waste trucks. Notably, the alley is not a thoroughfare. The alley
14 extends from Lead Avenue and ends at the West side of Appellants' parcel of land.

15
16 On November 20, 2007, Hall submitted an application to the City to vacate the subject
17 alleyway. The DRB held its first public hearing on the Hall application on December 19, 2007.
18 Appellants opposed the application, claiming they had a property right in trash removal in the
19 alleyway. At that hearing, after some testimony and arguments were presented, the DRB deferred
20 the Hall application on the grounds that it wanted the parties to attempt to resolve the dispute on their
21 own.

22 The matter was again taken up by the DRB at its January 23, 2008 public hearing. The DRB
23 again deferred the Hall application, allowing Mr. Hall and Appellants more time to attempt a
24 resolution to the dispute over the alleyway.

25
26 On February 6, 2008, after additional testimony and arguments were presented at its public
27 hearing, the DRB approved the Hall application to vacate the public alleyway. Appellants filed their
28 timely appeal and this Land Use Hearing Officer heard the appeal on April 21, 2008.
29
30

1 **II. ISSUES PRESENTED BY APPELLANTS**

2
3 This appeal concerns the public alleyway, its use or uses, and whether, or not, the standards
4 for vacating a public alleyway were satisfied. Specifically, Appellants appeal the decision of the
5 DRB claiming that the DRB erred in its application and analysis of the applicable City Subdivision
6 Regulation for vacating public right-of-ways and easements.
7

8
9 **III. STANDARD OF REVIEW**

10
11 A review of an appeal is a whole record review to determine if there is error:

- 12
13 1. In applying adopted city plans, policies, and ordinances in arriving at the decision;
14 2. In the appealed action or decision, including its stated facts;
15 3. In acting arbitrary, capriciously or manifestly abusive of discretion.
16

17 The decision and record must be supported by a preponderance of the evidence to be upheld.
18 The Land Use Hearing Officer may not substitute his judgment for that of the reviewing Body
19 below. The Land Use Hearing Officer's opinion is advisory to the City Council. The Land Use
20 Hearing Officer may recommend that the Council "grant, in whole or in part, an appeal, deny, in
21 whole or in part, an appeal, or remand an appeal for reconsideration if the remand is necessary to
22 clarify or supplement the record, or if the remand would expeditiously dispose of the matter."¹
23
24

25 **IV. DISCUSSION**

26
27 After reviewing the entire record, including the exhibits tendered at the Appeal hearing by
28 both parties, arguments of counsel and testimony, I find that the record does not support the decision
29 of the DRB. The DRB's decision lacks the analytical substance specifically required by the
30 applicable Regulation for vacating the alleyway. The DRB also failed to properly evaluate
31 Appellants' claims under the Regulation. In doing so it ignored relevant sections under the
32 applicable Regulation in approving the Hall application. Although, a remand would give the DRB
33 an opportunity to add to the record, for the reasons stated below, I also find that the DRB erred in
34 concluding that Appellants do not have a substantial property right that is affected by the vacation
35 action. Thus, a remand is not necessary in this case. I therefore respectfully recommend that the
36 City Council reverse the DRB and grant the appeal.
37

38 The City of Albuquerque has adopted very specific standards for vacating public right-of-
39 ways. The subject of contention in this appeal, the alleyway, is a public right-of-way, as defined
40 in the Comprehensive Zoning Code Section 14-16-1-5. The applicable City Regulation for this

¹ See Rules of the Land Use Hearing Officer adopted by the City Council, February 18, 2004. Bill No. F/S OC-04-6.

1 standard is Section 14-14-7-2 Vacation of Public Rights of Way, Private Ways and Easements. It
2 states in pertinent part:

3
4 (A) Rights of way, including public rights of way, private ways, and
5 easements shown on recorded plats, may be vacated, that is, terminated,
6 by recording a new subdivision plat or by plat amendment, as described
7 in §14-14-7-1 of this part. In addition, where nothing except vacation of
8 public rights of way, private ways, and easements is proposed, it may be
9 initiated by a request to vacate filed by either:

10
11 **(1) The owners of a majority of the front footage of land abutting the**
12 **proposed vacation; or**

13
14 (2) The Planning Director, if he or she finds vacation likely to be in the
15 public interest. A request to vacate shall be processed under the
16 procedures of division (E) of this section in addition to the procedures
17 relating to minor subdivision applications under Part 3 of this article.

18
19 **(B) The vacation of public rights of way, private ways, or easements,**
20 **whether by new plat, plat amendment, or request to vacate, shall be**
21 **approved only when it is determined that:**

22
23 **(1) The public welfare is in no way served by retaining the way or**
24 **easement; or**

25
26 **(2) There is a net benefit to the public welfare because the**
27 **development made possible by the vacation is clearly more beneficial**
28 **to the public welfare than the minor detriment resulting from the**
29 **vacation; and in addition to divisions (1) or (2) of this division (B):**

30
31 **(3) There is no convincing evidence that any substantial property**
32 **right is being abridged against the will of the owner of the right.**

33
34 (C) In approving the vacation the Development Review Board may
35 require that some or all of the public rights of way or easements be
36 retained by the appropriate governmental entity as shown on the original
37 plat.

38
39
40 **A. Majority of Owners of Property Abutting the Alleyway**

41
42 First, Section 14-14-7-2(A) requires that the DRB make some initial findings in evaluating
43 an application. If the application is exclusively to vacate a public right-of-way, the DRB must decide
44 whether the prerequisites of subsection (A)(1) or (A)(2) are satisfied before moving forward in its

1 analysis on the substance of the application. The Hall application was only to vacate the alleyway.
2

3 In its February 13, 2008 Official Notice of Decision, the DRB found that “[t]he vacation
4 request was filed by the owners of a majority of the footage of land abutting the proposed vacation.”²
5 Yet, there is no evidence in the record supporting this essential finding. In fact, the record clearly
6 demonstrates that the applicant has only entered into a contract (presumably a purchase agreement)
7 with the land owner of the vacant land to the North of the subject alleyway. Moreover, the evidence
8 reveals that the applicant, Mr. Hall has only commenced purchase negotiations with the land owner
9 of the property abutting the other side of the alleyway (Chevron gas station owner). Thus, although
10 Mr. Hall can be considered an anticipated property owner of the vacant property abutting the
11 alleyway, a mere statement from the applicant that he is negotiating the purchase of the Chevron gas
12 station is grossly insufficient to establish ownership of the Chevron property for purposes of Section
13 14-14-7-2(A)(1). The record is devoid of any documentation regarding the Chevron gas station.
14

15 The application was filed only by Hall and no other property owners. There is no evidence
16 in the record that demonstrates the positions of the actual abutting property owners (other than the
17 opposition of Appellants). The DRB may have assumed because Mr. Hall is somewhere in the
18 process of acquiring the Chevron gas station, the owner of the Chevron gas station consents to the
19 vacation action. Yet, there is no evidence in the record supporting this proposition, and therefore,
20 the DRB abused its discretion in making assumptions of ownership and consent. Accordingly, the
21 DRB erred in making a finding that the vacation application was filed by a majority of the property
22 owners abutting the alleyway when, in fact, it was not.
23
24

25 **B. Whether, or Not, the Public Welfare Is Served By Retaining The Alleyway**
26

27 Next, in their appeal, Appellants maintain that there was no basis for the finding that the
28 public welfare is “in no way served” by retaining the alleyway because the DRB did not adequately
29 analyze how the alleyway affects the public welfare. I agree with Appellants. The DRB did not
30 fairly evaluate whether, or not, the public welfare is served, or not served, by retaining the alleyway.
31 I am particularly bothered that some DRB members found that the alleyway “served no purpose in
32 practicality”³ because it is not a typical thoroughfare alleyway.
33

34 There is overwhelming evidence that the alleyway serves at least two legitimate purposes.
35 It is an ingress and egress for the Appellants (although limited to pedestrian traffic it is still a
36 functional entry). There was evidence that the entry from the alleyway is functional and is used (for
37 lack of a better term) “to take the garbage out” to the solid waste container(s) located in the alleyway.
38 Secondly, it is the location where Appellants’ solid waste disposal is stored and collected by the City
39 of Albuquerque. It was erroneous to find that the alleyway serves no purpose. And, although, the

² See the Official Notice of Decision, February 13, 2008, Page 41 of the Record.

³ See DRB Minutes, February 13, 2008, Page 63 of the Record.

1 alleyway is not functional as a thoroughfare, the DRB's analysis should not have ended there to
2 determine that it does not serve the public welfare.

3
4 In analyzing whether, or not, the public welfare is "in no way served," the DRB should have
5 developed its analysis to include all the existing functions of the alleyway. For example, it should
6 have examined whether, or not, the public welfare is not served by the collection of Appellants'
7 commercial solid waste from the alleyway rather than from a location off of Lead Avenue.⁴ In doing
8 so, I would respectfully refer the DRB, for its future consideration of similar cases, to the City of
9 Albuquerque's Health Safety and Sanitation Ordinance, Section 9-10-1-7(B)(3)(b)(1). Therein, the
10 City Council has determined through legislative enactment that "[c]ollection [of solid waste] from
11 public alleys shall be maximized, to the extent that it is consistent with efficient collection routes."
12

13 Appellants effectively demonstrated that the alleyway serves the public merely as a result
14 from its intended use for the storage and removal of solid waste. Ordinance Section 9-10-1-7(B)(3)
15 includes the pertinent policy considerations in addressing the question regarding public welfare with
16 regard to solid waste collection sites. As a matter of public policy, the alleyway serves the public
17 welfare because it serves to:

- 18
- 19 1. Maximizes the use of the alleyway for solid waste collection;
- 20 2. Minimizes the view of the storage and collection of solid waste from the view of
21 Lead Avenue and other public streets; and
- 22 3. Provide a solid waste storage and collection location that maximizes the distance
23 from residences and outdoor recreation or relaxation areas.
- 24

25 The DRB erred in finding that the alleyway serves no public purpose. The alley way does
26 serve an important purpose for the public.

27

28

29 **C. The Benefit to the Public vs. the Detriment Resulting From the Vacation**

30

31 Appellants argue that the DRB should have either conducted an analysis under Section 14-
32 14-7-2(B)(2), or explained why it ignored the balancing test of the applicable Regulation. I agree.

33
34 The DRB failed to apply the balancing test and it failed to articulate a reason or reasons why
35 it did not apply the test. Its failure has the appearance of arbitrary and, or, capricious conduct.
36 Moreover, as stated above, because Appellants demonstrated that they would be damaged by the
37 vacation action, the balancing test seems appropriate to apply in this case.

38
39 The balancing test of Section 14-7-2(B)(2) is one of the two alternative criterion that must

⁴ There was evidence in the Record that the only viable alternative for Appellants' commercial solid waste collection, other than the alleyway, is from an entrance located on Lead Avenue.

1 be demonstrated under the Regulation. Notwithstanding, the DRB, should explain why it believes
2 the test is inapplicable, especially when it is confronted by a contestant (Appellant) who believes the
3 test should be applied, as was the case here. However, if it had applied the balancing test of
4 subsection (B)(2), it would not affect my recommendation for the reasons stated below.
5
6

7 **D. Substantial Property Right**

8

9 Finally, the final prong for DRB consideration on the issue of whether or not it should
10 approve a vacation of a public right-of-way is found in Section 14-7-2(B)(3). Appellants contend
11 that they have a substantial property right in the alleyway because it is being well utilized for their
12 commercial solid waste collection and removal. To support their claim, Appellants presented
13 evidence showing that losing the right to solid waste storage and removal in the alleyway would
14 damage them financially. This evidence was not rebutted. They also presented evidence of the
15 additional cost of relocating the solid waste containers to another location on the Appellants'
16 property.
17

18 The record reveals that the DRB took the position that Appellants do not have a substantial
19 property right in solid waste removal in the public alleyway. I disagree. The evidence shows that
20 Appellants, for many years, have utilized the alleyway for its solid waste storage and removal with
21 the consent of the City of Albuquerque. In addition, it is a specific policy of the City that solid waste
22 storage and removal take place, whenever possible from alleyways.⁵ Thus, Appellants are utilizing
23 the subject alleyway in a manner for which it was intended. Whether, or not, it dead ends at
24 Appellants' property is irrelevant. The alleyway's primary function is for solid waste storage and
25 removal. The legitimate use of the alleyway by Appellants is appurtenant to Appellants' legal uses
26 of their property. In New Mexico, a substantial property right can be one that is appurtenant to a
27 property owner's use of his or her property.⁶
28

29 The question becomes – does the vacation action change the character of Appellants' use of
30 their property, to such an extent that it substantially damages them? As stated above, Appellants
31 presented evidence that relocating the solid waste container(s) would result in a substantial expense
32 to them. In addition, Appellants demonstrated that the solid waste containers would have to be
33 placed in an area on their property that will cause safety problems for Appellants' clientele.
34 Therefore, I find that Appellants have a legitimate and substantial property right in the alleyway.
35
36
37
38

⁵ See generally City Ordinance, Section 9-10-1-7.

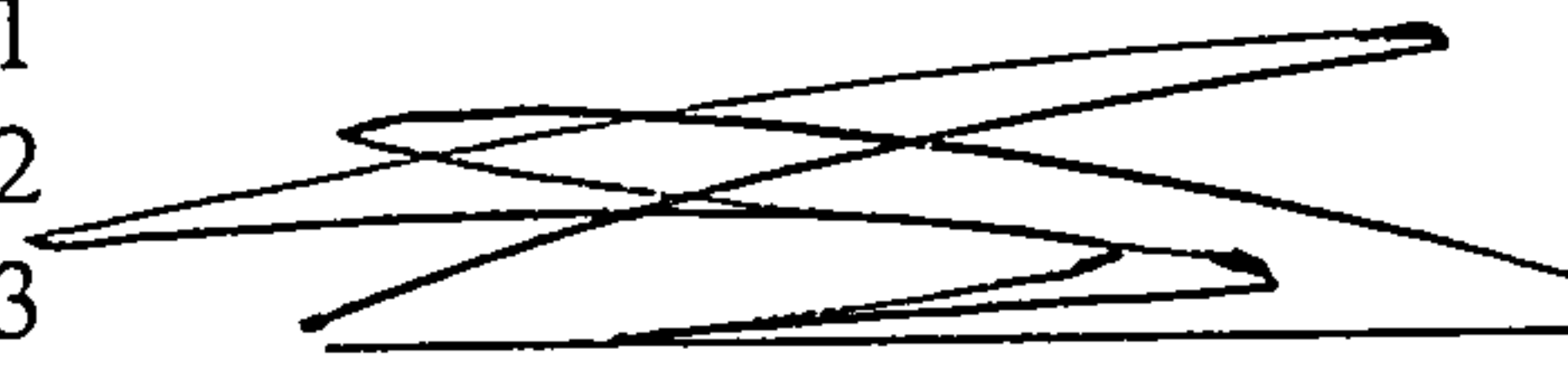
⁶ See Phillips Mercantile Co. Albuquerque, 60 N.M. 1 (S.Ct. 1955), quoting from Roberts v. City of Detroit, 241 Mich. 71, 216 N.W. 410, 412.

1 V. SUMMARY OF RECOMMENDATION

2
3 As stated above, the DRB erred by not making proper findings under Section 14-7-2 of the
4 City's Subdivision Regulations. The evidence supports that the public welfare is served by
5 retaining the alleyway for its originally intended use. Even though the alleyway dead-ends at
6 Appellants' property, it does not diminish the fact that it is being utilized for its intended purpose;
7 a purpose that is supported by the public policy of the City of Albuquerque- for the storage,
8 collection, and removal of solid waste. Finally, the additional cost and changes to the uses on the
9 Appellants property if the alleyway were vacated triggers a property right that is not trivial.

10
11 The purposes for which the alleyway is being used is a substantial property right under the
12 circumstances demonstrated in the record. Taking away the alleyway results, not only in a
13 significant detriment to Appellants financially, but it would result in a change in the character of
14 Appellants use of their property.

15
16 Therefore, I find that Appellants have a substantial property right in their use of the alleyway,
17 and vacation of the alleyway is inappropriate. I respectfully recommend that the City Council grant
18 Appellants' appeal and reverse the DRB's decision.

19
20
21
22 
23 _____
24 Steven M. Chavez, Esq.
25 Land Use Hearing Officer
26
27

April 29 2008

**Excerpt from the City Council's Rules of Procedure (11/2007)
Regarding the Hearing of the Land Use Hearing Officer's
Recommended Decision by the City Council***

The Hearing Officer shall enter his or her findings and recommended decision ("decision") within 5 days after the close of the hearing and shall forward the decision and findings to the parties and the Council within 5 days of entering the decision.

When the Council receives the Hearing Officer's findings and decision, the Council shall place the decision on the agenda of the next regular full Council meeting provided that there is a period of at least 7 days between the receipt of the decision and the Council meeting. The parties may submit comments to the Council regarding the Hearing Officer's decision and findings provided such comments are in writing and received by the Council and the other parties of record four days prior to the Council meeting.

The Council shall vote whether to accept or reject the Hearing Officer's decision and findings. A motion to reject or accept the Hearing Officer's decision and findings must be approved by a majority of the membership of the Council.

The Council may accept the decision and amend the findings of the Hearing Officer if such an amendment is consistent with the decision of the Hearing Officer.

If the Hearing Officer's decision is rejected, the appeal shall be scheduled to be heard by the full Council no earlier than the next regular meeting of the full Council.

If the Hearing Officer rules are in conflict with the Zoning Code, the Zoning Code shall prevail. If the Hearing Officer rules are silent regarding an area that is addressed by the Zoning Code, the Zoning Code shall apply.

*For the complete set of rules that apply to land use appeals, see the City Council Rules of Procedure, which can be viewed on the Council's website at <http://www.cabq.gov/council>

CITY OF ALBUQUERQUE



Planning Department

Richard Dineen, Director

Development Review Division

600 2nd Street NW – 3rd Floor

Albuquerque, NM 87102

NOTICE OF HEARING

March 24, 2008

Karl E. Johnson, Luebben Johnson & Barnhouse LLP
7424 4th Street NW
Los Ranchos de Albuquerque, NM 87107

AC-08-03 – 07DRB-70406 Project# 1006953 / 1002637 – Karl E. Johnson, Luebben - Johnson & Barnhouse - LLP, agents for S.A.F.E. House, appeal the decision of the Development Review Board (DRB) to approve a vacation of public right-of-way for all or a portion of the east-west alley in Block(s) 4, **TERRACE ADDITION**, zoned SU-2/NCR, located on the south side of LEAD AVE SE BETWEEN LOCUST AVE SE AND ELM ST SE containing approximately 0.4539 acre(s). Original Applicant for vacation: Logan Hall - *deferred from 12/19/07, 1/23/08 & 2/6/08.* (K-15)

PO Box 1293

The City of Albuquerque Land Use Hearing Officer will hear the above appealed case on **Thursday, April 10, 2008**. The hearing begins at **9:30 am** in the Council Committee Room, 9th Floor, Albuquerque/Bernalillo County Government Center, One Civic Plaza NW.

Albuquerque

Submittal of new information or questions regarding the hearing with the City Council should be directed to Council Services, c/o Crystal Ortega, One Civic Plaza NW, 9th Floor, Albuquerque NM 87102, (505) 768-3100.

NM 87103

If you would like a copy of the record submitted to the City Council, copies are available upon request by calling (505) 924-3883.

www.cabq.gov

Sincerely,

Dora Henry

Administrative Assistant

cc: S.A.F.E. House, P.O. Box 25363, Albuquerque, NM 87125
Logan Hall – 2107 Corte Del Caballo NW – Albuquerque, NM 87120
Kelli Keegan – 7424 4th St NW – Los Ranchos de Albuquerque, NM 87107
Jeff Dahl – P.O. Box AA – Albuquerque, NM 87103
Marilyn Maldonado, COA Planning Department, 600 2nd Street NW – 4th Floor, Abq., NM 87102
Scott Howell, COA Legal Real Property, 1 Civil Plaza – 4th Floor
Crystal Ortega, Clerk of the Council
EPC File

CITY OF ALBUQUERQUE

Planning Department

Richard Dineen, Director

Development Review Division

600 2nd Street NW – 3rd Floor

Albuquerque, NM 87102



NOTICE OF APPEAL

March 3, 2008

TO WHOM IT MAY CONCERN:

The Planning Department received the attached appeal on February 28, 2008. You will receive a Notice of Hearing as to when the appeal will be heard by the Land Use Hearing Officer.

Please refer to enclosed Bill (F/S OC-04-6, Land Use Hearing Officer Rules of Procedure and Qualifications) for any questions you may have regarding the Land Use Hearing Officer rules of procedure.

Any questions you might have regarding Land Use Hearing Officer policy or procedure that are not answered in the enclosed bill can be answered by Crystal Ortega, Clerk to the Council, (505) 768-3100.

CITY COUNCIL APPEAL NUMBER: AC-08-3

**PLANNING DEPARTMENT CASE FILE NUMBERS: 1002637
07DRB-70406**

PO Box 1293

Albuquerque

NM 87103

www.cabq.gov

**APPELLANT(s): S.A.F.E. House
P.O. Box 25363
Albuquerque, NM 87125**

**AGENT(s): Karl E. Johnson, Luebben Johnson & Barnhouse
7424 4th Street NW
Los Ranchos de Albuquerque, NM 87107**

cc: Logan Hall – 2107 Corte Del Caballo NW – Albuquerque, NM 87120
Kelli Keegan – 7424 4th St NW – Los Ranchos de Albuquerque, NM 87107
Jeff Dahl – P.O. Box AA – Albuquerque, NM 87103
Marilyn Maldonado, COA Planning Department, 600 2nd Street NW – 4th Floor, Abq., NM 87102
Scott Howell, COA Legal Real Property, 1 Civil Plaza – 4th Floor
Crystal Ortega, Clerk to the Council, City/County Bldg – 9th Floor
DRB File
Enclosure: LUHO Rules of Procedure and Qualifications (6 pages)



OFFICIAL NOTICE OF DECISION

CITY OF ALBUQUERQUE
PLANNING DEPARTMENT
DEVELOPMENT REVIEW BOARD

February 13, 2008

Project# 1006953 / 1002637
07DRB-70406 VACATION OF PUBLIC EASEMENT

LOGAN HALL request(s) the above action(s) for all or a portion of Lot(s) 1-A, Block(s) 4, **TERRACE ADDITION**, zoned SU-2/NCR, located on LEAD AVE SE BETWEEN LOCUST AVE SE AND ELM ST SE containing approximately 0.4539 acre(s). (K-15)
(Deferred from 12/19/07, 1/23/08 & 2/6/08)

At the February 13, 2008, Development Review Board meeting, the vacation of the eastern portion of the alley in Block 4 of the Terrace Addition was approved as shown on Exhibit B in the Planning file per section 14-14-7-2(A)(1) and (B) (1)(3) of the Subdivision Ordinance. A turn around is not required based on existing conditions.

(A)(1) The 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 eastern portion of the alley, because of the existing condition of the western portion of the alley.

(B)(3) There is no convincing evidence that any substantial property right is being abridged against the will of the owner of the right; concerns regarding refuse pick-up may be addressed through the City's Solid Waste Department for the adjacent property.

CONDITIONS:

1. Final disposition shall be through the City Real Estate Office
2. The vacated property shall be shown on a 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 February 28, 2008 in the manner described below.

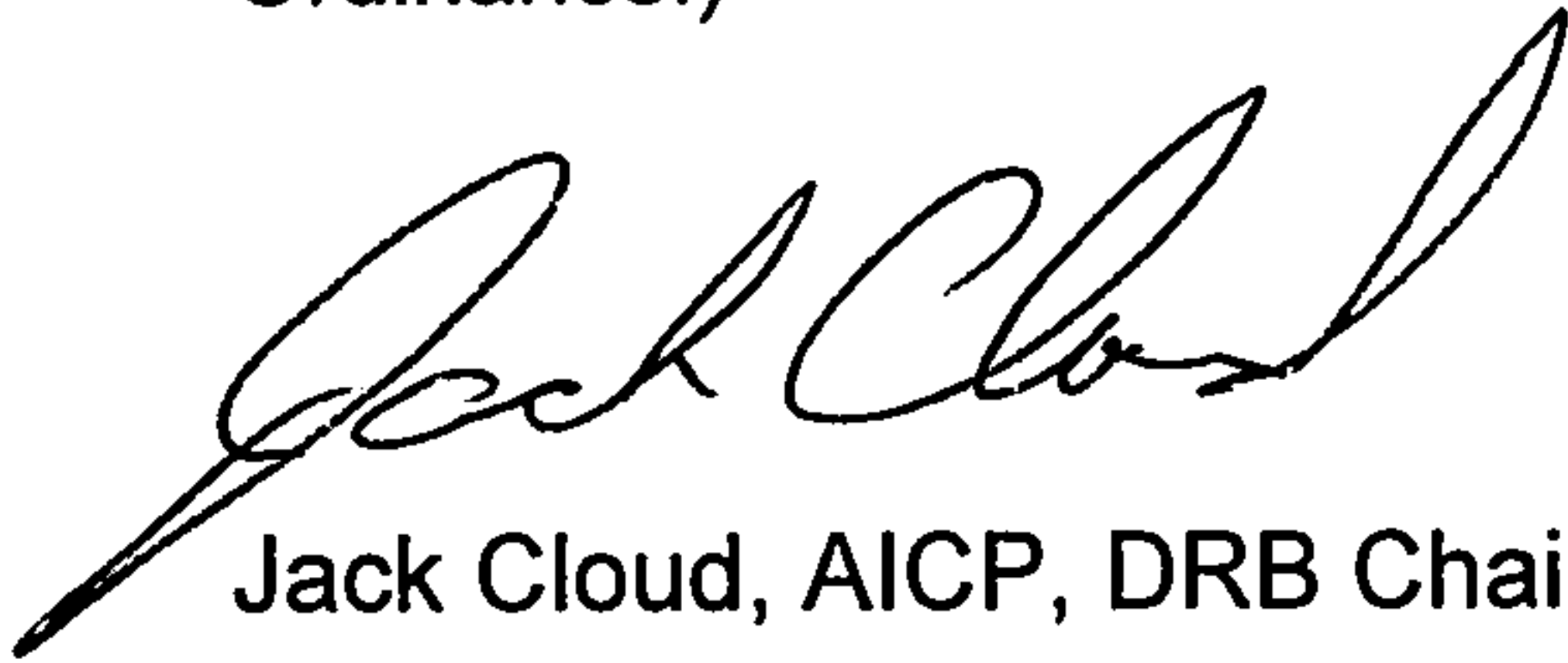
Appeal is to the Land Use Hearing Officer. Any person aggrieved with any determination of the Development Review Board may file an appeal on the Planning Department form, to the Planning Department, within 15 days of the Development Review Board's decision.

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.)

A handwritten signature in black ink, appearing to read "Jack Cloud". The signature is fluid and cursive, with a long, sweeping underline that extends to the left.

Jack Cloud, AICP, DRB Chair

Cc: Logan Hall – 2107 Corte Del Caballo NW – Albuquerque, NM 87120

Cc: Kelli Keegan – 7424 4th St NW – Los Ranchos de Albuquerque, NM 87107

Cc: Jeff Dahl – P.O. Box AA – Albuquerque, NM 87103

Marilyn Maldonado

Scott Howell

File

DRB PUBLIC HEARING SIGN IN SHEETS

PROJECT #: 1002637 AGENDA# 7 DATE: 2/13/08

1. Name: Jeff Dahl Address: PO BOX AA Zip: 87103
2. Name: Kelli Keegan Address: 7424 4th St. Zip: _____
3. Name: _____ Address: _____ Zip: _____
4. Name: _____ Address: _____ Zip: _____
5. Name: _____ Address: _____ Zip: _____
6. Name: _____ Address: _____ Zip: _____
7. Name: _____ Address: _____ Zip: _____
8. Name: _____ Address: _____ Zip: _____
9. Name: _____ Address: _____ Zip: _____
10. Name: _____ Address: _____ Zip: _____
11. Name: _____ Address: _____ Zip: _____
12. Name: _____ Address: _____ Zip: _____
13. Name: _____ Address: _____ Zip: _____
14. Name: _____ Address: _____ Zip: _____
15. Name: _____ Address: _____ Zip: _____
16. Name: _____ Address: _____ Zip: _____
17. Name: _____ Address: _____ Zip: _____

DRB PUBLIC HEARING SIGN IN SHEETS

PROJECT #: 1006953 AGENDA# 4 DATE: 2/6/08

1. Name: Kelli Keegan Address: 7424 4th St. Zip: _____
Los Ranchos
2. Name: _____ Address: _____ Zip: _____
3. Name: _____ Address: _____ Zip: _____
4. Name: _____ Address: _____ Zip: _____
5. Name: _____ Address: _____ Zip: _____
6. Name: _____ Address: _____ Zip: _____
7. Name: _____ Address: _____ Zip: _____
8. Name: _____ Address: _____ Zip: _____
9. Name: _____ Address: _____ Zip: _____
10. Name: _____ Address: _____ Zip: _____
11. Name: _____ Address: _____ Zip: _____
12. Name: _____ Address: _____ Zip: _____
13. Name: _____ Address: _____ Zip: _____
14. Name: _____ Address: _____ Zip: _____
15. Name: _____ Address: _____ Zip: _____
16. Name: _____ Address: _____ Zip: _____
17. Name: _____ Address: _____ Zip: _____



**DEVELOPMENT REVIEW BOARD
AGENDA**

Plaza del Sol Hearing Room, Basement, Plaza del Sol Building

January 23, 2008 9:00 AM

MEMBERS:

Andrew Garcia, Acting DRB Chair
Angela Gomez, Administrative Assistant

Kristal Metro, Transportation Development
Brad Bingham, Alternate City Engineer

Roger Green, ABCWUA
Christina Sandoval, Parks & Recreation

CASES WHICH REQUIRE PUBLIC NOTIFICATION

MAJOR SUBDIVISIONS, VACATIONS, SIA EXTENSIONS AND SITE DEVELOPMENT PLANS

1. ~~Project# 1006953~~
07DRB-70406 VACATION OF PUBLIC
EASEMENT
LOGAN HALL request(s) the above action(s) for all or a portion of Lot(s) 1-A, Block(s) 4, **TERRACE ADDITION**, zoned SU-2/NCR, located on LEAD AVE SE BETWEEN LOCUST AVE SE AND ELM ST SE containing approximately 0.4539 acre(s). (K-15) *(Deferred from 12/19/08)*. **DEFERRED TO 2/6/08 AT THE AGENT'S REQUEST.**

**SITE DEVELOPMENT PLANS (EPC FINAL SIGN-OFF) AMENDED PLANS AND
MASTER DEVELOPMENT PLANS (CITY COUNCIL FINAL SIGN-OFF)**

2. **Project# 1002404**
08DRB-70023 EPC APPROVED SDP
FOR BUILD PERMIT
08DRB-70024 EPC APPROVED SDP
FOR SUBDIVISION
GEORGE RAINHART ARCHITECT & ASSOCIATES agent(s) for PETERSON PROPERTIES request(s) the above action(s) for all or a portion of Lot(s) 1-B & 1-D, **LADERA INDUSTRIAL CENTER**, located on UNSER BLVD NW BETWEEN VISTA ORIENTE NW AND LADERA CHANNEL containing approximately 7.08 acre(s). (H-9) **DEFERRED TO 1/30/08 AT THE AGENT'S REQUEST.**
3. **Project# 1004075**
07DRB-70453 LEVEL B PLAN PHSE 2
DRB FINAL SIGNOFF
DENISH & KLINE ASSOCIATES agent(s) for FOREST CITY COVINGTON NM LLC request(s) the above action(s) for all or a portion of **MESA DEL SOL LEVEL B MASTER PLAN**, zoned PC/PLANNED COMMUNITY, located on EAST OF BROADWAY SE SOUTH OF LOS PICARDOS SE, containing approximately 3,082 acre(s). *(Deferred from 1/9/08 & 1/16/08)*. **DEFERRED TO 1/30/08 AT THE AGENT'S REQUEST.**

MINOR PLATS, FINAL (MAJOR) PLATS, AMENDED PLATS AND PLANS

4. **Project# 1004071**
08DRB-70017 MINOR - PRELIMINARY/
FINAL PLAT APPROVAL

HIGH MESA CONSULTING GROUP agent(s) for ALBUQUERQUE PUBLIC SCHOOLS & NEW MEXICO STATE LAND OFFICE request(s) the above action(s) for all or a portion of Tract C, **ANCIENT MESA**, zoned C-9, located on RAINBOW BLVD NW BETWEEN WOODMONT AVE NW AND ROSA PARKS RD NW containing approximately 143.32 acre(s). (C-9) **THE PRELIMINARY/FINAL PLAT WAS APPROVED WITH FINAL SIGN OFF DELEGATED TO PLANNING FOR 3 COPIES.**
5. **Project# 1002776**
08DRB-70018 MINOR - PRELIMINARY/
FINAL PLAT APPROVAL

PRECISION SURVEYS INC agent(s) for KLD ENTERPRISES, LLC request(s) the above action(s) for all or a portion of Tract(s) Y-2A-1 to be known as Y-2A-1- A, Y-2A-1-B, Y-2A-1C, Y-2A-1D, **TAYLOR RANCH**, zoned C-2(SC), located on TAYLOR RANCH DR NW BETWEEN HOMESTEAD CIR NW AND SOONER TRAIL NW containing approximately 10.1154 acre(s). (D-11) **THE PRELIMINARY/FINAL PLAT WAS APPROVED WITH FINAL SIGN OFF DELEGATED TO CITY ENGINEER FOR THE SIA, PUBLIC UTILITY SIGNATURES, AGIS DXF AND COPY OF RECORDED PLAT, AND TO ABCWUA: NEED TEMPORARY WATERLINE EASEMENT REVIEWED AND READY FOR RECORDING.**
6. **Project# 1004526**
08DRB-70022 MINOR - PRELIMINARY/
FINAL PLAT APPROVAL

PRECISION SURVEYS INC agent(s) for LORETTA CHAVEZ/CITY OF ALBUQUERQUE request(s) the above action(s) for all or a portion of Lot(s) 400 & 399, **TOWN OF ATRISCO GRANT UNIT 3**, zoned R-D, located on SAGE RD SW BETWEEN COORS SW AND SAN YGNACIO RD SW containing approximately 6.3718 acre(s). (L-10) **INDEFINITELY DEFERRED AT THE AGENT'S REQUEST.**
7. **Project# 1007063**
08DRB-70019 MINOR - PRELIMINARY/
FINAL PLAT APPROVAL

PRECISION SURVEYS INC agent(s) for LARDNER FAMILY REVOCABLE LIVING TRUST request(s) the above action(s) for all or a portion of Tract(s) A, **LLD** zoned M-1 & SU-1 PERMISSIVE USES, located on PAN AMERICAN FREEWAY NE BETWEEN COMMERCE DR NE AND OFFICE BLVD NE containing approximately 3.463 acre(s). (F-16/17) **THE PRELIMINARY/FINAL PLAT WAS APPROVED WITH FINAL SIGN OFF DELEGATED TO PLANNING FOR AMAFCA AND SITE PLAN WITH PARKING, AND TO ABCWUA: GRANT PRIVATE WATER/SEWER SERVICE LINE EASEMENTS FOR TRACT A-2 AND TRACT 'A' TO THE NORTH. ALSO NEED BENEFICIARY AND MAINTENANCE NOTES.**

8. **Project# 1006000**
08DRB-70026 MINOR - PRELIMINARY/
FINAL PLAT APPROVAL

BOHANNAN HUSTON INC agent(s) for MESA DEL SOL LLC request(s) the above action(s) for all or a portion of Tract 12, **BULK LAND PLAT FOR MESA DEL SOL INNOVATION PARK**, zoned PC, located on SOLAR MESA SE BETWEEN TURNING SE AND SAGAN SE containing approximately 5.44 acre(s). (R-16) **WITH THE SIGNING OF THE INFRASTRUCTURE LIST DATED 1/23/08 THE PRELIMINARY PLAT WAS APPROVED. FINAL PLAT IS DEFERRED PENDING THE SIA. CONDITION OF FINAL PLAT: DEDICATION OF 20 FT RADIUS PER TRANSPORTATION.**

9. **Project# 1007060**
08DRB-70015 MINOR - PRELIMINARY/
FINAL PLAT APPROVAL

SURVEYS SOUTHWEST, LTD agent(s) for DUNCAN MILLOY request(s) the above action(s) for all or a portion of Lot 1, **HURLEY REPLAT W/ A PORTION OF VACATED HARWOOD LATERAL**, zoned R-1, located on 8TH ST NW BETWEEN ALTA MONTE PL NW AND ALTA MONTE AVE NW containing approximately 0.4996 acre(s). (G-14) **THE PRELIMINARY/FINAL PLAT WAS APPROVED WITH FINAL SIGN OFF DELEGATED TO PLANNING FOR 5 FOOT SETBACK WITH RECORDED AGREEMENT.**

NO ACTION IS TAKEN ON THESE CASES: APPLICANT - AGENT IS REQUIRED TO BE AT THE MEETING

10. **Project# 1007033**
08DRB-70013 SKETCH PLAT REVIEW
AND COMMENT

GILFERD J PACHECO agent(s) for GILFERD J PACHECO request(s) the above action(s) for all or a portion of Lot(s) 5-8, **MESA PARK ADDITION**, zoned C-1, located on ZUNI RD SE BETWEEN INDIANA SE AND KENTUCKY SE containing approximately 0.3652 acre(s). (L-18) **THE ABOVE ITEM WAS REVIEWED AND COMMENTS WERE GIVEN.**

11. **Project# 1007062**
08DRB-70016 SKETCH PLAT REVIEW
AND COMMENT

WAYJOHN SURVEYING INC agent(s) for ARCHDIOCESE OF SANTA FE request(s) the above action(s) for all or a portion of Tract(s) 50 - 52, **TO BE KNOW AS TRACT A, SOUTH SAN JOSE PARISH**, zoned SU-2/MR, located on BROADWAY BLVD SE BETWEEN ETHLYN AVE SE AND SAN JOSE AVE SE containing approximately 6.8196 acre(s). (M-14) **THE ABOVE ITEM WAS REVIEWED AND COMMENTS WERE GIVEN.**

12. **Project# 1007067**
08DRB-70025 SKETCH PLAT REVIEW
AND COMMENT

ROSS HOWARD agent(s) for BLUE MOUNTAIN ENTERPRISE LLC request(s) the above action(s) for all or a portion of Tract(s) A, **LANDS OF LANDS OF BRUCE D. JOHNSON**, zoned M-1, located on VASSAR DR NE BETWEEN COMANCHE RD NE JOHNVILLE DR NE containing approximately 3.0532 acre(s). (G-16) **THE ABOVE ITEM WAS REVIEWED AND COMMENTS WERE GIVEN.**

13. Other Matters: None

ADJOURNED: 10:05

DRB PUBLIC HEARING SIGN IN SHEETS

PROJECT #: 1006953 AGENDA# 1 DATE: 1/23/08

1. Name: Kelli Kagan Address: 724 4th St. Zip: Call to verify add.
Los Ranchos de ABQ
2. Name: _____ Address: _____ Zip: _____
3. Name: _____ Address: _____ Zip: _____
4. Name: _____ Address: _____ Zip: _____
5. Name: _____ Address: _____ Zip: _____
6. Name: _____ Address: _____ Zip: _____
7. Name: _____ Address: _____ Zip: _____
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14. Name: _____ Address: _____ Zip: _____
15. Name: _____ Address: _____ Zip: _____
16. Name: _____ Address: _____ Zip: _____
17. Name: _____ Address: _____ Zip: _____



**DEVELOPMENT REVIEW BOARD
AGENDA**

Plaza del Sol Hearing Room, Basement, Plaza del Sol Building

December 19, 2007 9:00AM

MEMBERS:

Jack Cloud, Acting Chair
Angela Gomez, Administrative Assistant

Kristal Metro, Transportation Development
Brad Bingham, Alternate City Engineer

Roger Green, ABCWUA
Christina Sandoval, Parks & Recreation

CASES WHICH REQUIRE PUBLIC NOTIFICATION

MAJOR SUBDIVISIONS; VACATIONS; SIA EXTENSIONS AND SITE DEVELOPMENT PLANS

1. **Project# 1000539**
07DRB-70400 VACATION OF PUBLIC EASEMENT
07DRB-70401 VACATION OF PRIVATE EASEMENT
07DRB-70402 MINOR - TEMP DEFR SWDK CONST
07DRB-70403 MINOR - PRELIMINARY/ FINAL PLAT APPROVAL
MARK GOODWIN AND ASSOCIATES PA agent(s) for HOPE CHRISTIAN SCHOOL request(s) the above action(s) for all or a portion of Lot(s) 6, 7, 8-A, 9A-1, 10& 26, Block(s) 11, **NORTH ALBUQUERQUE ACRES Unit(s) A**, zoned SU-1 PRIVATE SCHOOL, located on PALOMAS NE BETWEEN SAN PEDRO AND LOUISIANA containing approximately 6.75 acre(s). (D-18) **DEFERRED TO 1/2/08 AT THE AGENT'S REQUEST.**

2. ~~**Project#-1006953**~~
07DRB-70406 VACATION OF PUBLIC EASEMENT
LOGAN HALL request(s) the above action(s) for all or a portion of Lot(s) 1-A, Block(s) 4, **TERRACE ADDITION**, zoned SU-2/NCR, located on LEAD AVE SE BETWEEN LOCUST AVE SE AND ELM ST SE containing approximately 0.4539 acre(s). (K-15) **DEFERRED TO 1/23/08 AT THE AGENT'S REQUEST.**

3. **Project# 1004073**
07DRB-70399 MAJOR - 2YR SUBD IMP AGMT EXT (2YR SIA)
MARK GOODWIN AND ASSOCIATES PA agent(s) for JTH, LLC request(s) the above action(s) for all or a portion of Lot(s) 1-5, **JUAN TABO HILLS Unit(s) 1**, zoned R-D, located on JUAN TABO BLVD NE BETWEEN EUBANK BLVD NE AND FOUR HILLS ROAD SE containing approximately 244.4124 acre(s). (M-21, M-22) **THE TWO YEAR EXTENSION OF THE SUBDIVISION IMPROVEMENT AGREEMENT (SIA) WAS APPROVED.**

4. **Project# 1001449**
07DRB-70379 VACATION OF PUBLIC
RIGHT-OF-WAY
07DRB-70380 MINOR - PRELIMINARY/
FINAL PLAT APPROVAL

ABQ ENGINEERING agent(s) for CV LAND DEVELOPMENT request(s) the above action(s) for all or a portion of Lot(s) 9, Block(s) A, **KIRTLAND ADDITION Unit(s) 2**, located on GIBSON SE BETWEEN UNIVERSITY SE AND YALE SE containing approximately 3.254 acre(s). (M-15) [*Deferred from 12/5/07*] **THE VACATION WAS APPROVED AS SHOWN ON EXHIBIT B IN THE PLANNING FILE PER SECTION 14-14-7-2(A) (1) AND (B) (1)(3) OF THE SUBDIVISION ORDINANCE. THE PRELIMINARY PLAT WAS APPROVED WITH FINAL SIGN OFF DELEGATED TO PLANNING FOR REVISION OF ADJOINER FOR ALLEY AND ACCESS EASEMENTS, AND FOR REMOVAL OF EASMENT NOTE PER TRANSPORTATION, AND TO RECORD.**

**SITE DEVELOPMENT PLANS (EPC FINAL SIGN-OFF) AMENDED PLANS AND
MASTER DEVELOPMENT PLANS (CITY COUNCIL FINAL SIGN-OFF)**

5. **Project# 1003479**
07DRB-70438 EPC APPROVED SDP
FOR BUILD PERMIT

DAC ENTERPRISES INC agent(s) for EDDIE & CHRISTINE LOPEZ request(s) the above action(s) for all or a portion of Lot E, **ST ANTHONY ORPHANAGE ADDITION**, zoned SU-1 FOR C-1 Residential, located on 12TH ST NW BETWEEN INDIAN SCHOOL RD NW AND I-40 containing approximately 1.4 acre(s). [REF: 06EPC-00955] (H-13) [*Catalina Lehner- EPC Planner*] **DEFERRED TO 1/2/08 AT THE AGENT'S REQUEST.**

6. **Project# 1004875**
07DRB-70382 EPC/ SDP FOR
BUILDING PERMIT
07DRB-70383 MINOR - PRELIMINARY/
FINAL PLAT APPROVAL

ALBUQUERQUE MONTHLY MEETING OF THE RELIGIOUS SOCIETY OF FRIENDS request(s) the above action(s) for all or a portion of Lot(s) 19-25, Block(s) 2, **IVES ADDITION** zoned SU2 FOR S-R, located on 5TH ST NW BETWEEN BELLAMAH NW AND ASPEN AVE NW containing approximately 0.57 acre(s). [REF: 06EPC00627/00628] (J-14) [*Catalina Lehner - EPC Planner*] [*Deferred from 11/21/0 & 12/5/07*] **THE SITE PLAN FOR BUILDING PERMIT WAS APPROVED WITH FINAL SIGN OFF DELEGATED TO TRANSPORTATION FOR 6 FT SIDEWALK FOR RAMP DETAIL, BUILD NOTE FOR ALLEY, REFERENCE TO CITY STANDARD 24-15, ALLEY IMPROVEMENTS, CURB AND GUTTER TO REPLACE 3 EXISTING DRIVE PADS AND TO CITY ENGINEER FOR THE SIA AND FOR 3 COPIES. WITH THE SIGNING OF THE INFRASTRUCTURE LIST DATED 12/19/07, THE PRELIMINARY PLAT WAS APPROVED WITH FINAL SIGN OFF DELEGATED TO PLANNING TO RECORD.**

7. **Project# 1000965**
07DRB-70421 AMENDED SDP FOR
SUBDIVISION

CONSENSUS PLANNING agent(s) for ANDALUCIA DEVELOPMENT CORPORATION request(s) the above action(s) for all or a portion of Lot(s) 1-164, 1-54 & 1-60, Tract(s) A, B-2 & 6A, **LANDS OF RAY A GRAHAM III, OVEN CORP & COA; ANDALUCIA AT LA LUZ**, zoned SU-1 FOR PRD & MPOS, located on COORS BLVD NW BETWEEN MONTANO RD NW AND NAMASTE RD NW containing approximately 158 acre(s). (F-11/12 & E-12) *[Deferred from 12/12/07]*. **THE SITE PLAN FOR SUBDIVISION WAS APPROVED WITH FINAL SIGN OFF DELEGATED TO PLANNING FOR 3 COPIES.**

MINOR PLATS, FINAL (MAJOR) PLATS, AMENDED PLATS AND PLANS

8. **Project# 1000572**
07DRB-70440 MINOR - TEMP DEFR
SWDK CONST

ISAACSON AND ARFMAN PA agent(s) for CENTEX HOMES request(s) the above action(s) for all or a portion of **THE PRESIDIO Unit(s) 1 & 2**, zoned SU-1 FOR PRD, located on CHICO RD NE BETWEEN EUBANK BLVD NE AND MORRIS ST NE containing approximately 28.0088 acre(s). (K-21) **THE TEMPORARY DEFERRAL OF CONSTRUCTION OF SIDEWALKS ON THE INTERIOR STREETS WAS APPROVED AS SHOWN ON EXHIBIT C IN THE PLANNING FILE.**

9. **Project# 1001164**
07DRB-70434 MINOR - PRELIMINARY/
FINAL PLAT APPROVAL

BOHANNAN HUSTON INC agent(s) for HUNT UPTOWN III, LLC request(s) the above action(s) for all or a portion of Tract(s) B-1-A, **ST. PIUS X SUBDIVISION**, zoned SU-3, located on UPTOWN LOOP RD AND INDIAN SCHOOL ROAD containing approximately 1.8509 acre(s). (H-19) **DEFERRED TO 1/9/08 AT THE AGENT'S REQUEST.**

10. **Project# 1003125**
07DRB-70192 MINOR – AMENDED
PRELIMINARY/FINAL PLAT
APPROVAL
- MOLZEN-CORBIN & ASSOCIATES agent(s) for CITY OF ALBUQUERQUE/AVIATION & ECLIPSE AVIATION INC request(s) the above action(s) for all or a portion of Tract(s) D-1 & S-1, **LANDS OF DOUBLE EAGLE II AIRPORT AEROSPACE TECHNOLOGY PARK**, zoned SU-1/ AIRPORT AND RELATED USES, located on DOUBLE EAGLE II AIRPORT NW BETWEEN PASEO DEL VOLCAN NW AND SHOOTING RANGE PARK RD NW containing approximately 251 acre(s). (F-G/6). **THE AMENDED PRELIMINARY/FINAL PLAT WAS APPROVED WITH FINAL SIGN OFF DELEGATED TO ABCWUA FOR SATISFACTORY RECTIFICATION OF S1-A WATERLINE ISSUE AND CORRECTION OF EASEMENT LANGUAGE FOR D1-A1, AND TO PLANNING FOR SOLAR COLLECTORS LANGUAGE ON PLAT, AGIS DXF AND TO RECORD. A CONDITION OF FINAL PLAT WILL BE THAT THE DISCLAIMER LANGUAGE PER CITY ATTORNEY BE PLACED ON THE FINAL PLAT.**
11. **Project# 1003798**
07DRB-70424 EXT OF MAJOR
PRELIMINARY PLAT
- GREATER ALBUQUERQUE HOUSING PARTNERSHIP agent(s) for GREATER ALBUQUERQUE HOUSING PARTNERSHIP request(s) the above action(s) for all or a portion of Lot(s) 7-12, Block(s) 27, **EMIL MANN ADDITION** zoned RT, located on PENNSYLVANIA SE BETWEEN SOUTHERN SE AND TRUMBULL SE containing approximately 1.1 acre(s). (L-19) **A ONE-YEAR EXTENSION OF THE PRELIMINARY PLAT WAS APPROVED.**
12. **Project# 1004428**
07DRB-70435 EXT OF MAJOR
PRELIMINARY PLAT
- MARK GOODWIN AND ASSOCIATES PA agent(s) for ALBUQUERQUE RIO BRAVO PARTNERS LLC request(s) the above action(s) for all or a portion of Tract(s) RR-3B & RR-3D, **CEJA VISTA/ TOWN IF ATRISCO GRANT**, zoned SU-1/C-1, RLT, located on DENNIS CHAVEZ BLVD SW BETWEEN MEADE AVE SW AND 118TH ST SW containing approximately 98.907 acre(s). (P-9) **A ONE-YEAR EXTENSION OF THE PRELIMINARY PLAT WAS APPROVED.**
13. **Project# 1005130**
07DRB-70437 EXT OF MAJOR
PRELIMINARY PLAT
- SLAGLE HERR ARCHITECTS agent(s) for NEW COVENANT CHURCH OF ALBUQUERQUE request(s) the above action(s) for all or a portion of Lot(s) 7A & 25, Block(s) 10, Tract(s) 2, **NORTH ALBUQUERQUE ACRES Unit(s) 3**, zoned SU-2 MIXED USE, located on HOLLY AND PASEO DEL NORTE NE BETWEEN WYOMING NE AND LOUISIANA NE containing approximately 2.7306 acre(s). (C-19) **A ONE-YEAR EXTENSION OF THE PRELIMINARY PLAT WAS APPROVED.**

14. **Project# 1005081**
07DRB-70441 MINOR - PRELIMINARY/
FINAL PLAT APPROVAL

BOHANNAN HUSTON INC agent(s) for ANDALUCIA DEVELOPMENT CO. INC. request(s) the above action(s) for all or a portion of Tract(s) B & F, ANDALUCIA AT LA LUZ, and Tract A-1, ANDALUCIA AT LA LUZ UNIT 3, zoned SU-1/PRD 5 DU/A, located on COORS BLVD NW BETWEEN NAMASTE RD NW AND SEVILLA AVENUE NW containing approximately 18.3517 acre(s). (F-11) **THE PRELIMINARY/FINAL PLAT WAS APPROVED WITH FINAL SIGN OFF DELEGATED TO PLANNING FOR AMAFCA SIGNATURE AND TO TRANSPORTATION FOR RIGHT OF WAY INDICATION, CURVE C1 MUST BE 30 FT AND INDICATION OF NARROWEST PORTION OF RIGHT OF WAY ON COORS AND SEVILLA.**

NO ACTION IS TAKEN ON THESE CASES:
APPLICANT - AGENT IS REQUIRED TO BE AT THE MEETING

15. **Project# 1005108**
07DRB-70436 SKETCH PLAT REVIEW
AND COMMENT

RALPH CORRIZ agent(s) for THE DESIGN GROUP request(s) the above action(s) for all or a portion of Tract(s) 67-A-1 & 67-A - 2, zoned C-1 & R-1, located on 4TH ST NW BETWEEN VINEYARD NW AND WILLOW NW containing approximately 2.4 acre(s). (E-15) **THE ABOVE ITEM WAS REVIEWED AND COMMENTS WERE GIVEN.**

16. **Project# 1006965**
07DRB-70418 SKETCH PLAT REVIEW
AND COMMENT

CECILIA PULSIFER agent(s) for CECILIA PULSIFER request(s) the above action(s) for all or a portion of Lot(s) 3a, Block(s) 3, **WELLS SANDIA MANOR**, zoned R-1, located on WINDSOR NE AND ARCADIA NE containing approximately .4067 acre(s). (L-23) **THE ABOVE ITEM WAS REVIEWED AND COMMENTS WERE GIVEN.**

17. Approval of the Development Review Board Minutes for October 24, 2007, November 7, 2007 and November 14, 2007.

Other Matters:

ADJOURNED: 11:25



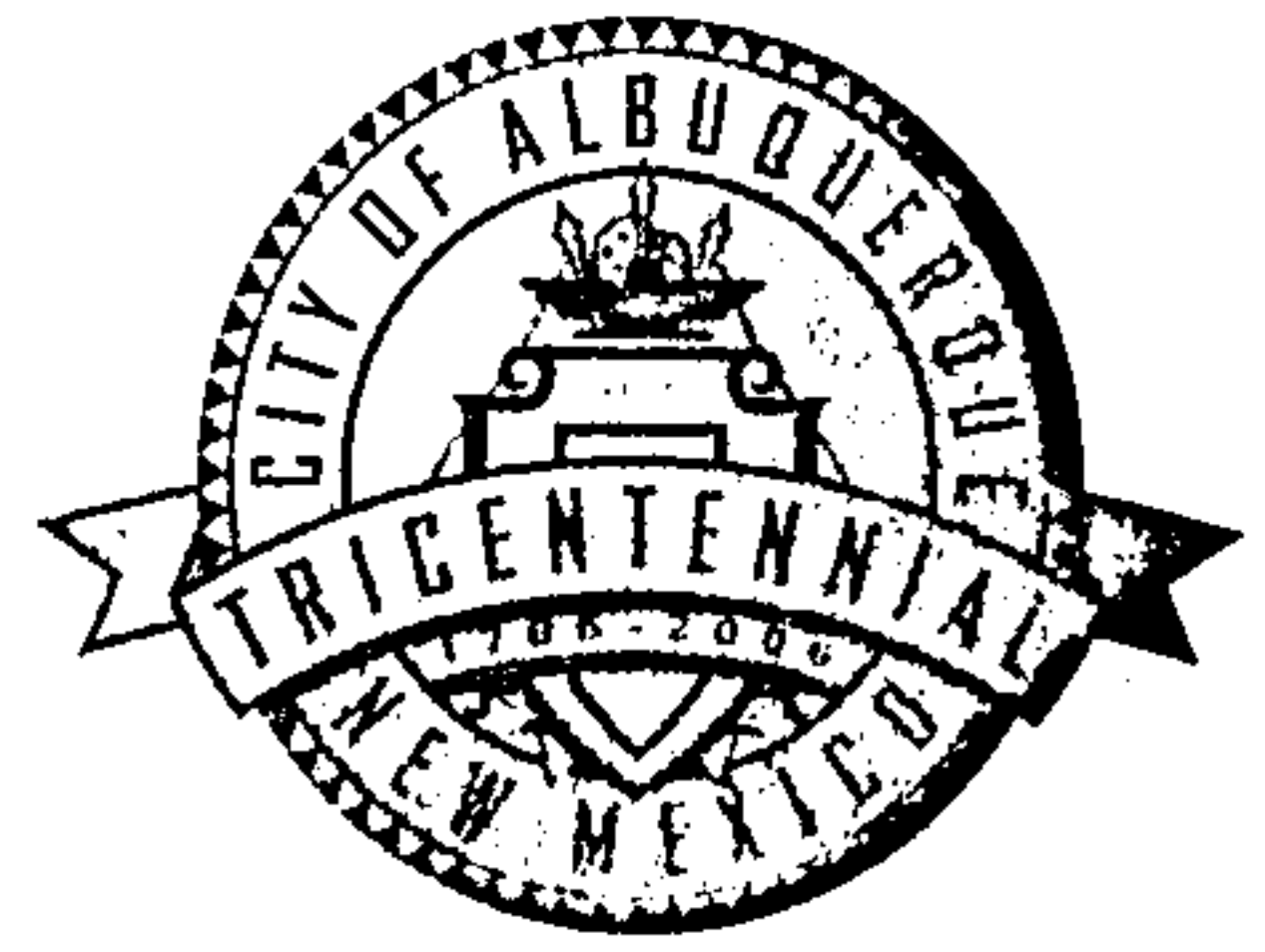
Item#: 2
Project#: 1006953
Hearing Date: Dec. 19, 2007

DRB PUBLIC HEARING SIGN IN SHEETS

PROJECT #: 1006953 AGENDA# 2 DATE: 12/19/07

1. Name: Kellikeegan Address: 1011 Kent Av NN Zip: 87102
2. Name: _____ Address: _____ Zip: _____
3. Name: _____ Address: _____ Zip: _____
4. Name: _____ Address: _____ Zip: _____
5. Name: _____ Address: _____ Zip: _____
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15. Name: _____ Address: _____ Zip: _____
16. Name: _____ Address: _____ Zip: _____
17. Name: _____ Address: _____ Zip: _____

CITY OF ALBUQUERQUE



**CITY OF ALBUQUERQUE
PLANNING DEPARTMENT
HYDROLOGY DEVELOPMENT SECTION**

DEVELOPMENT REVIEW BOARD--SPEED MEMO

DRB CASE NO/PROJECT NO: 100 ²⁶³⁷

AGENDA ITEM NO: 7

SUBJECT:

Vacation

ACTION REQUESTED:

REV/CMT:() APP:(x) SIGN-OFF:() EXTN:() AMEND:()

P.O. Box 1293

ENGINEERING COMMENTS:

The Hydrology Section has no objection to the vacation request.

Albuquerque

New Mexico 87103

RESOLUTION:

APPROVED ; DENIED ; DEFERRED ; COMMENTS PROVIDED ; WITHDRAWN

www.cabq.gov

SIGNED-OFF: (SEC-PLN) (SP-SUB) (SP-BP) (FP) BY: (UD) (CE) (TRANS) (PKS) (PLNG)

DELEGATED: (SEC-PLN) (SP-SUB) (SP-BP) (FP) TO: (UD) (CE) (TRANS) (PKS) (PLNG)

FOR:

SIGNED: Bradley L. Bingham
City Engineer/AMAFCA Designee
924-3986

DATE: February 13, 2008

CITY OF ALBUQUERQUE



CITY OF ALBUQUERQUE PLANNING DEPARTMENT HYDROLOGY DEVELOPMENT SECTION

DEVELOPMENT REVIEW BOARD--SPEED MEMO

DRB CASE NO/PROJECT NO: 1002637

AGENDA ITEM NO: 4

SUBJECT:

Vacation

ACTION REQUESTED:

REV/CMT:0 APP:(x) SIGN-OFF:0 EXTN:0 AMEND:0

P.O. Box 1293

ENGINEERING COMMENTS:

The Hydrology Section has no objection to the vacation request.

Albuquerque

New Mexico 87103

RESOLUTION:

APPROVED ____; DENIED ____; DEFERRED ____; COMMENTS PROVIDED ____; WITHDRAWN

www.cabq.gov

SIGNED-OFF: (SEC-PLN) (SP-SUB) (SP-BP) (FP) BY: (UD) (CE) (TRANS) (PKS) (PLNG)

DELEGATED: (SEC-PLN) (SP-SUB) (SP-BP) (FP) TO: (UD) (CE) (TRANS) (PKS) (PLNG)

FOR:

SIGNED: Bradley L. Bingham
City Engineer/AMAFCA Designee
924-3986

DATE: February 6, 2008



**CITY OF ALBUQUERQUE
PLANNING DEPARTMENT
HYDROLOGY DEVELOPMENT SECTION**

DEVELOPMENT REVIEW BOARD--SPEED MEMO

DRB CASE NO/PROJECT NO: 1002637

AGENDA ITEM NO: 1

SUBJECT:

Vacation

ACTION REQUESTED:

REV/CMT:0 APP:(x) SIGN-OFF:0 EXTN:0 AMEND:0

P.O. Box 1293

ENGINEERING COMMENTS:

The Hydrology Section has no objection to the vacation request.

Albuquerque

New Mexico 87103

RESOLUTION:

APPROVED ____; DENIED ____; DEFERRED ²⁻⁶⁻⁸ ; COMMENTS PROVIDED ____; WITHDRAWN

www.cabq.gov

SIGNED-OFF: (SEC-PLN) (SP-SUB) (SP-BP) (FP) BY: (UD) (CE) (TRANS) (PKS) (PLNG)

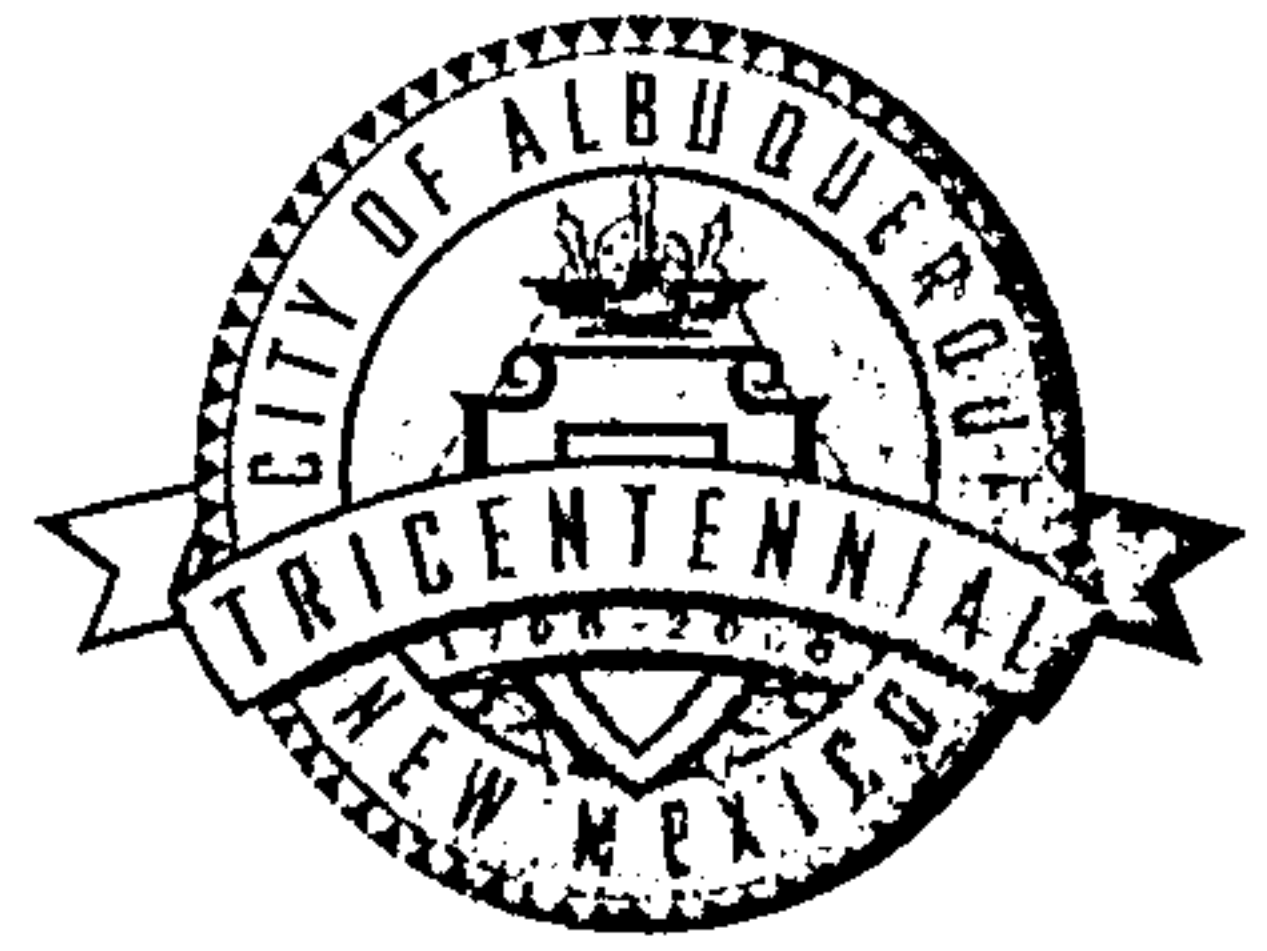
DELEGATED: (SEC-PLN) (SP-SUB) (SP-BP) (FP) TO: (UD) (CE) (TRANS) (PKS) (PLNG)

FOR:

SIGNED: Bradley L. Bingham
City Engineer/AMAFCA Designee
924-3986

DATE: January 23, 2008

CITY OF ALBUQUERQUE



CITY OF ALBUQUERQUE PLANNING DEPARTMENT HYDROLOGY DEVELOPMENT SECTION

DEVELOPMENT REVIEW BOARD--SPEED MEMO

DRB CASE NO/PROJECT NO: 1002637

AGENDA ITEM NO: 2

SUBJECT:

Vacation

ACTION REQUESTED:

REV/CMT:0 APP:(x) SIGN-OFF:0 EXTN:0 AMEND:0

P.O. Box 1293

ENGINEERING COMMENTS:

The Hydrology Section has no objection to the subject request.

Albuquerque

New Mexico 87103

RESOLUTION:

APPROVED ____; DENIED ____; DEFERRED ¹⁻²³⁻⁰⁸ X; COMMENTS PROVIDED ____; WITHDRAWN

www.cabq.gov

SIGNED-OFF: (SEC-PLN) (SP-SUB) (SP-BP) (FP) BY: (UD) (CE) (TRANS) (PKS) (PLNG)

DELEGATED: (SEC-PLN) (SP-SUB) (SP-BP) (FP) TO: (UD) (CE) (TRANS) (PKS) (PLNG)

FOR:

SIGNED: Bradley L. Bingham
City Engineer/AMAFCA Designee
924-3986

DATE: December 19, 2007



CITY OF ALBUQUERQUE
PLANNING DEPARTMENT
DEVELOPMENT REVIEW BOARD

December 19, 2007

Project# 1006953
07DRB-70406 VACATION OF PUBLIC EASEMENT

LOGAN HALL request(s) the above action(s) for all or a portion of Lot(s) 1-A, Block(s) 4, **TERRACE ADDITION**, zoned SU-2/NCR, located on LEAD AVE SE BETWEEN LOCUST AVE SE AND ELM ST SE containing approximately 0.4539 acre(s). (K-15)

AMAFCA

No adverse comments.

COG

MPO staff have no comment on this development proposal. For information, Lead Av has a functional classification of urban principal arterial

Transit

No comments received.

Zoning Enforcement

No adverse comments.

Neighborhood Coordination

Letter(s) sent to:

**Silver Hill NA (R),
Spruce Park NA (R),
Sycamore NA (R),
Huning Highland Historic District Assoc. (R),
South Broadway NA (R)**

APS

Terrace Addition, Lot 1-A, Block 4, is located on Lead Ave SE between Locust Ave SE and Elm St SE. The owner of the above property requests a Vacation of Public Easement for a gas station, grocery mart, and potential fast-food eatery. This will have no adverse impacts to the APS district.

Police Department

No crime prevention or CPTED comments at this time.

Fire Department

No adverse comments.

PNM Electric & Gas

No adverse comments.

Comcast

No comments received.

QWEST

No comments received.

Environmental Health

No comments received.

M.R.G.C.D.

No adverse comments.

Open Space Division

Open Space has no adverse comments.

City Engineer

The Hydrology section has no objection to the vacation request.

Transportation Development

The alley cannot be vacated in part; provide additional information regarding the previous vacations stated in your letter

Parks & Recreation

Defer to Transportation.

ABCWUA

Sketch Plat was heard under Project #2637.
No objection to Vacation request.

Planning Department

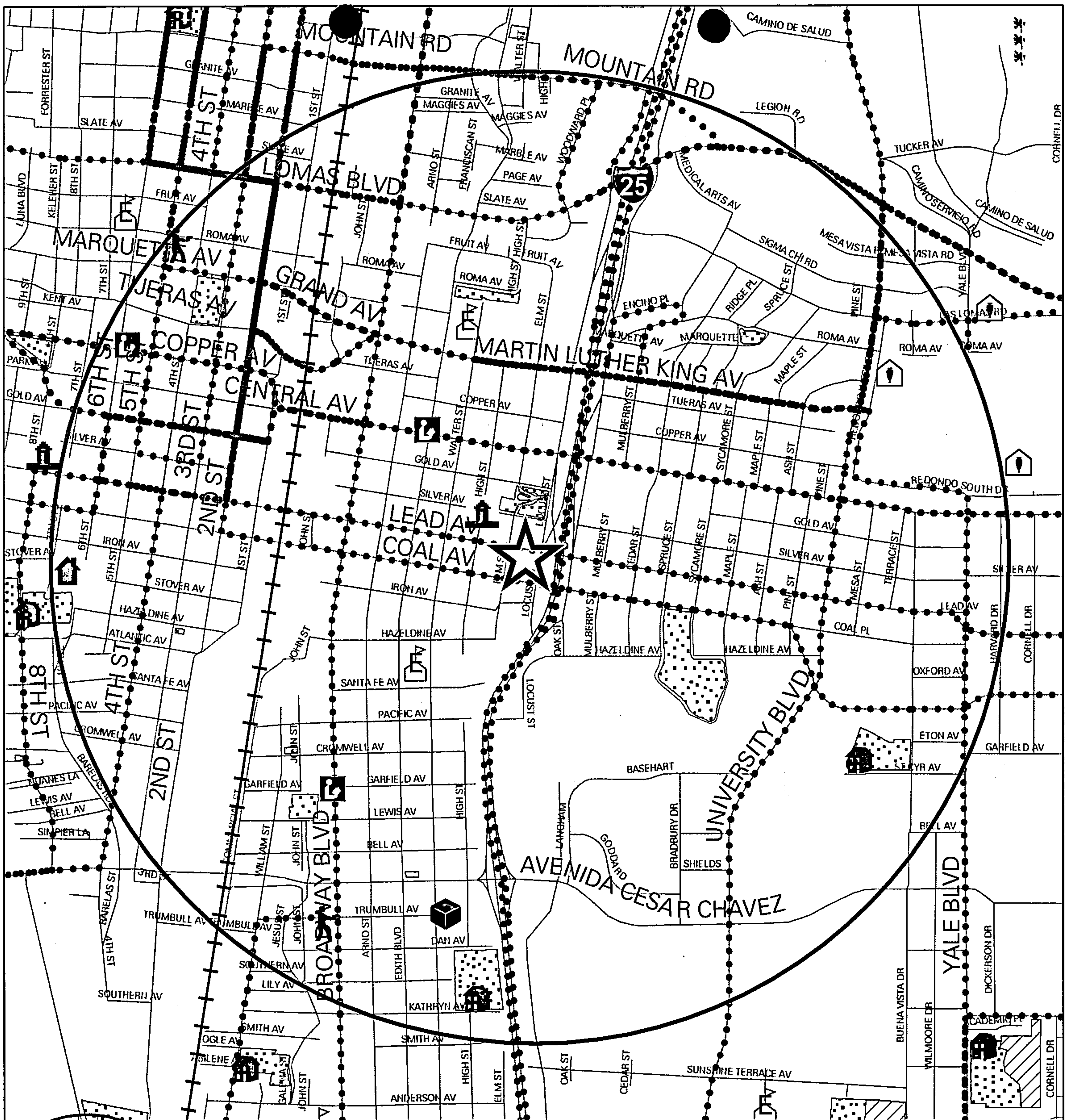
Specific, written comments/ approval from the Solid Waste Department is needed based on the existing refuse facilities.

Impact Fee Administrator



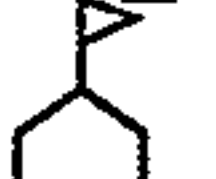












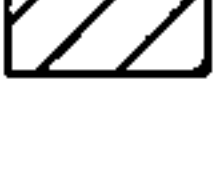


No comment on proposed vacation of the 16 foot alley way. However, impact fees will be assessed at the time a permit is issued for a new building on the new lot according to the total square foot and use of the building. These fees are available on the city's website- www.cabq.gov. Go to the "A-Z" feature and under the "I" impact fees will be the first item in this list. The areas for which these will be assessed are the eastside for Public Safety.

IT IS REQUIRED THAT THE APPLICANT AND/OR AGENT BE PRESENT AT THE HEARING

Cc: Logan Hall – 2107 Corte Del Caballo NW – Albuquerque, NM 87120
Scott Howell
Marilyn Maldonado
File

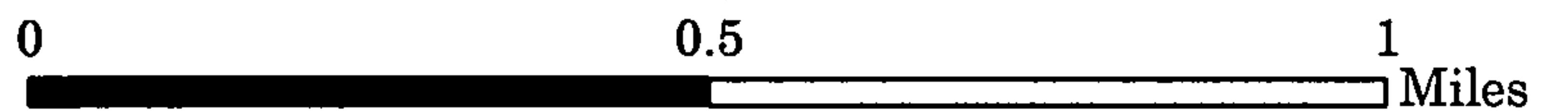


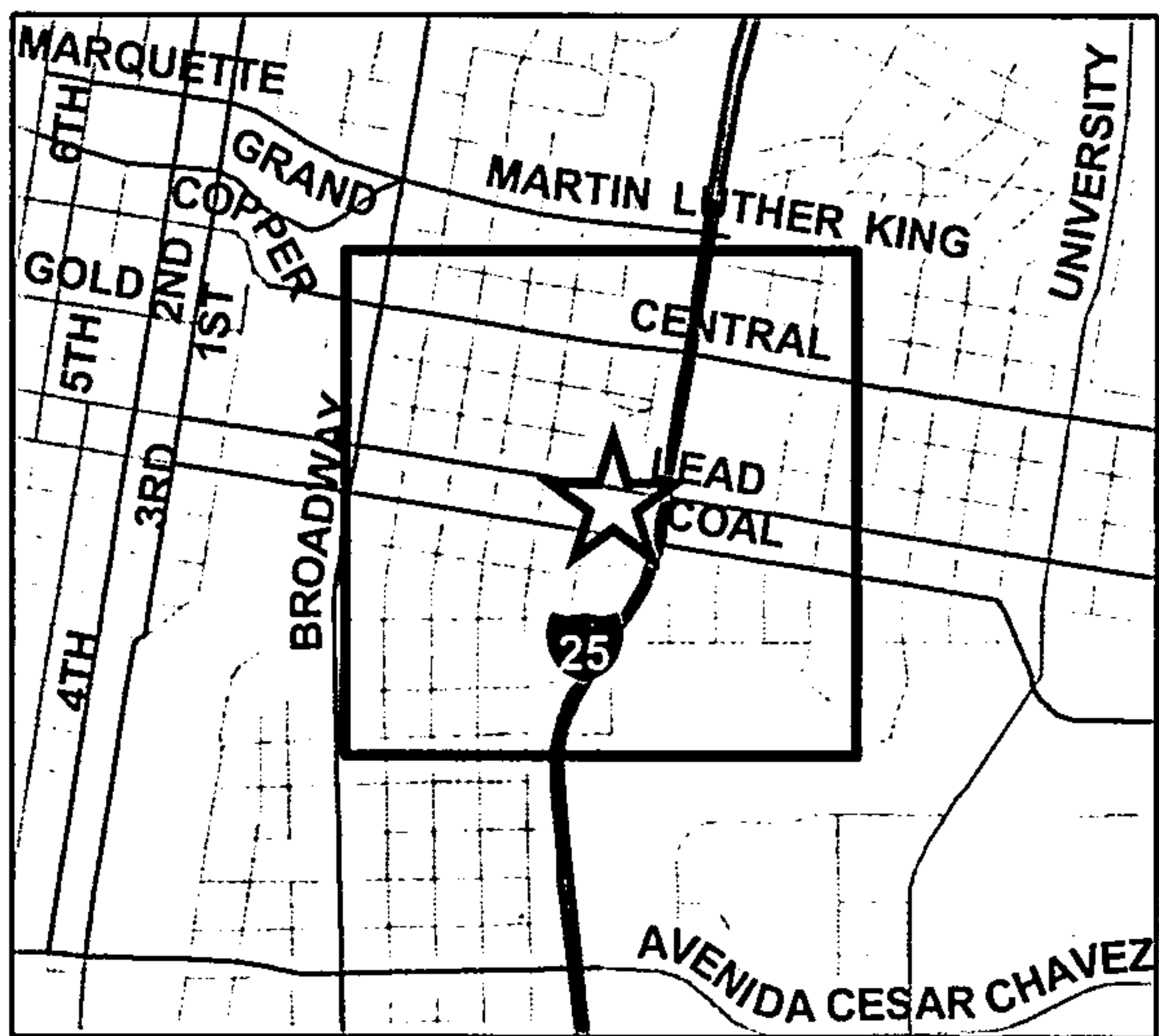
Public Facilities Map with One-Mile Site Buffer

- | | | | | | | | |
|--|----------------------|---|-------------|---|-----------------------------|---|-------------------------|
|  | COMMUNITY CENTER |  | FIRE |  | APS Schools |  | Developed County Park |
|  | MULTI-SERVICE CENTER |  | POLICE |  | ABQ Ride Routes |  | Undeveloped County Park |
|  | SENIOR CENTER |  | SHERIFF |  | AGIS Jurisdiction |  | Developed City Park |
|  | LIBRARY |  | SOLID WASTE |  | Landfill Buffer (1000 feet) |  | Undeveloped City Park |
|  | MUSEUM | | |  | Landfills designated by EHD | | |



Project Number: 1006953





ZONING MAP

Note: Grey shading indicates County.



1 inch equals 500 feet

Project Number:
1006953

Hearing Date:
December 19, 2007

Zone Map Page:
D-18

Additional Case Numbers:
07DRB-70406



**PUBLIC HEARING--DEVELOPMENT REVIEW BOARD
CITY OF ALBUQUERQUE**

Notice is hereby given that the Development Review Board, City of Albuquerque, will hold a public hearing in the Plaza del Sol Hearing Room, Basement, Plaza del Sol Building, 600 2nd St NW, on Wednesday, December 19, 2007, beginning at 9:00 a.m. for the purpose of considering the following:

Project# 1000539

07DRB-70400 VACATION OF PUBLIC
EASEMENT
07DRB-70401 VACATION OF PRIVATE
EASEMENT
07DRB-70402 MINOR - TEMP DEFR SWDK
CONST
07DRB-70403 MINOR - PRELIMINARY/
FINAL PLAT APPROVAL

MARK GOODWIN AND ASSOCIATES PA agent(s) for HOPE CHRISTIAN SCHOOL request(s) the above action(s) for all or a portion of Lot(s) 6, 7, 8-A ,9A-1, 10& 26, Block(s) 11, **NORTH ALBUQUERQUE ACRES Unit(s) A**, zoned SU-1 PRIVATE SCHOOL, located on PALOMAS NE BETWEEN SAN PEDRO AND LOUISIANA containing approximately 6.75 acre(s). (D-18)

Project# 1004073

07DRB-70399 MAJOR - 2YR SUBD IMP
AGMT EXT (2YR SIA)

MARK GOODWIN AND ASSOCIATES PA agent(s) for JTH, LLC request(s) the above action(s) for all or a portion of Lot(s) 1-5, **JUAN TABO HILLS Unit(s) 1**, zoned R-D, located on JUAN TABO BLVD NE BETWEEN EUBANK BLVD NE AND FOUR HILLS ROAD SE containing approximately 244.4124 acre(s). (M-21, M-22)

~~**Project# 1006953**~~

07DRB-70406 VACATION OF PUBLIC
EASEMENT

LOGAN HALL request(s) the above action(s) for all or a portion of Lot(s) 1-A, Block(s) 4, **TERRACE ADDITION**, zoned SU-2/NCR, located on LEAD AVE SE BETWEEN LOCUST AVE SE AND ELM ST SE containing approximately 0.4539 acre(s). (K-15)

Details of the application(s) may be examined at the Development Services Center of the Planning Department, Second Floor, Plaza Del Sol Building, 600 2nd St NW, between 10:00 a.m. and 12:00 p.m. or 2:00 p.m. and 4:00 p.m. Monday through Friday except holidays INDIVIDUALS WITH DISABILITIES who need special assistance to participate at this hearing should contact Angela Gomez, Planning Department, at 924-3946 (VOICE) or teletypewriter (TTY) 924-3361 – TTY users may also access the Voice number via the New Mexico Relay Network by calling toll-free 1-800-659-8331.


Development Review Board

TO BE PUBLISHED IN THE ALBUQUERQUE JOURNAL MONDAY, DECEMBER 3, 2007.

R e c	UPC CODE	OWNER	OWNER ADDRESS	OWN ER CITY	O W N E R S T A T E	O W N E R Z I P C O D E	P R O P E R T Y C L A S S	T A X D I S T R I C T	LEGAL
1	1015057 0272093 1110	SANTISTEVAN LEO & ANGEL & ERNES T & GLORIA	808 COAL AVE SE	ALBU QUER QUE	N M	871 02	R	A1 A	005TERRACE ADDN PORT L4, 5 & 6
2	1015057 0102532 0103	HELLENIC COMMU NITY OF N M	308 HIGH ST SE	ALBU QUER QUE	N M	871 02 3 631	V	A1 A	041HUNING HIGHLAND ADD E 106 1/2 FT LT 5 X 6
3	1015057 0412592 0206	GRADY RENTALS L LC	PO BOX 30 801	ALBU QUER QUE	N M	871 90 0 801	C	A1 A	LOT 12 A BLK 3 PLAT OF LOT 12- A TERRACE ADDN CONT 25,365 SQ FT M/L
4	1015057 0032293 2306	BUNGAY PROPERT IES LLC	116 CAMI NO ENCAN TADO	SANT A FE	N M	875 01	C	A1 A	040LOTS 1 THRU 6 X E1/2 OF VAC ALLEY ADJ HUNINGS HIGHLAND AD D
5	1015057 0162033 1111	SIMPSON DIANE L	628 FAIR WAY LP	RIO R ANCH O	N M	871 24	C	A1 A	* 006 005TERRACE ADDN N1*2 OF L6
6	1015057 0392023 1105	SRD PARTNER LIM ITED CO	320 CENT RAL SW S UITE 36	ALBU QUER QUE	N M	871 02	C	A1 A	LOT 1, 2, 3, 12 & E 28' OF LT 11 BLK 5 TERRAC E ADDN & VAC AL LEY ADJ EXC PORTS TO R/ W CONT 18,064 SQ FT M/L
7	1015057 0032033 3906	BUNGAY PROPERT IES LLC	116 CAMI NO ENCAN TADO	SANT A FE	N M	875 01	V	A1 A	039E 100 FT OF LOTS 1 X 2 H HIGHLANDS AD D
8	1015057 0262542 0201	SCHUTZBERGER R ICHARD & KATHY L	2908 CALL E GRANDE NE	ALBU QUER QUE	N M	871 04	C	A1 A	003TERRACE ADD LTS 7 X 8 X W 20FT LT 9
9	1015057 0362313 1203	GALLINGER EDWA RD L & SHARON E	PO BOX 57 5	TIJER AS	N M	870 59	V	A1 A	LT 1-A BLK 4 PLAT OF LOT 1- A BLOCK 4 TERRACE ADDITION CONT .4317 AC
10	1015057 0262013 1109	SANTISTEVAN LEO & ANGEL & ERNES T & GLORIA	808 COAL AVE SE	ALBU QUER QUE	N M	871 02	V	A1 A	* 004 005TERRACE ADDN N62 FT E34 FT L4
11	1015057 0402173 1202	RIO GRANDE OIL C O OF BERN CO	PO BOX 25 564	ALBU QUER QUE	N M	871 25 0 564	C	A1 A	004TERRACE ADDITION LOTS 11 X 12
12	1015057 0161983 1112	MORRIS HARY O J R	502 ELM S T SE	ALBU QUER QUE	N M	871 02 3 925	R	A1 A	005TERRACE ADDN S42 FT OF L6S42 OF W24 OF 5
13	1015057 0242223 1201	S.A.F.E. HOUSE IN C	PO BOX 25 363	ALBU QUER QUE	N M	871 25 0 363	R	A1 A	0004LOTS 4 THRU 10 & W10FT OF LOT 3 TER RACE ADDN
14	1015057 0141913 1101	NATL HEATING & V ENT CO INC	818 IRON AVE SE	ALBU QUER QUE	N M	871 02 3 945	C	A1 A	* 007 005TERRACE ADDN
15	1015057 0291913 1104	813 IRON LLC	813 IRON AVE SE	ALBU QUER QUE	N M	871 02 3 944	R	A1 A	* 010 005TERRACE ADDN
16	1015057 0191913 1102	NATL HEATING & V ENT CO INC	818 IRON AVE SE	ALBU QUER QUE	N M	871 02 3 945	C	A1 A	* 008 005TERRACE ADDN
17	1015057 0251913 1103	NATL HEATING & V ENT CO INC	818 IRON AVE SE	ALBU QUER QUE	N M	871 02 3 945	C	A1 A	* 009 005TERRACE ADDN

Or Current Resident
IRON LLC
813 IRON AVE SE
ALBUQUERQUE, NM 87102 3944

Or Current Resident
BUNGAY PROPERTIES LLC
116 CAMINO ENCANTADO
SANTA FE, NM 87501

Or Current Resident
BUNGAY PROPERTIES LLC
116 CAMINO ENCANTADO
SANTA FE, NM 87501

Or Current Resident
GALLINGER EDWARD L & SHARON E
PO BOX 575
TIJERAS, NM 87059

Or Current Resident
GRADY RENTALS LLC
PO BOX 30801
ALBUQUERQUE, NM 87190 0801

Or Current Resident
HELLENIC COMMUNITY OF N M
308 HIGH ST SE
ALBUQUERQUE, NM 87102 3631

Or Current Resident
MORRIS HARY O JR
502 ELM ST SE
ALBUQUERQUE, NM 87102 3925

Or Current Resident
NATL HEATING & VENT CO INC
818 IRON AVE SE
ALBUQUERQUE, NM 87102 3945

Or Current Resident
RIO GRANDE OIL CO OF BERN CO
PO BOX 25564
ALBUQUERQUE, NM 87125 0564

Or Current Resident
S.A.F.E. HOUSE INC
PO BOX 25363
ALBUQUERQUE, NM 87125 0363

Or Current Resident
SANTISTEVAN LEO & ANGEL &
ERNEST & GLORIA
808 COAL AVE SE
ALBUQUERQUE, NM 87102

Or Current Resident
SCHUTZBERGER RICHARD & KATHY
L
2908 CALLE GRANDE NE
ALBUQUERQUE, NM 87104

Or Current Resident
SIMPSON DIANE L
628 FAIRWAY LP
RIO RANCHO, NM 87124

Or Current Resident
SRD PARTNER LIMITED CO
320 CENTRAL SW SUITE 36
ALBUQUERQUE, NM 87102

Project# 1006953
LOGAN HALL
2107 CORTE DEL CABALLO NW
ALBUQUERQUE, NM 87120

Project# 1006953
BILL COBB
Silver Hill NA
1701 SILVER AVE SE
ALBUQUERQUE, NM 87106

Project# 1006953
GORDON REISELT
Silver Hill NA
1515 SILVER SE
ALBUQUERQUE, NM 87106

Project# 1006953
DANIEL LAIRD
Spruce Park NA
603 CEDAR NE
ALBUQUERQUE, NM 87106

Project# 1006953
BART CHIMENTI
Spruce Park NA
1502 ROMA NE
ALBUQUERQUE, NM 87106



City of Albuquerque

PLEASE NOTE: The Neighborhood Association information listed in this letter is valid for one (1) month. If you haven't filed your application within one (1) month of the date of this letter - you will need to get an updated letter from our office. It is your responsibility to provide current information - outdated information may result in a deferral of your case.

Date: 19 November 2007

TO CONTACT NAME: Logan Hall
COMPANY/AGENCY: Parcel Hall Assoc., Inc.
ADDRESS/ZIP: 2107 Corte Del Caballo NW 87120
PHONE/FAX #: 507-0280 / 1-866-358-7525

Thank you for your inquiry of 19 Nov. 07 (date) requesting the names of Recognized

Neighborhood Associations who would be affected under the provisions of O-92 by your proposed project at Vacate Public Alley block 4 of the Terrance Addition to the City of ABQ located on Locust and Elm between Lead and Coal zone map page(s) K-15

Our records indicate that the Recognized Neighborhood Association(s) affected by this proposal and the contact names are as follows:

Silver Hill NA
Neighborhood Association
Contacts: Bill Cobb
1701 Silver Ave. SE 87106
247-8296 (h)
Gordon Reisel
1515 Silver SE 87106
242-3345 (h)

Spruce Park NA Inc.
Neighborhood Association
Contacts: Daniel Laird
603 Cedar NE 87106
766-7696 (h) 844-6188 (w)
Bart Chimenti
1502 Roma NE 87106
293-6734 (h)

See reverse side for additional Neighborhood Association Information: YES [X] NO { }

Please note that according to O-92 you are required to notify each of these contact persons by CERTIFIED MAIL, RETURN RECEIPT REQUESTED, BEFORE the Planning Department will accept your application filing. IMPORTANT! FAILURE OF ADEQUATE NOTIFICATION MAY RESULT IN YOUR APPLICATION HEARING BEING DEFERRED FOR 30 DAYS. If you have any questions about the information provided, please contact our office at (505) 924-3914 or by fax at 924-3913.

Sincerely,

Dalana Armora
OFFICE OF NEIGHBORHOOD COORDINATION

Attention: Both contacts per neighborhood association need to be notified.



DEVELOPER INQUIRY SHEET

(To be completed prior to application submittal)

The Office of Neighborhood Coordination (ONC) located in Room 120 (basement) of the Plaza Del Sol Building, 600 Second Street NW, Fax: (505) 924-3913 – will need the following information **BEFORE** neighborhood association information will be released to the applicant/agent on any project being presented to the Planning Department of the City of Albuquerque. If you have any questions, please feel free to contact our office at (505) 924-3914. Your Developer Inquiry is for the following:

Cell Tower & Type: [] Free-Standing Tower -OR- [] Concealed Tower

Private Development [] (i.e., EPC, DRB, LUCC, Liquor Submittal)

City Project []

CONTACT NAME: Loren Hall
COMPANY NAME: Bruce Hall & Associates Inc.
ADDRESS/ZIP: 2107 Corte Del Caballo NW, Albuquerque, NM 87106
PHONE: 505-507-0280 FAX: 1-866-358-7525

LEGAL DESCRIPTION INFORMATION

PLEASE FORWARD INFORMATION ON ANY NEIGHBORHOOD ASSOCIATION IN THE AREA OF THE PROPERTY DESCRIBED BELOW:

Vacate Public Alley on block 4 of the Terrace addition to the city of Albuquerque

LEGAL DESCRIPTION

LOCATED ON LOCUST and Elm

STREET NAME OR OTHER IDENTIFYING LANDMARK

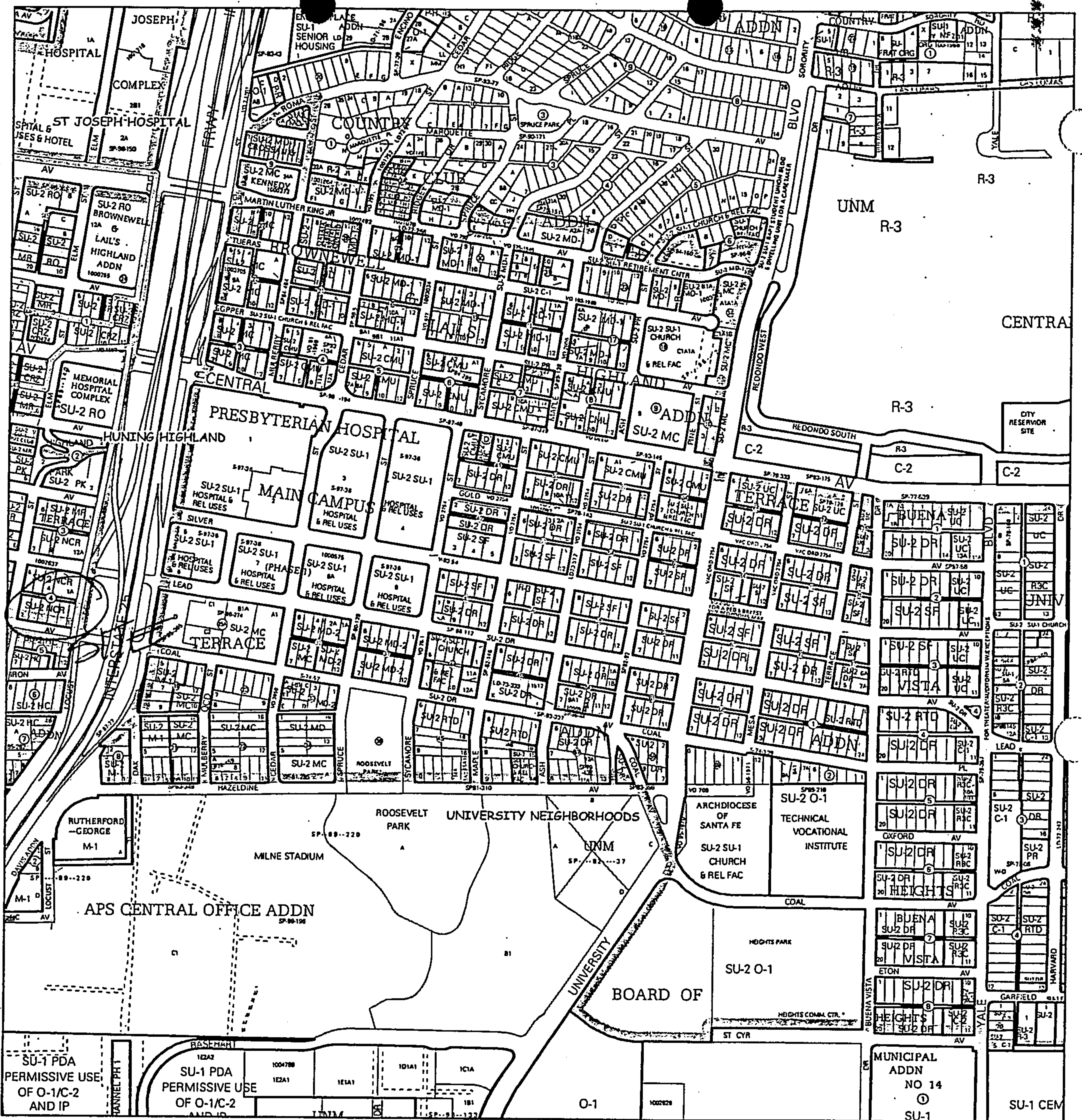
BETWEEN head ~~end~~

STREET NAME OR OTHER IDENTIFYING LANDMARK

Coal

STREET NAME OR OTHER IDENTIFYING LANDMARK

THE SITE IS INDICATED ON THE FOLLOWING ZONE ATLAS PAGE (K-15):
(PLEASE MARK/HATCH ZONE MAP WHERE PROPERTY IS LOCATED)
(Zone Map **MUST** be provided with request)



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

Map amended through: 5/17/2007

Note: Grey Shading Represents Area Outside of the City Limits

Zone Atlas Page:
K-15-Z

Selected Symbols

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

Feet
0 750 1,500

Logan Hall
Brad Hall & Associates Inc.
2107 Corte Del Caballo NW
Albuquerque, NM 87120
October 29, 2007

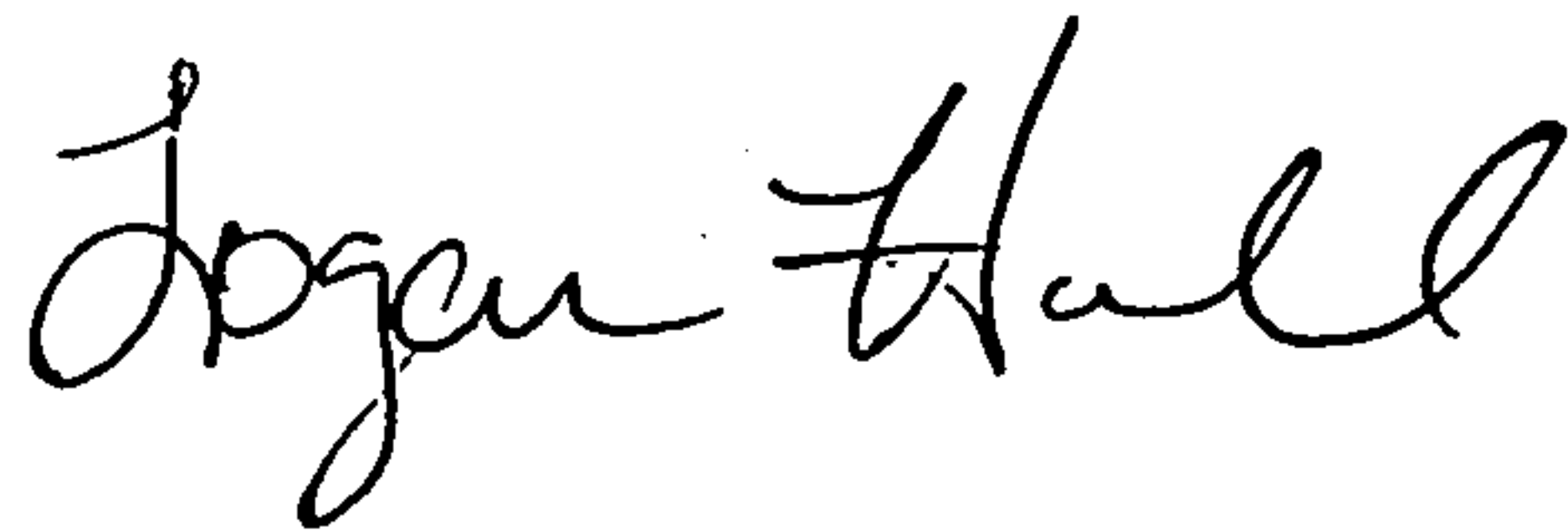
City Of Albuquerque
Development Review Board
Minor Cases
600 2nd Street NW
Albuquerque, NM

Dear: Development Review Board

This letter is a request for vacating a 16' public alley at the property located at the corner of Locust Avenue S.E. and Lead Avenue S.E.. We are currently under contract to purchase this property and are in negotiations to purchase the property next to it which currently houses a Chevron gas station owned by Rio Grande Oil. It would seem that the 16' public alley is not in use and has already been vacated in the west direction, as there are buildings that have built over the public alley way. Our request is to see the remainder of the alley vacated, allowing us to build a convenient store and gas station which will stretch across both property lots. The newly built location will offer a fully up-to-date gas station, grocery mart, and potential fast-food eatery. We are fully aware that this property is located in the historic district and welcome the opportunity to build an aesthetically pleasing location which will meet the goals of the district and enhance the current locations offerings.

If you have questions about my request or would like to speak with me, please call me at (505) 507-0280. I look forward to hearing your position on this issue. Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Logan Hall". The signature is written in black ink and is positioned below the word "Sincerely,".

Logan Hall

CITY OF ALBUQUERQUE



Planning Department

~~EPC~~
DAS

Vacant
Or Current Resident
SRD PARTNER LIMITED CO
320 CENTRAL SW SUITE 36
ALBUQUERQUE, NM 87102



VACANT



02 1M \$ 00.41⁰
0004219022 NOV 30 2007
MAILED FROM ZIP CODE 871

VAC

87102+3237



P O Box 1293 Albuquerque, New Mexico 87103



**PUBLIC HEARING--DEVELOPMENT REVIEW BOARD
CITY OF ALBUQUERQUE**

Notice is hereby given that the Development Review Board, City of Albuquerque, will hold a public hearing in the Plaza del Sol Hearing Room, Basement, Plaza del Sol Building, 600 2nd St NW, on Wednesday, December 19, 2007, beginning at 9:00 a.m. for the purpose of considering the following:

Project# 1000539

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EASEMENT
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EASEMENT
07DRB-70402 MINOR - TEMP DEFR SWDK
CONST
07DRB-70403 MINOR - PRELIMINARY/
FINAL PLAT APPROVAL

MARK GOODWIN AND ASSOCIATES PA agent(s) for HOPE CHRISTIAN SCHOOL request(s) the above action(s) for all or a portion of Lot(s) 6, 7, 8-A, 9A-1, 10 & 26, Block(s) 11, **NORTH ALBUQUERQUE ACRES Unit(s) A**, zoned SU-1 PRIVATE SCHOOL, located on PALOMAS NE BETWEEN SAN PEDRO AND LOUISIANA containing approximately 6.75 acre(s). (D-18)

Project# 1004073

07DRB-70399 MAJOR - 2YR SUBD IMP
AGMT EXT (2YR SIA)

MARK GOODWIN AND ASSOCIATES PA agent(s) for JTH, LLC request(s) the above action(s) for all or a portion of Lot(s) 1-5, **JUAN TABO HILLS Unit(s) 1**, zoned R-D, located on JUAN TABO BLVD NE BETWEEN EUBANK BLVD NE AND FOUR HILLS ROAD SE containing approximately 244.4124 acre(s). (M-21, M-22)

Project# 1006953

07DRB-70406 VACATION OF PUBLIC
EASEMENT

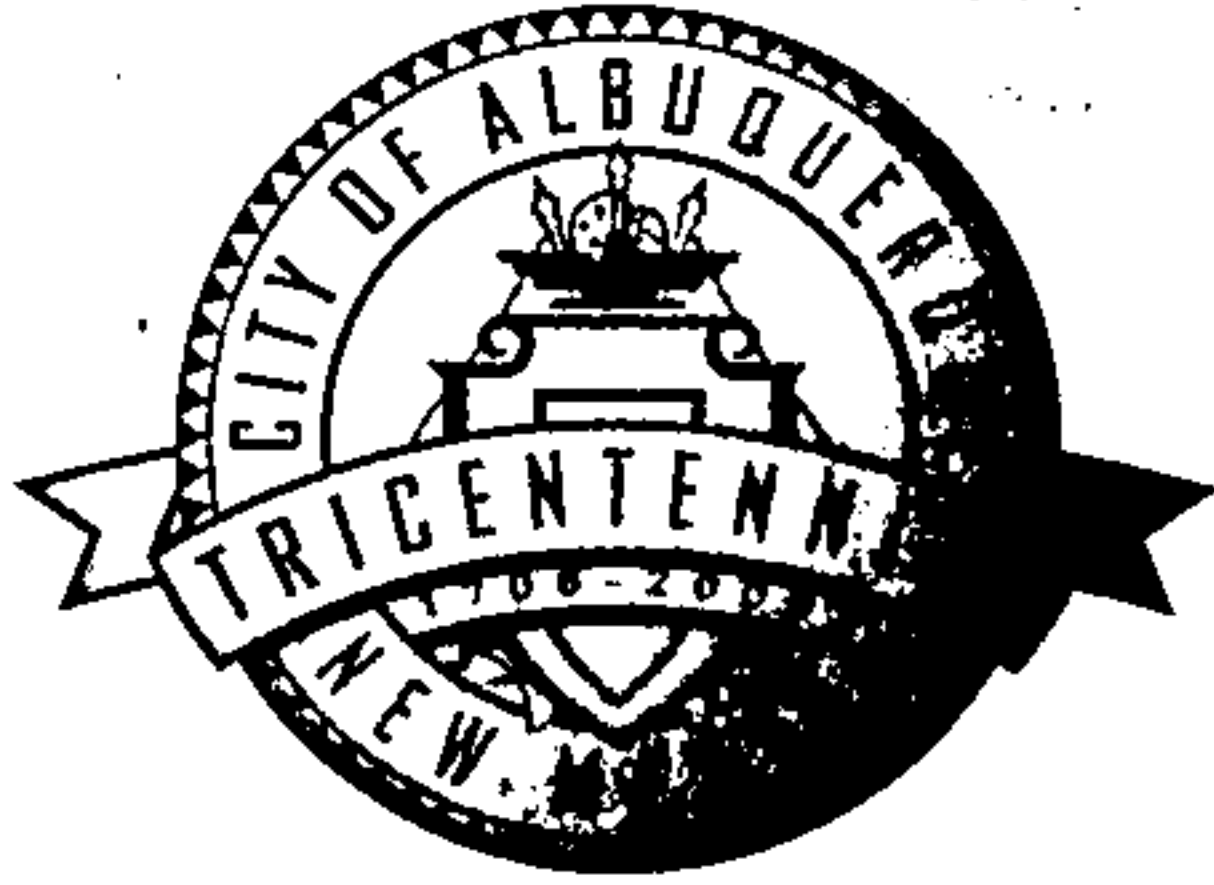
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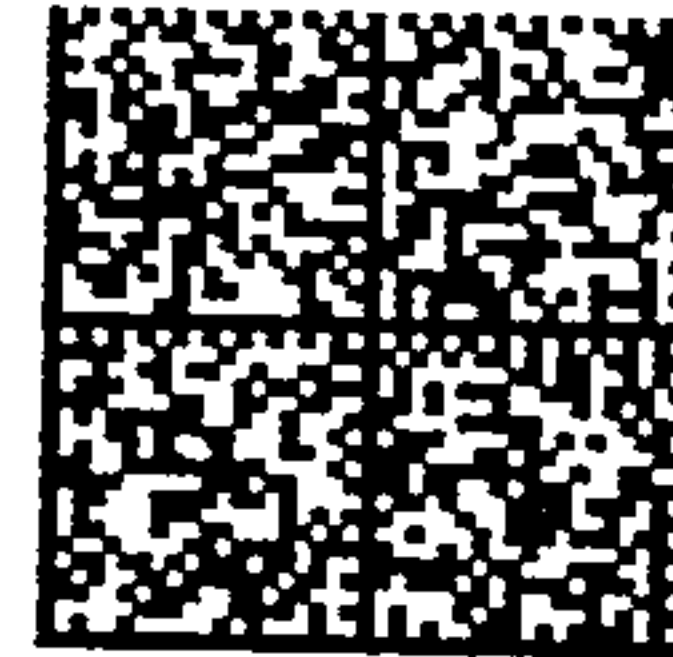

Development Review Board

TO BE PUBLISHED IN THE ALBUQUERQUE JOURNAL MONDAY, DECEMBER 3, 2007.

CITY OF ALBUQUERQUE



Planning Department



02 1M \$ 00.41⁰
0004219022 NOV 30 2007
MAILED FROM ZIP CODE 87102

Or Current Resident
SANTISTEVAN LEO & ANGEL &
ERNEST & GLORIA
808 COAL AVE SE
ALBUQUERQUE, NM 87102

~~EPC~~

DRB

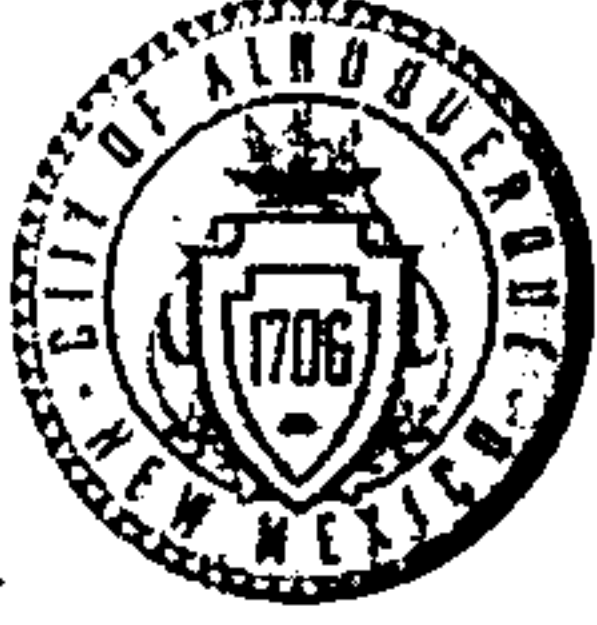
NIXIE 871 CC 1 70 12/06/07

RETURN TO SENDER
VACANT
UNABLE TO FORWARD

BC: 87103129393 *0588-20627-30-35

871029393 8710301293





**DEVELOPMENT REVIEW BOARD
ACTION SHEET**

Plaza del Sol Hearing Room, Basement, Plaza del Sol Building

November 7, 2007 9:00AM

MEMBERS:

**Sheran Matson, AICP, DRB Chair
Angela Gomez, Administrative Assistant**

**Wilfred Gallegos, Transportation Development
Brad Bingham, Alternate City Engineer**

**Roger Green, ABCWUA
Christina Sandoval, Parks & Recreation**

NOTE: UNLESS ANNOUNCED DURING THE MEETING, THE DEVELOPMENT REVIEW BOARD WILL NOT TAKE A LUNCH BREAK.

NOTE: INDIVIDUALS WITH DISABILITIES WHO NEED SPECIAL ASSISTANCE TO PARTICIPATE AT THIS MEETING SHOULD CONTACT ANGELA GOMEZ, PLANNING DEPARTMENT, AT 924-3946. HEARING IMPAIRED USERS MAY CONTACT HER VIA THE NEW MEXICO RELAY NETWORK BY CALLING TOLL-FREE:1-800-659-8331.

NOTE: REQUESTS FOR DEFERRAL OF CASES WILL BE DISCUSSED BY THE BOARD AND THE APPLICANT AND/OR AGENT AT THE BEGINNING OF THE AGENDA. BOTH PARTIES MUST AGREE UPON THE DATE OF DEFERRAL. IF THE APPLICANT/AGENT IS NOT PRESENT, THE ADMINISTRATIVE ASSISTANT MUST RECEIVE A LETTER, PRIOR TO THE HEARING DATE, REQUESTING A SPECIFIC DEFERRAL DATE. THE BOARD WILL DISCUSS AND MAKE A DECISION AT THE HEARING. THE APPLICANT/AGENT WILL THEN BE INFORMED OF THE DEFERRAL DATE AND REASON.

- A. Call to Order 9:00 A.M.**
- B. Changes and/or Additions to the Agenda**
- C. New or Old Business**

NOTE: IF THE APPLICANT/AGENT IS NOT PRESENT WHEN THEIR REQUEST IS CALLED, THEN THE REQUEST MAY BE INDEFINITELY DEFERRED ON A NO SHOW.

CASES WHICH REQUIRE PUBLIC NOTIFICATION
MAJOR SUBDIVISIONS, VACATIONS, SIA EXTENSIONS AND SITE DEVELOPMENT PLANS

1. **Project# 1003445**
07DRB-70311 STREET NAME CHANGE

BOHANNAN HUSTON INC agent(s) for FOUNTAIN HILLS PLAZA LLC request(s) the above action(s) for all or a portion of Lot(s) 10-A-2, Block(s) D, Tract(s) B-1-A, C-1-A, D-1-A & B, **FOUNTAIN HILLS PLAZA**, zoned SU-1, IP, PDA & C-3, located on NUNZIO AVE NW BETWEEN PARADISE BLVD NW and PASEO DEL NORTE NW containing approximately 39.91 acre(s). (C-12)
The Street Naming Ordinance requires DRB to submit a report to EPC which makes the final decision.

The criteria for the DRB to decide whether or not to recommend approval of the local street name change is contained in Section 6-5-1-1(B)(1) of this ordinance. The language reads, "A street name shall be changed only if the decisionmaker finds that there will be a public benefit which clearly outweighs the public confusion and cost which would be created by the name change."

In addition, all owners of the lots adjacent to the street proposed for the name change are to be notified by mail to give them the opportunity to comment. At least 30 days are to be allowed for receipt of comments before the decision is made.

The adjacent owners were notified. No comments were received. Because there is already a street within the City named "Nunzio", Planning believes the public benefit in changing the name outweighs the public confusion and cost created by the change.

2. **Project# 1006902**
07DRB-70312 MAJOR - PRELIMINARY
PLAT APPROVAL

BORDENAVE DESIGNS agent(s) for HARVEST LAND, LLC request(s) the above action(s) for all or a portion of Tract(s) K,L,M & N, **LA LUZ DEL OESTE**, zoned SU-1/PRD, located on COORS BLVD NW AND DELYNNE NW AND WESTERN TRAILS NW containing approximately 7.5 acre(s). (F-11)**DEFERRED TO 11/14/07 AT THE AGENT'S REQUEST.**

3. **Project # 1005546**
07DRB-00589 MAJOR-VACATION OF
PUBLIC RIGHT-OF-WAY

SURV TEK INC agent(s) for BLACK FARMS LLC request(s) the above action(s) for **BLACK FARMS ESTATE, UNIT 2**, zoned RA-1 located on IRVING BLVD NW between VALLEY VIEW DR NW and RIVERFRONTE DR NW. (C-13) **DEFERRED TO 1/9/08 AT THE AGENTS' REQUEST.**

**SITE DEVELOPMENT PLANS (EPC FINAL SIGN-OFF) AMENDED PLANS AND
MASTER DEVELOPMENT PLANS (CITY COUNCIL FINAL SIGN-OFF)**

4. **Project# 1002739**
07DRB-70348 AMENDED SDP FOR
SUBDIVISION
07DRB-70349 AMENDED TO
PRELIMINARY PLAT
- MARK GOODWIN AND ASSOCIATES PA agent(s) for KB HOME NEW MEXICO, INC. request(s) the above action(s) for all or a portion of Lot(s) PARCEL 4 & 6, **ANDERSON HEIGHTS Unit(s) 4 & 6**, zoned R-D, located on 118TH ST NW BETWEEN COLOBEL AVE NW AND AMOLE MESA NW containing approximately 56.86 acre(s). (N-8) **THE AMENDED SITE PLAN FOR SUBDIVISION WAS APPROVED WITH FINAL SIGN OFF DELEGATED TO PLANNING FOR 3 COPIES.**

5. **Project# 1006922**
07DRB-70347 MINOR - PRELIMINARY/
FINAL PLAT APPROVAL
- TERRAMETRICS OF NEW MEXICO agent(s) for JOHN SCHIFFER request(s) the above action(s) for all or a portion of Lot(s) 27-29, Block(s) 9, Tract(s) A, **NORTH ALBUQUERQUE ACRES (to be known as Lot 27-A) Unit(s) B**, zoned SU-1, M-1, located on EAGLE ROCK AVE NE BETWEEN SAN MATEO BLVD NE AND I-25 NE containing approximately 2.67 acre(s). (C-18) **DEFERRED TO 11/14/07 AT THE AGENT'S REQUEST.**

07DRB-70351 MINOR - SDP FOR
BUILDING PERMIT

CLARK CONSULTING ENGINEERS agent(s) for JOHN SCHIFFER request(s) the above action(s) for all or a portion of Lot(s) 27-29, Block 9, Unit B, **NORTH ALBUQUERQUE ACRES Tract A**, zoned SU2-M1, located on EAGLE ROCK AVE NE BETWEEN SAN MATEO BLVD NE AND PAN AMERICAN FREEWAY NE containing approximately 2.67 acre(s). (C-18) **DEFERRED TO 11/14/07 AT THE AGENT'S REQUEST.**

MINOR PLATS, FINAL (MAJOR) PLATS, AMENDED PLATS AND PLANS

6. **Project# 1006813**
07DRB-70350 MINOR - PRELIMINARY/
FINAL PLAT APPROVAL
- ALPHA PROFESSIONAL SURVEYING INC agent(s) for BONNIE K. ROMERO request(s) the above action(s) for all or a portion of Lot(s) 22-24, Block 2, **BELMONT PLACE**, zoned R-1, located on 5TH ST NW BETWEEN BELROSE AVE NW AND FREEMAN AVE NW containing approximately 0.24 acre(s). (G-14) **THE PRELIMINARY PLAT WAS APPROVED WITH FINAL SIGN OFF DELEGATED TO PLANNING FOR AGIS DXF AND TO RECORD, AND TO TRANSPORTATION TO ADD AN ADDITIONAL 2 FEET ALONG THE ALLEY.**

7. **Project# 1005465**
07DRB-70277 MINOR - PRELIMINARY/
FINAL PLAT APPROVAL

THOMPSON ENGINEERING CONSULTANTS, INC agent(s) for DUKE CITY DISTRIBUTING request(s) the above action(s) for all or a portion of Tract(s) C, **SOUTH BROADWAY INDUSTRIAL ACRES**, zoned SU-2 HM, located on WOODWARD RD SE BETWEEN BROADWAY BLVD SE AND 2ND ST SE containing approximately 3.52 acre(s). (M-14) *[Deferred from 10/03/07, 10/17/07, 10/24/07 & 10/31/07]* **THE PRELIMINARY PLAT WAS APPROVED WITH FINAL SIGN OFF DELEGATED TO PLANNING FOR AGIS DXF AND TO RECORD, AND TO TRANSPORTATION TO CALL OUT THE WIDTH OF THE RIGHT-OF-WAY ON WOODWARD AND FOR CURVE C1 TO BE INCREASED TO 35 FEET.**

8. **Project# 1006913**
07DRB-70333 MINOR - PRELIMINARY/
FINAL PLAT APPROVAL

SURV-TEK INC agent(s) for 110 RICHMOND , LLC request(s) the above action(s) for all or a portion of Lot(s) 1-A, 1-B, 2 & 3, Block(s) 40, **UNIVERSITY HEIGHTS ADDITION**, zoned CCR-1, located on RICHMOND AVE NE BETWEEN CENTRAL AVE NE AND SILVER AVE NE containing approximately 0.52 acre(s). (K-16) *[Deferred from 10/31/07]* **THE PRELIMINARY PLAT WAS APPROVED WITH FINAL SIGN OFF DELEGATED TO PLANNING TO RECORD, AND TO TRANSPORTATION FOR THE ALLEY TO BE RECONSTRUCTED OR OVERLAYED PRIOR TO SIGN-OFF.**

NO ACTION IS TAKEN ON THESE CASES:

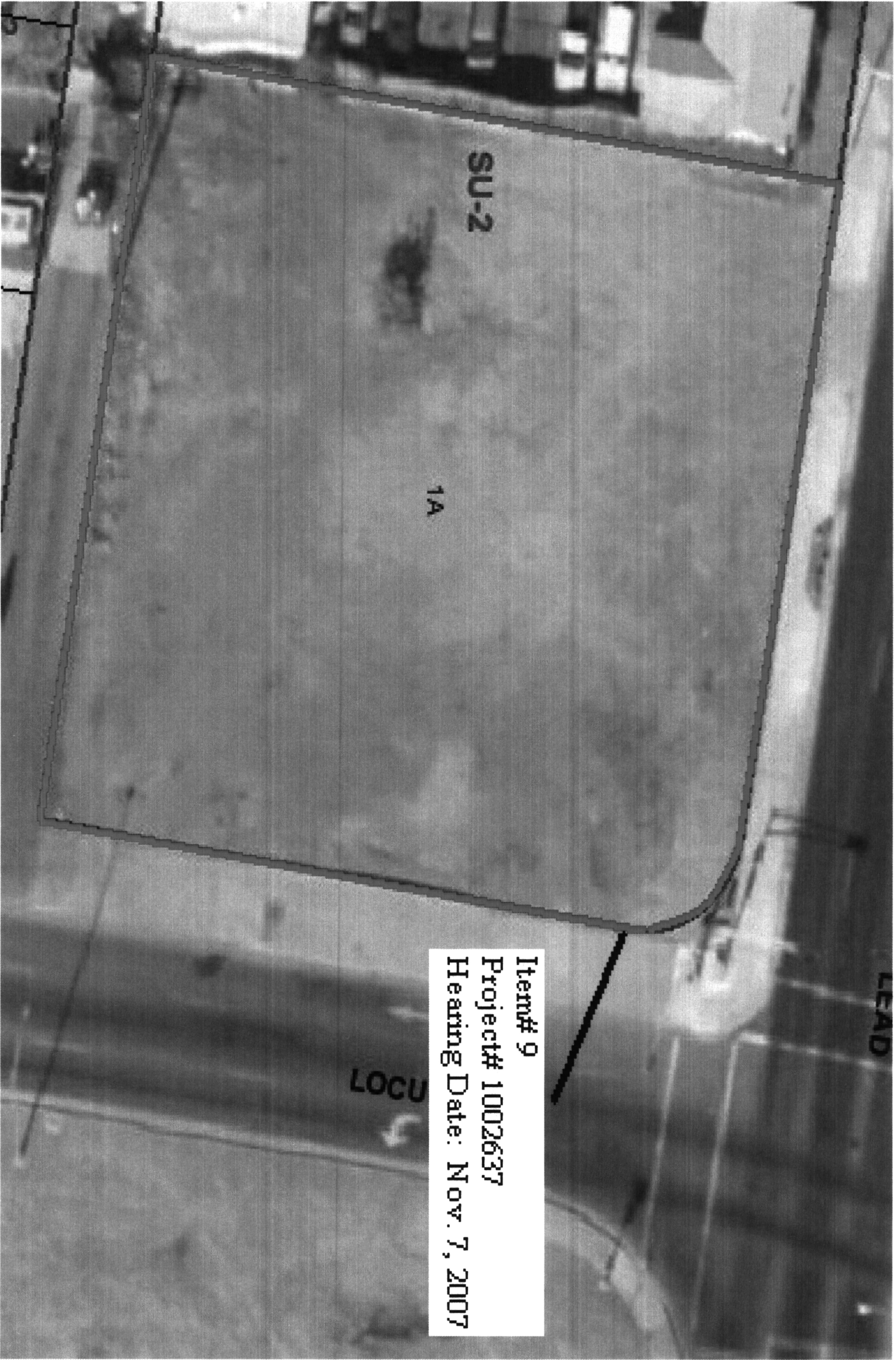
APPLICANT - AGENT IS REQUIRED TO BE AT THE MEETING

9. ~~**Project# 1002637**~~
07DRB-70346 SKETCH PLAT REVIEW
AND COMMENT

LOGAN HALL agent(s) for LOGAN HALL request(s) the above action(s) for all or a portion of Lot(s) 1-A, Block(s) 4, **TERRACE ADDITION**, zoned SU2-NCR, located on LEAD AVE SE BETWEEN LOCUST AVE SE AND ELM ST SE containing approximately 0.45 acre(s). (K-15) **THE ABOVE REQUEST WAS REVIEWED AND COMMENTS GIVEN.**

10. Other Matters:

ADJOURNED: 10:30



SU-2

1A

Item# 9
Project# 1002637
Hearing Date: Nov. 7, 2007

LEAD

LOCU

**CITY OF ALBUQUERQUE
PLANNING DEPARTMENT
November 7, 2007
DRB Comments**

ITEM # 9

PROJECT # 1002637

APPLICATION # 07-70346

RE: Lot 1-A, Block 4, Terrace Addition/sketch

The alley that you are requesting to vacate contains dwelling units and a refuse dumpster located within it. It appears that an adjacent property owner is using the dumpster, and clarification will be required to determine the continued use of the dumpster. A title search will be required to determine if the subject alley has been previously vacated.



Andrew Garcia, Planning Alternate
924-3858 agarcia@cabq.gov



IMPACT FEES

Development Review Board 11/07/07

Project Number: 1002637

Agenda Item Number: 9

Site: Terrace Addition

Tract: Lots 1-A, Block 4

Zoned: SU-2/ NCR

No comment on proposed vacation. Platting these lots into a single lot will not require impact fees; however, Impact Fees will be required at the time a permit is issued for any increase in building area on the site. The Public Safety Facilities Impact Fee would be the only Impact Fee applicable (unless there is a residential use proposed), which would be \$455 for every 1,000 sq ft increase in building area. Impact Fees are to be paid at the time of issuance of a building permit.

**JACK CLOUD
IMPACT FEE ADMINISTRATOR**



**CITY OF ALBUQUERQUE
PLANNING DEPARTMENT
HYDROLOGY DEVELOPMENT SECTION**

DEVELOPMENT REVIEW BOARD--SPEED MEMO

DRB CASE NO/PROJECT NO: 1002637

AGENDA ITEM NO: 9

SUBJECT:

Sketch Plat/Plan

ACTION REQUESTED:

REV/CMT:(x) APP:() SIGN-OFF:() EXTN:() AMEND:()

P.O. Box 1293

ENGINEERING COMMENTS:

No adverse comments.

Albuquerque

New Mexico 87103

RESOLUTION:

APPROVED ____; DENIED ____; DEFERRED ____; COMMENTS PROVIDED X; WITHDRAWN

discussed

www.cabq.gov

SIGNED-OFF: (SEC-PLN) (SP-SUB) (SP-BP) (FP) BY: (UD) (CE) (TRANS) (PKS) (PLNG)

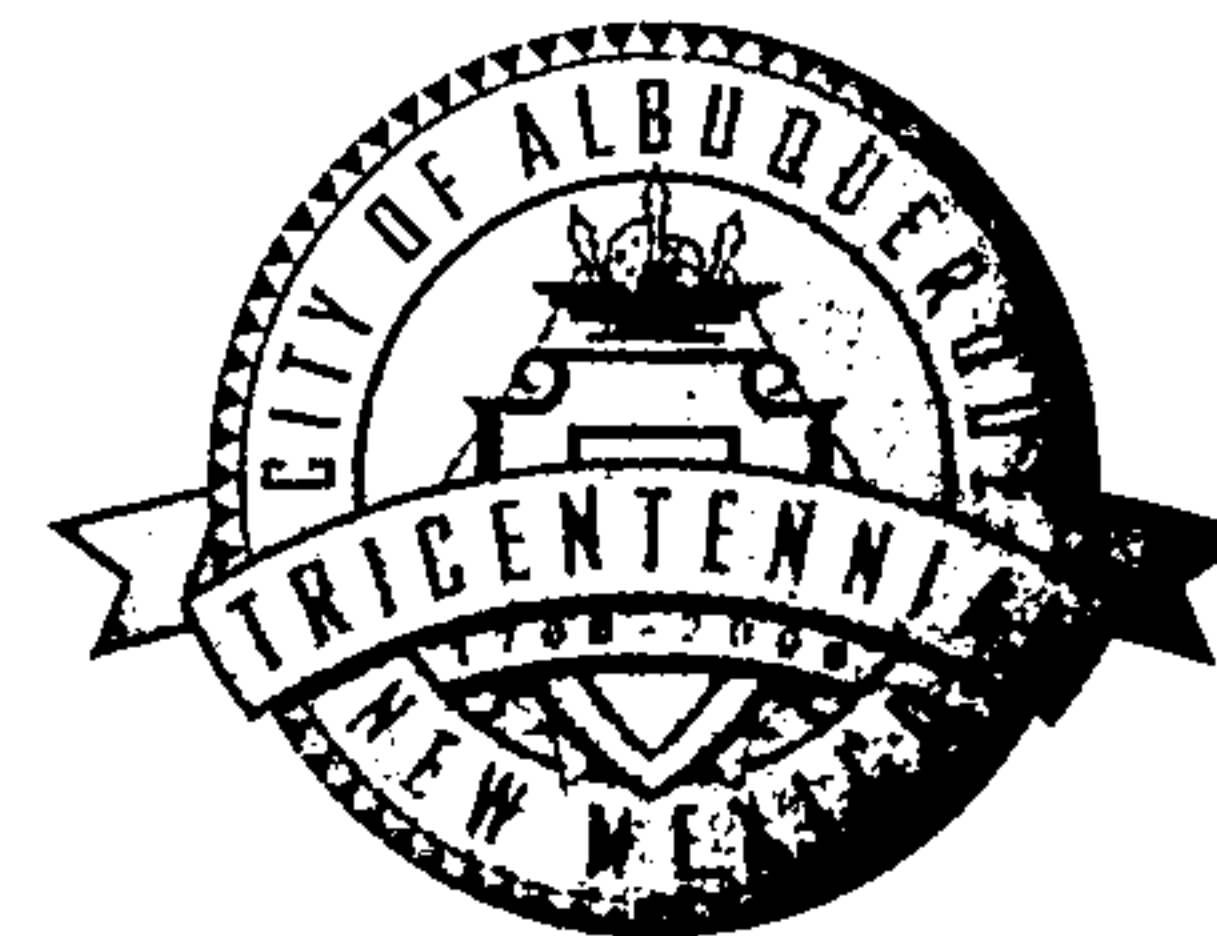
DELEGATED: (SEC-PLN) (SP-SUB) (SP-BP) (FP) TO: (UD) (CE) (TRANS) (PKS) (PLNG)

FOR:

SIGNED: Bradley L. Bingham
City Engineer/AMAFCA Designee
924-3986

DATE: November 7, 2007

CITY OF ALBUQUERQUE



**PLANNING DEPARTMENT
DEVELOPMENT AND BUILDING SERVICES
TRANSPORTATION SECTION**

DEVELOPMENT REVIEW BOARD – SPEED MEMO

DRB CASE NO/PROJECT NO: 1002637

AGENDA ITEM NO: 9

SUBJECT:

Sketch Plat

ENGINEERING COMMENTS:

The alley cannot be vacated in part; provide additional information for the previous vacations stated in your letter

P.O. Box 1293

Albuquerque

New Mexico 87103

www.cabq.gov

RESOLUTION:

APPROVED ___; DENIED ___; DEFERRED ___; COMMENTS PROVIDED ; WITHDRAWN ___

DELEGATED: (SEC-PLN) (SP-SUB) (SP-BP) (FP) TO: (UD) (CE) (TRANS) (PRKS) (PLNG)

SIGNED:

Kristal D. Metro
Transportation Development

505-924-3981

DATE: NOVEMBER 7, 2007



**DEVELOPMENT REVIEW BOARD
ACTION SHEET**

Plaza del Sol Hearing Room, Basement, Plaza del Sol Building

August 20, 2003

9:00 a.m.

MEMBERS:

Sheran Matson, AICP, DRB Chair
Claire Senova, Administrative Assistant

Richard Dourte, Transportation Development
Brad Bingham, Alternate City Engineer

Roger Green, Utility Development
Christina Sandoval, Parks & Recreation

NOTE: UNLESS ANNOUNCED DURING THE MEETING, THE DEVELOPMENT REVIEW BOARD WILL NOT TAKE A LUNCH BREAK.

NOTE: INDIVIDUALS WITH DISABILITIES WHO NEED SPECIAL ASSISTANCE TO PARTICIPATE AT THIS MEETING SHOULD CONTACT CLAIRE SENOVA, PLANNING DEPARTMENT, AT 924-3946. HEARING IMPAIRED USERS MAY CONTACT HER VIA THE NEW MEXICO RELAY NETWORK BY CALLING TOLL-FREE:1-800-659-8331.

NOTE: REQUESTS FOR DEFERRAL OF CASES WILL BE DISCUSSED BY THE BOARD AND THE APPLICANT AND/OR AGENT AT THE BEGINNING OF THE AGENDA. BOTH PARTIES MUST AGREE UPON THE DATE OF DEFERRAL. IF THE APPLICANT/AGENT IS NOT PRESENT, THE ADMINISTRATIVE ASSISTANT MUST RECEIVE A LETTER, PRIOR TO THE HEARING DATE, REQUESTING A SPECIFIC DEFERRAL DATE. THE BOARD WILL DISCUSS AND MAKE A DECISION AT THE HEARING. THE APPLICANT/AGENT WILL THEN BE INFORMED OF THE DEFERRAL DATE AND REASON.

- A. Call to Order: 9:00 A.M.
- B. Changes and/or Additions to the Agenda
- C. New or Old Business

Adjourned: 12:20 P.M.

CASES WHICH REQUIRE PUBLIC NOTIFICATION

MAJOR SUBDIVISIONS, VACATIONS, SIA EXTENSIONS AND SITE DEVELOPMENT PLANS

1. **Project # 1000269**
03DRB-01269 Major-Two Year SIA

TIERRA WEST LLC agent(s) for UNION PENSION TRANSACTION TRUST 93-2 request(s) the above action(s) for all or a portion of Tract(s) 5B2C1B, **RENAISSANCE CENTER**, zoned SU-1 for C-2 use, located on MERCANTILE AVE NE, between CULTURE NE and I-25 FRONTAGE RD NE containing approximately 1 acre(s). [REF: 01DRB-00922, 01DRB-00922, 01DRB-00922] (F-16) **AN EXTENSION OF THE SUBDIVISION IMPROVEMENTS AGREEMENT WAS APPROVED TO APRIL 11, 2004.**

2. **Project # 1002201**
03DRB-01270 Major-Preliminary Plat
Approval

TIERRA WEST LLC agent(s) for P J DEVELOPMENT COMMERCIAL CONSTRUCTION, request(s) the above action(s) for all or a portion of Tract(s) A & B, **AMERICAN TOYOTA**, zoned SU-2 special neighborhood zone, SU-1 AUTO SALES, located on ALAMEDA BLVD NE, between PAN AMERICAN FWY. NE and SAN PEDRO DR NE containing approximately 7 acre(s). [REF: Z-86-8, DRB-95-74, 02DRB-01367 (VRW) 02DRB-01270 (PP)] *[Deferred from 8/20/03]* (C-18) **DEFERRED AT THE AGENT'S REQUEST TO 8/27/03.**

3. **Project # 1001926**
03DRB-01224 Major-Vacation of Pub
Right-of-Way
03DRB-01225 Major-Preliminary Plat
Approval

BEN PLATANIA request(s) the above action(s) for all or a portion of Tract(s) 225, **TOWN OF ATRISCO GRANT - AIRPORT UNIT**, zoned R-2, located on GLEN RIO RD NW, between 72nd ST NW and 78th ST NW containing approximately 5 acre(s). [REF: 02DRB-00568 (VROW), 02DRB-00673 (SK)] (J-10) **THE VACATION WAS APPROVED AS SHOWN ON EXHIBIT B IN THE PLANNING FILE. WITH THE SIGNING OF THE INFRASTRUCTURE LIST DATED 8/20/03 AND APPROVAL OF THE GRADING PLAN ENGINEER STAMP DATED 7/14/03 THE PRELIMINARY PLAT WAS APPROVED.**

4. **Project # 1001946**
03DRB-01271 Major-Vacation of Pub
Right-of-Way

BOHANNAN HUSTON agent(s) for LOWE'S (NEAL HAMILTON) request(s) the above action(s) for all or a portion of Tract(s) A, **LOS ANGELES CENTER**, zoned M-1 light manufacturing zone, located on PASEO DEL NORTE NE, between 1-25 FRONTAGE ROAD AND SAN FRANCISCO DR NE containing approximately 32 acre(s). [REF: 02DRB-00732, 02DRB-01008] (D-18) **THE VACATION WAS APPROVED AS SHOWN ON EXHIBIT B IN THE PLANNING FILE WITH ADDITIONAL CONDITION.**

5. **Project # 1002503**
03DRB-01268 Major-Preliminary Plat
Approval

WILSON & COMPANY, INC. agent(s) for VOLCANO CLIFFS PROPERTY OWNERS ASSOCIATION, request(s) the above action(s) for all or a portion of Unit(s) 24 Block(s) 1-5 and Unit(s) 5, Partial Block(s) 1-12 and 14, VOLCANO CLIFFS SUBDIVISION (to be known **UNSER CLIFFS SUBDIVISION**, zoned R-1 residential zone, located on 81st ST NW, between UNSER BLVD NW and MARIGOLD DR NW containing approximately 42 acre(s). [REF: 03DRB-00295 SK, 03DRB-00337 & 340 VRW& VPE, 03DRB-00341 & 42 VPE] *[Deferred from 8/20/03]* (D-10) **DEFERRED AT THE AGENT'S REQUEST TO 9/3/03.**

6. **Project # 1001984**
03DRB-01244 Major-Vacation of Public Easements
03DRB-01245 Major-Vacation of Public Easements
03DRB-01246 Major-Vacation of Public Easements
03DRB-01247 Major-Vacation of Public Easements
03DRB-01248 Major-Vacation of Public Easements
03DRB-01249 Major-Vacation of Public Easements
03DRB-01243 Minor-Sketch Plat or Plan

03DRB-01344 Minor-SiteDev Plan Subd/EPC
03DRB-01345 Minor-SiteDev Plan BldPermit/EPC

JEFF MORTENSEN & ASSOCIATES INC., agent(s) for RICH FORD, request(s) the above action(s) for all or a portion of Tract(s) A & B, **HYDER-MAISEL SUBDIVISION AND LANDS OF ROBERT L JOHNSTON AND NMSHTD AIRSPACE PARCEL B-13-5**, zoned C-2 & P, located on LOMAS BLVD NE, between WYOMING BLVD NE and I-40 NE containing approximately 18 acre(s). [REF: 02DRB-01963, 02DRB-01964, 02EPC-00826, 02EPC-00827, 02EPC-00828] (J-20) **THE VACATIONS WERE APPROVED AS SHOWN ON EXHIBIT B IN THE PLANNING FILE WITH 2 ADDITIONAL CONDITIONS. THE SKETCH PLAT WAS REVIEWED AND COMMENTS WERE GIVEN.**

BPLW ARCHITECTS & ENGINEERS, INC. agent(s) for RICH FORD request(s) the above action(s) for all or a portion of Tract(s) A & B, **HYDER-MAISEL SUBDIVISION** and Tract(s) A, **LANDS OF ROBERT L. JOHNSTON**, zoned C-2 community commercial zone, P (SC), located on LOMAS BLVD NE, EAST OF WYOMING BLVD NE and SOUTH OF I-40 FREEWAY NE containing approximately 18 acre(s). [REF: 02EPC-00826 & 27 SDP, S/D& B/P, 02EPC-00828 ZMA] [JUANITA VIGIL, EPC CASE PLANNER] (J-20) **THE SITE PLAN FOR SUBDIVISION WAS APPROVED WITH FINAL SIGN OFF DELEGATED TO UTILITIES DEVELOPMENT FOR CORRECT UTILITY PLAN, VERIFY PIPE SIZES AND DOMESTIC METER LOCATION. AND SITE PLAN FOR BUILDING PERMIT WAS APPROVED WITH FINAL SIGN OFF DELEGATED TO UTILITIES DEVELOPMENT FOR CORRECT UTILITY PLAN, VERIFY PIPE SIZES AND DOMESTIC METER LOCATION.**

7. **Project # 1002525**
03DRB-01263 Major-Preliminary Plat
Approval
03DRB-01264 Minor-Temp Defer SDWK

JEFF MORTENSEN & ASSOCIATES, INC., agent(s) for DESERT RIDGE DEVELOPMENT, LLC request(s) the above action(s) for all or a portion of Lot(s) 10-23, Block(s) 19, Tract(s) 3, NORTH ALBUQUERQUE ACRES, UNIT 3, (to be known as **VINEYARD COURT ESTATES**) zoned R-D residential and related uses zone, developing area, located on HOLLY AVE NE, between VENTURA ST NE and HOLBROOK ST NE containing approximately 14 acre(s). [REF: 03DRB-00367-70, 02EPC-01353 & 54](G-13) **WITH THE SIGNING OF THE INFRASTRUCTURE LIST DATED 8/20/03 AND APPROVAL OF THE GRADING PLAN ENGINEER STAMP DATED 7/23/03 THE PRELIMINARY PLAT WAS APPROVED. TEMPORARY DEFERRAL OF CONSTRUCTION OF SIDEWALKS ON THE INTERIOR STREETS WAS APPROVED AS SHOWN ON EXHIBIT C IN THE PLANNING FILE.**

8. **Project # 1001306**
03DRB-01179 Major-Preliminary Plat
Approval
03DRB-01182 Minor-Temp Defer SDWK

SURV-TEK agent(s) for CURB WEST INC request(s) the above action(s) for all or a portion of Tract(s) B-2-A and 1-B-1-F, **SEVILLE, UNIT 7**, zoned R-LT, located on KAYENTA BLVD NW, between RIO SEGURA NW and PARSONS BLVD NW containing approximately 17 acre(s). [*Deferred from 8/13/03 and 8/20/03*] (A-10) **DEFERRED AT THE AGENT'S REQUEST TO 8/27/03.**

9. **Project # 1002821**
03DRB-01189 Major-Preliminary Plat
Approval
03DRB-01191 Major-Vacation of Pub
Easements
03DRB-01192 Minor-Temp Defer SDWK

RAY HENSLEY agent(s) for ESMAIL HAIDARI request(s) the above action(s) for all or a portion of Lot(s) 14, 15, & 16, Block(s) 14, NORTH ALBUQUERQUE ACRES, TRACT 3, UNIT 2, (to be known as TALEA COURT SUBDIVISION) zoned R-D, located on CORONADO NE, between EUBANK NE and HOLBROOK NE containing approximately 3 acre(s). [REF: SD-89-1, AX-92-114, Z-89-114] [Deferred from 8/13/03] (D-21) **WITH THE SIGNING OF THE INFRASTRUCTURE LIST DATED 8/20/03 AND APPROVAL OF THE GRADING PLAN ENGINEER STAMP DATED 8/14/03 THE PRELIMINARY PLAT WAS APPROVED WITH THE FOLLOWING CONDITION: THE FIRE DEPARTMENT MUST CONCUR WITH THE DIMENSIONS FOR THE CUL-DE-SAC. THE VACATION WAS APPROVED AS SHOWN ON EXHIBIT B IN THE PLANNING FILE. TEMPORARY DEFERRAL OF CONSTRUCTION OF SIDEWALKS ON THE INTERIOR STREETS WAS APPROVED AS SHOWN ON EXHIBIT C IN THE PLANNING FILE.**

10. **Project # 1002804**
03DRB-01145 Major-Vacation of Public
Easements

BOHANNAN HUSTON, INC. agent(s) for MENAUL DEVELOPMENT THREE, LLC request(s) the above action(s) for all or a portion of Tract(s) 2-C & 4, **UNCLE DOC ADDITION**, zoned C-2 community commercial zone, located on MENAUL BLVD NE, between SNOW HEIGHTS CR NE and EUBANK BLVD NE containing approximately 1 acre(s). [REF: Project #1001081] [Deferred from 8/6/03] (H-20) **THE VACATION WAS APPROVED AS SHOWN ON EXHIBIT B IN THE PLANNING FILE.**

SITE DEVELOPMENT PLANS (EPC FINAL SIGN-OFF) AMENDED PLANS AND MASTER DEVELOPMENT PLANS (CITY COUNCIL FINAL SIGN-OFF)

NOTE: IF THE APPLICANT/AGENT IS NOT PRESENT WHEN THEIR REQUEST IS CALLED, THEN THE REQUEST MAY BE INDEFINITELY DEFERRED ON A NO SHOW.

THERE ARE NO SITE DEVELOPMENT PLANS THIS WEEK

MINOR PLATS, FINAL (MAJOR) PLATS, AMENDED PLATS

11. **Project # 1000178**
03DRB-01327 Minor-Final Plat
Approval

SOUTHWEST SURVEYING CO. agent(s) for TEN WEST, LLC request(s) the above action(s) for all or a portion of Tract(s) 27A-1A2, **THE TOWERS SUBDIVISION, UNITS 3 & 4**, zoned R-D residential and related uses zone, developing area, 9 DU/AC, located on 90TH ST SW, between TOWER RD SW and EUCARIZ AVE SW containing approximately 12 acre(s). [REF: V-97-30, DRB-97-13, DRB-97-202, V-97-74, 03DRB-00363 PPE, 03DRB-00364 TSD](L-9) **THE FINAL PLAT WAS APPROVED FOR UNITS 3 AND 4 WITH FINAL SIGN OFF FOR UNIT 3 DELEGATED TO CITY ENGINEER FOR HOME OWNER'S ASSOCIATION SIGNATURE AND LANGUAGE ON MAINTENANCE AND DEDICATION ON TRACT A.**

12. **Project # 1002882**
03DRB-01341 Minor-Prelim&Final Plat
Approval

WAYJOHN SURVEYING INC., agent(s) for LINCOLN STORAGE, request(s) the above action(s) for all or a portion of Unplatted portion NE 1/4 - Section 30 - T10N - R4E, NMPM, **LANDS OF LINCOLN STORAGE, TRACTS 1 & 2**, zoned C-3, located on WYOMING BLVD NE, between TRUMBULL AVE SE and SAN JOAQUIN AVE SE, containing approximately 2 acre(s). (L-19) **PRELIMINARY AND FINAL PLAT WAS APPROVED AND SIGNED OFF BY THE BOARD.**

13. **Project # 1002642**
03DRB-01343 Minor-Prelim&Final Plat
Approval

WILSON & COMPANY, INC. agent(s) for CITY OF ALBUQUERQUE, PUBLIC WORKS DEPARTMENT, request(s) the above action(s) for all or a portion of Tract(s) B-1, **TOWER WEST SUBDIVISION**, zoned SU-1 special use zone, for C-1 & R-2 uses, located on the south side of TOWER RD SW, between 98th ST SW and 97th ST SW containing approximately 2 acre(s). [REF: 03DRB-00730][Deferred from 8/20/03] (L-9) **DEFERRED AT THE AGENT'S REQUEST TO 8/27/03.**

14. **Project # 1002637**
03DRB-00712 Minor-Final Plat Approval

SURVEYS SOUTHWEST, LTD agent(s) for EDDY GALLINGER request(s) the above action(s) for all or a portion of Lot(s) 1, 2 & 3, Block 4, **TERRACE ADDITION**, zoned SU-2/NCR, located on LEAD AVE SE, between LOCUST AVE SE and ELM ST SE containing approximately 1 acre(s). [REF: BA-76-36, LUC-93-24, LUCC-99-24][Was indefinitely deferred on 6-4-2003] (K-15) **FINAL PLAT WAS APPROVED-AND-SIGNED-OFF BY THE BOARD.**

15. **Project # 1002369**
03DRB-00202 Minor- Final Plat
Approval

RALPH CORRIZ request(s) the above action(s) for all or a portion of Tract(s) 224-C, MRGCD MAP # 35, **LANDS OF CORRIZ**, SYMPHONY SUBDIVISION, zoned R-1 residential zone, located EAST OF INDIAN SCHOOL RD NW, between RIO GRANDE BLVD NW and CAMPBELL DITCH NW containing approximately 1 acre(s). [REF: 02DRB-01812, 03DRB-00178] [Deferred from 2/19/03] [Final Plat was indefinitely deferred 3/5/03] (H-13) **FINAL PLAT WAS APPROVED AND SIGNED OFF BY THE BOARD.**

NO ACTION IS TAKEN ON THESE CASES:
APPLICANT - AGENT IS REQUIRED TO BE AT THE MEETING

16. **Project # 1001275**
03DRB-01342 Minor-Sketch Plat or Plan
- WILSON & CO., INC. agent(s) for LOWE'S HOME CENTERS, INC. request(s) the above action(s) for all or a portion of Lot(s) 4 & 7, **LOWE'S SUBDIVISION**, zoned SU-1 special use zone, C-2 USES, IP & R-3, and located west of COORS BLVD NW, between ALAMEDA BLVD NW and OLD AIRPORT AVE NW containing approximately 18 acre(s). [REF: 01DRB-01426, 27 & 28, 01DRB001456 SK, 02DRB-00160] (A-14/B-14) **THE ABOVE REQUEST WAS REVIEWED AND COMMENTS WERE GIVEN.**
17. **Project # 1002876**
03DRB-01331 Minor-Sketch Plat or Plan
- PATRICK S. & PIA HERRING request(s) the above action(s) for all or a portion of Lot(s) 34-A, Block(s) 26, **MESA VERDE ADDITION**, zoned R-3 residential zone, located on WISCONSIN ST NE, between COPPER AVE NE and MARQUETTE AVE NE containing approximately 1 acre(s). [REF: ZA-88-139, SP-88-149] (K-19) **APPLICANT/AGENT MUST CALL TO GET BACK ON THE AGENDA. THE ABOVE REQUEST WAS INDEFINITELY DEFERRED ON A NO SHOW.**
18. Approval of the Development Review Board Minutes for August 6, 2003. **THE MINUTES WERE APPROVED SUBJECT TO CHANGES BY THE BOARD.**

ADJOURNED: 12:20 P.M.

**CITY OF ALBUQUERQUE
PLANNING DEPARTMENT
Development Review Board
August 20, 2003 Comments**

ITEM # 14

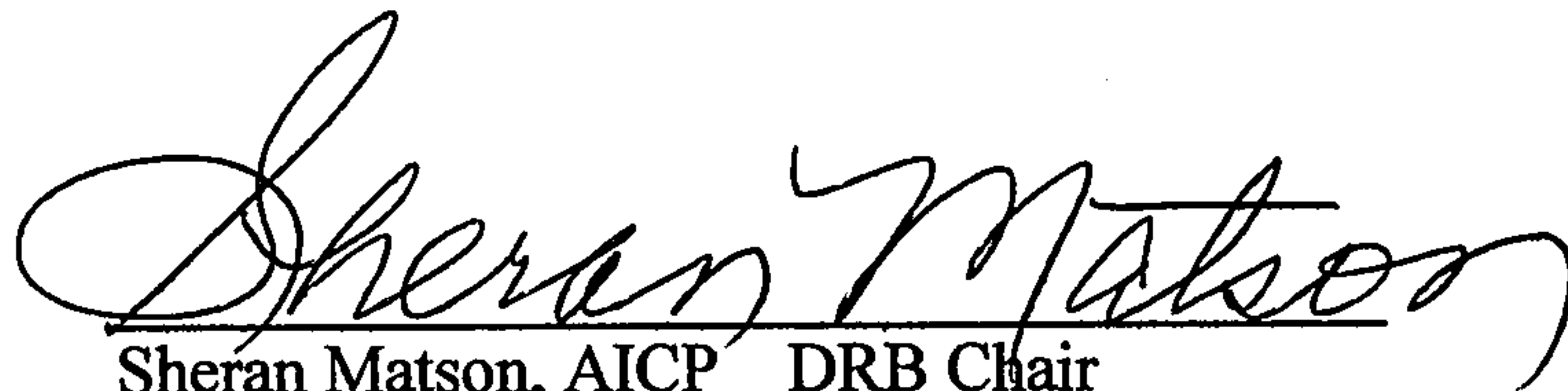
PROJECT # 1002637

APPLICATION # 03DRB-00712

RE: Terrace Addition, Lots 1,2 & 3, Block 4

No objection to the platting action.

AGIS dxf file is approved.

A handwritten signature in black ink, reading "Sheran Matson". The signature is written in a cursive style with a large initial "S".

Sheran Matson, AICP DRB Chair

924-3880 Fax 924-3864



F

City of Albuquerque
Parks and Recreation Department
PO Box 1293, Albuquerque, New Mexico 87103
Inter-Office Correspondence

Development Review Board Comments

Project Number: 1002637
Application Number: 03DRB-00712

DRB Date: 8/20/03
Item Number: 14

Subdivision:

Lots 1, 2, & 3, Block 4, Terrace Addition

Zoning: SU-2/NCR

Zone Page: K-15

New Lots (or units) : 0


Request for:

- Sketch Plat Review & Comment
- Bulk Land Variance
- Site Development Plan for Subdivision
- Site Development Plan for Building Permit
- Preliminary Plat
- Final Plat
- Vacation of Public RoW
- Vacation of Public Easement
- Vacation of Private Easement
- Temp. Deferral of Sidewalk Construction
- Sidewalk Variance
- SIA Extension
- Other

Parks and Recreation Comments:

No park dedication requirement because site is in the Central Urban Comprehensive Plan Area.

The park development requirement will be met via the payment of a fee prior to issuance of building permit for each new dwelling unit.

Signed: 

Christina Sandoval, (PRD)

Phone: 768-5328



City of Albuquerque
CITY OF ALBUQUERQUE
P.O. BOX 1293 ALBUQUERQUE, NEW MEXICO 87103
PUBLIC WORKS DEPARTMENT
DEVELOPMENT SERVICE
HYDROLOGY DEVELOPMENT SECTION

DEVELOPMENT REVIEW BOARD--SPEED MEMO

DRB CASE NO/PROJECT NO: 1002637

AGENDA ITEM NO: 14

SUBJECT:

- | | | |
|-------------------------|--------------------------|------------------------------|
| (01) Sketch Plat/Plan | (05) Site Plan for Subd | (10) Sector Dev Plan |
| (02) Bulk Land Variance | (06) Site Plan for BP | (11) Grading Plan |
| (03) Sidewalk Variance | (07) Vacation | (12) SIA Extension |
| (03a) Sidewalk Deferral | (08) Final Plat | (13) Master Development Plan |
| (04) Preliminary Plat | (09) Infrastructure List | (14) Other |

ACTION REQUESTED:

REV/CMT:() APP:(x) SIGN-OFF:() EXTN:() AMEND:()

ENGINEERING COMMENTS:

No adverse comments.

RESOLUTION:

APPROVED ____; DENIED ____; DEFERRED ____; COMMENTS PROVIDED ____; WITHDRAWN

SIGNED-OFF: (SEC-PLN) (SP-SUB) (SP-BP) (FP) BY: (UD) (CE) (TRANS) (PKS) (PLNG)

DELEGATED: (SEC-PLN) (SP-SUB) (SP-BP) (FP) TO: (UD) (CE) (TRANS) (PKS) (PLNG)

FOR:

SIGNED: Bradley L. Bingham
City Engineer/AMAFCA Designee

DATE: August 20, 2003



**DEVELOPMENT REVIEW BOARD
ACTION SHEET**

Plaza del Sol Hearing Room, Basement, Plaza del Sol Building

June 4, 2003

9:00 a.m.

MEMBERS:

Sheran Matson, AICP, DRB Chair
Claire Senova, Administrative Assistant

Richard Dourte, Transportation Development
Brad Bingham, Alternate City Engineer

Roger Green, Utility Development
Christina Sandoval, Parks & Recreation

NOTE: UNLESS ANNOUNCED DURING THE MEETING, THE DEVELOPMENT REVIEW BOARD WILL NOT TAKE A LUNCH BREAK.

NOTE: INDIVIDUALS WITH DISABILITIES WHO NEED SPECIAL ASSISTANCE TO PARTICIPATE AT THIS MEETING SHOULD CONTACT CLAIRE SENOVA, PLANNING DEPARTMENT, AT 924-3946. HEARING IMPAIRED USERS MAY CONTACT HER VIA THE NEW MEXICO RELAY NETWORK BY CALLING TOLL-FREE:1-800-659-8331.

NOTE: REQUESTS FOR DEFERRAL OF CASES WILL BE DISCUSSED BY THE BOARD AND THE APPLICANT AND/OR AGENT AT THE BEGINNING OF THE *AGENDA. BOTH PARTIES MUST AGREE UPON THE DATE OF DEFERRAL. IF THE APPLICANT/AGENT IS NOT PRESENT, THE ADMINISTRATIVE ASSISTANT MUST RECEIVE A LETTER, PRIOR TO THE HEARING DATE, REQUESTING A SPECIFIC DEFERRAL DATE. THE BOARD WILL DISCUSS AND MAKE A DECISION AT THE HEARING. THE APPLICANT/AGENT WILL THEN BE INFORMED OF THE DEFERRAL DATE AND REASON.

- A. Call to Order: 9:00 A.M.
- B. Changes and/or Additions to the Agenda
- C. New or Old Business

Adjourned: 11:10 A.M.

CASES WHICH REQUIRE PUBLIC NOTIFICATION

MAJOR SUBDIVISIONS, VACATIONS, SIA EXTENSIONS AND SITE DEVELOPMENT PLANS

1. **Project # 1001523**
03DRB-00757 Major-Vacation of Pub
Right-of-Way
03DRB-00758 Minor-Vacation of Private
Easements
03DRB-00756 Minor-Prelim&Final Plat
Approval
03DRB-00755 Major-Bulk Land Variance
COMMUNITY SCIENCES CORP agent(s) for
UNSER/98TH ST and AIM MANAGEMENT request(s) the
above action(s) for, **LADERA INDUSTRIAL CENTER**,
zoned SU-1, located on UNSER BLVD NW, between
LADERA DR NW and OURAY DR NW (VACATED)
containing approximately 129 acre(s). [REF: EPC-00152,
EPC-00153, EPC-00229, 1002404, 1001523] [Deferred
from 6/4/03] (H-9, H-10) **DEFERRED AT THE AGENT'S
REQUEST TO 6/18/03.**

2. **Project # 1001543**
03DRB-00747 Major-Amnd Grading Plan
Approval

JEFF MORTENSEN & ASSOCIATES INC agent(s) for HOECH REAL ESTATE CORP request(s) the above action(s) for all or a portion of Tract(s) ALL and Lot(s) 1-61 and Parcel(s) 1 & 2), **DESERT RIDGE PLACE - UNIT 1**, zoned R-D, located on HOLLY AVE NE, between BARSTOW ST NE and VENTURA ST NE containing approximately 11 acre(s).[REF: 1001543](C-20) **THE AMENDED GRADING PLAN ENGINEER STAMP DATED 5/8/03 WAS APPROVED.**

3. **Project # 1001939**
03DRB-00753 Major-Vacation of Public
Easements
03DRB-00752 Major-Preliminary Plat
Approval
03DRB-00788 Minor-Temp Defer SDWK

WILSON & COMPANY INC agent(s) for WESTLAND DEVELOPMENT CO INC request(s) the above action(s) for all or a portion of Tract(s) A1B, **The Crossing - Unit 2A**, Tract A, **CIELO OESTE**, zoned R-D, located on GUNNISON PL NW, between UNSER BLVD NW and 98TH ST NW containing approximately 15 acre(s). [REF: 1000150, 1000207, 1000515, 1001939] [Deferred from 6/4/03] (H-9) **DEFERRED AT THE AGENT'S REQUEST TO 6/18/03.**

4. **Project # 1002423**
03DRB-00749 Major-Preliminary Plat
Approval
03DRB-00751 Minor-Temp Defer SDWK
03DRB-00750 Minor-Sidewalk Waiver

BOHANNAN HUSTON, INC. agent(s) for CURB, INC. request(s) the above action(s) for all or a portion of Lot(s) ALL, Tract(s) E-1, **EL RANCHO GRANDE SUBDIVISION, UNIT 10**, ALBUQUERQUE SOUTH, UNIT 3, zoned R-2, located on VALLEY VIEW DR SW, between CARTAGENA AVE SW and DE ANZA DR SW containing approximately 20 acre(s). [REF:03DRB-00059] [Deferred from 6/4/03] (N-9) **DEFERRED AT THE AGENT'S REQUEST TO 6/18/03.**

5. **Project # 1002643**
03DRB-00734 Major-Bulk Land Variance
03DRB-00735 Minor-Prelim&Final Plat
Approval

SURV-TEK INC agent(s) for PARADISE HEIGHTS LLC request(s) the above action(s) for all or a portion of Tract(s) A-D, **LANDS OF PARADISE HEIGHTS**, zoned R-1, located on DOUGLAS AVE NW, between WESTSIDE BLVD NW and BROOKLINE BLVD NW containing approximately 42 acre(s). (A-10) **THE BULK LAND VARIANCE WAS APPROVED. THE PRELIMINARY PLAT WAS APPROVED WITH FINAL SIGN OFF DELEGATED TO PLANNING FOR DXF FILE, 15-DAY APPEAL PERIOD AND CHECK FOR AMAFCA SIGNATURE.**

6. **Project # 1002603**
03DRB-00647 Minor-Prelim&Final Plat
Approval
03DRB-00644 Major-Vacation of Public
Easements
03DRB-00646 Major-Vacation of Public
Easements

MARK GOODWIN & ASSCO agent(s) for SUNSET WEST request(s) the above action(s) for all or a portion of Tract(s) A & B < known as Public Drainage Easements >, **EAGLE ROCK ESTATES, UNIT I, POND RECLAMATION**, zoned R-D/7DUac, located on MODESTO AVE NE, between LOUISIANA BLVD NE and VISTAS DR NE containing approximately 8 acre(s). [REF: DRB-97-375] [Deferred from 5/21/03] (C-19) **PRELIMINARY PLAT WAS APPROVED WITH FINAL SIGN OFF DELEGATED TO CITY ENGINEER FOR CERTIFICATION OF GRADING AND DRAINAGE AND TO PLANNING FOR DXF FILE AND 15-DAY APPEAL PERIOD. VACATIONS WERE APPROVED AS SHOWN ON EXHIBIT B IN THE PLANNING FILE.**

7. **Project # 1002322**
03DRB-00420 – Major-Preliminary Plat
Approval

MULE BARN ENTERPRISES, agent(s) for ACME REAL ESTATE FUND, LLC request(s) the above action(s) for all or a portion of Block(s) 11, Tract(s) 23, **ORIGINAL TOWNSITE OF WESTLAND**, zoned SU-2 special neighborhood zone, IP, located on Sunset Gardens SW between 90th St SW and 94th St SW containing approximately 8 acre(s). [REF: 02DRB-01666 SK] [Deferred from 5/21/03] (L-9) **APPLICANT/AGENT WILL NEED TO READVERTISE AND RESUBMIT. CASE WAS INDEFINITELY DEFERRED ON A NO SHOW.**

8. **Project # 1002379**
03DRB-00269 Major-Preliminary Plat Approval
03DRB-00270 Major-Vacation of Pub Right-of-Way
03DRB-00271 Major-Vacation of Pub Right-of-Way
03DRB-00272 Major-Vacation of Pub Right-of-Way
03DRB-00273 Major-Vacation of Pub Right-of-Way
03DRB-00274 Minor-Vacation of Private Easements
03DRB-00275 Minor-Vacation of Private Easements
03DRB-00276 Minor-Temp Defer SDWK

- 03DRB-00866 Minor-SiteDev Plan Subd/EPC
03DRB-00867 Minor-SiteDev Plan BldPermit/EPC

BOHANNAN HUSTON INC agent(s) for LONGFORD HOMES request(s) the above action(s) for all or a portion of Lot(s) 1-26, Block 4 and Lot(s) 35-42, Block(s) 5, UNIT 4, PARADISE HEIGHTS, (to be known as **PARADISE SKIES, UNIT 10 SUBDIVISION**) zoned R-1 residential zone, located on Rockcliff Blvd NW, south of McMahon Blvd NW containing approximately 9 acre(s). [REF: 02-01867 (SK)] [Deferred from 5/21/03] (A-10) **WITH THE SIGNING OF THE INFRASTRUCTURE LIST DATED 6/4/03 AND APPROVAL OF THE GRADING PLAN ENGINEER STAMP DATED 5/20/03 THE PRELIMINARY PLAT WAS APPROVED. THE VACATIONS WERE APPROVED AS SHOWN ON EXHIBIT B IN THE PLANNING FILE. THE TEMPORARY DEFERRAL OF CONSTRUCTION OF SIDEWALKS ON THE INTERIOR STREETS WAS APPROVED AS SHOWN ON EXHIBIT C IN THE PLANNING FILE.**

BOHANNAN HUSTON agent(s) for LONGFORD HOMES request(s) the above action(s) for all or a portion of Lot(s) 1-26 and 35-42, Block(s) 4 & 5, **PARADISE SKIES, UNIT 10**, zoned SU-1 for PRD, located on DUNLOP AVE NW BETWEEN ARDMORE AVE NW AND ROCKCLIFF BLVD NW, containing approximately 9 acre(s). [REF: 03EPC-00495] [MAKITA HILL, EPC CASE PLANNER] (A-10) **THE SITE PLAN FOR SUBDIVISION WAS APPROVED AND SIGNED OFF BY THE BOARD. THE SITE PLAN FOR BUILDING PERMIT WAS APPROVED AND SIGNED OFF BY THE BOARD.**

9. **Project # 1002479**
03DRB-00718 Major-Vacation of Public Easements

ISAACSON & ARFMAN, PA agent(s) for JAY REMBE request(s) the above action(s) for all or a portion of Lot(s) 6, **RIVERSIDE PLAZA**, zoned SU-1, for PRD/ 8DU/AC, located on E. SIDE OF WINTERHAVEN RD NW, between MONTANO RD NW and LA ORILLA RD NW containing approximately 6 acre(s). [REF: 03DRB-00233] (E-12) **THE VACATION WAS APPROVED AS SHOWN ON EXHIBIT B IN THE PLANNING FILE.**

- 03DRB-00813 Minor-SiteDev Plan
Subd/EPC
03DRB-00814 Minor-SiteDev Plan
BldPermit/EPC
03DRB-00815 Minor-Prelim&Final Plat
Approval

ISAACSON & ARFMAN agent(s) for JAY REMBE request(s) the above action(s) for all or a portion of Lot(s) 6, **RIVERSIDE PLAZA**, zoned SU-1 for PRD (8DU/ac), located on WINTERHAVEN RD NW, between MONTANO RD NW and LA ORILLA RD NW containing approximately 6 acre(s). [REF: 03EPC-00308, 03EPC-00309, 03DRB-00233, 03DRB-00718] [DEBBIE STOVER, EPC CASE PLANNER] [Deferred from 5/28/03] (E-12) **THE SITE PLAN FOR SUBDIVISION WAS APPROVED AND SIGNED OFF BY THE BOARD. THE SITE PLAN FOR BUILDING PERMIT WAS APPROVED AND SIGNED OFF BY THE BOARD. WITH THE SIGNING OF THE INFRASTRUCTURE LIST DATED 6/4/03 AND APPROVAL OF THE GRADING PLAN ENGINEER STAMP DATED 6/2/03 THE PRELIMINARY PLAT WAS APPROVED. THE FINAL PLAT WAS INDEFINITELY DEFERRED.**

SITE DEVELOPMENT PLANS (EPC FINAL SIGN-OFF) AMENDED PLANS AND MASTER DEVELOPMENT PLANS (CITY COUNCIL FINAL SIGN-OFF)

NOTE: IF THE APPLICANT/AGENT IS NOT PRESENT WHEN THEIR REQUEST IS CALLED, THEN THE REQUEST MAY BE INDEFINITELY DEFERRED ON A NO SHOW.

10. **Project # 1001426**
03DRB-00812 Minor-Amnd SiteDev Plan
BldPermit4

JERRY DANIELE agent(s) for NEW LIFE BAPTIST CHURCH request(s) the above action(s) for all or a portion of Block(s) 2A & 2B, Tract(s) N, **ATRISCO BUSINESS PARK, UNIT 2**, zoned IP, located on LOS VOLCANES RD NW, between UNSER BLVD. NW and COORS NW containing approximately 5 acre(s). [REF: DRB 99-199, 01450-01196] [Deferred from 5/28/03] (J-10) **INDEFINITELY DEFERRED ON A NO SHOW.**

11. **Project # 1002666**
03DRB-00807 Minor-SiteDev Plan
BldPermit

DEKKER / PERICH / SABATINI agent(s) for T T & Y, LLC request(s) the above action(s) for all or a portion of Lot(s) A, Tract(s) P-1, **ATRISCO BUSINESS PARK, UNIT 1**, zoned SU-1 special use zone, located on the WEST SIDE OF COORS RD NW, between LOS VOLCANES RD NW and CLOUDCROFT RD NW containing approximately 2 acre(s). [REF: DRB-86-09] [Deferred from 5/28/03] (J-10) **SITE PLAN FOR BUILDING PERMIT WAS APPROVED WITH FINAL SIGN OFF DELEGATED TO TRANSPORTATION DEVELOPMENT FOR THE EASEMENTS FOR COORS AND COORS FRONTAGE ROAD IN ACCORDANCE WITH THE COORS CORRIDOR PLAN NEED TO BE FILED.**

MINOR PLATS, FINAL (MAJOR) PLATS, AMENDED PLATS AND PLANS

12. ~~Project # 1002637~~
03DRB-00712 Minor-Preliminary-Plat
Approval

SURVEYS SOUTHWEST, LTD agent(s) for EDDY GALLINGER request(s) the above action(s) for all or a portion of Lot(s) 1, 2 & 3, Block 4, **TERRACE ADDITION**, zoned SU-2/NCR, located on LEAD AVE SE, between LOCUST AVE SE and ELM ST SE containing approximately 1 acre(s). [REF: BA-76-36, LUC-93-24, LUCC-99-24] (K-15) **WITH THE SIGNING OF THE INFRASTRUCTURE LIST DATED 6/4/03 THE PRELIMINARY PLAT WAS APPROVED.**

13. **Project # 1002693**
03DRB-00857 Minor-Prelim&Final Plat
Approval

WAYJOHN SURVEYING INC agent(s) for GEORGE WENDT request(s) the above action(s) for all or a portion of Lot(s) 1A & 2A, **TODNEM ADDITION**, zoned R-1, located on 12 ST NW, between MATTHEW AVE NW and CANDELARIA RD NW containing approximately 1 acre(s). [REF: SP-76-113, Z-95-3] (G-14) **THE PRELIMINARY AND FINAL PLAT WERE APPROVED AND DELEGATED OFF THE AGENDA ON 6/3/03.**

14. **Project # 1001169**
03DRB-00868 Minor-Prelim&Final Plat
Approval

BOHANNAN HUSTON agent(s) for PABELLON I, LLC request(s) the above action(s) for all or a portion of Lot(s) 14A, Tract(s) 4AA-5A-2A-1 and 4AA-5A-2A-2, **JOURNAL CENTER, PHASE 2, UNIT 1**, zoned IP industrial park zone, located on the NORTH SIDE OF MASTHEAD ST NE, between WASHINGTON ST NE and JEFFERSON ST NE containing approximately 3 acre(s). [REF: 1000633, 01DRB-00227] [Project # changed from #1002695 to #1001169] (D-17) **THE PRELIMINARY PLAT WAS APPROVED WITH FINAL SIGN OFF DELEGATED TO UTILITIES DEVELOPMENT FOR VERIFICATION OF HYDRANT BUILT IN FRONT OF EXISTING BUILDING. IF NOT EXISTING, IT MUST BE INSTALLED AND TO PLANNING FOR THE DXF FILE.**

NO ACTION IS TAKEN ON THESE CASES:APPLICANT - AGENT IS REQUIRED TO BE AT THE MEETING

15. **Project # 1002694**
03DRB-00865 Minor-Sketch Plat or Plan

INCOME PROPERTY SERVICES agent(s) for LEE J. SIEDLECKI request(s) the above action(s) for all or a portion of A PRIVATE. SKETCH PLAT TO DEDICATE TWO MAIN STREETS TO CITY OF ALBUQUERQUE. **GLENWOOD HILLS, UNIT 5** (to be known as **SHADOW HILLS**), zoned SU-1 special use zone, for PRD, located on VIVIAN DR NE, between MONTGOMERY BLVD NE and LANDAU DR NE [REF: Z-1149, S-74-14 (SP)] (G-23) **THE ABOVE REQUEST WAS REVIEWED AND COMMENTS WERE GIVEN.**

16. **Project # 1002697**
03DRB-00872 Minor-Sketch Plat or Plan

JERRY GARCIA agent(s) for ELIZABETH A ROMERO request(s) the above action(s) for all or a portion of Tract(s) 26, **QUAKER HEIGHTS**, zoned RA-2, located on NORTHERN TRAIL NW, between NORTH VIEW NW and DUERKSEN NW containing approximately 1 acre(s).(F-11) **THE ABOVE REQUEST WAS REVIEWED AND COMMENTS WERE GIVEN.**

17. ADJOURNED: 11:10 A.M.



F

City of Albuquerque
Parks and Recreation Department
PO Box 1293, Albuquerque, New Mexico 87103
Inter-Office Correspondence

Development Review Board Comments

Project Number: 1002637
Application Number: 03DRB-00712

DRB Date: 6/4/03
Item Number: 12

Subdivision:

Lots 1, 2, & 3, Block 4, Terrace Addition

Zoning: SU-2/NCR

Zone Page: K-15

New Lots (or units) : 0

Request for:

- Sketch Plat Review & Comment
- Bulk Land Variance
- Site Development Plan for Subdivision
- Site Development Plan for Building Permit
- Preliminary Plat
- Final Plat
- Vacation of Public RoW
- Vacation of Public Easement
- Vacation of Private Easement
- Temp. Deferral of Sidewalk Construction
- Sidewalk Variance
- SIA Extension
- Other

Parks and Recreation Comments:

No park dedication requirement because site is in the Central Urban Comprehensive Plan Area.

The park development requirement will be met via the payment of a fee prior to issuance of building permit for each new dwelling unit.

Signed: 

Christina Sandoval, (PRD)

Phone: 768-5328



City of Albuquerque
CITY OF ALBUQUERQUE
 P.O. BOX 1293 ALBUQUERQUE, NEW MEXICO 87103
PUBLIC WORKS DEPARTMENT
DEVELOPMENT SERVICE
HYDROLOGY DEVELOPMENT SECTION

DEVELOPMENT REVIEW BOARD--SPEED MEMO

DRB CASE NO/PROJECT NO: 1002637

AGENDA ITEM NO: 12

SUBJECT:

- | | | |
|-------------------------|--------------------------|------------------------------|
| (01) Sketch Plat/Plan | (05) Site Plan for Subd | (10) Sector Dev Plan |
| (02) Bulk Land Variance | (06) Site Plan for BP | (11) Grading Plan |
| (03) Sidewalk Variance | (07) Vacation | (12) SIA Extension |
| (03a) Sidewalk Deferral | (08) Final Plat | (13) Master Development Plan |
| (04) Preliminary Plat | (09) Infrastructure List | (14) Other |

ACTION REQUESTED:

REV/CMT:() APP:(x) SIGN-OFF:() EXTN:() AMEND:()

ENGINEERING COMMENTS:

An approved infrastructure list is required for Preliminary Plat approval.

RESOLUTION: I.L.

APPROVED X; DENIED ____; DEFERRED ____; COMMENTS PROVIDED ____; WITHDRAWN

SIGNED-OFF: (SEC-PLN) (SP-SUB) (SP-BP) (FP) BY: (UD) (CE) (TRANS) (PKS) (PLNG)

DELEGATED: (SEC-PLN) (SP-SUB) (SP-BP) (FP) TO: (UD) (CE) (TRANS) (PKS) (PLNG)

FOR:

SIGNED: Bradley L. Bingham
 City Engineer/AMAFCA Designee

DATE: June 4, 2003



**DEVELOPMENT REVIEW BOARD
ACTION SHEET**

Plaza del Sol Hearing Room, Basement, Plaza del Sol Building

May 14, 2003

9:00 a.m.

MEMBERS:

Sheran Matson, AICP, DRB Chair
Claire Senova, Administrative Assistant

Richard Dourte, Transportation Development
Brad Bingham, Alternate City Engineer

Roger Green, Utility Development
Christina Sandoval, Parks & Recreation

NOTE: UNLESS ANNOUNCED DURING THE MEETING, THE DEVELOPMENT REVIEW BOARD WILL NOT TAKE A LUNCH BREAK.

NOTE: INDIVIDUALS WITH DISABILITIES WHO NEED SPECIAL ASSISTANCE TO PARTICIPATE AT THIS MEETING SHOULD CONTACT CLAIRE SENOVA, PLANNING DEPARTMENT, AT 924-3946. HEARING IMPAIRED USERS MAY CONTACT HER VIA THE NEW MEXICO RELAY NETWORK BY CALLING TOLL-FREE:1-800-659-8331.

NOTE: REQUESTS FOR DEFERRAL OF CASES WILL BE DISCUSSED BY THE BOARD AND THE APPLICANT AND/OR AGENT AT THE BEGINNING OF THE AGENDA. BOTH PARTIES MUST AGREE UPON THE DATE OF DEFERRAL. IF THE APPLICANT/AGENT IS NOT PRESENT, THE ADMINISTRATIVE ASSISTANT MUST RECEIVE A LETTER, PRIOR TO THE HEARING DATE, REQUESTING A SPECIFIC DEFERRAL DATE. THE BOARD WILL DISCUSS AND MAKE A DECISION AT THE HEARING. THE APPLICANT/AGENT WILL THEN BE INFORMED OF THE DEFERRAL DATE AND REASON.

- A. Call to Order
- B. Changes and/or Additions to the Agenda
- C. New or Old Business

Adjourned: 12:10 P.M.

CASES WHICH REQUIRE PUBLIC NOTIFICATION

MAJOR SUBDIVISIONS, VACATIONS, SIA EXTENSIONS AND SITE DEVELOPMENT PLANS

1. **Project # 1000109**
03DRB-00616 Major-SiteDev Plan Subd
03DRB-00617 Major-Preliminary Plat
Approval

TIERRA WEST LLC agent(s) for FALCON RIDGE, LLC request(s) the above action(s) for all or a portion of Tract(s) 1-4 & 30-32, Block(s) 1, Unit(s) 3, NORTH ALBUQUERQUE ACRES, TRACT 3, SANDIA SUNRISE SUBDIVISION, zoned R-D residential and related uses zone, developing area, 3 DU/ AC, located on EAST OF BARSTOW ST NE, between EAGLE ROCK AVE NE and MODESTO AVE NE containing approximately 8 acre(s). [REF: DRB-99-280,00420-00037, 1460-00881,01410-01142] (C-20)

THE SITE DEVELOPMENT PLAN FOR SUBDIVISION WAS APPROVED WITH FINAL SIGN OFF DELEGATED TO THE PLANNING SUBJECT TO COMPLETION OF THE FOLLOWING CONDITIONS TO THE SATISFACTION OF THE PLANNING DEPARTMENT. 1) LABEL THE PAGE MARKED "SITE PLAN" AS SITE DEVELOPMENT PLAN FOR SUBDIVISION. 2) REPLACEMENT OF THE SIGNATURE BLOCK WITH THE ONE APPROVED BY DRB FOR USE ON DRB SITE PLANS IS REQUIRED. 3) CHAPTER 3 OF THE DPM REQUIRES A LANDSCAPING PLAN AS PART OF A SITE DEVELOPMENT PLAN FOR SUBDIVISION SUBMITTAL. A TYPICAL LANDSCAPE PLAN SHOWN ON THE SITE DEVELOPMENT PLAN FOR SUBDIVISION IS REQUIRED. MAXIMUM BUILDING HEIGHT INCLUDED ON THE SITE PLAN IS ALSO REQUIRED. 4) THE LA CUEVA SECTOR PLAN, PAGES 30-37 HAS DESIGN REGULATIONS (SECTION 5.4.6) TO BE FOLLOWED IN DEVELOPING THE SITE PLAN ACCORDING TO SECTION 14-16-2-14 (B) OF THE CITY ZONE CODE: THE FOLLOWING REQUIREMENTS MUST BE INCLUDED ON THE SITE PLAN. P34. BUILDING MATERIALS & COLORS, P34. PERIMETER WALLS, P35. VIEWS. A STATEMENT ON THE SITE PLAN IS SUFFICIENT TO MEET THIS REQUIREMENT. WITH THE SIGNING OF THE INFRASTRUCTURE LIST DATED 5/14/03 AND APPROVAL OF THE GRADING & DRAINAGE DATED 5/13/03 THE PRELIMINARY PLAT WAS APPROVED SUBJECT TO THIS FINDING: 1. THIS PRELIMINARY PLAT APPROVAL AND FINAL PLAT APPROVAL AND WORK ORDER APPROVAL FOR THE SANDIA SUNRISE SUBDIVISION IS SUBJECT TO ALL THE TERMS, CONDITIONS, AND OBLIGATIONS OF SETTLEMENT AGREEMENT, RE; FALCON RIDGE LLC V. CITY OF ALBUQUERQUE ET AL; CV-2000-03050 AS APPROVED BY THE ALBUQUERQUE CITY COUNCIL ON 4/28/03 AND ENTERED AS EXHIBITS A AND B.

2. **Project # 1000635**
03DRB-00613 Major-Vacation of Public Easements
03DRB-00614 Major-Vacation of Public Easements
03DRB-00615 Minor-Vacation of Private Easements

TIERRA WEST LLC agent(s) for FORTIS ADVISORS LLC request(s) the above action(s) for all or a portion of Tract(s) 38-1, 38-2, 38-3, 38-4 and 27B-B1, **TAYLOR RANCH – ECKERD DRUG PLAZA**, zoned SU-1 for C-1, permissive & conditional uses, located on MONTANO RD NW, between MONTANO PLAZA DR NW and COORS BLVD NW containing approximately 6 acre(s). [REF: DRB-98-106, AA-99-194, 03DRB-00454, 03DRB-00455] (E-12) **THE VACATIONS WERE APPROVED AS SHOWN ON EXHIBIT(S) B IN THE PLANNING FILE.**

3. **Project # 1002593**
03DRB-00622 Major-Bulk Land Variance
03DRB-00623 Major-Vacation of Public Easements
03DRB-00624 Minor-Prelim&Final Plat Approval

BOHANNAN HUSTON INC agent(s) for LAS VENTANAS LTD PARTNERSHIP request(s) the above action(s) for all or a portion of Tract(s) X1A1A1A1, **COUNTRY MEADOWS @ VENTANA RANCH - UNIT 3**, zoned R-LT, located on IRVING BLVD NW, between RAINBOW BLVD NW and UNIVERSE BLVD NW containing approximately 36 acre(s). [REF: 1001101] (B-9) **THE BULK LAND VARIANCE WAS APPROVED. THE PRELIMINARY PLAT WAS APPROVED WITH FINAL PLAT SIGN OFF DELEGATED TO PLANNING FOR AGIS DXF FILE.**

4. **Project # 1000635**
03DRB-00454 Major-Amnd SiteDev Plan Subd
03DRB-00455 Major-Amnd SiteDev Plan BldPermit

TIERRA WEST LLC agent(s) for FORTIS ADVISORS LLC request(s) the above action(s) for TRACTS 38-1, 38-2, 38-3, 38-4, AND 27B-B1, **TAYLOR RANCH - ECKERD DRUG PLAZA**, zoned SU-1 FOR C-1 PERMISSIVE AND CONDITIONAL Uses, located on MONTANO RD NW between MONTANO PLAZA NW and COORS BLVD NW containing approximately 6 acre(s). [REF: DRB-98-106, AA-99-194] [Deferred from 4/23/03] [Deferred from 5/7/03] (E-12) **THE AMENDED SITE DEVELOPMENT PLAN FOR BUILDING PERMIT AND THE AMENDED SITE DEVELOPMENT PLAN FOR SUBDIVISION WERE APPROVED WITH FINAL SIGNOFF DELEGATED TO CITY ENGINEER FOR SIA.**

SITE DEVELOPMENT PLANS (EPC FINAL SIGN-OFF) AMENDED PLANS AND MASTER DEVELOPMENT PLANS (CITY COUNCIL FINAL SIGN-OFF)

NOTE: IF THE APPLICANT/AGENT IS NOT PRESENT WHEN THEIR REQUEST IS CALLED, THEN THE REQUEST MAY BE INDEFINITELY DEFERRED ON A NO SHOW.

5. **Project # 1002492**
03DRB-00738 Minor-Amnd Prelim Plat
Approval

FRED RIVERA JR., agent(s) for GRAND AVENUE PARTNERS request(s) the above action(s) for all or a portion of Lot(s) A1 & A2, Block 28, **BROWNEWELL & LAIHS HIGHLAND ADDITION** zoned SU-2 / MD-1, located on TIJERAS AVE NE, between MULBERRY ST NE and CEDAR ST NE containing approximately 1 acre(s). [REF: 03DRB-00261, 03DRB-00398, DRB-99-214] (K-15) **THE AMENDED PRELIMINARY PLAT WAS APPROVED. THE AMENDMENT DOES NOT EXTEND THE EXPIRATION DATE OF THE ALREADY APPROVED PRELIMINARY PLAT.**

6. **Project # 1001374**
03DRB-00740 Minor-Prelim&Final Plat
Approval

TIERRA WEST LLC agent(s) for RIDGEFIELD WEST LLC request(s) the above action(s) for all or a portion of Block(s) 31, Tract(s) 21A1, **NORTH HERITAGE HILLS PHASE 3, ALBUQUERQUE ACRES**, zoned R-LT, located on PALOMAR AVE NE, between BARSTOW ST NE and VENTURA ST NE containing approximately 1 acre(s). [REF: 03DRB-00666, 03DRB-00667] (D-20) **DEFERRED AT THE AGENT'S REQUEST TO 5/21/03, TO BE HEARD WITH VACATION REQUEST.**

7. **Project # 1002513**
03DRB-00739 Minor-SiteDev Plan
BldPermit/EPC

DEKKER/PERICH/SABATIN. agent(s) for SANDIA FOUNDATION request(s) the above action(s) for all or a portion of Tract(s) A-1 & A-2, TRIANGLE REALTY CO., zoned C-3, located on SAN MATEO NE, between OSUNA NE and I-25 NE containing approximately 9 acre(s). [REF: 03EPC-00318, Z-85-36-1, Z-1140, V-86-148] [Cynthia Borrego, EPC Case Planner] (E-17) THE SITE DEVELOPMENT PLAN FOR BULDING PERMIT WAS APPROVED WITH FINAL SIGN OFF DELEGATED TO UTILITIES FOR THE REVIEW OF UTILITY PLAN AND NEW FIRE HYDRANT CONNECTION.

8. **Project # 1002249**
03DRB-00635 Minor-SiteDev Plan
Subd/EPC
03DRB-00637 Minor-SiteDev Plan
BldPermit/EPC

TIERRA WEST LLC agent(s) for WALMART STORES EAST, INC. request(s) the above action(s) for all or a portion of Tract(s) F1 & E1, AMERICAN SQUARE, zoned C-2 community commercial zone, located on CARLISLE BLVD NE, between CLAREMONT AVE NE and PHOENIX AVE NE containing approximately 13 acre(s). [REF: 02EPC-01475 & 02EPC-01476, 03DRB-00445 VPE] [Debbie Stover, EPC Case Planner] [Deferred from 4/30/03] (H-16) DEFERRED AT THE AGENT'S REQUEST TO 5/21/03, TO BE HEARD WITH REPLAT REQUEST.

MINOR PLATS, FINAL (MAJOR) PLATS, AMENDED PLATS AND PLANS

9. **Project # 1000527**
03DRB-00710 Minor-Ext of SIA for Temp
Defer SDWK

BOHANNAN HUSTON, INC. agent(s) for SUCCESS VENTURE LLC request(s) the above action(s) for all or a portion of Lot(s) 35, CHAMISA TRAIL AT HIGH DESERT, zoned SU-2-HD/RT, located on TRAMWAY NE, between ACADEMY RD NE and SIMMS PARK RD NE containing approximately 20 acre(s). [REF: 00440-00648] (E-23) A ONE YEAR EXTENSION TO THE 4 YEAR AGREEMENT TO THE SIDEWALK WAS APPROVED. THE EXISTING CONSTRUCTION COMPLETION DEADLINE DATE OF 5/22/03, AS INDENTIFIED ON THE MOST RECENT SIA, IS EXTENDED TO 5/22/04.

10. **Project # 1000809**
03DRB-00715 Minor-Prelim&Final Plat
Approval

ALBUQUERQUE SURVEYING CO. agent(s) for JOHN SANCHEZ request(s) the above action(s) for all or a portion of Tract(s) C & Lot 8A-P1, Tract D & Lot 2A-P1, **SUNSET FARM SUBDIVISION**, zoned R-1, located on SUNSET ROAD SW, between CENTRAL AVE SW and GONZALES ROAD SW containing approximately 4 acre(s). [REF: 03-00169, 00-01295, 1996, 1297 & 01-01254 & 01255] (K-12) **INDEFINITELY DEFERRED AT AGENT'S REQUEST FOR FORMATION OF HOMEOWNER'S ASSOCIATION TO ASSUME OWNERSHIP AND MAINTENANCE RESPONSIBILITY FOR PRIVATE STREETS.**

11. **Project # 1001926**
03DRB-00674 Minor-Prelim&Final Plat
Approval

BEN PLATANIA request(s) the above action(s) for all or a portion of Lot(s) 225, TOWN OF ATRISCO GRANT **AIRPORT ADDITION**, zoned R-2 residential zone, located on the NORTH SIDE OF GLEN RIO RD NW, between 68TH ST NW and 72ND ST NW containing approximately 5 acre(s). [REF: 02DRB-00568(VRW) [HEARD UNDER PROJECT # 1000694 IN ERROR.] [Deferred from 5/7/03] (J-10) **WITHDRAWN AT THE APPLICANT'S REQUEST. TO RE-DEFINE SUBDIVISION.**

12. **Project # 1002637**
03DRB-00712 Minor-Preliminary Plat
Approval

SURVEYS SOUTHWEST, LTD agent(s) for EDDY GALLINGER request(s) the above action(s) for all or a portion of Lot(s) 1, 2 & 3, Block 4, **TERRACE ADDITION**, zoned SU-2/NCR, located on LEAD AVE SE, between LOCUST AVE SE and ELM ST SE containing approximately 1 acre(s). [REF: BA-76-36, LUC-93-24, LUCC-99-24] (K-15) **DEFERRED AT THE AGENT'S REQUEST TO 5/21/03 TO DETERMINE ALLEY PURPOSE.**

NO ACTION IS TAKEN ON THESE CASES:
APPLICANT - AGENT IS REQUIRED TO BE AT THE MEETING

13. **Project # 1001939**
03DRB-00737 Minor-Sketch Plat or Plan
- WILSON & COMPANY, INC. agent(s) for WESTLAND DEVELOPMENT CO., INC. request(s) the above action(s) for all or a portion of Tract(s) A-1-B, **CIELO OESTE SUBDIVISION**, zoned R-D, located on NEAR GUNNISON PL NW, between UNSER BLVD NW and 98TH ST NW containing approximately 14 acre(s). (H-9) **THE ABOVE REQUEST WAS REVIEWED AND COMMENTS WERE GIVEN.**
14. **Project # 1002631**
03DRB-00689 Minor-Sketch Plat or Plan
- SURVEYS SOUTHWEST, LTD agent(s) for GLORIA SAIZ request(s) the above action(s) for all or a portion of Lot(s) 7 & 8, Block(s) 3, **ANDERSON ADDITION, UNIT 2**, zoned SU-2, S-R Sawmill Residential, located on 8TH ST NW, between 8TH ST NW and KINLEY AVE NW containing approximately 1 acre(s). [REF: ZA-92-327, ZA-84-397] (J-14) **THE ABOVE REQUEST WAS REVIEWED AND COMMENTS WERE GIVEN.**
15. **Project # 1002636**
03DRB-00708 Minor-Sketch Plat or Plan
- ROBERT. A. SIEGLITZ request(s) the above action(s) for all or a portion of Lot(s) 23B & 24, **RICE DURANES ADDITION, NO. 1**, zoned RA-2 residential and agricultural zone, located on RICE AVE NW, between RIO GRANDE BLVD NW and ARMADO RD NW containing approximately 1 acre(s). (H-12) **THE ABOVE REQUEST WAS REVIEWED AND COMMENTS WERE GIVEN.**

16. **Project # 1002644**
03DRB-00736 Minor-Sketch Plat or Plan

BOHANNAN HUSTON INC agent(s) for WESTLAND DEVELOPMENT CO INC request(s) the above action(s) for all or a portion of **PARCEL 1, WESTLAND NORTH, and TRACT A, PARKWAY SUBDIVISION** zoned R-LT & R-D, located on LADERA BLVD NW, between 98TH ST NW and UNSER BLVD NW containing approximately 55 acre(s). (J-9) **THE ABOVE REQUEST WAS REVIEWED AND COMMENTS WERE GIVEN.**

17. **Project # 1002645**
03DRB-00741 Minor-Sketch Plat or Plan

TIERRA WEST LLC agent(s) for AMC DEVELOPMENT SERVICES request(s) the above action(s) for all or a portion of Tract(s) 1B1A, **SEVILLE SUBDIVISION**, zoned R-LT, located on IRVING BLVD NW, between UNIVERSE BLVD NW and KAYENTA BLVD NW containing approximately 27 acre(s). (A-10) **THE ABOVE REQUEST WAS REVIEWED AND COMMENTS WERE GIVEN.**

18. Approval of the Development Review Board Minutes for April 30, 2003. **MINUTES WERE APPROVED SUBJECT TO CHANGES BY THE BOARD.**

ADJOURNED: 12:10 P.M.



City of Albuquerque

P.O. BOX 1293 ALBUQUERQUE, NEW MEXICO 87103

DEVELOPMENT REVIEW BOARD TRANSPORTATION DEVELOPMENT Standard Comment Sheet

DRB-1002637

Item No. 12

Zone Atlas K-15

DATE ON AGENDA 5-14-03

INFRASTRUCTURE REQUIRED (?)YES ()NO

CROSS REFERENCE: _____

TYPE OF APPROVAL REQUESTED:

- () SKETCH PLAT (x) PRELIMINARY PLAT (x) FINAL PLAT
- () SITE PLAN REVIEW AND COMMENT () SITE PLAN FOR SUBDIVISION
- () SITE PLAN FOR BUILDING PERMIT

No.	Comment
-----	---------

- Need to dedicate 10ft from the face of the curb on all perimeter streets.
- 2ft of right-of-way dedication on alley is needed.

If you have any questions or comments please call Richard Dourte at 924-3990. Meeting notes:

CITY OF ALBUQUERQUE
Planning Department
Development Review Board
5/14/03 Comments

Item : 12

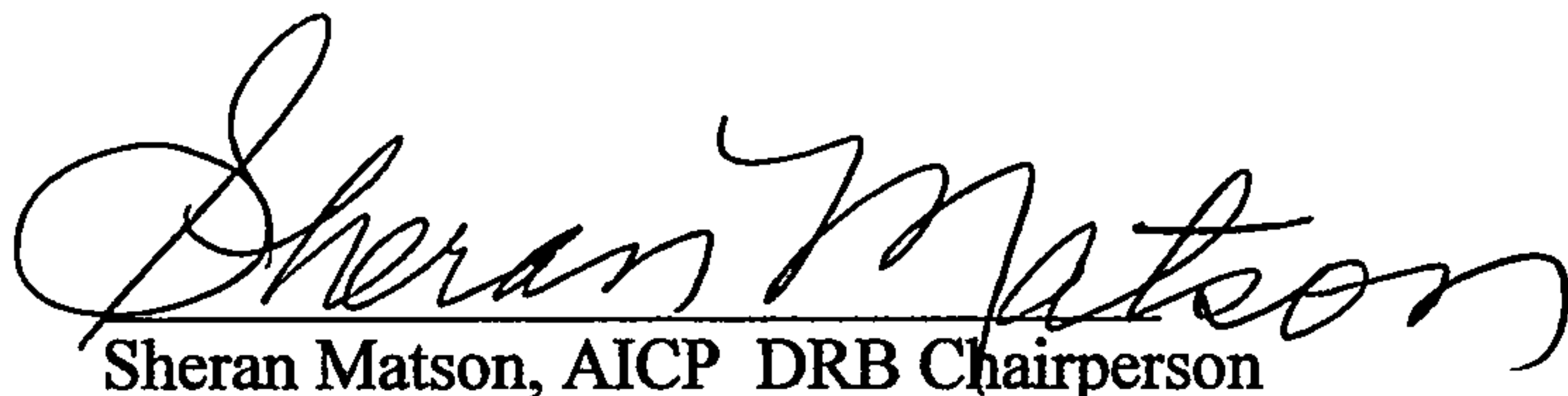
Project: 1002637

Application: 03DRB-00712

RE: Terrace Addition

No objection to the preliminary plat approval.

This property is within the boundaries of the Huning Highland Sector Development Plan.



Sheran Matson, AICP DRB Chairperson
924-3880 Fax 924-3864

AGIS ELECTRONIC SUBMITTAL CHECKLIST

DRB Project# 1007637 Subdivision Name Terrace Addn Lot 1A

Surveyor Gary Britsko Company Surveys Southwest

Contact person Sarah Amato Phone # 998-0303 email samato@swsurver.com

Colleen G. Atnevin
Approved _____ *Not Approved _____ Date 5/6/03

DXF RECEIVED 5/6/03 DATE
 HARD-COPY RECEIVED 5/5/03 DATE
 DISCLOSURE STATEMENT

NAD 1927 Ground Coordinates rotated to grid

*Not Approved for one or more of the following reasons:

File Format and naming

- 1) ___ Format is not DXF file in ASCII format
- 2) ___ No hard copy of the final plat submitted
- 3) ___ <DRB Project #>.dxf not used as a standard naming convention

Coordinate System

- 4) ___ Submittal does not include a disclosure of the datum (NAD27 or NAD83)
- 5) ___ Submittal does not specify if coordinates are based on ground or grid distances
- 6) ___ Submittal does not include information necessary to rotate from ground to grid
- 7) ___ Lines cannot be projected/converted to correct location in NAD83 NMSP coordinate system

Content

- 8) ___ Submittal is not single drawing in model space showing only parcel and easement lines
- 9) ___ Digital submittal does not match final plat
- 10) ___ Parcel lines are not in one separate layer
- 11) ___ Access easement lines and all other easements that are 20 feet wide or greater are not in a second separate layer
- 12) ___ All other easement lines are not in a third separate layer

Comments:

AGIS Use Only: Copied cov 2637 to agiscov on 5/6/03 Client Notified 5/6/03



City of Albuquerque
CITY OF ALBUQUERQUE
 P.O. BOX 1293 ALBUQUERQUE, NEW MEXICO 87103
PUBLIC WORKS DEPARTMENT
DEVELOPMENT SERVICE
HYDROLOGY DEVELOPMENT SECTION

DEVELOPMENT REVIEW BOARD--SPEED MEMO

DRB CASE NO/PROJECT NO: 1002637

AGENDA ITEM NO: 12

SUBJECT:

- | | | |
|------------------------------|--------------------------|------------------------------|
| (01) Sketch Plat/Plan | (05) Site Plan for Subd | (10) Sector Dev Plan |
| (02) Bulk Land Variance | (06) Site Plan for BP | (11) Grading Plan |
| (03) Sidewalk Variance | (07) Vacation | (12) SIA Extension |
| (03a) Sidewalk Deferral | (08) Final Plat | (13) Master Development Plan |
| (04) Preliminary Plat | (09) Infrastructure List | (14) Other |

ACTION REQUESTED:

REV/CMT:() APP:(x) SIGN-OFF:() EXTN:() AMEND:()

ENGINEERING COMMENTS:

Alley improvements required if not paved.

RESOLUTION:

APPROVED ____; DENIED ____; DEFERRED ____; COMMENTS PROVIDED ____; WITHDRAWN

SIGNED-OFF: (SEC-PLN) (SP-SUB) (SP-BP) (FP) BY: (UD) (CE) (TRANS) (PKS) (PLNG)

DELEGATED: (SEC-PLN) (SP-SUB) (SP-BP) (FP) TO: (UD) (CE) (TRANS) (PKS) (PLNG)

FOR:

SIGNED: Bradley L. Bingham
 City Engineer/AMAFCA Designee

DATE: May 14, 2003

1002637

ENDORSED
FILED IN MY OFFICE THIS

MAR 25 2010

Quantita M. Duran
CLERK DISTRICT COURT

RECEIVED

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STATE OF NEW MEXICO
COUNTY OF BERNALILLO
SECOND JUDICIAL DISTRICT COURT

BRAD HALL ASSOCIATES INC.
An Idaho Corporation,

Plaintiff-Appellant,

v.

CV-2008-06775

CITY OF ALBUQUERQUE

Respondent-Appellee

S.A.F.E. HOUSE, INC., —

Respondent in Intervention.

MEMORANDUM OPINION AND ORDER

Appellant Brad Hall Associates Inc. ("Appellant") appeals the May 19, 2008¹, decision of the City Council to this Court. In its decision, the City Council voted to accept the Land Use Hearing Officer's ("LUHO") findings and recommendation, denying Appellant's application to vacate the public alleyway. On July 3, 2008, Appellant filed a timely appeal to this Court. On December 17, 2008, Appellant filed Statement of Appellant Issues. On March 2, 2009, Respondent, the City of Albuquerque, filed the response to Appellant's Statement of Issues. On February 27, 2009, intervenor, S.A.F.E. House Inc., filed its response. The Court has reviewed the record on appeal as well as the documents filed by the parties under the applicable standard of review. See Rule 1-074 NMRA 2007. The Court concludes as a matter of law that: a) the City Council did not act in a fraudulent, arbitrary and capricious fashion; and, b) substantial evidence exists to justify the City Council's conclusion. The Court affirms the decision of the City Council.

I. FACTUAL AND PROCEDURAL BACKGROUND

The present dispute concerns an alleyway in Southeast Albuquerque located in Block 4 of

¹ The official notice of the decision was filed with the City Clerk on June 3, 2008.

1 the Terrace Addition ("Block 4"). The alleyway is owned by the City of Albuquerque ("City"). (RP
2 129, 149). The alleyway is 16 feet wide and 140 feet long and begins at Locus Street and runs west
3 for 140 feet. (RP 129). There are three property owners in Block 4 and the block is comprised of
4 12 lots. Lots 1-6 are on the northern half of the block and lots 7-12 are on the southern half.
5 S.A.F.E. House, Inc. ("SAFE House") owns lots 4-10 of Block 4 and the westerly 10 feet of lot 3.
6 (RP 87, 184). In December 2007, Appellant Brad Hall Associates Inc. ("Appellant") bought the
7 vacant dirt lot consisting of Lots 1, 2 and the easterly 40 feet of lot 3. (RP 81). There is another
8 property on the southeast corner, consisting of lots 11 and 12 where a Chevron gas station is located
9 ("Chevron Property"). (RP 56). The property abutting the Alleyway consists of Lots 1, 2, and 3 on
10 the northern side and lots 10, 11 and 12 on the southern side and the end of the alleyway abuts the
11 east side of the SAFE House property. The alleyway is not a through-fare.

12 SAFE House is a non-profit organization that provides shelter, programs and services to
13 adults and children who are survivors of domestic violence. SAFE House stores its solid waste trash
14 bins in the alleyway. (RP 20). The City of Albuquerque Solid Waste Department uses the alleyway
15 three times a week to collect waste stored at this waste collection site.

16 On November 20, 2007, Appellant submitted an application to the City to vacate the subject
17 alleyway. (RP 20). The Development Review Board ("DRB") held a public hearing on December
18 19, 2007. SAFE House opposed the application, claiming that they had a property right in the trash
19 removal in the alleyway. (Id.). The matter was adjourned and was taken up by the DRB on January
20 23, 2008. This hearing was postponed to give more time to the parties to resolve the dispute. (Id.).
21 On February 6, 2008, the DRB heard additional testimony and arguments and ruled that Appellant's
22 vacation request be granted. (RP 159-160). SAFE House appealed the case to a Land Use Hearing
23 Officer ("LUHO"). (RP. 21). The LUHO reversed the DRB's determination and held that the DRB
24 failed to properly evaluate the vacation request under the applicable zoning ordinance § 14-14-7-2,
25 Vacation of Public Rights of Way, Private Ways and Easements. (RP 20-26). On May 19, 2008,
26 the City Council voted to accept the LUHO's findings and recommendation and reversed the DRB's
27 decision. (RP 14). On July 3, 2008, Appellant filed a timely appeal with this Court.

1 **II. ANALYSIS**

2 **A. Standard of Review**

3 This Court reviews the decision in an administrative appeal under an administrative standard
4 of review. Rio Grande Chapter of Sierra Club v. N.M. Mining Comm'n, 2003 NMSC-005, ¶¶ 16-17,
5 133 N.M. 97, 61 P.3d 806. In reviewing a decision of the City Council, this Court applies a
6 whole-record standard of review. Martinez v. N.M. State Eng'r Office, 2000-NMCA-074, ¶ 31, 129
7 N.M. 413, 9 P.3d 657. The district court must “independently review the entire record of the
8 administrative hearing to determine whether the Board's decision was arbitrary and capricious, not
9 supported by substantial evidence, or otherwise not in accordance with law.” Id. An administrative
10 ruling is arbitrary and capricious if it is “unreasonable or without a rational basis, when viewed in
11 light of the whole record.” Archuleta v. Santa Fe Police Dep't, ex rel., City of Santa Fe,
12 2005-NMSC-006, ¶ 17, 137 N.M. 161, 108 P.3d 1019. Whether the Board's actions were contrary
13 to law is a question that this Court must review *de novo*. Id. ¶ 18. The burden is on the party
14 challenging the agency decision to demonstrate grounds for reversal. Regents of Univ. of N.M.,
15 1998-NMSC-020, ¶ 17, 125 N.M. 401, 962 P.2d 1236. The District Court must act as an appellate
16 court when hearing an appeal from the agency. Groendyke Transp., Inc. v. N.M. State Corp.
17 Comm'n, 101 N.M. 470, 476, 684 P.2d 1135, 1141 (1984). “It is not the function of the trial court
18 to retry the case . . . admit new evidence unless under an [statutory] exception . . . or substitute its
19 judgment for that of [an administrative agency].” Id. (internal citations omitted).

20 Appellant primarily argues that: 1) the LUHO erred in concluding that the application was
21 not initiated by majority of the landowners abutting the alleyway; 2) the LUHO's reliance on the
22 balancing test pursuant to Ordinance §14-14-7-2 (B) (2) is arbitrary and capricious; and 3) SAFE
23 House does not possess a substantial property interest.

24 The parties agree that the City of Albuquerque Ordinance §14-14-7-2 should guide this
25 Court's analysis. Ordinance § 14-14-7-2: Vacation of Public Rights of Way, Private Ways and
26 Easements states:

27 (A) Rights of way, including public rights of way, private ways, ... may be
28 vacated, that is, terminated, by recording a new subdivision plat or by plat
29 amendment, as described in § 14-14-7-1 of this part. In addition, where nothing

1 except vacation of public rights of way, private ways, and easements is proposed, it
2 may be initiated by a request to vacate filed by either:

3 (1) The owners of a majority of the front footage of land abutting the
4 proposed vacation; or

5 (2) The Planning Director, if he or she finds vacation likely to be in the
6 public interest. ...

7 (B) The vacation of public rights of way, private ... shall be approved only
8 when it is determined that:

9 (1) The public welfare is in no way served by retaining the way or
10 easement; or

11 (2) There is a net benefit to the public welfare because the development
12 made possible by the vacation is clearly more beneficial to the public welfare than the minor
13 detriment resulting from the vacation; and in addition to divisions (1) or (2) of this division
14 (B):

15 (3) There is no convincing evidence that any substantial property right is
16 being abridged against the will of the owner of the right.
17

18 Thus, to be successful in its request to vacate the public alleyway, Appellant should have met
19 three elements: 1) (A)(1), application by a majority of property owners; 2) B(1) or (2) either public
20 welfare is in no way served by retaining the way or easement or that the development made possible
21 by the vacation is more beneficial to the public than continuing the public alleyway; and 3) B(3) that
22 no substantial property interest of SAFE House is being abridged by vacation of the public alleyway.

23
24 **B. Majority of Property Owners whose Property Abuts the Public Alleyway did**
25 **not Move for Vacation**
26

27 The DRB was required to find that the application was filed by a majority of the property
28 owners abutting a public alleyway pursuant to the first Ordinance §14-14-7-2 requirement. There
29 is no evidence in the record that the application was filed by the owners of the majority of the
30 footage of land abutting the proposed vacation. Appellant was not the owner of any property at the
31 time the application was filed on November 20, 2007. He obtained a deed for the Northeast corner
32 of the property only on December 11, 2007. Appellant merely entered into a proposed purchase
33 agreement with the owner of the south side of the property. Appellant's purchase negotiations with
34 the property owner on the other side (south side) of the alleyway or proposed purchase agreements
35 do not make him the property owner. He was merely a potential/anticipating owner of the property.
36 Even assuming Appellant's acquisition of the Northeast corner of the property on December 11,
37 2007, Appellant could not have become the majority property owner. The LUHO is justified in
38 finding that the "mere statement from the applicant that he is negotiating the purchase of the Chevron

1 gas station is grossly insufficient to establish ownership of the South side (Chevron property)." (RP
2 23). Therefore, the application for vacation fails to meet the initial element: majority owners
3 applying for vacation. Although the owners of the Chevron Gas Station did not oppose the
4 application, they did not join in the application, and one can not assume consent from this fact.
5 Because the ordinance requires application by majority of the owners and the present application
6 fails to meet this element, the statutory language of the ordinance is not met. Therefore, substantial
7 evidence exists to support the LUHO's determination.

8
9 **C. Substantial Evidence Exists to Support the LUHO's Conclusion that the**
10 **Existence of Public Alleyway is Serving Public Welfare**

11
12 Appellant argues that the LUHO ignored the plain language of Ordinance § 14-14-7-2 (B).
13 Appellant argues that Ordinance § 14-14-7-2 (B)(1) merely requires an analysis on the issue whether
14 public welfare was served by retaining the alleyway and that the DRB analyzed this issue. Therefore,
15 the LUHO's subsequent analysis of the Ordinance § 14-14-7-2 (B)(2) balancing test of whether
16 public welfare is served more by vacation of public alleyway versus keeping the public alleyway
17 lacks merit. As such the LUHO's recommendation that DRB needed to conduct a § 14-14-7-2 (B)(2)
18 analysis or explain "why it ignored the balancing test of the applicable regulation" was arbitrary,
19 capricious and an abuse of discretion.

20 Ordinance § 14-14-7-2 (B) requires that public welfare analysis be done prior to approving
21 vacation of a public alleyway. It states that:

22 B) The vacation of public rights of way, private ... shall be approved only when
23 it is determined that:

24 (1) The public welfare is in no way served by retaining the
25 way or easement; or

26 (2) There is a net benefit to the public welfare because the
27 development made possible by the vacation is clearly more beneficial
28 to the public welfare than the minor detriment resulting from the
29 vacation ...
30

31 Thus, Appellant is correct that there is no need to satisfy both the sub sections. In other words, if
32 section (B) (1), (public welfare is no way served by retaining the public alleyway) is met, subsection
33 (B) (2) (the balancing test) is not required.

34 Contrary to Appellant's assertions however, the LUHO analyzed § 14-14-7-2 (B)(1) and

1 concluded that the DRB did not do a through analysis on whether or not the public welfare is in no
2 way served.² (RP 0023-24). According to the LUHO, the DRB should have developed its analysis
3 to include all the existing functions of the alleyway rather than merely concluding that the alleyway
4 does not serve as a through-fare and therefore it does not serve public welfare. The LUHO analyzed
5 all the relevant facts. Although the alleyway was not used as a thorough-fare, it was being used as
6 SAFE House's solid waste disposal site and as a convenient location for the City's Solid Waste pick
7 up. SAFE House uses the alley as an ingress and egress route from its property to a dumpster and
8 several trash cans used by several homeless families in houses. The Albuquerque Solid Waste
9 Department collects this trash at least three times from the alleyway. This comports with the City
10 of Albuquerque's preferred policy that to the maximum extent possible public alleys should be used
11 as collection routes for solid waste. City Ordinance 9 -10-1-7 (B)(3)(b)(1) states that "[c]ollection
12 of [solid waste] from public alleys should be maximized, to the extent that is consistent with the
13 efficient collection routes." Id.

14 Moreover, the public right of way is defined as "that public area of land deeded, dedicated
15 by plat ... for the purposes of movement of vehicles, pedestrian traffic, and/or for conveyance of
16 public utility services and drainage." Ordinance § 14-14-1-6. Thus, there are multiple functions for
17 a public right of way and one of the enumerated functions of public right of way is also providing
18 a convenient waste storage location for the City's Solid Waste Department. Because one of the listed
19 primary purposes of the public right of way is met, the LUHO was justified in concluding that the
20 alleyway serves public welfare. Moreover, the alleyway serves public welfare because it: a)
21 maximizes the use of the alleyway for solid waste collection; b) minimizes the view of the storage
22 and collection of solid waste from the view of Lead Avenue and other public streets; and c) provides
23 a solid waste storage and collection location that maximizes the distance from residences and
24 outdoor recreation or relaxation areas. Therefore, even if the fundamental purpose of the public
25 alleyway to accommodate public travel is not met, because it is serving a secondary purpose

² In the present case, Appellant claims that because alleyway was no longer used by the public it was not serving any public welfare.

1 maximizing the City's trash collection, evidence supports the LUHO's conclusion that the public
2 alleyway is serving public welfare.

3
4 **D. The Balancing Test Favors SAFE House and Vacation of Public Alleyway**
5 **Causes Detriment to Public Welfare**
6

7 It is undisputed that the DRB failed to conduct an analysis of the benefit versus detriment that
8 would result from the vacation of the public alleyway. Appellant would like the alleyway to be
9 vacated to build a convenience store and a gas station. (RP00139). Appellant failed to provide
10 explanation or introduce evidence on how this development, that would be made possible by the
11 vacation, would be in any way beneficial to public welfare. On the other hand, SAFE House
12 introduced evidence that there would be substantial detriment to the community (because it serves
13 the needy community) if the alleyway is vacated. If the alleyway was vacated, SAFE House would
14 be forced to relocate and such a relocation would cost SAFE House up to \$20,000 forcing it to close
15 one of its domestic abuse departments. (RP 79-80). Needless to say, SAFE House's service to the
16 community trumps any individual benefit that might accrue to Appellant. Therefore, the balancing
17 test favors SAFE House.

18 **E. SAFE House has a Substantial Property Interest in the Public Alleyway**

19 Finally, if the alleyway was to be vacated SAFE House would be forced to relocate the area
20 where its trash is picked up by the City's Solid Waste Department. Such a relocation would cost
21 SAFE House a significant amount of money and such relocation would negatively impact its
22 operations and departments. Ultimately SAFE House may have had to discontinue one of its
23 functions (helping abuse victims).

24 Appellant argues that SAFE House is not deprived of the property interest because it alone
25 has the right to cross into the public alley from its property. In other words, it is proper for the City
26 to vacate because the general public has no right to use the alleyway. In support of its proposition
27 Appellant cites Phillips Mercantile Co. v. City of Albuquerque, 60 N.M. 1, 15-16, 287 P.2d 77, 87
28 (1955). According to Appellant, the Phillips Mercantile Co. court held that if a public right of way
29 is converted into a private easement, then it could be vacated.

30 The Phillips Mercantile Co. case is not analogous to the present case because in that case

1 Plaintiff Phillips (protester of the vacation) became owner of the property after the public alleyway
2 had been vacated. Phillips purchased the lots abutting the alley after the alley was vacated and built
3 a grocery warehouse on these lots and needed access through the alley in order to unload the trucks.
4 The Court framed the primary issue as: "[w]hether or not prior to its vacation the plaintiffs and their
5 predecessors in interest enjoyed a substantial right in the use of and access to Bratina Road." Id. at
6 14. The Court answered it in the negative and went on to add that doing so would constitute a
7 private easement to Phillips. In the present case, SAFE House's property abuts the alleyway and it
8 has been using utilizing the alleyway for its solid waste storage and removal for several years with
9 the consent of the City of Albuquerque. Under New Mexico law, an owner of property abutting the
10 public right of way had superior right to enjoy the alleyway. Phillips Mercantile Co. v. City of
11 Albuquerque, 60 N.M. 1, 15-16, 287 P.2d 77, 87 (1955). Therefore, the holding in Phillips is not
12 applicable to the present case. It is a well-settled rule that a lot owner's right to object to the vacation
13 of a part of a street depends upon whether his lot abuts upon or comes in actual contact with the
14 vacated portion, or access to his lot is entirely or materially cut off by reason of the vacation. Spiek
15 v. Michigan Dept. of Transp., 572 N.W.2d 201 (Mich.1998); Hubbard Richard Community Council
16 v. City of Detroit, 1995 WL 871204 *6; Tomaszewski v. Palmer Bee Co., 194 N.W. 571 (Mich.
17 1923). Mere inconvenience such as a round about way to reach certain points does not deprive him
18 of a substantial property interest. Tomaszewski v. Palmer Bee Co., 194 N.W. 571 (Mich. 1923).
19 In the present case, SAFE House' property abuts the public alleyway and failure to use the public
20 alleyway for disposal of its commercial waste/garbage is a significant enough deprivation of its
21 enjoyment of the property that one can conclude that it constitutes a deprivation of a property
22 interest. The vacation would cause SAFE House more than mere inconvenience, it would cause an
23 injury different in kind and level from that of the general public or other property owners abutting
24 the alleyway. Therefore, it constitutes an infringement of a substantial property interest. As
25 concluded by the LUHO, the vacation changes the character of SAFE House's use of their property
26 and results in substantial expense to them. (RP 25). Moreover, placing the waste containers in
27 another area on their property will cause safety problems for SAFE House' clientele.

28

1 **F. The Cessation of the Purpose Doctrine Has No Application**

2 According to Appellant, the alleyway was created for public through-fare and because it no
3 longer existed as an easement it ceased to be an alley. Appellant analogizes the public alleyway with
4 easement and argues that because the alley no longer worked as a public through-fare, the purpose
5 it was created for, the easement, ceased to exist. This is called the Cessation of Purpose Doctrine
6 (“Doctrine”) and it is based upon the assumption that parties intended easements to terminate upon
7 cessation of their purposes. The Doctrine serves to eliminate meaningless burdens on land.
8 However, under New Mexico law, when an alleyway is dedicated by plat to the City, that conveyance
9 is one in fee simple absolute. See Wheeler v. Monroes, 86 N.M. 296, 523 P.2d 540 (1974). In
10 Wheeler the New Mexico Supreme Court held that

11 We hold ... that after dedication and acceptance, the land becomes the property of
12 the municipality in fee simple, unless the dedication contains a conditional language
13 or a reservation in the grantor of a present or future interest. In other words, there is
14 an absolute gift from the donors to the City unless there is conditional language in the
15 dedication.

16 Wheeler, 86 N.M. 296, 297, 523 P.2d 540, 541.

17 The Doctrine, as admitted by Appellant, only applies to easements and because the present
18 case does not involve a private easement, but involves a fee simple land owned by the City, the
19 Doctrine is not applicable. More importantly, this argument was never made to the LUHO and
20 therefore, it was not preserved, preventing this Court from examining this issue.

21 Finally, even assuming this Court considers Appellant's arguments as persuasive that: a)
22 public welfare is no longer served by retaining the public alleyway and b) SAFE House has no
23 substantial interest in the public alleyway, SAFE House still prevails because Appellant failed to
24 establish that the application was initiated by the majority of the owners abutting the property.

25 In summary, there is no clear abuse of authority, no contravention of New Mexico law, and no
26 capriciousness in the LUHO's determination that the requirements set forth in Ordinance §14-14-7-2
27 for vacating the public alleyway are not met.

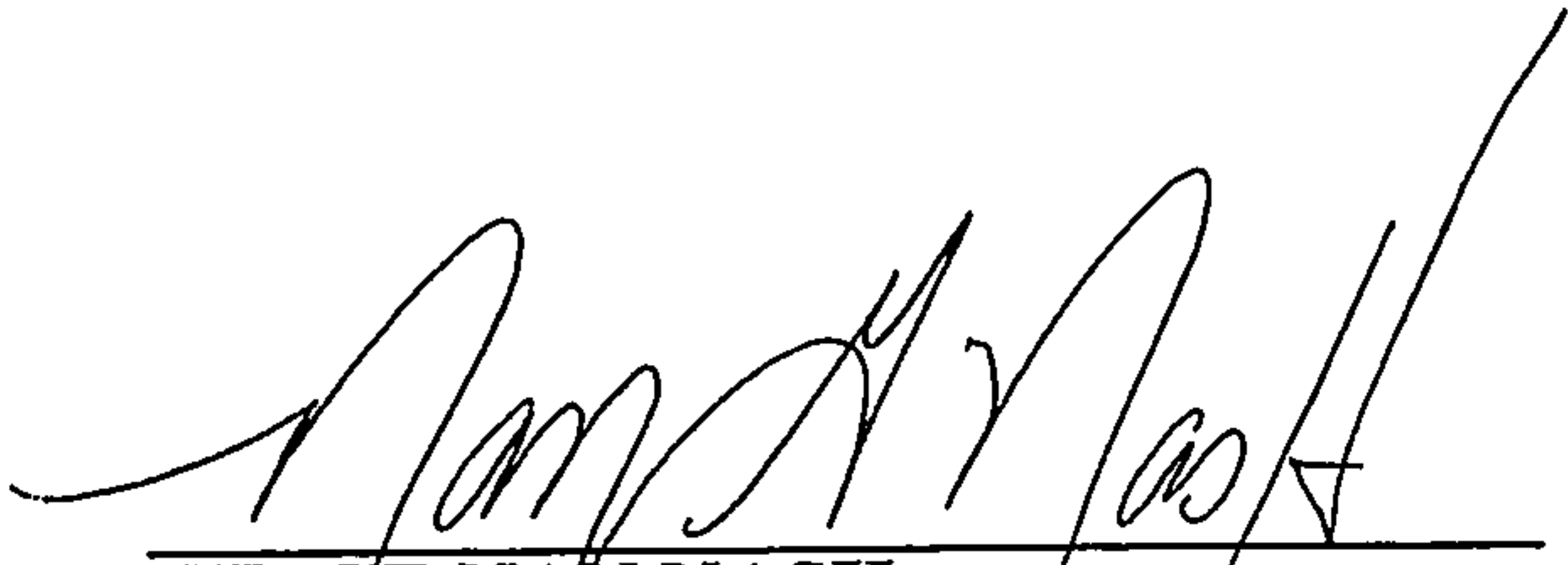
28
29 **III. CONCLUSION**

30 For the reasons set forth above, the Court concludes that the City Council's adoption of the

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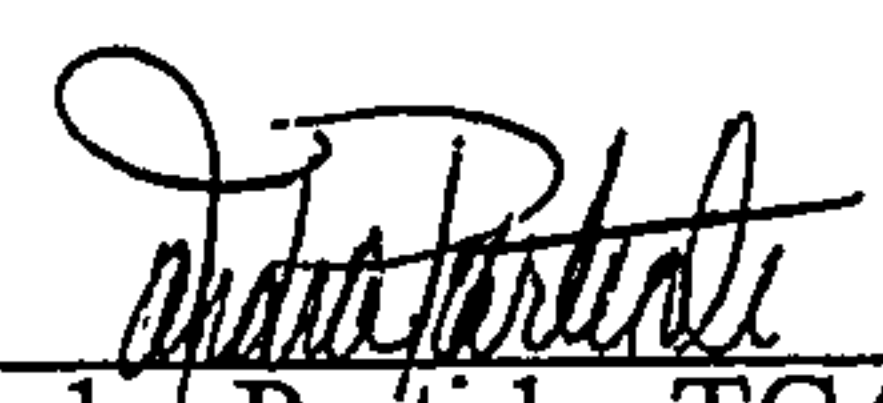
LUHO's recommendation was not arbitrary and capricious and is supported by substantial evidence.
The decision of the City Council is AFFIRMED, and the case is dismissed.

IT IS SO ORDERED.

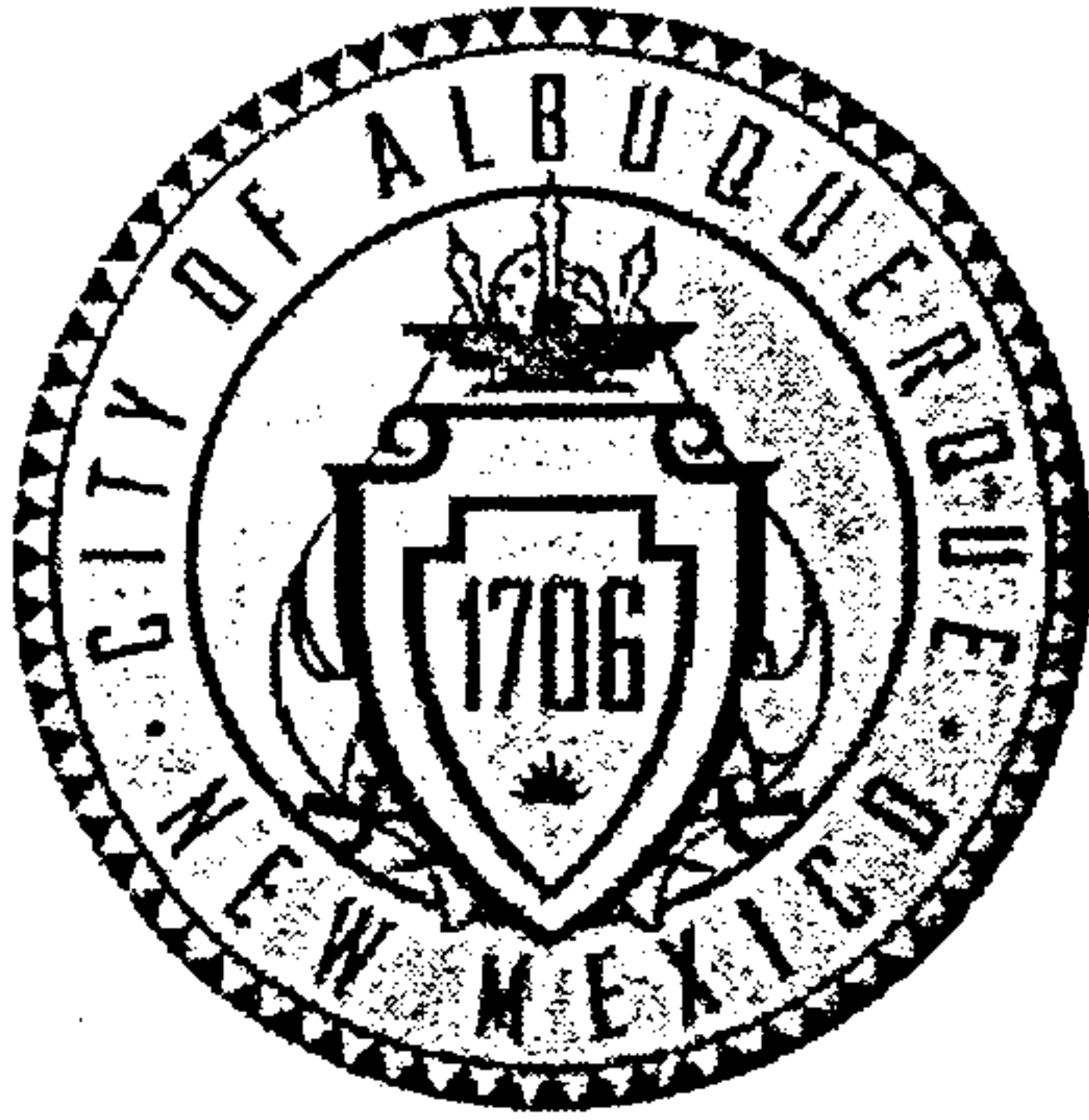


JUDGE NAN NASH
DISTRICT COURT JUDGE
3/24/10

This is to certify that a true and correct copy of
the foregoing document was mailed/delivered/or
otherwise provided to and
on the 25 day of March, 2010.



Sandra Partida, TCAA



CITY OF ALBUQUERQUE
Albuquerque, New Mexico
Planning Department

Mayor Martin J. Chávez

INTER-OFFICE MEMORANDUM

March 11, 2008

TO: Brad Winter, President, City Council

NPW

FROM: *R* Richard Dineen, Planning Department Director

SUBJECT: AC-08-03 – 07DRB-70406 **Project# 1006953 / 1002637**

- Karl E. Johnson, Luebben - Johnson & Barnhouse - LLP, agents for S.A.F.E. House, appeal the decision of the Development Review Board (DRB) to approve a vacation of public right-of-way for all or a portion of the east-west alley in Block(s) 4, **TERRACE ADDITION**, zoned SU-2/NCR, located on the south side of LEAD AVE SE BETWEEN LOCUST AVE SE AND ELM ST SE containing approximately 0.4539 acre(s). Original Applicant for vacation: Logan Hall - *deferred from 12/19/07, 1/23/08 & 2/6/08.* (K-15)

BACKGROUND: Logan Hall applied for the vacation of the subject alley adjacent to his property in the eastern half of Block 4 of the Terrace Addition. The appellant, S.A.F.E. House, owns the property in the western half of Block 4, and had taken possession of the alley adjacent to its property some time ago, or it was taken by previous successors in title.

At the first Development Review Board (DRB) public hearing on December 19, 2007, the agents for the appellants submitted a letter claiming that the requested vacation did not meet the requirements of City ordinances. The agents continue to endorse those claims in this appeal.

The key component of the appellant's objection to the vacation appears to be use of the remaining alley for its solid waste pick up. The DRB tabled the request to January 23, 2008 to allow the two property owners an opportunity to negotiate an agreement regarding dumpster use and location.

Lacking time for an adequate review of a proposed agreement, the request was tabled again to February 6, 2008. In the interim, it was noted that the City's Geographic Information System, or GIS, was showing the alley as already being part of the applicant's property by virtue of assigning the alley to the applicant's Uniform Property Code, or UPC. The request was deferred one more week to allow the applicant to check the County Assessor's records.

At the February 13, 2008 public hearing, neither the applicant nor appellant were able to provide any additional information. The DRB considered the facts of the request and approved the vacation with Findings and Conditions.

ISSUES

The appellant claims that the DRB erred in Finding that "The public welfare is in no way served by retaining the eastern portion of the alley, because of the existing condition of the western portion of the alley." The appellant claims that the DRB should disregard the western portion of the alley; that the appellant itself is providing for the public welfare through its programs and services; and that by servicing the appellant's property, there is a benefit to the public welfare by retaining the alley right of way.

For the DRB to find that the public welfare is served by retaining this right of way, it would have to have found that the alley was functional (i.e. a throughway from street to street) and that it was needed for use by the public. In the Notice of Decision, the DRB found that, based on existing buildings and development on and over the western portion of the alley by the appellant (the referenced "existing condition"), that the public welfare is not served by retaining half an alley that dead ends.

Regarding the services provided by the appellant, the appellant is claiming 'public welfare' for what is considered by the DRB to be more of a private benefit vis. a vis the Subdivision Ordinance. The ownership of property is subject to change on any given day; that is why with any subdivision matters, consideration is given to the function of the property, and not to the property owner. For example, an easement on a subdivision plat is granted to benefit a property (e.g. 'an access easement to benefit Lot A') and not to the owner of a property (e.g. 'an access easement to Jane Doe'), simply because the benefit must 'run with the land,' as it were. Should the appellant's property change hands and become an Adult Amusement Establishment, there would likely be little support in the community that retaining this right of way would be serving the 'public welfare.'

Regarding the utility services existing in the alley, these are routinely provided through utility easements (again, to benefit a property, but a specific property owner). When the replat required with the Condition of Approval is presented to the DRB for approval, PNM will be one of the signatories to the plat and they will require an adequate easement to continue their operations and service to the adjoining property.

The appellant claims that the DRB erred in Finding that " There is no convincing evidence that any substantial property right is being abridged against the will of the owner of the right; concerns regarding refuse pick- up may be addressed through the City's Solid Waste Department for the adjacent property."

Regarding the appellant's claim that it existing Solid Waste pick up is a "substantial" property right, this was considered at the first DRB public hearing. In coming to its final decision, the DRB ultimately considered that the existing solid waste service did not qualify for the level of property right to be considered "substantial." Typically, refuse service may be provided from a (through) alley, however dumpsters are to be stored on private property. There are other options than the continuation of a procedure which does not comply with current standards (i.e. storing a dumpster in public right of way).

The appellant contends that its only option is to sell the property or invest in significant construction to comply with the standards of the City's Solid Waste Department for refuse service on its own property. However, at the beginning of the public hearing process for this vacation there was presented an opportunity to enter into a joint use agreement with the vacation applicant regarding solid waste pick up. This appeal may provide an opportunity for reconsideration of that proposal.

The Planning Department supports the DRB's approval of the vacation and recommends that the appeal be denied because there was no error in applying the City's Subdivision Ordinance or in the DRB's decision (including its stated facts), and because the DRB did not act arbitrarily, capriciously, nor was it manifestly abusive of discretion.

APPROVED:



Russell Brito, Manager
Development Review Division
Planning Department

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City of Albuquerque



DEVELOPMENT/ PLAN REVIEW APPLICATION

Supplemental form

SUBDIVISION

- Major Subdivision action
- Minor Subdivision action
- Vacation
- Variance (Non-Zoning)

SITE DEVELOPMENT PLAN

- for Subdivision
- for Building Permit
- Administrative Amendment (AA)
- IP Master Development Plan
- Cert. of Appropriateness (LUCC)

STORM DRAINAGE

- Storm Drainage Cost Allocation Plan

S Z ZONING & PLANNING

- Annexation
- County Submittal
- EPC Submittal
- Zone Map Amendment (Establish or Change Zoning)
- Sector Plan (Phase I, II, III)
- Amendment to Sector, Area, Facility or Comprehensive Plan
- Text Amendment (Zoning Code/Sub Regs)
- Street Name Change (Local & Collector)
- L A APPEAL / PROTEST of...**
- Decision by: DRB, EPC, LUCC, Planning Director or Staff, ZHE, Zoning Board of Appeals

PRINT OR TYPE IN BLACK INK ONLY. The applicant or agent must submit the completed application in person to the Planning Department Development Services Center, 600 2nd Street NW, Albuquerque, NM 87102. Fees must be paid at the time of application. Refer to supplemental forms for submittal requirements.

APPLICANT INFORMATION:

Professional/Agent (if any): Karl E. Johnson, Luebben Johnson & Barnhouse LLP PHONE: 842-6123
 ADDRESS: 7424 4th Street NW FAX: (505) 842-6124
 CITY: Los Ranchos de Albuquerque STATE NM ZIP 87107 E-MAIL: KJohnson@LuebbenLaw.com

APPLICANT: S.A.F.E. House PHONE: 247-4219
 ADDRESS: PO Box 25363 FAX: _____
 CITY: Albuquerque STATE NM ZIP 87125 E-MAIL: #
 Proprietary interest in site: ~~Private~~ Use of Public List all owners: S.A.F.E. House

DESCRIPTION OF REQUEST: Appeal to City Council through Land Use Hearing Officer - Determination of Action of DRB Re: Subdivision and Vacation of 16-Ft Alley
 Is the applicant seeking incentives pursuant to the Family Housing Development Program? Yes No.

SITE INFORMATION: ACCURACY OF THE EXISTING LEGAL DESCRIPTION IS CRUCIAL! ATTACH A SEPARATE SHEET IF NECESSARY.

Lot or Tract No. Lot 1-A, Block 4, Publically Adjacent to 16-Ft Alley Block: 4 Unit: _____
 Subdiv/Addn/TBKA: Terrace Addition
 Existing Zoning: SO-2/NCR Proposed zoning: NONE
 Zone Atlas page(s): K-15-2 UPC Code: _____ MRGCD Map No _____

CASE HISTORY:

List any current or prior case number that may be relevant to your application (Proj., App., DRB-, AX_Z_, V_, S_, etc.):
Project # 1006953 1002637

CASE INFORMATION:

Within city limits? Yes Within 1000FT of a landfill? NO
 No. of existing lots: N/A No. of proposed lots: _____ Total area of site (acres): _____
 LOCATION OF PROPERTY BY STREETS: On or Near: Lead Ave SE
 Between: Locust Ave SE and Elm St SE

Check-off if project was previously reviewed by Sketch Plat/Plan , or Pre-application Review Team . Date of review: _____

SIGNATURE Sandy Bryan for Karl Johnson DATE 2-28
 (Print) Sandy Bryan for Karl E. Johnson Applicant: Agent:

FOR OFFICIAL USE ONLY

Form revised 4/07

- INTERNAL ROUTING
- All checklists are complete
- All fees have been collected
- All case #s are assigned
- AGIS copy has been sent
- Case history #s are listed
- Site is within 1000ft of a landfill
- F.H.D.P. density bonus
- F.H.D.P. fee rebate

Application case numbers	Action	S.F.	Fees
<u>OBCC - 30002</u>	<u>APPEAL</u>		<u>\$ 190.00</u>
	<u>ADV</u>		<u>\$ 50.00</u>
			\$ _____
			\$ _____
			\$ _____
			\$ _____
			\$ _____
			Total
			<u>\$ 240.00</u>

Hearing date 1006953
Sandy Handley 02/28/08 Project # 1002637
 Planner signature / date

FORM A: APPEAL

Appeal to the Zoning Board of Appeals regarding:

DECISION OF THE ZONING HEARING EXAMINER

(BOA01)

Project number of case being appealed: _____

Application number of case being appealed: _____

- Reason for the appeal *
- Appellant's basis of standing as an appellant *
- Letter of authorization from the appellant if this application for appeal is submitted by an agent
- Copy of the Official Notification of Decision regarding the matter being appealed
- Fee (see schedule)

Appeal to the Landmarks and Urban Conservation Commission regarding:

CERTIFICATE OF APPROPRIATENESS
 DECISION OF THE PLANNING DIRECTOR OR STAFF

(LUCCAPP)

Project number of case being appealed: _____

Application number of case being appealed: _____

- Reason for the appeal *
- Appellant's basis of standing as an appellant *
- Letter of authorization from the appellant if this application for appeal is submitted by an agent
- Copy of the Official Notification of Decision regarding the matter being appealed
- Fee (see schedule)

Appeal to the Environmental Planning Commission regarding:

DECLARATORY RULING OF THE ZONING ENFORCEMENT OFFICER
 DETERMINATION OF THE IMPACT FEE ADMINISTRATOR

(EPC09)
(EPC10)

Project number of case being appealed: _____

Application number of case being appealed: _____

- Reason for the appeal *
- Appellant's basis of standing as an appellant *
- Letter of authorization from the appellant if this application for appeal is submitted by an agent
- Copy of the Official Notification of Decision regarding the matter being appealed
- Fee (see schedule)

Appeal to the City Council through the Land Use Hearing Officer regarding:

ADMINISTRATIVE AMENDMENT/DECISION OF PLANNING DIRECTOR/STAFF (CCSTAFF)
 DETERMINATION OR ACTION OF THE EPC (CCEPC)
 DETERMINATION OR ACTION OF THE DRB RE: SUBDIVISION ORD (CCDRB)
 ACTION OF THE ZONING BOARD OF APPEALS REGARDING AN APPEAL (CCBOA)
 DECISION OF THE LANDMARKS URBAN CONSERVATION COMMISSION (CCLUCC)

Project number of case being appealed: ~~1006953~~ / 1002637 1006953

Application number of case being appealed: 07DRB-70406

- Reason for the appeal *
- Appellant's basis of standing as an appellant *
- Letter of authorization from the appellant if this application for appeal is submitted by an agent *
- Copy of the Official Notification of Decision regarding the matter being appealed *
- Fee (see schedule) *

* See attached documents.

* Criteria for reasonable appeals and criteria for standing as an appellant are given in Zoning Code §14-16-4-4. Any appeal must meet these criteria to be heard. The applicant should review these and other relevant documents carefully before preparing an application for appeal.

I, the applicant, acknowledge that any information required but not submitted with this application will likely result in deferral of actions.

S.A.F.E. House by Karl E. Johnson
Applicant name (print)

Karl Johnson
Applicant signature / date



Form revised 04/2007

- Checklists complete
- Fees collected
- Case #s assigned
- Related #s listed

Application case numbers
08CC-30007

Sandy Kavelley 02/28/08
Planner signature / date
Project # 1002637

ATTACHMENT TO APPEAL
TO THE CITY COUNCIL THROUGH THE LAND USE HEARING OFFICER
DETERMINATION OR ACTION OF THE DEVELOPMENT REVIEW BOARD

Project number of case being appealed: 1006953 / 1002637
Application number of case being appealed: 07DRB-70406

STANDING

Appellant S.A.F.E. House has standing to file this appeal pursuant to Subdivision Regulations § 14-14-8-2 (A)¹ as a person who owns a property interest within 300 feet of the subject site. The west boundary of the public alley sought to be vacated abuts the east boundary of property owned by Appellant.

BASIS FOR APPEAL

I. Background

Section 14-14-8-3 of the Subdivision Regulations provides that applications for an appeal shall clearly articulate the reasons for the appeal. Appellants must specifically cite and explain one or more of the following alleged errors:

- (A) Error in applying adopted city plans, policies and ordinances in arriving at the decision;
- (B) Error in the appealed action or decision, including its stated facts;
- (C) Error in acting arbitrarily or capriciously or being manifestly abusive of discretion.

The Official Notice of Decision issued by the Development Review Board on February 13, 2008, approving the vacation of the eastern portion of the alley in Block 4 of the Terrace Addition, contains no findings of fact upon which the Board relies. Hence, it is impossible to determine whether the Board in arriving at its decision (A) misapplied adopted city plans, policies or ordinances to the relevant facts; (B) misapprehended the relevant facts; or, (C) simply acted arbitrarily or capriciously. Hence, Appellant S.A.F.E. House appeals the Board Decision on all three grounds for error listed above.

II. Argument

Section 14-14-7-2(B) of the Subdivision Regulations provides that vacation of a public alley shall be approved only when it is determined that:

¹ Although the Appeal Form A to which this document is attached references §14-16-4-4 of the Zoning Code for appeals and standing criteria, it appears that the applicable regulations for appeals concerning the vacation of a public easement are found in §§ 14-14-8-2 and -3 of the Subdivision Regulations. The difference is immaterial, however, because the provisions of both are identical.

- (1) The public welfare is in no way served by retaining the way or easement; or
- (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; and in addition to divisions (1) or (2) of this division (B):
- (3) There is no convincing evidence that any substantial property right is being abridged against the will of the owner of the right.

Hence, to approve the vacation of a public alley, the Board must determine that *either* factor (1) or (2) is met; *and* that factor (3) is met. The Board in this case determined that factors (B)(1) and (B)(3) were met, which was in error for the following reasons.

A. The Board's determination that factor B(1) is met is in error because it either misapplies adopted city ordinances to the relevant facts, misapprehends the relevant facts, or is arbitrary and capricious.

With respect to factor (B)(1), the Board concludes that "The public welfare is in no way served by retaining the eastern portion of the alley, because of the existing condition of the western portion of the alley." The Board erred in reaching this decision because the public welfare most assuredly *is* served by retaining the eastern portion of the alley, regardless of the condition of the western portion.

Appellant S.A.F.E. House provides essential shelter, programs and services to victims of domestic violence, a mission that is vital to the health and public welfare of our community. The eastern portion of the alley is used three times per week by the Albuquerque Solid Waste Department, which provides commercial solid waste collection services for the S.A.F.E. House facility. The collection service includes one large dumpster and 12 to 15 trash bin containers which are emptied three times per week, on Monday, Wednesday and Friday. The only route of ingress and egress to access the containers is via the public alley.

Additionally, this alley is used by PNM. The above-ground utility lines and the utility poles are located on the easement, including at least one pole located on the alley with what appears to be a transformer on it. Access to this pole would be impaired should the easement be vacated. There are also concerns regarding access to underground utility lines that may be located in the alley.

The eastern portion of the alley thus serves the public welfare by supplying access to both the Albuquerque Solid Waste Department vehicles and PNM, thereby providing vital services to a facility that in itself serves the public welfare. Hence, the Board's determination with respect to factor B(1) either misconstrues the meaning of service of the public welfare, misapprehends or ignores the relevant facts demonstrating such service, or is simply arbitrary and capricious.

B. The Board's determination that factor B(3) is met is in error because it either misapplies adopted city ordinances to the relevant facts, misapprehends the relevant facts, or is arbitrary and capricious.

With respect to factor (B)(3), the Board concludes that "There is no convincing evidence that any substantial property right is being abridged against the will of the owner of the right; concerns regarding refuse pick-up may be addressed through the City's Solid Waste Department for the adjacent property." The Board erred in reaching this decision because there most assuredly *is* evidence that a property right would be abridged against the will of the owner of such right.

S.A.F.E. House has a public right in the alley enjoyed in common with all other citizens as well as private rights arising from ownership of property contiguous to the alley. As owner of property contiguous to the alley, S.A.F.E. House has an easement in the alley. An easement is a property right, it is an interest in the land of another that entitles the owner of such interest to a limited use or enjoyment of the land in which the interest exists. S.A.F.E. House is a facility that serves the entire community for whose benefit the City uses the alley. Therefore, vacation of the alley would abridge S.A.F.E. House's property rights against its will.

The Board's conclusion that S.A.F.E. House's "concerns regarding refuse pick-up may be addressed through the City's Solid Waste Department" is also in error. S.A.F.E. House has explored alternative refuse pick-up arrangements with the Solid Waste Department, and the only other possible location where the containers could be placed would require S.A.F.E. House to undertake the expense of (A) removing an existing concrete and stucco wall; (B) building a new concrete and stucco wall with three sides and installing a gate on the fourth side; and, (C) making required sidewalk and driveway modifications. S.A.F.E. House is a nonprofit community service that operates on a limited budget, and it does not have funding for a project of this magnitude, nor should it be forced against its will to undertake it. Construction of an enclosed structure for the dumpster, with street access, is the *only* alternative as the City's Solid Waste Department vehicles cannot enter the facility in its current state due to serious security and safety issues. The S.A.F.E. House facility is gated, secure and access is monitored due to the nature of the services it provides. S.A.F.E. House provides services to over 1,000 families annually so there are many children in the common outside areas of the facility which render it hazardous and unsafe for Solid Waste Department vehicles to enter the facility.

A substantial property right in preserving the alley for refuse pick-up service is thus being abridged against the will of S.A.F.E. House, which will be forced as a result either to sell its property and relocate its facility, or to divert funds from services for victims of domestic violence to pay for a significant construction project that would be totally unnecessary but for vacation of the public easement. Hence, the Board's determination with respect to factor B(3) either misconstrues the meaning of abridgement of a substantial property right, misapprehends or ignores the relevant facts demonstrating such abridgement, or is simply arbitrary and capricious.

III. Conclusion.

For the foregoing reasons, Appellant S.A.F.E. House requests that the Land Use Hearing Officer reverse the Board's determination approving the vacation of the public easement.



AUTHORIZING LUBBEN JOHNSON AND BARNHOUSE LLP TO ACT AS AGENT

February 25, 2008

Steve Chavez
Land Use Hearing Officer
City of Albuquerque
Plaza del Sol Building
600 2nd St. NW
Albuquerque, NM 87102

RE: Appeal of Determination or Action of the Development Review Board
Project number of case being appealed: 1006953 / 1002637
Application number of case being appealed: 07DRB-70406

Dear Mr. Chavez:

This letter authorizes the law firm and each of the attorneys of Luebben Johnson & Barnhouse LLP to act as agent for and on behalf of Appellant SAFE House in the above referenced appeal of the decision of the Development Review Board.

Sincerely,

Michele Fuller, Director
SAFE House

City of Albuquerque



DEVELOPMENT/ PLAN REVIEW APPLICATION

Supplemental form

SUBDIVISION

- Major Subdivision action
- Minor Subdivision action
- Vacation
- Variance (Non-Zoning)

SITE DEVELOPMENT PLAN

- for Subdivision
- for Building Permit
- Administrative Amendment (AA)
- IP Master Development Plan
- Cert. of Appropriateness (LUCC)

STORM DRAINAGE (Form D)

- Storm Drainage Cost Allocation Plan

S Z ZONING & PLANNING

- Annexation
 - County Submittal
 - EPC Submittal
 - Zone Map Amendment (Establish or Change Zoning)
 - Sector Plan (Phase I, II, III)
 - Amendment to Sector, Area, Facility or Comprehensive Plan
 - Text Amendment (Zoning Code/Sub Regs)
 - Street Name Change (Local & Collector)
 - L A APPEAL / PROTEST of...**
- Decision by: DRB, EPC, LUCC, Planning Director or Staff, ZHE, Zoning Board of Appeals

PRINT OR TYPE IN BLACK INK ONLY. The applicant or agent must submit the completed application in person to the Planning Department Development Services Center, 600 2nd Street NW, Albuquerque, NM 87102. Fees must be paid at the time of application. Refer to supplemental forms for submittal requirements.

APPLICATION INFORMATION:

Professional/Agent (if any): _____ PHONE: _____
 ADDRESS: _____ FAX: _____
 CITY: _____ STATE _____ ZIP _____ E-MAIL: _____

APPLICANT: Logan Hall PHONE: 505-507-0280
 ADDRESS: 210 Corte del Caballo NW FAX: 810-358-7525
 CITY: Albuquerque STATE NM ZIP 87120 E-MAIL: hall.logan@gmail.com

Proprietary interest in site: Purchasing Premises List all owners: Brad Hall

DESCRIPTION OF REQUEST: Request that the 10' public alley be vacated in order to build out location extending across neighboring properties

Is the applicant seeking incentives pursuant to the Family Housing Development Program? Yes No

SITE INFORMATION: ACCURACY OF THE EXISTING LEGAL DESCRIPTION IS CRUCIAL! ATTACH A SEPARATE SHEET IF NECESSARY.

Lot or Tract No. Plat of Lot 1-A Block: 4 Unit: _____
 Subdiv/Addn/TBKA: Terrace Addition
 Existing Zoning: SU-2/NCR Proposed zoning: None (Vacate Only) MRGCD Map No. _____
 Zone Atlas page(s): K-15-2 UPC Code: _____

CASE HISTORY:

List any current or prior case number that may be relevant to your application (Proj., App., DRB-, AX, Z, V, S, etc.): _____

CASE INFORMATION:

Within city limits? Yes Within 1000FT of a landfill? NO
 No. of existing lots: 1 No. of proposed lots: 1 Total area of site (acres): 4.539
 LOCATION OF PROPERTY BY STREETS: On or Near: Lead Ave SE
 Between: Locust Ave. SE and Elm St. SE

Check-off if project was previously reviewed by Sketch Plat/Plan , or Pre-application Review Team . Date of review: _____

SIGNATURE: Logan Hall DATE 11/20/07
 (Print) Logan Hall Applicant: Agent:

FOR OFFICIAL USE ONLY

- INTERNAL ROUTING
- All checklists are complete
- All fees have been collected
- All case #'s are assigned
- AGIS copy has been sent
- Case history #'s are listed
- Site is within 1000ft of a landfill
- F.H.D.P. density bonus
- F.H.D.P. fee rebate

Application case numbers	Action	S.F.	Fees
<u>07DRB 70406</u>	<u>VPE</u>	<u>V</u>	<u>\$300.00</u>
	<u>ADV</u>		<u>\$75.00</u>
			<u>\$20.00</u>
			\$
			\$
			\$
			\$
			Total
			<u>\$395.00</u>

Hearing date 12/19/05 Project # 10069513

Smider Handlen

(PUBLIC HEARING CASE)

- BULK LAND VARIANCE (DRB04)**
 - Application for Minor Plat on FORM S-3, including those submittal requirements. 24 copies
 - Letter briefly describing and explaining: the request, compliance with the Development Process Manual, and all improvements to be waived.
 - Notice on the proposed Plat that there are conditions to subsequent subdivision (refer to DPM)
 - Office of Community & Neighborhood Coordination inquiry response, notifying letter, certified mail receipts
 - Sign Posting Agreement
 - Fee (see schedule)
 - List any original and/or related file numbers on the cover application
- DRB Public hearings are approximately 30 DAYS after the filing deadline. Your attendance is required.**

- VACATION OF PUBLIC EASEMENT (DRB27)**
 - VACATION OF PUBLIC RIGHT-OF-WAY (DRB28)**
 - The complete document which created the public easement (folded to fit into an 8.5" by 14" pocket) 24 copies. (Not required for City owned public right-of-way.)
 - Drawing showing the easement or right-of-way to be vacated, etc. (not to exceed 8.5" by 11") 24 copies
 - Zone Atlas map with the entire property(ies) clearly outlined
 - Letter briefly describing, explaining, and justifying the request
 - Office of Community & Neighborhood Coordination inquiry response, notifying letter, certified mail receipts
 - Sign Posting Agreement
 - Fee (see schedule)
 - List any original and/or related file numbers on the cover application
- Unless the vacation is shown on a DRB approved plat recorded by the County Clerk within one year, it will expire.
DRB Public hearings are approximately 30 DAYS after the filing deadline. Your attendance is required.

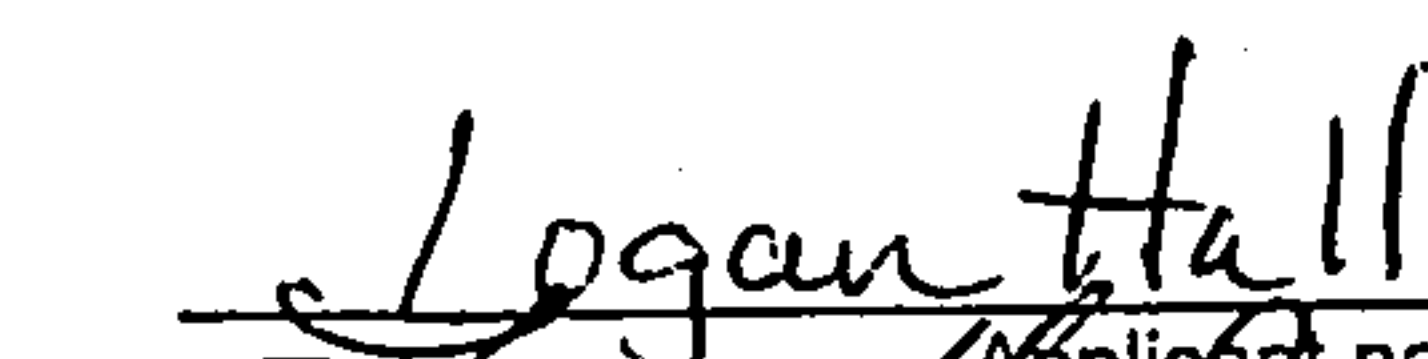
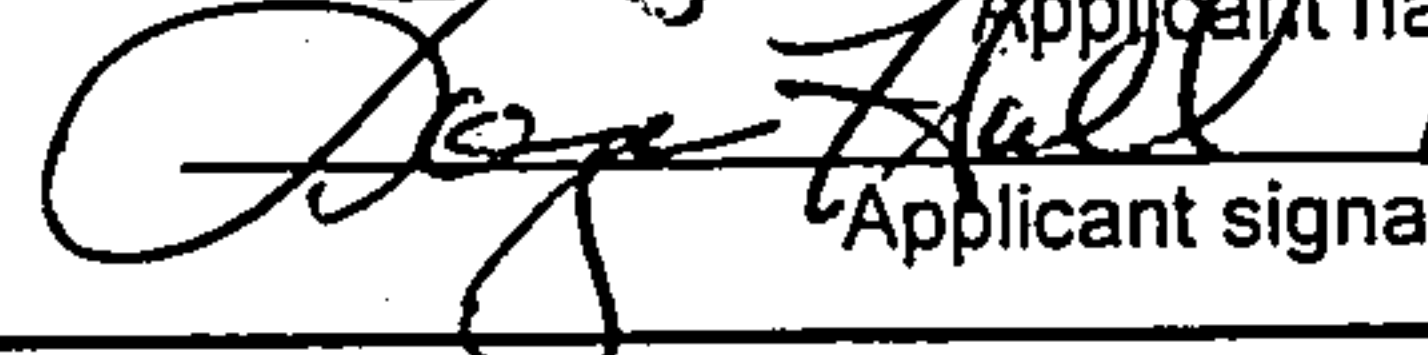
- SIDEWALK VARIANCE (DRB20)**
 - SIDEWALK WAIVER (DRB21)**
 - Scale drawing showing the proposed variance or waiver (not to exceed 8.5" by 14") 6 copies
 - Zone Atlas map with the entire property(ies) clearly outlined
 - Letter briefly describing, explaining, and justifying the variance or waiver
 - List any original and/or related file numbers on the cover application
- DRB meetings are approximately 8 DAYS after the Tuesday noon filing deadline. Your attendance is required.**

- SUBDIVISION DESIGN VARIANCE FROM MINIMUM DPM STANDARDS (DRB25)**
 - Scale drawing showing the location of the proposed variance or waiver (not to exceed 8.5" by 14") 24 copies
 - Zone Atlas map with the entire property(ies) clearly outlined
 - Letter briefly describing, explaining, and justifying the variance
 - Office of Community & Neighborhood Coordination inquiry response, notifying letter, certified mail receipts
 - Sign Posting Agreement
 - Fee (see schedule)
 - List any original and/or related file numbers on the cover application
- DRB meetings are approximately 30 DAYS after the filing deadline. Your attendance is required.**

- TEMPORARY DEFERRAL OF SIDEWALK CONSTRUCTION (DRB19)**
 - EXTENSION OF THE SIA FOR TEMPORARY DEFERRAL OF SIDEWALK CONSTRUCTION (DRB07)**
 - Drawing showing the sidewalks subject to the proposed deferral or extension (not to exceed 8.5" by 14") 6 copies
 - Zone Atlas map with the entire property(ies) clearly outlined
 - Letter briefly describing, explaining, and justifying the deferral or extension
 - List any original and/or related file numbers on the cover application
- DRB meetings are approximately 8 DAYS after the Tuesday noon filing deadline. Your attendance is required.**

- VACATION OF PRIVATE EASEMENT (DRB26)**
 - VACATION OF RECORDED PLAT (DRB29)**
 - The complete document which created the private easement/recorded plat (not to exceed 8.5" by 14") 6 copies
 - Scale drawing showing the easement to be vacated (8.5" by 11") 6 copies
 - Zone Atlas map with the entire property(ies) clearly outlined
 - Letter/documents briefly describing, explaining, and justifying the vacation 6 copies
 - Letter of authorization from the grantors and the beneficiaries (private easement only)
 - Fee (see schedule)
 - List any original and/or related file numbers on the cover application
- Unless the vacation is shown on a DRB approved plat recorded by the County Clerk within one year, it will expire.
DRB meetings are approximately 8 DAYS after the Tuesday noon filing deadline. Your attendance is required.

I, the applicant, acknowledge that any information required but not submitted with this application will likely result in deferral of actions.



 Applicant name (print)

 Applicant signature / date



Form revised 4/07

- Checklists complete
- Fees collected
- Case #'s assigned
- Related #'s listed

Application case numbers
 07DRB - 70406


 Planner signature / date
 Project # 1006953

SIGN POSTING AGREEMENT

REQUIREMENTS

POSTING SIGNS ANNOUNCING PUBLIC HEARINGS

All persons making application to the City under the requirements and procedures established by the City Zoning Code or Subdivision Ordinance are responsible for the posting and maintaining of one or more signs on the property which the application describes. Vacations of public rights-of-way (if the way has been in use) also require signs. Waterproof signs are provided at the time of application. If the application is mailed, you must still stop at the Development Services Front Counter to pick up the sign.

The applicant is responsible for ensuring that the signs remain posted throughout the 15-day period prior to public hearing. Failure to maintain the signs during this entire period may be cause for deferral or denial of the application. Replacement signs for those lost or damaged are available from the Development Services Front Counter at a charge of \$3.75 each.

1. LOCATION

- A. The sign shall be conspicuously located. It shall be located within twenty feet of the public sidewalk (or edge of public street). Staff may indicate a specific location.
- B. The face of the sign shall be parallel to the street, and the bottom of the sign shall be at least two feet from the ground.
- C. No barrier shall prevent a person from coming within five feet of the sign to read it.

2. NUMBER

- A. One sign shall be posted on each paved street frontage. Signs may be required on unpaved street frontages.
- B. If the land does not abut a public street, then, in addition to a sign placed on the property, a sign shall be placed on and at the edge of the public right-of-way of the nearest paved City street. Such a sign must direct readers toward the subject property by an arrow and an indication of distance.

3. PHYSICAL POSTING

- A. A heavy stake with two crossbars or a full plywood backing works best to keep the sign in place, especially during high winds.
- B. Large headed nails or staples are best for attaching signs to a post or backing; the sign tears out less easily.

4. TIME

Signs must be posted from DEC. 4, 2007 To DEC. 19, 2007

5. REMOVAL

- A. The sign is not to be removed before the initial hearing on the request.
- B. The sign should be removed within five (5) days after the initial hearing.

I have read this sheet and discussed it with the Development Services Front Counter Staff. I understand (A) my obligation to keep the sign(s) posted for (15) days and (B) where the sign(s) are to be located. I am being given a copy of this sheet.

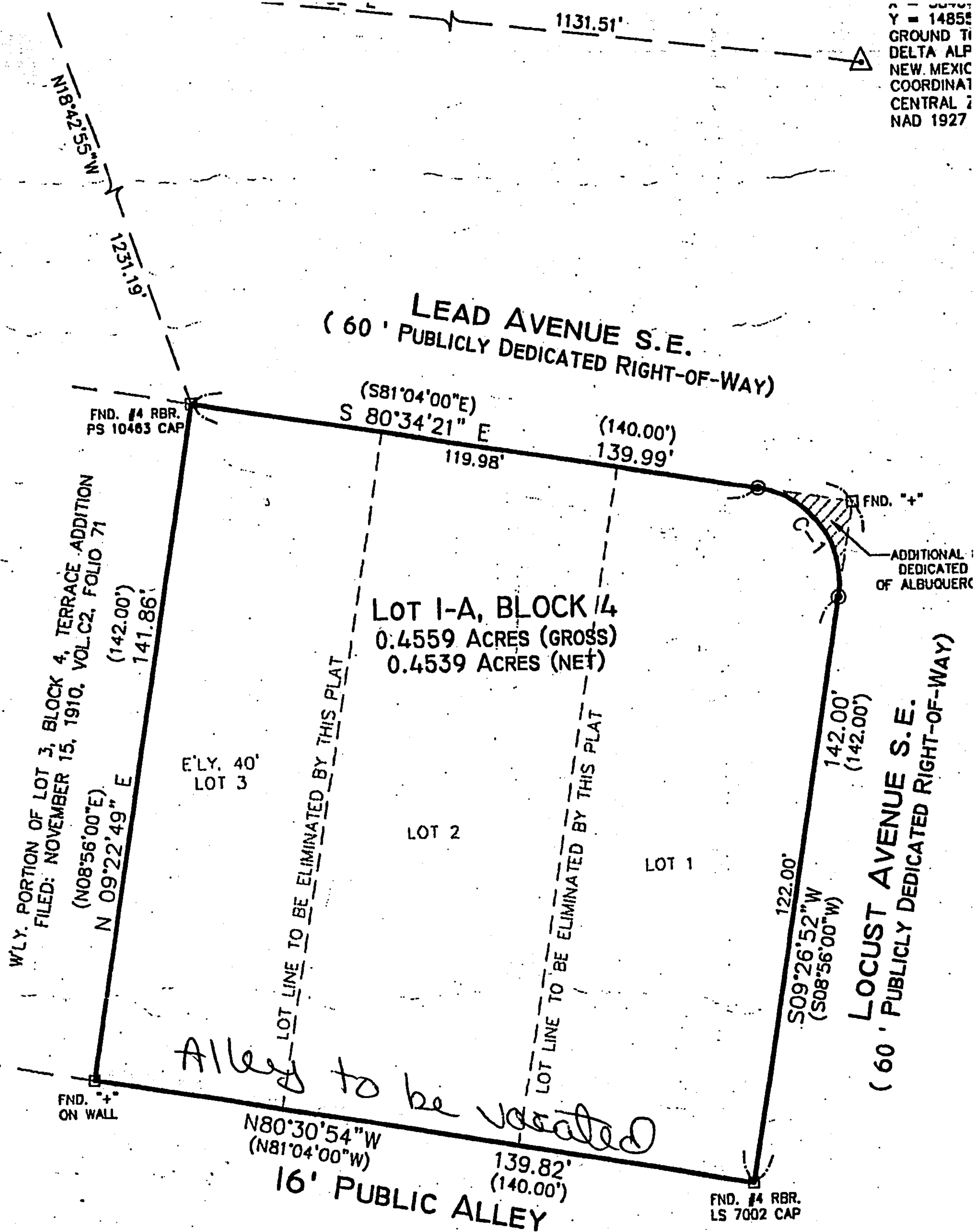
[Signature]
(Applicant or Agent)

11/21/07
(Date)

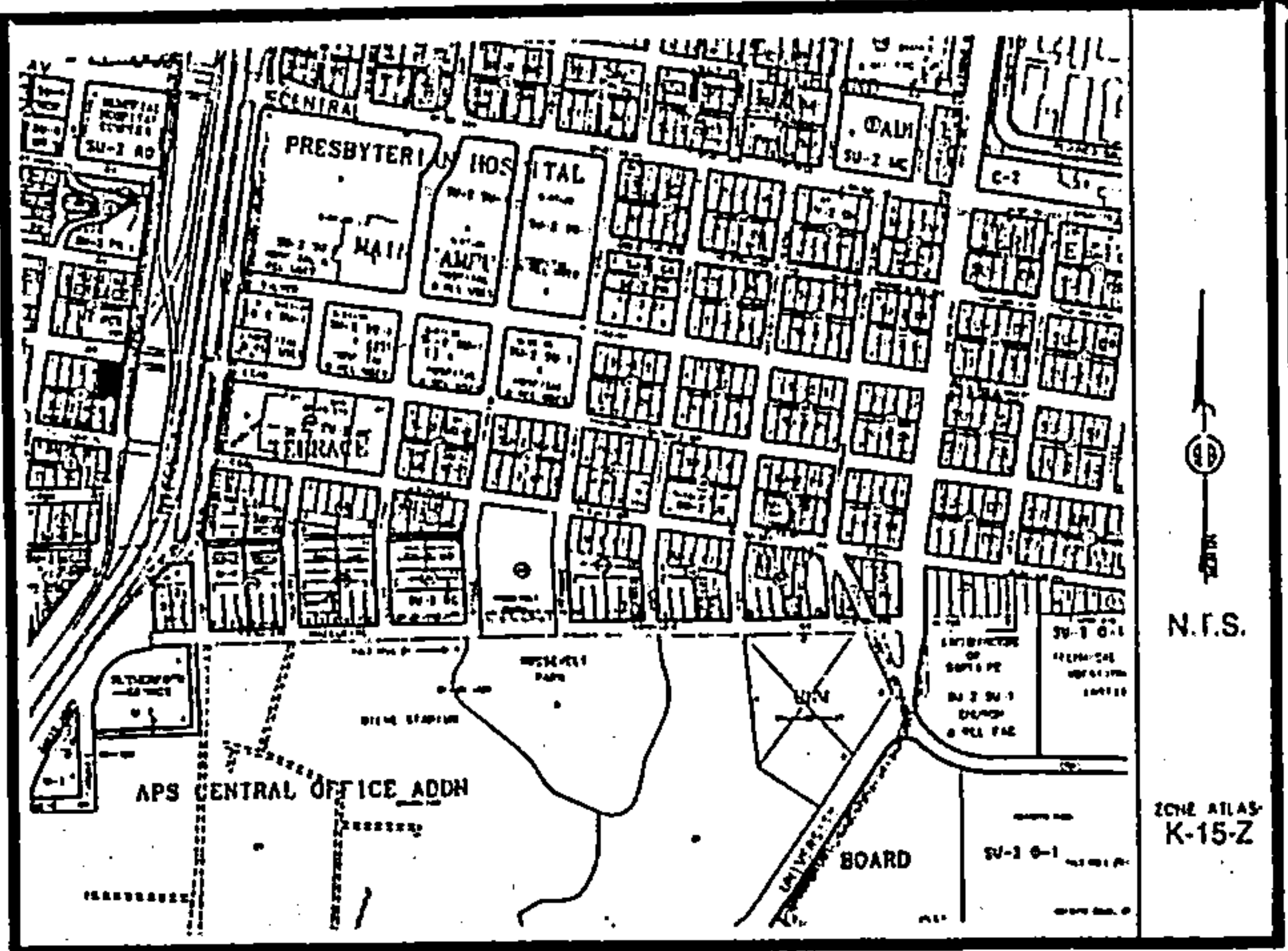
I issued 2 signs for this application, 11/21/07 Sandy Handley
(Date) (Staff Member) :

DRB PROJECT NUMBER: 1006953

Y = 14855
 GROUND TI
 DELTA ALP
 NEW MEXIC
 COORDINAT
 CENTRAL
 NAD 1927



CURVE TABLE				
3TH	RADIUS	DELTA	CHORD	CHORD BEARING
42	20.00	90°01'13"	28.29	S35°33'44"E



Vicinity Map

Legal Description
 Lots numbered One (1) and Two (2) and the Easterly 40' of Lot numbered Three (3) in Block numbered Four (4) of TERRACE ADDITION, as the same shown and designated on said plat thereof filed in the office of the County Clerk of Bernalillo County, New Mexico on November 15, 1910 in Volume C2, folio 71 and being more particularly described as follows:
 BEGINNING at the Southeast corner of said Lot 1, being a point on the West Right of Way of Locust Street SE and the North Right of Way of a 16' public alley; thence from said point of beginning N80°30'54" W, 139.82 feet along the North Right of Way of said alley to the Southwest corner; thence leaving said alley, N09°22'49" E, 141.86 feet to the Northwest corner being a point on the South Right of Way of Lead Avenue SE; thence S80°34'21" E, 139.99 feet along said South Right of Way to the Northeast corner and intersection with the West Right of Way of Locust Avenue SE; thence S09°26'52" W, 142.00 feet along said West Right of Way to the point of beginning and containing 0.4559 acres, more or less.

FREE CONSENT
 THE UNDERSIGNED OWNER(S) AND PROPRIETOR(S) OF THE PROPERTY DESCRIBED HEREON DO HEREBY CONSENT TO THE PLATTING OF SAID PROPERTY AS SHOWN HEREON AND THE SAME IS WITH THE FREE CONSENT AND IN ACCORDANCE WITH THEIR DESIRES AND DO HEREBY REPRESENT THAT THE UNDERSIGNED INDIVIDUALS ARE AUTHORIZED TO SO ACT AND DO HEREBY GRANT ADDITIONAL EASEMENT(S) AS SHOWN AND DO HEREBY DEDICATE ADDITIONAL STREET RIGHT-OF-WAY TO THE CITY OF ALBUQUERQUE IN FEE SIMPLE WITH WARRANTY COVENANTS.

OWNER(S) SIGNATURE: Edward L. Gallinger DATE: 1-23-03
 OWNER(S) PRINT NAME: EDWARD L. GALLINGER
 ADDRESS: P.O. BOX 575, TERRACE WILLOW 87057 TRACT:
 ACKNOWLEDGMENT
 STATE OF NEW MEXICO)
) SS
 COUNTY OF BERNALILLO)
 THIS INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS 23 DAY OF JANUARY, 2003.
 BY: EDWARD L. GALLINGER
 MY COMMISSION EXPIRES: 10/01/05
Sarah Amato
 NOTARY PUBLIC

PLAT OF
LOT 1-A, BLOCK 4
TERRACE ADDITION
 SITUATE WITHIN SECTION 21,
 T. 10 N., R. 3 E., N.M.P.M.
 CITY OF ALBUQUERQUE
 BERNALILLO COUNTY, NEW MEXICO
 JANUARY, 2003



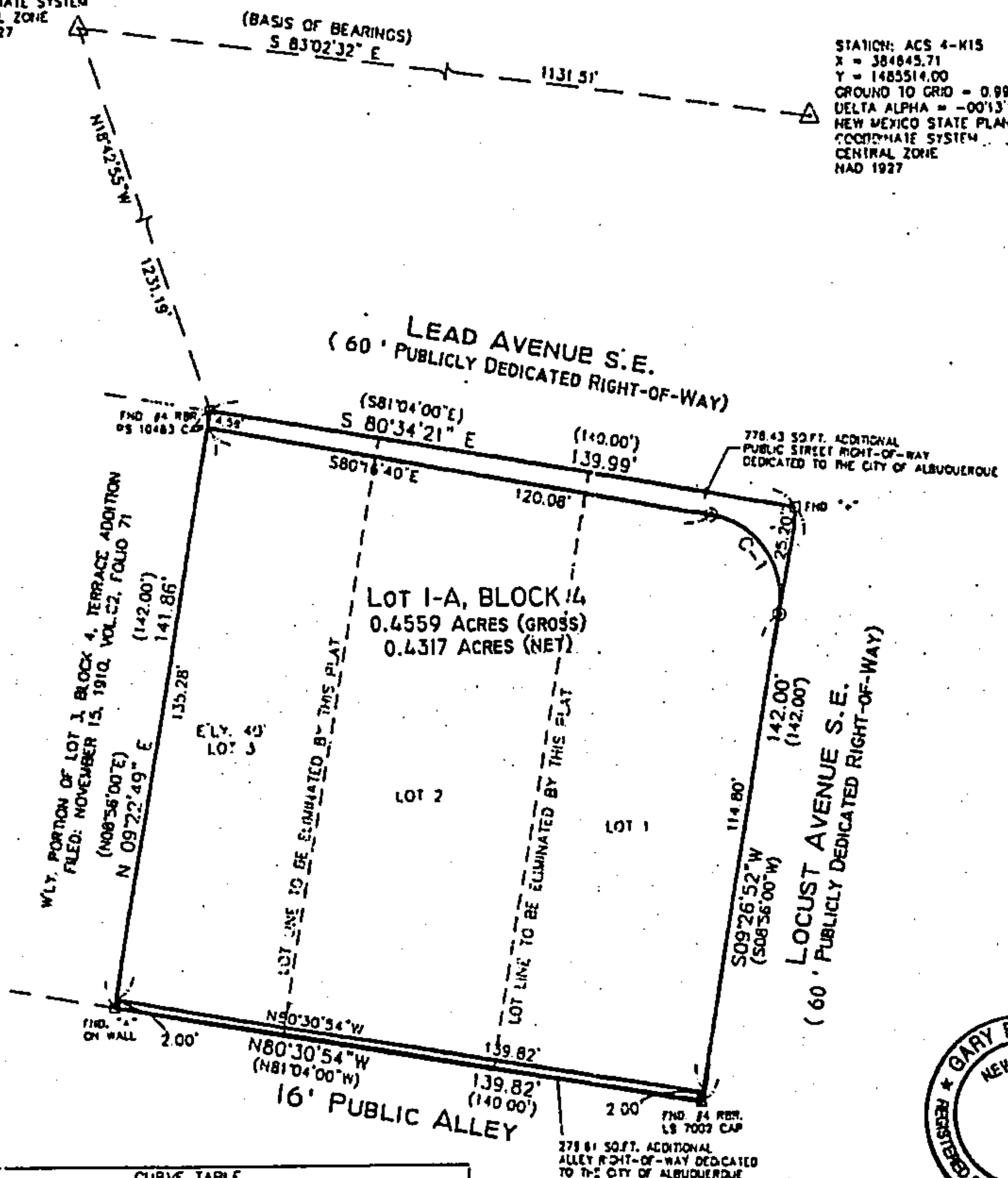
DISCLOSURE STATEMENT
 THE PURPOSE OF THIS PLAT IS TO ELIMINATE LOT LINES OF THREE (3) EXISTING LOTS AND CREATE ONE (1) NEW LOT AND DEDICATES ADDITIONAL RIGHT OF WAY.

SUBDIVISION DATA / NOTES

1. PLAT WAS COMPILED USING EXISTING RECORD DATA & ACTUAL FIELD SURVEY.
2. BEARINGS ARE NEW MEXICO STATE PLANE GRID BEARINGS, CENTRAL ZONE, NAD 1927, AND ARE BASED ON ACS CONTROL MONUMENTS S-K15 B(R) AND 4-K16, AS SHOWN HEREON.
3. DISTANCES ARE GROUND DISTANCES.
4. PLAT SHOWS ALL EASEMENTS OF RECORD.
5. BEARINGS AND DISTANCES IN PARENTHESES () ARE PER THE PLAT OF TERRACE ADDITION, FILED IN BERNALILLO COUNTY, NEW MEXICO ON NOVEMBER 15, 1910 IN VOLUME C2, FOLIO 71.
6. GROSS ACREAGE: 0.4559 ACRES
7. NUMBER OF EXISTING LOTS: 3
8. NUMBER OF LOTS CREATED: 1
9. PROPERTY IS ZONED SU 2/MCR.
10. SUBJECT PROPERTY CREATED BY REAL ESTATE CONTRACT FOR ADJOINING PROPERTIES RECORDED JULY 29, 1958, DOCUMENT NO 74067

STATION: ACS S-K15 B(R)
 X = 381522.91
 Y = 1483851.02
 GROUND TO GRID = 0.99987800
 DELTA ALPHA = -00°13'26"
 NEW MEXICO STATE PLANE
 COORDINATE SYSTEM
 CENTRAL ZONE
 NAD 1927

STATION: ACS 4-K15
 X = 384845.71
 Y = 1485514.00
 GROUND TO GRID = 0.99987393
 DELTA ALPHA = -00°13'18"
 NEW MEXICO STATE PLANE
 COORDINATE SYSTEM
 CENTRAL ZONE
 NAD 1927



SCALE: 1" = 30'
 PROJECT NO. 0301RS10
 DRAWN BY: RS
 ZONE ATLAS: K-15-Z
 TERRADON CR5

MONUMENT LEGEND
 Δ - FOUND CONTROL STATION AS NOTED
 □ - FOUND MONUMENT AS NOTED
 ⊙ - SET 1/2" REBAR W/YELLOW PLASTIC CAP STAMPED "GRITSKO LS8686" UNLESS OTHERWISE NOTED

THIS IS TO CERTIFY THAT TAXES ARE CURRENT & PAID ON
 UPC#: LOIS 067 087 282 312 03
 PROPERTY OWNER OF RECORD:
Edward L. Gallinger
 BERNALILLO COUNTY TREASURER'S OFFICE:
Danny Valdez 2/6/03

CURVE	LENGTH	RADIUS	DELTA	CHORD	CHORD BEARING
C-1	31.32	20.00	89°43'32"	28.22	S35°24'54"E

APPLICATION NO. & PROJECT NO.: 1002637/03 DAB-00712
CITY APPROVALS:
[Signature] 5-1-03
 CITY SUPERVISOR DATE
[Signature] 8-20-03
 TRAFFIC ENGINEERING DATE
[Signature] 8/20/03
 PARKS RECREATION DATE
[Signature] 8/20/03
 UTILITY DEVELOPMENT DIVISION DATE
 N/A
 REAL PROPERTY DIVISION DATE
[Signature] 8-20-03
 A.M.A.F.C.A. DATE
[Signature] 8/20/03
 CITY ENGINEER DATE
[Signature] 8/20/03
 CITY PLANNER, ALBUQUERQUE PLANNING DIVISION DATE

SURVEYOR'S CERTIFICATION
 I, Gary E. Grisko, a duly qualified Registered Professional Land Surveyor under the laws of the State of New Mexico, do hereby certify that this plat and description were prepared by me or under my supervision, shows all easements as shown on the plat of record or made known to me by the owners and/or proprietors of the subdivision shown hereon, utility companies and other parties expressing an interest and meets the minimum requirements for monumentation and surveys of the Albuquerque Subdivision Ordinance, and further meets the Minimum Standards for Land Surveying in the State of New Mexico and is true and correct to the best of my knowledge and belief.
Gary E. Grisko Feb 17, 2003
 Gary E. Grisko Date
 New Mexico Professional Surveyor, 8686

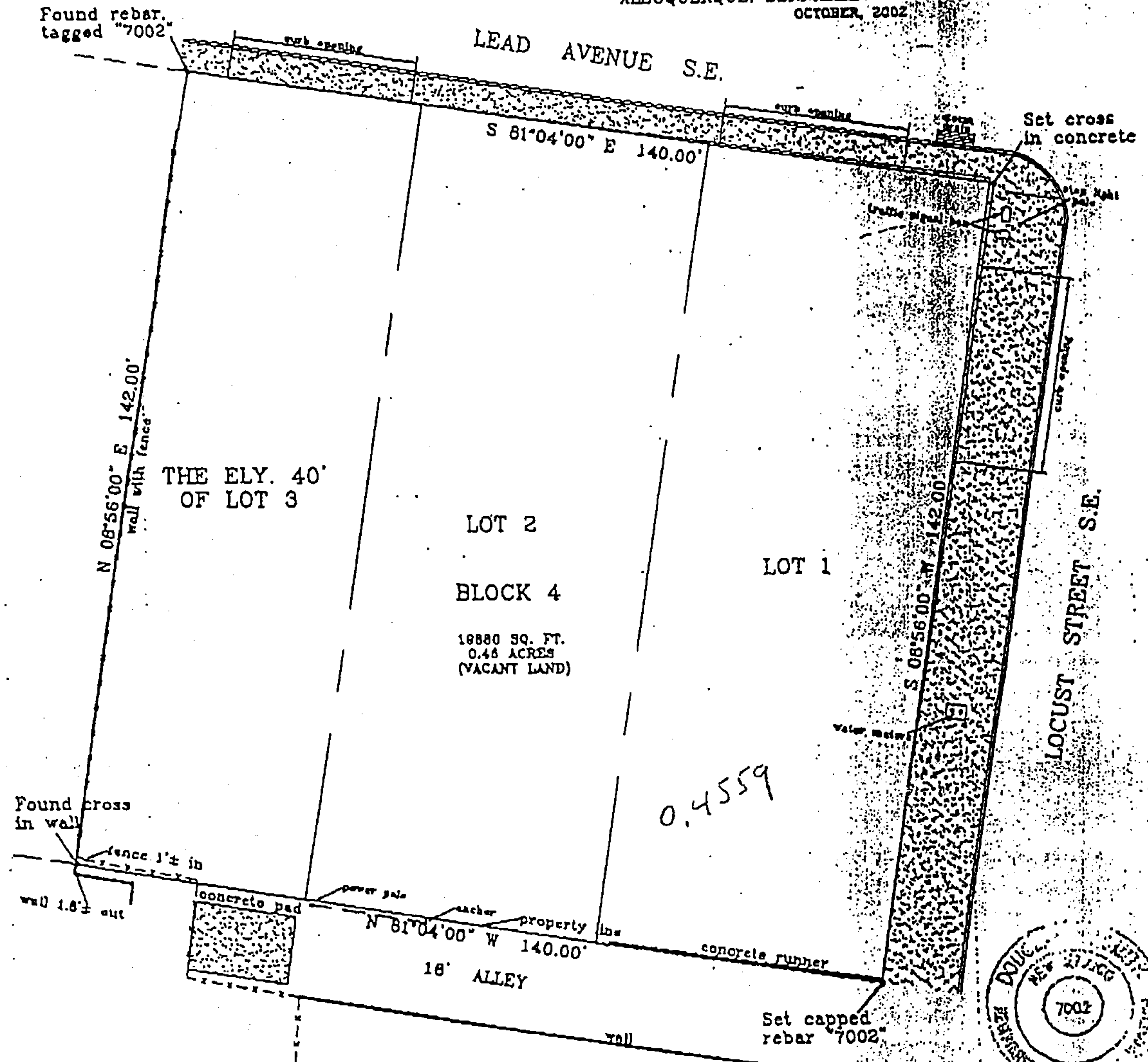


SURVEYS SOUTHWEST, LTD.
 333 LOMAS BLVD., N.E. ALBUQUERQUE, NEW MEXICO 87102
 PHONE: (505) 998-0303
 FAX: (505) 998-0306
T10N R3E SEC. 21

12

LINGER
 FIDELITY NATIONAL TITLE CO.
 #02-10233274-B-VG

PLAT OF SURVEY
 OF
 LOTS 1, 2 AND THE ELY. 40' OF LOT 3
 BLOCK 4
 TERRACE ADDITION
 ALBUQUERQUE, BERNALILLO COUNTY, NEW MEXICO
 OCTOBER, 2002



LEGAL DESCRIPTION:

Lots numbered One (1) and Two (2) and the easterly 40 feet of Lot numbered Three (3) in Block numbered Four (4) of TERRACE ADDITION, as the same are shown and designated on the plat thereof, filed in the Office of the County Clerk of Bernalillo County, New Mexico on November 15, 1910. Beginning at the northeast corner which is the northeast corner of said lot 1 in block 4 running thence S 08° 56' W along the westerly line of a public street known as Locust Street, S.E. (now contained within the right of way of U.S. Interstate Highway 25, also known as the New Mexico State Road 422) a distance of 142.00 feet to the Southeast corner of said lot 1; thence N 81° 04' W, along the southerly lines of said lots 1, 2 and 3, which is the northerly line of a public alley, 140.00 feet to the southwest corner; thence, N 08° 56' E, 142.00 feet to the northwest corner; thence, S 81° 04' E, along the northerly line of said lots 2 and 1, which is the southerly line of a public street known as Lead Avenue SE, a distance of 140.00 feet to the place of beginning.

DOCUMENTS USED IN THIS SURVEY

Plat of Terrace Addition filed 11/15/10, Vol. C2, folio 71
 Fidelity National Title Co. binder dated 10/4/02, CF#02-1023274-B-VG

FLOOD CERTIFICATION:

It is hereby certified that the above described property is not located within a 100 year flood hazard boundary in accordance with current HUD Federal Administration flood hazard boundary maps dated September 20, 1998. Zone "X", Community Panel No. 35001C0 334

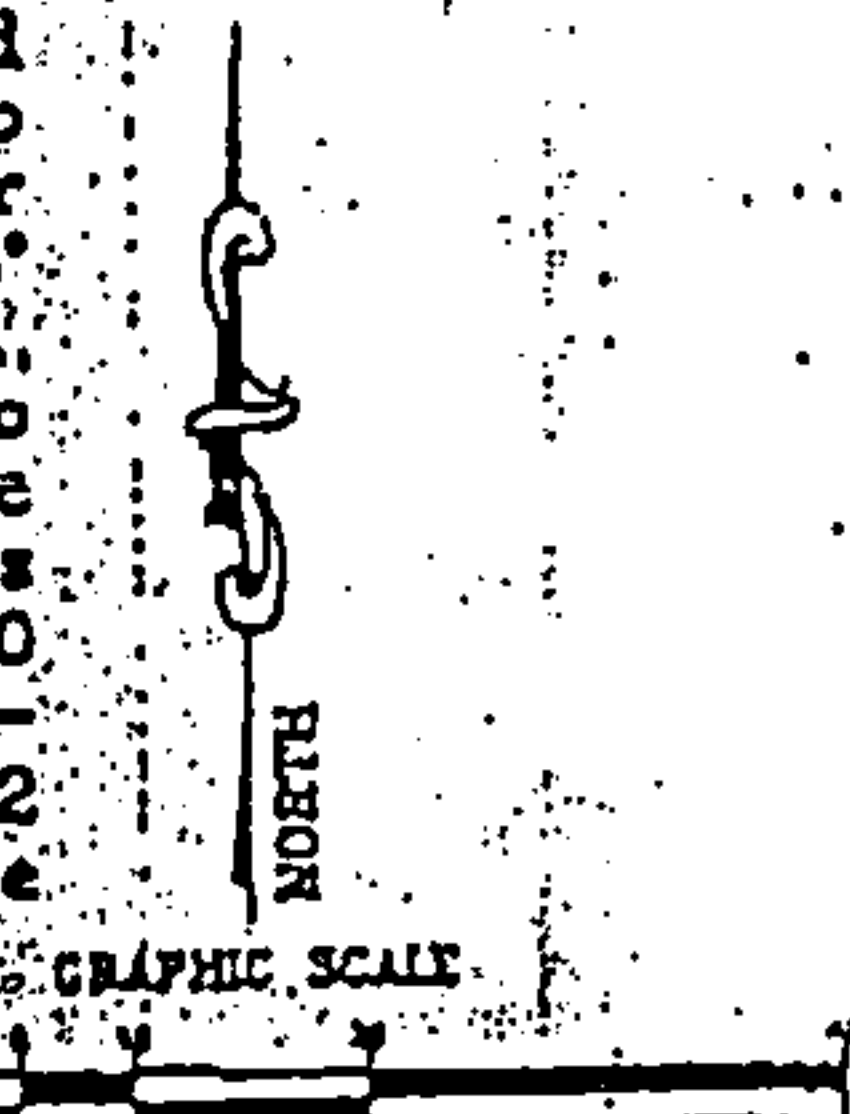
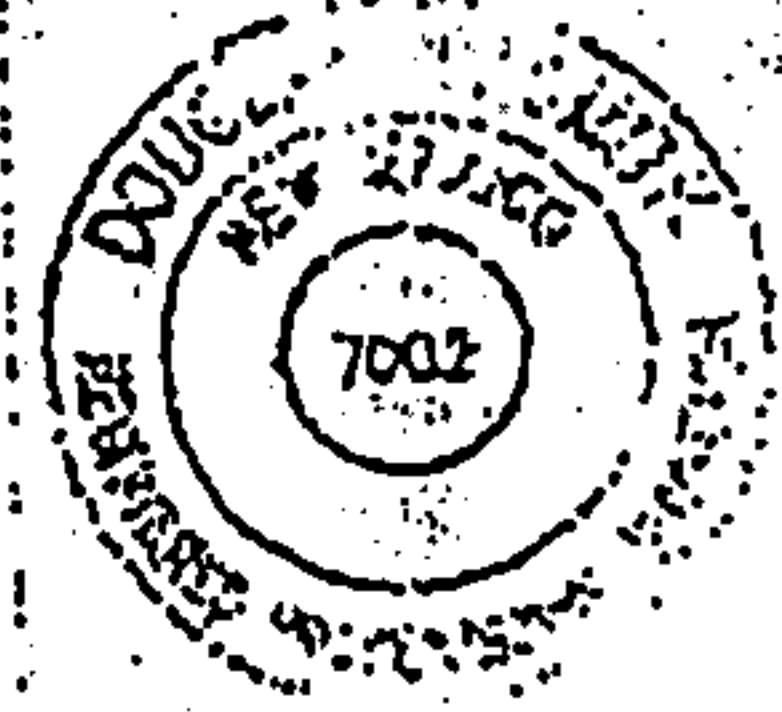
SURVEYOR'S CERTIFICATION:

I, Douglas H. Smith, a New Mexico Professional Surveyor (#7002) certify that I conducted and am responsible for this survey, that this survey is true and correct to the best of my knowledge and that this survey and plat meet the Minimum Standard for Surveying in the State of New Mexico. I further certify that this survey is not a land division or subdivision as defined in the New Mexico Subdivision Act and that this is a boundary survey plat of an existing tract or tracts.

October 8, 2002
 Date of Survey

Douglas H. Smith, N.M.P.S. No. 7002

DOUG SMITH SURVEYING, INC. 2121 SAN MATEO BLVD NE-ALBUQ., NM 87110-(606)245-5577 FAX(606)268-0010



0.4559

Logan Hall
Brad Hall & Associates Inc.
2107 Corte Del Caballo NW
Albuquerque, NM 87120
October 29, 2007

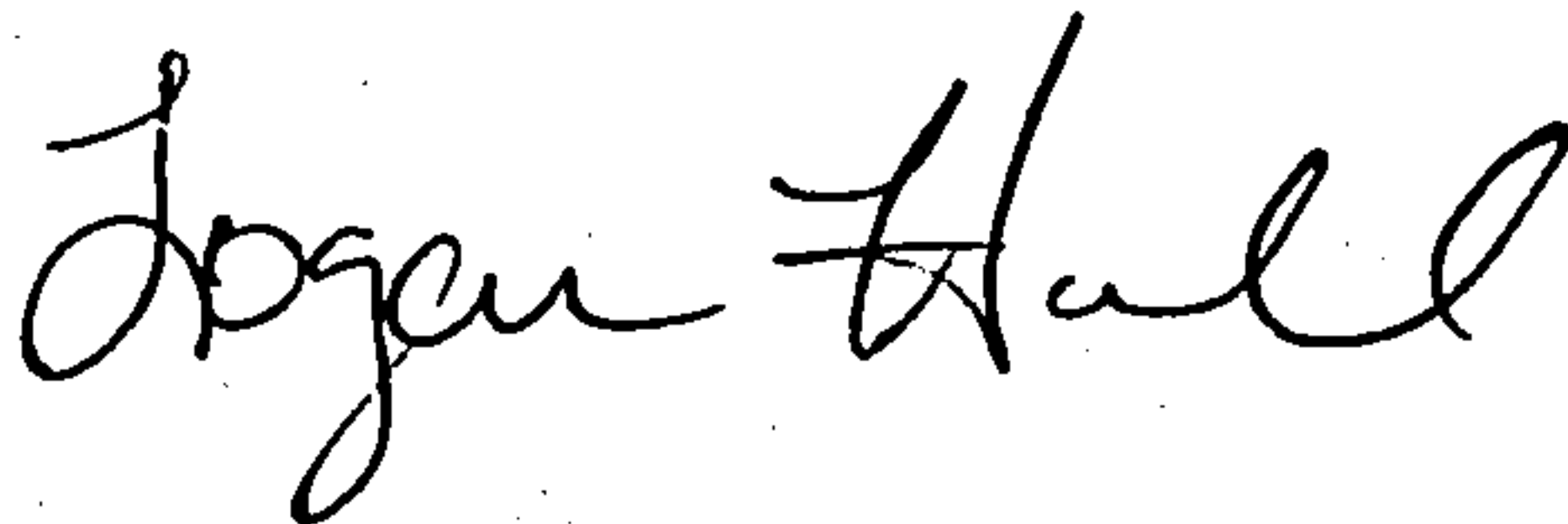
City Of Albuquerque
Development Review Board
Minor Cases
600 2nd Street NW
Albuquerque, NM

Dear: Development Review Board

This letter is a request for vacating a 16' public alley at the property located at the corner of Locust Avenue S.E. and Lead Avenue S.E.. We are currently under contract to purchase this property and are in negotiations to purchase the property next to it which currently houses a Chevron gas station owned by Rio Grande Oil. It would seem that the 16' public alley is not in use and has already been vacated in the west direction, as there are buildings that have built over the public alley way. Our request is to see the remainder of the alley vacated, allowing us to build a convenient store and gas station which will stretch across both property lots. The newly built location will offer a fully up-to-date gas station, grocery mart, and potential fast-food eatery. We are fully aware that this property is located in the historic district and welcome the opportunity to build an aesthetically pleasing location which will meet the goals of the district and enhance the current locations offerings.

If you have questions about my request or would like to speak with me, please call me at (505) 507-0280. I look forward to hearing your position on this issue. Thank you for your consideration.

Sincerely,



Logan Hall



Fidelity National Title
INSURANCE COMPANY

November 15, 2007

To Whom It May Concern:

A search of the Bernalillo County records does not show any "vacation" by the City of Albuquerque, as to the alleyway as shown within the following legal description:

Lots numbered Four (4), Five (5), Six (6), Seven (7), Eight (8), Nine (9), Ten (10), and the West Ten feet (W. 10') of Lot numbered Three, in Block numbered Four (4) of the Terrace Addition to the City of Albuquerque, New Mexico, as the same is shown and designated on the map of said addition, filed in the office of the Probate Clerk and Ex-officio Recorder of Bernalillo County, New Mexico, on May 20, 1905.

Sincerely,

Kay Reel

Kay Reel
Title Officer



DEVELOPER INQUIRY SHEET

(To be completed prior to application submittal)

The Office of Neighborhood Coordination (ONC) located in Room 120 (basement) of the Plaza Del Sol Building, 600 Second Street NW, Fax: (505) 924-3913 – will need the following information **BEFORE** neighborhood association information will be released to the applicant/agent on any project being presented to the Planning Department of the City of Albuquerque. If you have any questions, please feel free to contact our office at (505) 924-3914. Your Developer Inquiry is for the following:

Cell Tower & Type: [] Free-Standing Tower -OR- [] Concealed Tower

Private Development [] (i.e., EPC, DRB, LUCC, Liquor Submittal)

City Project []

CONTACT NAME: Logan Hall
COMPANY NAME: Brad Hall & Associates Inc.
ADDRESS/ZIP: 2107 Corte Del Caballo NW, Albuquerque, NM 87101
PHONE: 505-507-0280 FAX: 1-800-358-7525

LEGAL DESCRIPTION INFORMATION

PLEASE FORWARD INFORMATION ON ANY NEIGHBORHOOD ASSOCIATION IN THE AREA OF THE PROPERTY DESCRIBED BELOW:

Vacate Public Alley on block 4 of the Terrace addition to the city of Albuquerque

LEGAL DESCRIPTION

LOCATED ON Locust and Elm
STREET NAME OR OTHER IDENTIFYING LANDMARK

BETWEEN head ~~end~~ AND
STREET NAME OR OTHER IDENTIFYING LANDMARK

Coal
STREET NAME OR OTHER IDENTIFYING LANDMARK

THE SITE IS INDICATED ON THE FOLLOWING ZONE ATLAS PAGE (K-15).
(PLEASE MARK/HATCH ZONE MAP WHERE PROPERTY IS LOCATED)
(Zone Map **MUST** be provided with request)



City of Albuquerque

PLEASE NOTE: The Neighborhood Association information listed in this letter is valid for one (1) month. If you haven't filed your application within one (1) month of the date of this letter - you will need to get an updated letter from our office. It is your responsibility to provide current information - outdated information may result in a deferral of your case.

Date: 19 November 2007

TO CONTACT NAME: Logan Hall
COMPANY/AGENCY: Porac Hall & Assoc., Inc.
ADDRESS/ZIP: 2107 Corte Del Caballo NW 87120
PHONE/FAX #: 507-0280 / 1-866-358-7525

Thank you for your inquiry of 19 Nov. 07 (date) requesting the names of Recognized

Neighborhood Associations who would be affected under the provisions of O-92 by your proposed project at Vacate Public Alley block 4 of the Terrance Addition to the City of ABQ located on Locust and Elm between Lead and Coal zone map page(s) K-15.

Our records indicate that the Recognized Neighborhood Association(s) affected by this proposal and the contact names are as follows:

Silver Hill NA
Neighborhood Association
Contacts: Bill Cobb
1701 Silver Ave. SE 87106
247-8296 (h)
Gordon Reisel
1515 Silver SE 87106
242-3345 (h)

Spruce Park NA Inc.
Neighborhood Association
Contacts: Daniel Laird
603 Cedar NE 87106
766-7696 (h) 844-6188 (w)
Bart Chimenti
1502 Roma NE 87106
293-6734 (h)

See reverse side for additional Neighborhood Association Information: YES [X] NO { }

Please note that according to O-92 you are required to notify each of these contact persons by CERTIFIED MAIL, RETURN RECEIPT REQUESTED, BEFORE the Planning Department will accept your application filing. IMPORTANT! FAILURE OF ADEQUATE NOTIFICATION MAY RESULT IN YOUR APPLICATION HEARING BEING DEFERRED FOR 30 DAYS. If you have any questions about the information provided, please contact our office at (505) 924-3914 or by fax at 924-3913.

Sincerely,

Dalana Carmona
OFFICE OF NEIGHBORHOOD COORDINATION

Attention: Both contacts per neighborhood association need to be notified.

!!!Notice to Applicants!!!

SUGGESTED INFORMATION FOR NEIGHBORHOOD NOTIFICATION LETTERS

Applicants for Zone Change, Site Plan, Sector Development Plan approval or an amendment to a Sector Development Plan by the EPC, DRB, etc. are required under Council Bill O-92 to notify all affected recognized neighborhood associations **PRIOR TO FILING THE APPLICATION TO THE PLANNING DEPARTMENT**. Because the purpose of the notification is to ensure communication as a means of identifying and resolving problems early, it is essential that the notification be fully informative.

WE RECOMMEND THAT THE NOTIFICATION LETTER INCLUDE THE FOLLOWING INFORMATION:

1. The street address of the subject property.
2. The legal description of the property, including lot or tract number (if any), block number (if any), and name of the subdivision.
3. A physical description of the location, referenced to streets and existing land uses.
4. A complete description of the actions requested of the EPC:
 - a) If a **ZONE CHANGE OR ANNEXATION**, the name of the existing zone category and primary uses and the name of the proposed category and primary uses (i.e., "from the R-T Townhouse zone, to the C-2 Community Commercial zone").
 - b) If a **SITE DEVELOPMENT OR MASTER DEVELOPMENT PLAN** approval or amendment describe the physical nature of the proposal (i.e., "an amendment to the approved plan to allow a drive-through restaurant to be located just east of the main shopping center entrance off Montgomery Blvd.").
 - c) If a **SECTOR DEVELOPMENT PLAN OR PLAN AMENDMENT** a general description of the plan area, plan concept, the mix of zoning and land use categories proposed and description of major features such as location of significant shopping centers, employment centers, parks and other public facilities.
 - d) The name, address and telephone number of the applicant and of the agent (if any). In particular the name of an individual contact person will be helpful so that neighborhood associations may contact someone with questions or comments.

Information from the Office of Neighborhood Coordination

The following information should always be in each application packet that you submit for an EPC or DRB application. Listed below is a "Checklist" of the items needed.

- ONC's "Official" Letter to the applicant (*if there are associations*). A copy must be submitted with application packet -OR-
- The ONC "Official" Letter (*if there are no associations*). A copy must be submitted with application packet.
- Copies of Letters to Neighborhood Associations (*if there are associations*). A copy must be submitted with application packet.
- Copies of the certified receipts to Neighborhood Associations (*if there are associations*). A copy must be submitted with application packet.

Just a reminder - Our ONC "Official" Letter is only valid for a one (1) month period and if you haven't submitted your application by this date, you will need to get an updated letter from our office.

Any questions, please feel free to contact Stephani at 924-3902 or via an e-mail message at swinklepleck@cabq.gov.

Thank you for your cooperation on this matter.

.....
(below this line for ONC use only)

Date of Inquiry: 19 Nov. 07 Time Entered: 3:04 PM ONC Rep. Initials: OC

7006 0100 0005 7046 4488

U.S. Postal Service™
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OFFICIAL USE

Postage	\$ 0.41	0106
Certified Fee	\$2.65	03 Postmark Here
Return Receipt Fee (Endorsement Required)	\$2.15	
Restricted Delivery Fee (Endorsement Required)	\$0.00	
Total Postage & Fees	\$ 5.21	11/21/2007

Sent To Kay Adams
 Street, Apt. No., or PO Box No. 816 Silver Ave SE
 City, State, ZIP+4 Albuquerque NM 87102
 PS Form 3800, June 2002 See Reverse for Instructions

7006 0100 0005 7046 4501

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Restricted Delivery Fee (Endorsement Required)	\$0.00	
Total Postage & Fees	\$ 5.21	11/21/2007

Sent To Jessica Rochelas
 Street, Apt. No., or PO Box No. 912 Edith SE
 City, State, ZIP+4 Albuquerque, NM 87102
 PS Form 3800, June 2002 See Reverse for Instructions

7006 0100 0005 7046 4464

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Return Receipt Fee (Endorsement Required)	\$2.15	NOV 21 2007
Restricted Delivery Fee (Endorsement Required)	\$0.00	
Total Postage & Fees	\$ 5.21	11/21/2007

Sent To Mardon Gardella
 Street, Apt. No., or PO Box No. 411 Maple Street NE
 City, State, ZIP+4 Albuquerque, NM 87106
 PS Form 3800, June 2002 See Reverse for Instructions

7006 0100 0005 7046 4495

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Restricted Delivery Fee (Endorsement Required)	\$0.00	
Total Postage & Fees	\$ 5.21	11/21/2007

Sent To Susan Dixon
 Street, Apt. No., or PO Box No. 1213 Edith SE
 City, State, ZIP+4 Albuquerque, NM 87102
 PS Form 3800, June 2002 See Reverse for Instructions

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Total Postage & Fees	\$ 5.21	NOV 21 2007

11/21/2007

Sent To Bill Cobb
 Street, Apt. No., or PO Box No. 1701 Silver Ave SE
 City, State, ZIP+4 Albuquerque, NM 87106

PS Form 3800, June 2002 See Reverse for Instructions

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Total Postage & Fees	\$ 5.21	NOV 21 2007

11/21/2007

Sent To Bart Chiment
 Street, Apt. No., or PO Box No. 1502 Roma NE
 City, State, ZIP+4 Albuquerque, NM 87106

PS Form 3800, June 2002 See Reverse for Instructions

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Restricted Delivery Fee (Endorsement Required)	\$0.00	
Total Postage & Fees	\$ 5.21	NOV 21 2007

11/21/2007

Sent To Steve Grant
 Street, Apt. No., or PO Box No. 209 High Street NE
 City, State, ZIP+4 Albuquerque, NM 87102

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Restricted Delivery Fee (Endorsement Required)	\$0.00	
Total Postage & Fees	\$ 5.21	NOV 21 2007

11/21/2007

Sent To Gordon Reisel
 Street, Apt. No., or PO Box No. 1515 Silver Ave SE
 City, State, ZIP+4 Albuquerque, NM 87106

PS Form 3800, June 2002 See Reverse for Instructions

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Total Postage & Fees	\$ 5.21	NOV 21 2007

11/21/2007

Sent To Daniel Laird
 Street, Apt. No., or PO Box No. 1403 Cedar NE
 City, State, ZIP+4 Albuquerque, NM 87106

PS Form 3800, June 2002 See Reverse for Instructions

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Certified Fee	\$2.65	03
Return Receipt Fee (Endorsement Required)	\$0.00	Postmark Here
Restricted Delivery Fee (Endorsement Required)	\$0.00	
Total Postage & Fees	\$ 3.06	NOV 21 2007

11/21/2007

Sent To Peter Schilke
 Street, Apt. No., or PO Box No. 1217 Coal Ave SE
 City, State, ZIP+4 Albuquerque, NM 87106

PS Form 3800, June 2002 See Reverse for Instructions

Logan Hall
Brad Hall & Associates Inc.
2107 Corte Del Caballo NW
Albuquerque, NM 87120
October 29, 2007

South Broadway Neighborhood Association
Jessica Rochelas
912 Edith SE
Albuquerque, NM 87102

Dear: Susan Dixon

This letter is to inform you of a request for vacating a 16' public alley at the property located at the corner of Locust Avenue S.E. and Lead Avenue S.E., between Locust and Elm, of block 4 of the Terrace Addition. Brad Hall & Associates Inc. (BHA) is currently under contract to purchase this property and is in negotiations to purchase the property next to it which currently houses a Chevron gas station owned by Rio Grande Oil. It would seem that the 16' public alley is not in use in the west direction, as there are buildings that have built over the public alley way by the shelter which occupies the west side of the block. Our request is to see the alley vacated, allowing us to build a convenient store and gas station which will stretch across both property lots. The newly built location will offer a fully up-to-date gas station, grocery mart, and potential fast-food eatery. We are fully aware that this property is located in the historic district and welcome the opportunity to build an aesthetically pleasing location which will meet the goals of the district and enhance the current locations offerings. BHA owns multiple c-store locations across the western United States and does not have intentions of selling alcohol.

It is anticipated that this request will be heard by the DRB during a public hearing on December 19, 2007 at 9:00 am.

If you have questions about our request or would like to speak with me directly, please call me at (505) 507-0280. I look forward to hearing your position on this issue. Thank you for your consideration.

Sincerely,

Logan Hall

Logan Hall
Brad Hall & Associates Inc.
2107 Corte Del Caballo NW
Albuquerque, NM 87120
October 29, 2007

Broadway Central Corridors Partnership Inc.
Rob Dickson
301 Central Ave. NE #313
Albuquerque, NM 87102

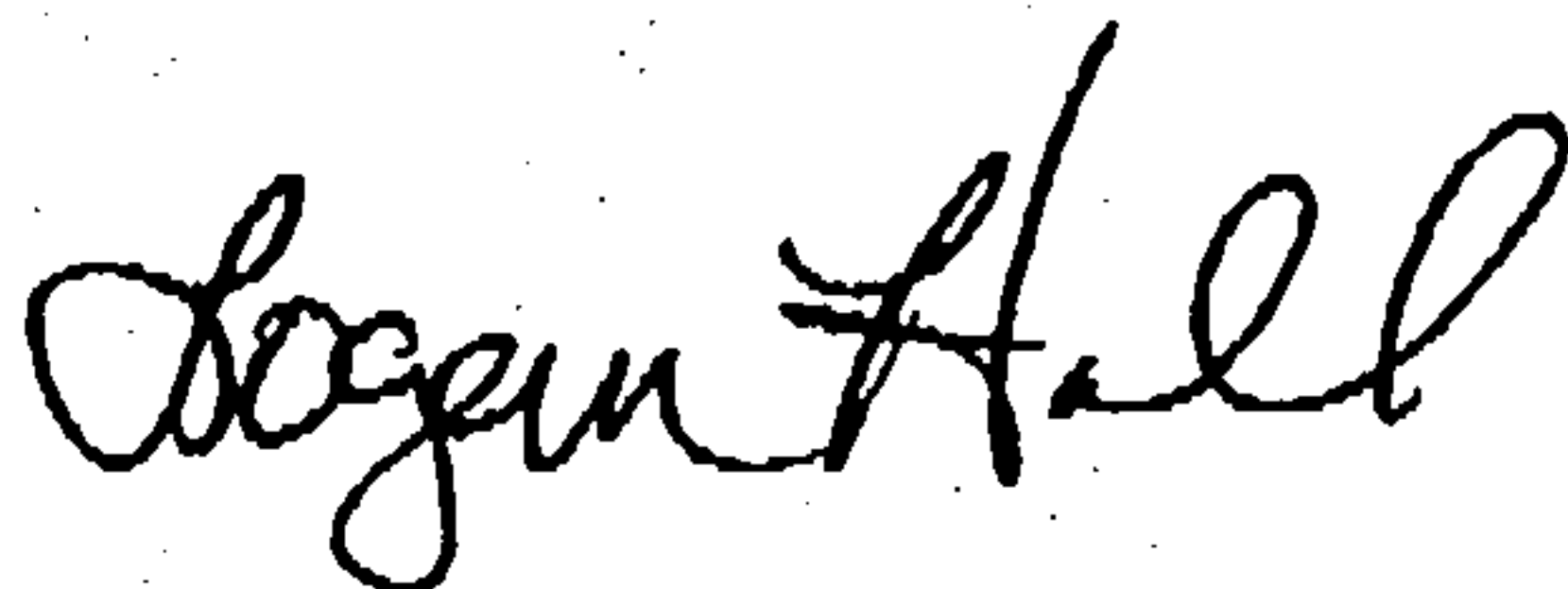
Dear: Rob Dickson

This letter is to inform you of a request for vacating a 16' public alley at the property located at the corner of Locust Avenue S.E. and Lead Avenue S.E., between Locust and Elm, of block 4 of the Terrace Addition. Brad Hall & Associates Inc. (BHA) is currently under contract to purchase this property and is in negotiations to purchase the property next to it which currently houses a Chevron gas station owned by Rio Grande Oil. It would seem that the 16' public alley is not in use in the west direction, as there are buildings that have built over the public alley way by the shelter which occupies the west side of the block. Our request is to see the alley vacated, allowing us to build a convenient store and gas station which will stretch across both property lots. The newly built location will offer a fully up-to-date gas station, grocery mart, and potential fast-food eatery. We are fully aware that this property is located in the historic district and welcome the opportunity to build an aesthetically pleasing location which will meet the goals of the district and enhance the current locations offerings. BHA owns multiple c-store locations across the western United States and does not have intentions of selling alcohol.

It is anticipated that this request will be heard by the DRB during a public hearing on December 19, 2007 at 9:00 am.

If you have questions about our request or would like to speak with me directly, please call me at (505) 507-0280. I look forward to hearing your position on this issue. Thank you for your consideration.

Sincerely,



Logan Hall

CC:

Terry Keene
424 Central Ave. SE
Albuquerque, NM 87102

Susan Dixon
1213 Edith SE
Albuquerque, NM 87102

Jessica Rodelas
912 Edith SE
Albuquerque, NM 87102

Bill Cobb
1701 Silver Ave. SE
Albuquerque, NM 87106

Gordon Reiselt
1515 Silver SE
Albuquerque, NM 87106

Daniel Laird
603 Cedar NE
Albuquerque, NM 87106

Bart Chimenti
1502 Roma NE
Albuquerque, NM 87106

Peter Schillke
1217 Coal Ave. SE
Albuquerque, NM 87106

Mardon Gardella
411 Maple St. NE
Albuquerque, NM 87106

Steve Grant
209 High St. NE
Albuquerque, NM 87102

Kay Adams
816 Silver Ave SE
Albuquerque, NM 87102



CITY OF ALBUQUERQUE
PLANNING DEPARTMENT
DEVELOPMENT REVIEW BOARD

December 19, 2007

Project# 1006953
07DRB-70406 VACATION OF PUBLIC EASEMENT

LOGAN HALL request(s) the above action(s) for all or a portion of Lot(s) 1-A, Block(s) 4, **TERRACE ADDITION**, zoned SU-2/NCR, located on LEAD AVE SE BETWEEN LOCUST AVE SE AND ELM ST SE containing approximately 0.4539 acre(s). (K-15)

AMAFCA

No adverse comments.

COG

MPO staff have no comment on this development proposal. For information, Lead Av has a functional classification of urban principal arterial

Transit

No comments received.

Zoning Enforcement

No adverse comments.

Neighborhood Coordination

Letter(s) sent to:

Silver Hill NA (R),
Spruce Park NA (R),
Sycamore NA (R),
Huning Highland Historic District Assoc. (R),
South Broadway NA (R)

APS

Terrace Addition, Lot 1-A, Block 4, is located on Lead Ave SE between Locust Ave SE and Elm St SE. The owner of the above property requests a Vacation of Public Easement for a gas station, grocery mart, and potential fast-food eatery. This will have no adverse impacts to the APS district.

Police Department

No crime prevention or CPTED comments at this time.

Fire Department

No adverse comments.

PNM Electric & Gas

No adverse comments.

Comcast

No comments received.

QWEST

No comments received.

Environmental Health

No comments received.

M.R.G.C.D.

No adverse comments.

Open Space Division

Open Space has no adverse comments.

City Engineer

The Hydrology section has no objection to the vacation request.

Transportation Development

The alley cannot be vacated in part; provide additional information regarding the previous vacations stated in your letter

Parks & Recreation

Defer to Transportation.

ABCWUA

Sketch Plat was heard under Project #2637.

No objection to Vacation request.

Planning Department

Specific, written comments/ approval from the Solid Waste Department is needed based on the existing refuse facilities.

Impact Fee Administrator

No comment on proposed vacation of the 16 foot alley way. However, impact fees will be assessed at the time a permit is issued for a new building on the new lot according to the total square foot and use of the building. These fees are available on the city's website- www.cabq.gov. Go to the "A-Z" feature and under the "I" impact fees will be the first item in this list. The areas for which these will be assessed are the eastside for Public Safety.

IT IS REQUIRED THAT THE APPLICANT AND/OR AGENT BE PRESENT AT THE HEARING

Cc: Logan Hall – 2107 Corte Del Caballo NW – Albuquerque, NM 87120

Scott Howell

Marilyn Maldonado

File

**CITY OF PLANNING
PLANNING DEPARTMENT
PROPERTY OWNERSHIP LIST**

Meeting Date: December 19, 2007
Zone Atlas Page: K-15
Notification Radius: 100 Ft.

Project#: 1006953
App#: 07DRB-70406

Cross Reference and Location: LEAD AVE SE BETWEEN LOCUST AVE SE AND
ELM ST SE

Applicant: LOGAN HALL
2107 CORTE DEL CABALLO NW
ALBUQUERQUE, NM 87120

Agent:

Special Instructions:

**Notice must be mailed from the
City's 15 day's prior to the meeting.**

Date Mailed: NOVEMBER 30, 2007
Signature: ERIN TREMLIN



**PUBLIC HEARING--DEVELOPMENT REVIEW BOARD
CITY OF ALBUQUERQUE**

Notice is hereby given that the Development Review Board, City of Albuquerque, will hold a public hearing in the Plaza del Sol Hearing Room, Basement, Plaza del Sol Building, 600 2nd St NW, on Wednesday, December 19, 2007, beginning at 9:00 a.m. for the purpose of considering the following:

Project# 1000539

07DRB-70400 VACATION OF PUBLIC
EASEMENT

07DRB-70401 VACATION OF PRIVATE
EASEMENT

07DRB-70402 MINOR - TEMP DEFR SWDK
CONST

07DRB-70403 MINOR - PRELIMINARY/
FINAL PLAT APPROVAL

MARK GOODWIN AND ASSOCIATES PA agent(s) for HOPE CHRISTIAN SCHOOL request(s) the above action(s) for all or a portion of Lot(s) 6, 7, 8-A, 9A-1, 10 & 26, Block(s) 11, **NORTH ALBUQUERQUE ACRES Unit(s) A**, zoned SU-1 PRIVATE SCHOOL, located on PALOMAS NE BETWEEN SAN PEDRO AND LOUISIANA containing approximately 6.75 acre(s). (D-18)

Project# 1004073

07DRB-70399 MAJOR - 2YR SUBD IMP
AGMT EXT (2YR SIA)

MARK GOODWIN AND ASSOCIATES PA agent(s) for JTH, LLC request(s) the above action(s) for all or a portion of Lot(s) 1-5, **JUAN TABO HILLS Unit(s) 1**, zoned R-D, located on JUAN TABO BLVD NE BETWEEN EUBANK BLVD NE AND FOUR HILLS ROAD SE containing approximately 244.4124 acre(s). (M-21, M-22)

Project# 1006953

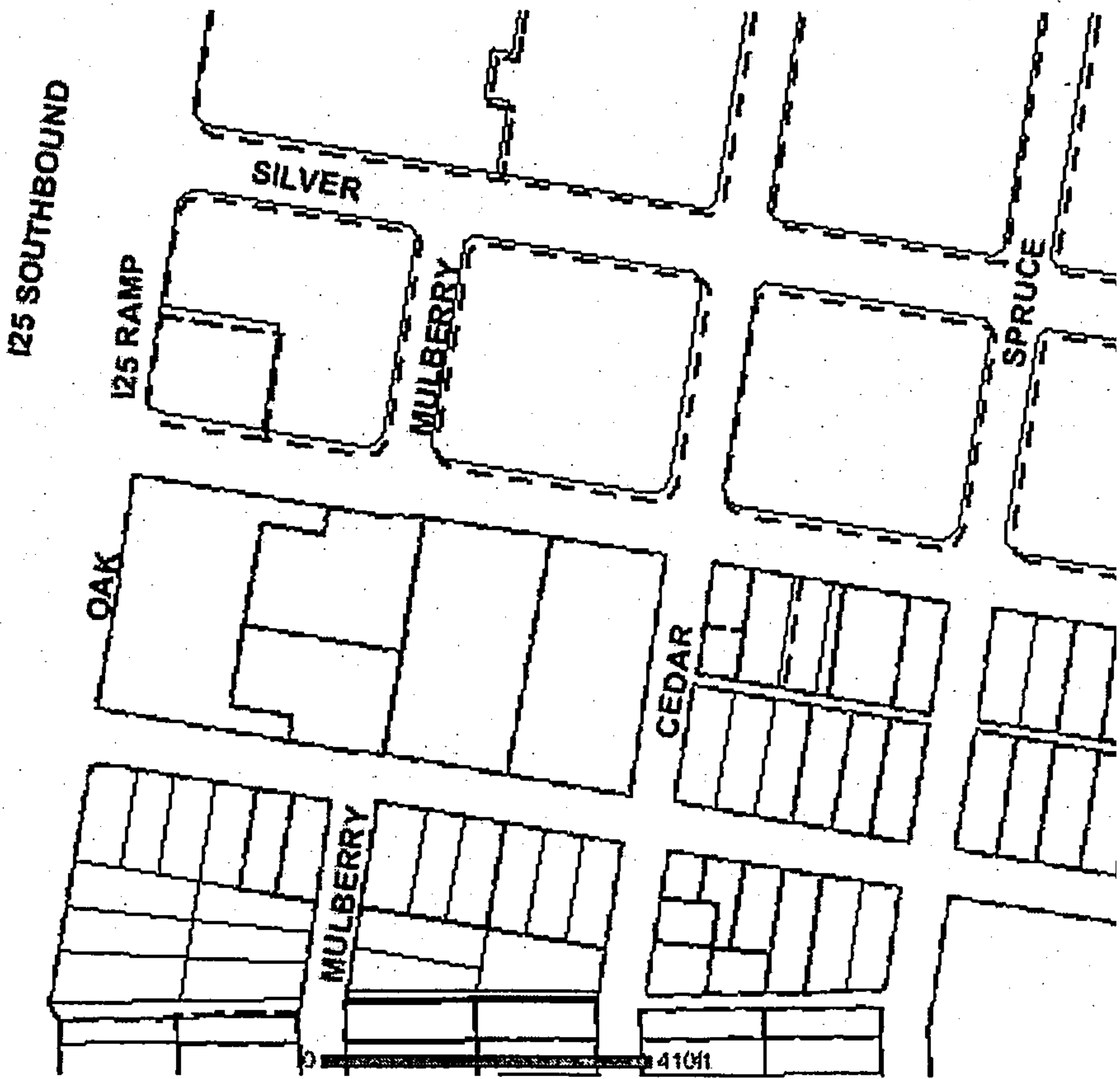
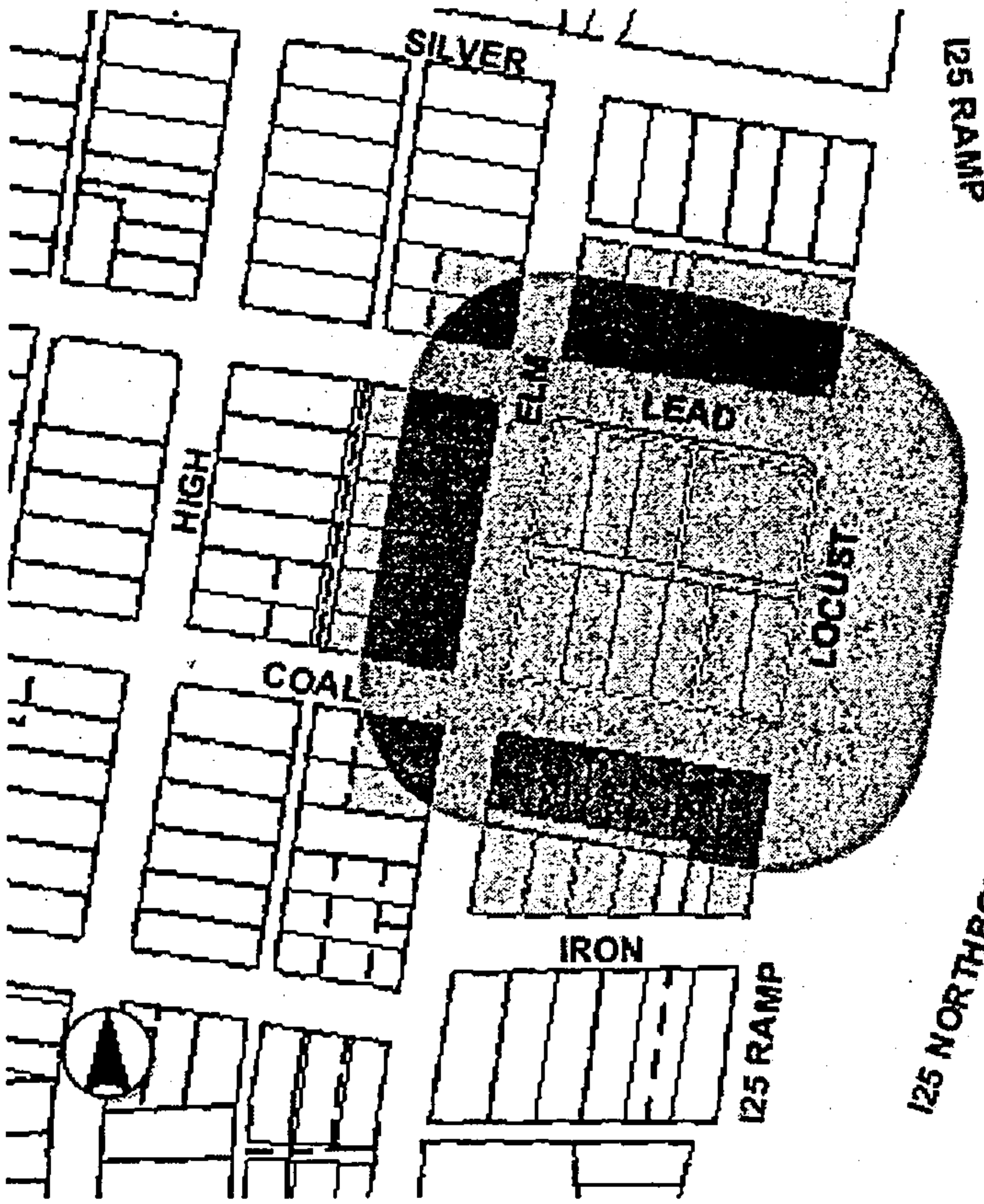
07DRB-70406 VACATION OF PUBLIC
EASEMENT

LOGAN HALL request(s) the above action(s) for all or a portion of Lot(s) 1-A, Block(s) 4, **TERRACE ADDITION**, zoned SU-2/NCR, located on LEAD AVE SE BETWEEN LOCUST AVE SE AND ELM ST SE containing approximately 0.4539 acre(s). (K-15)

Details of the application(s) may be examined at the Development Services Center of the Planning Department, Second Floor, Plaza Del Sol Building, 600 2nd St NW, between 10:00 a.m. and 12:00 p.m. or 2:00 p.m. and 4:00 p.m. Monday through Friday except holidays INDIVIDUALS WITH DISABILITIES who need special assistance to participate at this hearing should contact Angela Gomez, Planning Department, at 924-3946 (VOICE) or teletypewriter (TTY) 924-3361 - TTY users may also access the Voice number via the New Mexico Relay Network by calling toll-free 1-800-659-8331.


Development Review Board

TO BE PUBLISHED IN THE ALBUQUERQUE JOURNAL MONDAY, DECEMBER 3, 2007.



R e c	UPC CODE	OWNER	OWNER ADDRESS	OWN ER CITY	O W N E R S T A T E	O W N E R Z I P C O D E	P R O P E R T Y C L A S S	T A X D I S T R I C T	LEGAL
1	1015057 0272093 1110	SANTISTEVAN LEO & ANGEL & ERNES T & GLORIA	808 COAL AVE SE	ALBU QUER QUE	N M	871 02	R	A1 A	005TERRACE ADDN PORT L4, 5 & 6
2	1015057 0102532 0103	HELLENIC COMMU NITY OF N M	308 HIGH ST SE	ALBU QUER QUE	N M	871 02 3 631	V	A1 A	041HUNING HIGHLAND ADD E 106 1/2 FT LT 5 X 6
3	1015057 0412592 0206	GRADY RENTALS L LC	PO BOX 30 801	ALBU QUER QUE	N M	871 90 0 801	C	A1 A	LOT 12 A BLK 3 PLAT OF LOT 12- A TERRACE ADDN CONT 25,365 SQ FT M/L
4	1015057 0032293 2306	BUNGAY PROPERT IES LLC	116 CAMI NO ENCAN TADO	SANT A FE	N M	875 01	C	A1 A	040LOTS 1 THRU 6 X E1/2 OF VAC ALLEY ADJ HUNINGS HIGHLAND AD D
5	1015057 0162033 1111	SIMPSON DIANE L	628 FAIR WAY LP	RIO R ANCH O	N M	871 24	C	A1 A	* 006 005TERRACE ADDN N1*2 OF L6
6	1015057 0392023 1105	SRD PARTNER LIMI TED CO	320 CENT RAL SW S UITE 36	ALBU QUER QUE	N M	871 02	C	A1 A	LOT 1, 2, 3, 12 & E 28' OF LT 11 BLK 5 TERRAC E ADDN & VAC ALLEY ADJ EXC PORTS TO R/ W CONT 18,064 SQ FT M/L
7	1015057 0032033 3906	BUNGAY PROPERT IES LLC	116 CAMI NO ENCAN TADO	SANT A FE	N M	875 01	V	A1 A	039E 100 FT OF LOTS 1 X 2 H HIGHLANDS AD D
8	1015057 0262542 0201	SCHUTZBERGER R ICHARD & KATHY L	2908 CALL E GRANDE NE	ALBU QUER QUE	N M	871 04	C	A1 A	003TERRACE ADD LTS 7 X 8 X W 20FT LT 9
9	1015057 0362313 1203	GALLINGER EDWA RD L & SHARON E	PO BOX 57 5	TIJER AS	N M	870 59	V	A1 A	LT 1-A BLK 4 PLAT OF LOT 1- A BLOCK 4 TERRACE ADDITION CONT .4317 AC
10	1015057 0262013 1109	SANTISTEVAN LEO & ANGEL & ERNES T & GLORIA	808 COAL AVE SE	ALBU QUER QUE	N M	871 02	V	A1 A	* 004 005TERRACE ADDN N62 FT E34 FT L4
11	1015057 0402173 1202	RIO GRANDE OIL C O OF BERN CO	PO BOX 25 564	ALBU QUER QUE	N M	871 25 0 564	C	A1 A	004TERRACE ADDITION LOTS 11 X 12
12	1015057 0161983 1112	MORRIS HARY O J R	502 ELM S T SE	ALBU QUER QUE	N M	871 02 3 925	R	A1 A	005TERRACE ADDN S42 FT OF L6S42 OF W24 OF 5
13	1015057 0242223 1201	S.A.F.E. HOUSE IN C	PO BOX 25 363	ALBU QUER QUE	N M	871 25 0 363	R	A1 A	0004LOTS 4 THRU 10 & W10FT OF LOT 3 TER RACE ADDN
14	1015057 0141913 1101	NATL HEATING & V ENT CO INC	818 IRON AVE SE	ALBU QUER QUE	N M	871 02 3 945	C	A1 A	* 007 005TERRACE ADDN
15	1015057 0291913 1104	813 IRON LLC	813 IRON AVE SE	ALBU QUER QUE	N M	871 02 3 944	R	A1 A	* 010 005TERRACE ADDN
16	1015057 0191913 1102	NATL HEATING & V ENT CO INC	818 IRON AVE SE	ALBU QUER QUE	N M	871 02 3 945	C	A1 A	* 008 005TERRACE ADDN
17	1015057 0251913 1103	NATL HEATING & V ENT CO INC	818 IRON AVE SE	ALBU QUER QUE	N M	871 02 3 945	C	A1 A	* 009 005TERRACE ADDN

Or Current Resident
IRON LLC
813 IRON AVE SE
ALBUQUERQUE, NM 87102 3944

Or Current Resident
BUNGAY PROPERTIES LLC
116 CAMINO ENCANTADO
SANTA FE, NM 87501

Or Current Resident
BUNGAY PROPERTIES LLC
116 CAMINO ENCANTADO
SANTA FE, NM 87501

Or Current Resident
GALLINGER EDWARD L & SHARON E
PO BOX 575
TIJERAS, NM 87059

Or Current Resident
GRADY RENTALS LLC
PO BOX 30801
ALBUQUERQUE, NM 87190 0801

Or Current Resident
HELLENIC COMMUNITY OF N M
308 HIGH ST SE
ALBUQUERQUE, NM 87102 3631

Or Current Resident
MORRIS HARY O JR
502 ELM ST SE
ALBUQUERQUE, NM 87102 3925

Or Current Resident
NATL HEATING & VENT CO INC
818 IRON AVE SE
ALBUQUERQUE, NM 87102 3945

Or Current Resident
RIO GRANDE OIL CO OF BERN CO
PO BOX 25564
ALBUQUERQUE, NM 87125 0564

Or Current Resident
S.A.F.E. HOUSE INC
PO BOX 25363
ALBUQUERQUE, NM 87125 0363

Or Current Resident
SANTISTEVAN LEO & ANGEL &
ERNEST & GLORIA
808 COAL AVE SE
ALBUQUERQUE, NM 87102

Or Current Resident
SCHUTZBERGER RICHARD & KATHY
L
2908 CALLE GRANDE NE
ALBUQUERQUE, NM 87104

Or Current Resident
SIMPSON DIANE L
628 FAIRWAY LP
RIO RANCHO, NM 87124

Or Current Resident
SRD PARTNER LIMITED CO
320 CENTRAL SW SUITE 36
ALBUQUERQUE, NM 87102

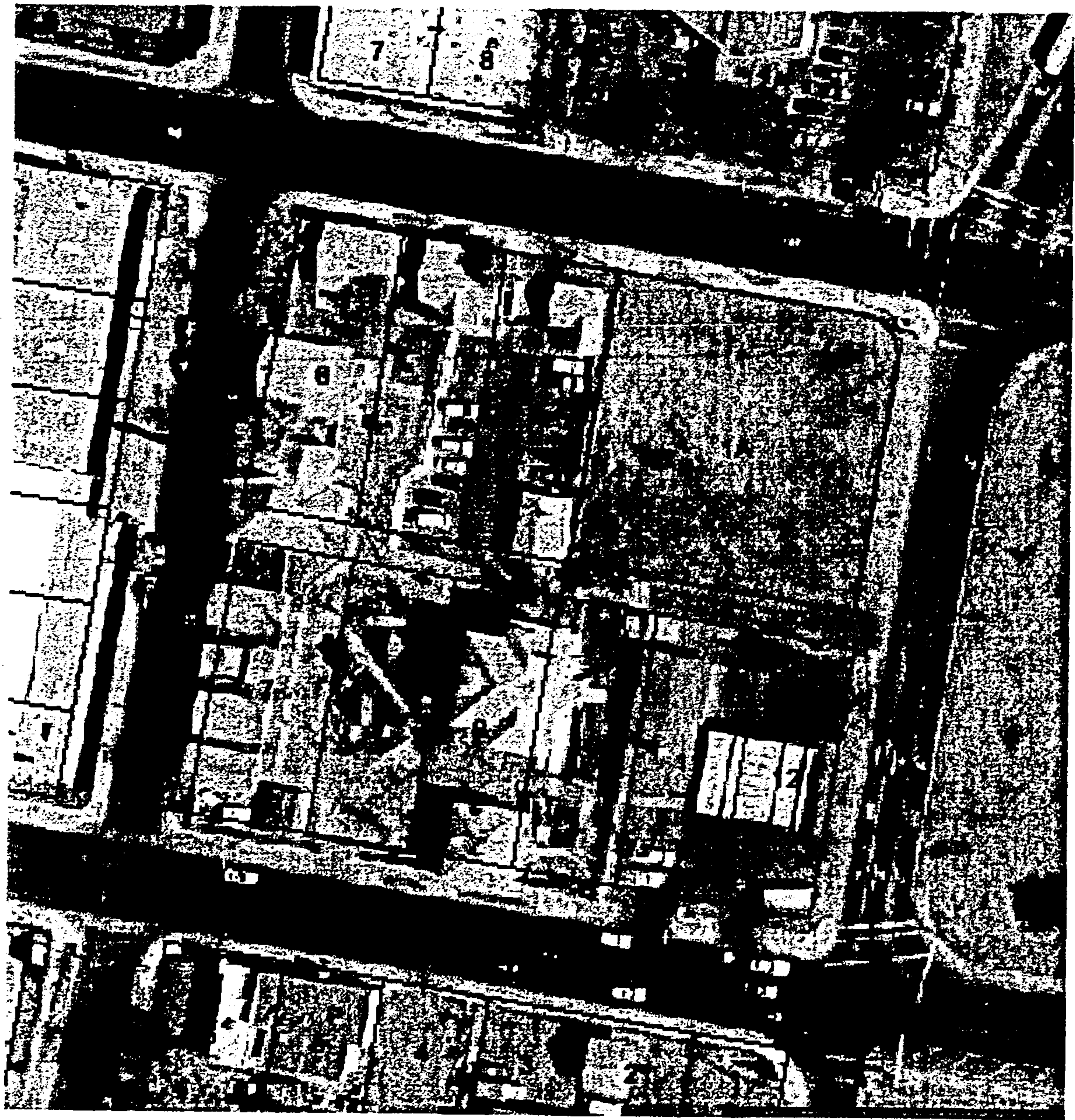
Project# 1006953
LOGAN HALL
2107 CORTE DEL CABALLO NW
ALBUQUERQUE, NM 87120

Project# 1006953
BILL COBB
Silver Hill NA
1701 SILVER AVE SE
ALBUQUERQUE, NM 87106

Project# 1006953
GORDON REISELT
Silver Hill NA
1515 SILVER SE
ALBUQUERQUE, NM 87106

Project# 1006953
DANIEL LAIRD
Spruce Park NA
603 CEDAR NE
ALBUQUERQUE, NM 87106

Project# 1006953
BART CHIMENTI
Spruce Park NA
1502 ROMA NE
ALBUQUERQUE, NM 87106





LUEBBEN·JOHNSON
& BARNHOUSE·LLP
attorneys at law

kkeegan@luebbenlaw.com

December 19, 2007

Development Review Board
City of Albuquerque
Plaza del Sol Building
600 2nd St. NW
Albuquerque, NM 87102

Sheran Matson, AICP, Chair, Planning Dept.
Wilfred Gallegos, Transportation Development, Planning Dept.
Brad Bingham, Alternate City Engineer, Planning Dept.
Roger Green, Utility Development, Water Utility Dept.
Christina Sandoval, Parks & Recreation

Re: *07DRB-70406 Vacation of Public Easement*

Dear Development Review Board:

This law firm represents S.A.F.E. House Inc. ("SAFE House"). SAFE House owns the land to the west of the property for which vacation of the public easement has been requested. SAFE House operates a domestic violence shelter on the property it owns at this location. SAFE House opposes the request to vacate the public easement. The easement is in use and is the only route of access providing SAFE House essential solid waste removal services.

SAFE House is a nonprofit corporation. The mission of SAFE House is to shelter and empower survivors of intimate partner domestic violence and to improve the way New Mexico responds to this violence. Over 1,000 families go through the doors of SAFE House annually. SAFE House provides programming aimed at healing the wounds, breaking the cycle, and improving the lives of families in our community.

The easement is used three times per week by the Albuquerque Solid Waste Department ("Solid Waste Department"), which provides commercial solid waste

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collection services for the SAFE House facility. The collection service includes one large dumpster and 12 to 15 trash bin containers which are emptied three times per week, on Monday, Wednesday and Friday. The only route of ingress and egress to access the containers is via the public easement.

Additionally, this easement is used by PNM. The above-ground utility lines and the utility poles are located on the easement, including at least one pole located on the easement with what appears to be a transformer on it. Access to this pole would be impaired should the easement be vacated. There are also concerns regarding access to under-ground lines that may be located in the easement.

The application before the Board requests the portion of the easement, adjacent to lots 1, 2 and 3, be vacated. Section 14-14-7-2 in the Albuquerque Code of Ordinances, provides that vacation of a public easement shall be approved only when it is determined that:

- (1) The public welfare is in no way served by retaining the way or easement;
or
- (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; and in addition to division (1) or (2) of this division (B):
- (3) There is no convincing evidence that any substantial property right is being abridged against the will of the owner of the right.

To vacate an easement the Board must find that either factor (1) or (2) is met and that factor (3) is met. In this case none of the three factors are met.

The first factor is not met because the public welfare is served by retaining the easement. SAFE House provides essential shelter, programs and services to victims of domestic violence, a mission that is vital to the health of our community. In order to provide these services the SAFE House facility must receive operational services, such as solid waste removal, and the easement allows for this necessary service.

The second factor is not met. This factor requires balancing the benefit of vacation against the detriment resulting from vacation. Although the applicant would clearly benefit from vacation of the easement, the applicant must demonstrate how its development would benefit the public welfare, and it has failed to do so. The detriment to the public welfare resulting from vacation of the easement is great. As stated above, in order to provide its services, the SAFE House facility must receive operational services, such as solid waste removal. If the easement were vacated SAFE House would be forced to relocate the collection containers. The expense and logistics of relocating the collection

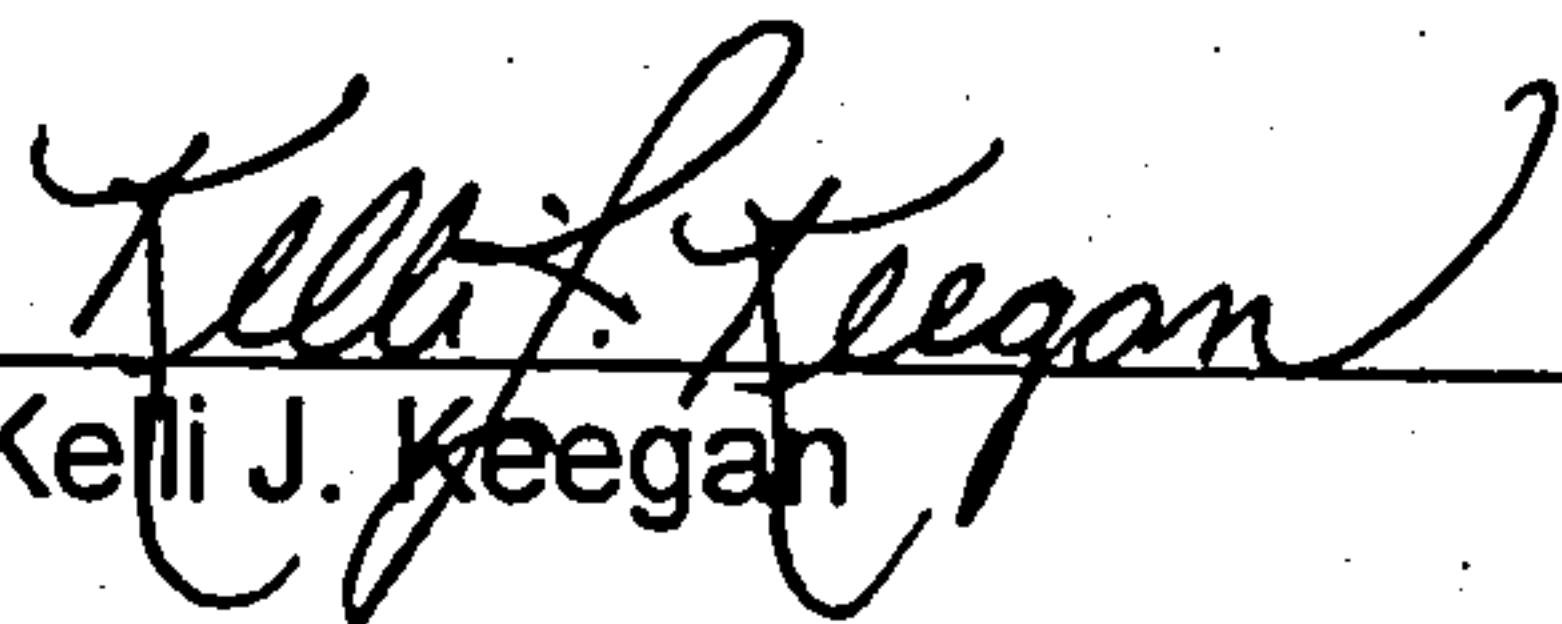
containers would be detrimental to SAFE House. After reviewing options with the Solid Waste Department, it appears that there is only one possible alternative location where the containers could be placed which would require, among other modifications, removing an existing concrete and stucco wall, building a new concrete and stucco wall with three sides and one side with a gate, and cement work required for any sidewalk and driveway modifications. SAFE House operates on a limited budget and does not have funding for this type of project. There is no evidence the applicant's development would benefit the public welfare, thus the benefit does not outweigh the detriment to SAFE House and the services it provides to our community.

The third factor is not met because there is evidence that a property right would be abridged against the will of the owner of such right. An easement is a property right in that it is an interest in land in the possession of another which entitles the owner of such interest to a limited use or enjoyment of the land in which the interest exists. A public easement is an easement for the benefit of an entire community. SAFE House has a property right in the easement as it is a member of the community, an adjacent property owner, and the easement is used by the City for the benefit of SAFE House. Therefore, vacation of the easement would abridge SAFE House's property right against its will.

On Friday, December 14, 2007, this office contacted the applicant, Logan Hall, in an effort to resolve this issue prior to today's hearing. Mr. Hall was advised that SAFE House's goal was to solve the problem that would be created by vacation of the easement and that if an agreement or solution could be reached, SAFE House would not oppose Mr. Hall's application. Mr. Hall declined the invitation to seek a compromise solution. Instead, he stated that waste management would have a solution and that he couldn't speak on behalf of the company seeking to have the City vacate the public easement.

Please feel free to contact me if you have any questions or comments regarding SAFE House's opposition to the request to vacate the public easement.

For the Firm,


Kelli J. Keegan

Cloud, Jack W.

From: Gomez, Angela J.
Sent: Monday, February 04, 2008 9:14 AM
To: Cloud, Jack W.
Subject: FW: Response to the Development Review Board's request for an update by February 1

From: Kelli Keegan [mailto:KKeegan@luebbenlaw.com]
Sent: Friday, February 01, 2008 4:08 PM
To: Gomez, Angela J.
Cc: jad@keleher-law.com; Hall.Logan@gmail.com; Michele Fuller
Subject: Response to the Development Review Board's request for an update by February 1

Ms. Gomez,

Re: Project # 1006953 07DRB-70406 VACATION OF PUBLIC EASEMENT

At the January 23, 2008, hearing, the Development Review Board requested that it be informed by February 1, 2008, of whether an agreement had been reached between Logan Hall and S.A.F.E. House Inc.

No agreement has yet been reached. S.A.F.E. House does not agree to Logan Hall's proposal. No further negotiations have taken place, due to Logan Hall's attorney, Jeffrey Dahl, being out of his office due to illness yesterday and today, and my being out of the office due to illness on Wednesday. Therefore, S.A.F.E. House maintains its position of opposition to the application.

Please feel free to contact me should you have any questions or concerns.

Thank you.

Kelli J. Keegan
Luebben Johnson & Barnhouse LLP
7424 4th Street NW
Los Ranchos de Albuquerque, NM 87107
Voice: (505) 842-6123 - Ext. 405
Fax: (505) 842-6124
Email: kkeegan@luebbenlaw.com
Web: www.luebbenlaw.com

THIS MESSAGE IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHICH IT IS ADDRESSED AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED, CONFIDENTIAL AND EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAW. If the reader of this message is not the intended recipient or agent responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination or copying of this communication is strictly prohibited. If you have received this electronic transmission in error, please delete it from your system without copying it, and notify the sender by reply e-mail or by calling (505) 842-6123 so that our address record can be corrected. Thank you.



LUEBBEN·JOHNSON
& BARNHOUSE·LLP
attorneys at law

kkeegan@luebbenlaw.com

January 22, 2008

VIA FAX AND EMAIL

Jeffrey A. Dahl
Keleher & Mcleod
P.O. Drawer AA
Albuquerque, NM 87103
FAX (505) 346-1370
EMAIL: jad@keleher-law.com

Re: 07DRB-70406 Vacation of Public Easement

Dear Mr. Dahl:


This letter responds to your telephone call to our office this morning and your subsequent email transmitting a proposed agreement regarding the above-referenced application. At the December 19, 2007, Development Review Board Hearing, Logan Hall was given two options: 1) have his application denied that day; or, 2) have his application deferred to the January 23, 2008, hearing, allowing him an opportunity to reach an agreement with S.A.F.E. House during the deferment period.

Mr. Hall did not contact us during this period, and your first contact with our office regarding a proposed agreement comes one day before the Development Review Board Hearing. Thus no agreement has yet been reached, but as I have previously advised Mr. Hall, S.A.F.E. House's goal is to solve the problem that would be created by vacation of the easement.

Jeffrey A. Dahl
January 22, 2008
Page 2 of 2

Therefore, at tomorrow's hearing I will not oppose another deferment period should you choose to request this of the Board. This would provide our office adequate time to review your proposal with our client, and then work with you toward a fair and legally sufficient solution.

For the Firm,


Kelli J. Keegan

cc: Development Review Board
James Baca, Albuquerque Solid Waste Department
Michele Fuller, S.A.F.E. House, Inc. Director

AGREEMENT BY AND BETWEEN BRAD HALL & ASSOCIATES, INC. AND S.A.F.E. HOUSE, INC. REGARDINGG VACATION OF PUBLIC EASEMENT

WHEREAS, BRAD HALL & ASSOCIATES, INC (hereafter Hall) is the owner of that real property described as Lot 1A Block 4 Terrace Addition, located on Lead Avenue SE and Locust SE containing approximately .4539 acres, and

WHEREAS, S.A.F.E. HOUSE INC. (hereafter SAFE House) owns the land to the west of the Hall property and utilizes a public easement on the aforementioned property belonging to Hall for purposes of having its commercial solid waste serviced by the Albuquerque Solid Waste Department, and

WHEREAS, Hall has applied to vacate the public easement before the Development Review Board of the City of Albuquerque in order to maximize its use of the aforementioned property, and

WHEREAS, SAFE House has formally opposed the Hall's proposal to vacate the public easement with the Development Review Board of the City of Albuquerque, and

WHEREAS, Hall and SAFE House desire to resolve any differences regarding their respective uses of the aforementioned easement;

NOW THEREFORE it is agreed, upon mutual consideration, as follows:

1. SAFE House agrees to withdraw its opposition to Hall's application to vacate the public easement and Hall agrees to allow SAFE House to use the easement for pick up of its commercial solid waste and access to a large dumpster container upon the following conditions:
 - a. SAFE House agrees to indemnify and hold Hall harmless from and against any and all claims, demands, causes of action, debts or

liabilities arising out of or on account of SAFE House's use of the easement, occasioned by SAFE House's negligence.

- b. SAFE House agrees to be responsible for any and all costs associated with the pick up of its commercial waste, whether assessed by the City of Albuquerque or any other waste management company involved in servicing the hauling of commercial waste belonging to SAFE House.
 - c. SAFE House agrees that it does not have presently, nor will it assert, at any time hereafter, any claim on the aforementioned property belonging to Hall by way of prescriptive easement, adverse possession or otherwise and that upon vacation of the public easement, if granted by the City of Albuquerque, SAFE House will make no further claim on the prior easement except as set forth in this Agreement.
 - d. If the public easement is vacated by the City of Albuquerque, any use of the easement by SAFE House by Hall will be deemed a permissive use only of the easement by Hall.
 - e. SAFE House agrees to store any waste or trash receptacles, including any large dumpster containers, on its own property. If SAFE House fails to adequately maintain its waste and waste containers and receptacles to such an extent that it constitutes a nuisance or devalues Hall's property, Hall shall be permitted to withdraw access to the easement on Hall's property.
2. Notices. All notices and other communications required or permitted to be given hereunder shall be in writing and shall be deemed to have been duly

given and delivered if mailed, certified, postage prepaid to Hall and/or SAFE House.

3. Applicable Law. This Agreement shall be governed, construed and enforced in accordance with the laws of the State of New Mexico.
4. Binding Effect. All of the agreements between the parties shall be binding upon and inured to the benefit of the parties, their successors and assigns.
5. Entire Agreement. This Agreement merges all previous negotiations between the parties hereto and constitutes the entire agreement and understanding between the parties with respect to the subject matter hereof. No alteration, modification or amendment hereto shall be valid except when in writing and when signed by the parties.

Dated: _____

BRAD HALL & ASSOCIATES INC.,

By Logan Hall, Manager

S.A.F.E. HOUSE, INC.

By _____

Henry, Dora N.

From: Ortega, Crystal
Sent: Friday, March 07, 2008 3:02 PM
To: Henry, Dora N.
Subject: FW: AC-08-3

Hi Dora,

Please forward the cover memo to me by no later than Thursday, March 13th.

Let me know if you have any questions.

Thank you,
Crystal

From: Hinojos, Mandi M.
Sent: Friday, March 07, 2008 1:46 PM
To: Thompson, Bruce T.; Henry, Dora N.; Ortega, Crystal; Candelaria, April M.
Subject: AC-08-3

Hi everyone,

AC-08-3 will be introduced at the Council meeting on March 17, 2008 and will be heard by the LUHO on April 10, 2008 at 9:30 am in the Council Committee room.

Please call me with any questions.

Henry, Dora N.

From: Hinojos, Mandi M.
Sent: Friday, March 07, 2008 1:46 PM
To: Thompson, Bruce T.; Henry, Dora N.; Ortega, Crystal; Candelaria, April M.
Subject: AC-08-3

Hi everyone,

AC-08-3 will be introduced at the Council meeting on March 17, 2008 and will be heard by the LUHO on April 10, 2008 at 9:30 am in the Council Committee room.

Please call me with any questions.

Mandi Hinojos
3/21



OFFICIAL NOTICE OF DECISION

CITY OF ALBUQUERQUE
PLANNING DEPARTMENT
DEVELOPMENT REVIEW BOARD

February 13, 2008

Project# 1006953 / 1002637
07DRB-70406 VACATION OF PUBLIC EASEMENT

LOGAN HALL request(s) the above action(s) for all or a portion of Lot(s) 1-A, Block(s) 4, **TERRACE ADDITION**, zoned SU-2/NCR, located on LEAD AVE SE BETWEEN LOCUST AVE SE AND ELM ST SE containing approximately 0.4539 acre(s). (K-15)
(Deferred from 12/19/07, 1/23/08 & 2/6/08)

At the February 13, 2008, Development Review Board meeting, the vacation of the eastern portion of the alley in Block 4 of the Terrace Addition was approved as shown on Exhibit B in the Planning file per section 14-14-7-2(A)(1) and (B) (1)(3) of the Subdivision Ordinance. A turn around is not required based on existing conditions.

(A)(1) The 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 eastern portion of the alley, because of the existing condition of the western portion of the alley.

(B)(3) There is no convincing evidence that any substantial property right is being abridged against the will of the owner of the right; concerns regarding refuse pick-up may be addressed through the City's Solid Waste Department for the adjacent property.

CONDITIONS:

1. Final disposition shall be through the City Real Estate Office
2. The vacated property shall be shown on a 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 February 28, 2008 in the manner described below.

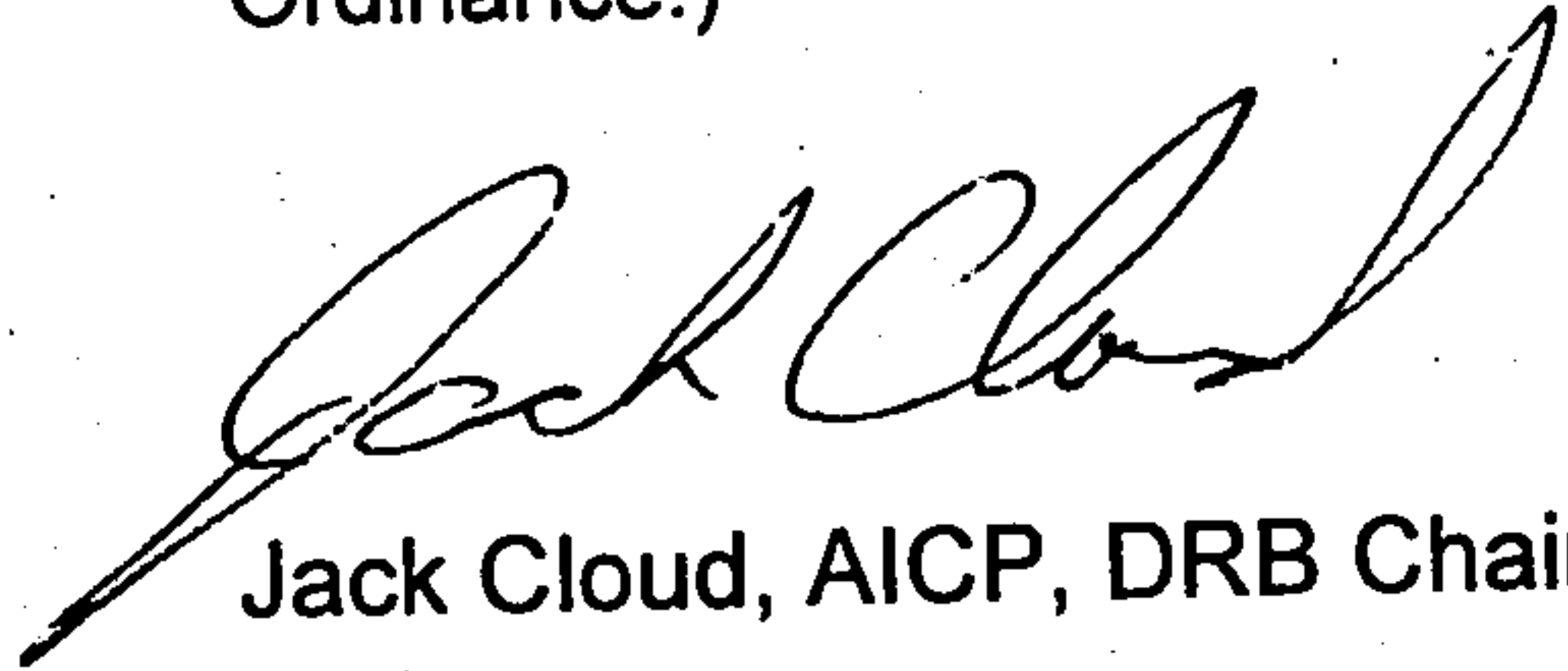
Appeal is to the Land Use Hearing Officer. Any person aggrieved with any determination of the Development Review Board may file an appeal on the Planning Department form, to the Planning Department, within 15 days of the Development Review Board's decision.

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.

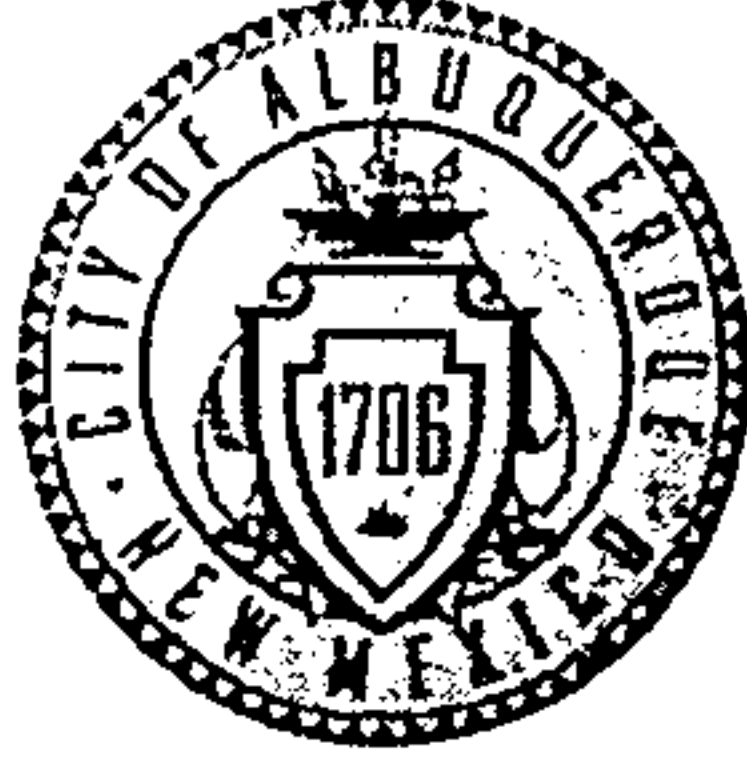
You will receive notice if any other person files an appeal. Successful applicants are reminded that other requirements of the City must be complied with, even after approval of the referenced application(s).

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: Logan Hall – 2107 Corte Del Caballo NW – Albuquerque, NM 87120
Cc: Kelli Keegan – 7424 4th St NW – Los Ranchos de Albuquerque, NM 87107
Cc: Jeff Dahl – P.O. Box AA – Albuquerque, NM 87103
Marilyn Maldonado
Scott Howell
File



DEVELOPMENT REVIEW BOARD

MINUTES

Plaza del Sol Hearing Room, Basement, Plaza del Sol Building

December 19, 2007

MEMBERS:

Jack Cloud, AICP, DRB Chairman, Planning Department

Angela Gomez, Administrative Assistant

Kristal Metro, P.E. , Transportation Development

Brad Bingham, P.E., Hydrology/ Alternate City Engineer

Roger Green, P.E., Albuquerque/ Bernalillo Co.WUA

Christina Sandoval, Parks/Municipal Development

Project# 1006953

07DRB-70406 VACATION OF PUBLIC EASEMENT

LOGAN HALL request(s) the above action(s) for all or a portion of Lot(s) 1-A, Block(s) 4, **TERRACE ADDITION**, zoned SU-2/NCR, located on LEAD AVE SE BETWEEN LOCUST AVE SE AND ELM ST SE containing approximately 0.4539 acre(s). (K-15)

PERSONS SPEAKING ON BEHALF OF THE REQUEST:

Logan Hall, 2107 Corte Del Caballo NW, Albuquerque, NM 87120

PERSONS PRESENT IN INTEREST:

Kelli J. Keegan, 7424 4th Street NW, Albuquerque, NM 87107
James Baca – City of Albuquerque Solid Waste Division

MR. CLOUD DRB CHAIR: The first item we will hear today is agenda item 2, which is now project # 1002637. Logan Hall requests the vacation for a public alley in the Terrace Addition. Could you be sworn in please?

MR. HALL SWORN IN

MR. CLOUD: Would you state your name please and describe your request.

MR. HALL: My name is Logan Hall, and we are requesting to have a 16 foot public alley vacated located on the corner of Elm, excuse me, Lead and Locust between those adjacent properties.

MR. CLOUD: Did you get a copy of the comments?

MR. HALL: I did.

MR. CLOUD: Okay, we'll go over the other comments from other agencies and then take the comments from the board. Going through the comments from other agencies, AMAFCA had no adverse comments. Council of Governments had no comment, this informational comment regarding Lead Avenue. No comments received from Transit. No adverse comments from Zoning Enforcement. Neighborhood Coordination indicates the neighborhoods which were notified. APS has no adverse comment, nor did the Police department, Fire Department, PNM, Comcast, Qwest, Environmental Health, or Council of Governments or Open Space Division. So we'll take comments from the Board. Parks and Recreation, Christina?

MS. SANDOVAL: We would defer to Transportation.

MR. CLOUD: City Engineer, Brad?

MR. BINGHAM: I would be in favor of a vacation of this portion of the alley.

MR. CLOUD: Transportation Development, Kristal?

MS. METRO: Well your letter still states that you believe that this public alley has been vacated in the West direction. If that's the case, I need to see proof of that vacation before you can vacate the other part of the alley.

MR. CLOUD: Have you researched that at all, what happened?

MR. HALL: We have. After sending in the letter we were able to perform a title search. The title search was taken back into, I mean it took a little excessive time because you know, it was 18 you know, I mean its old old, yeah it was a long time ago and we provided that to you but there has never been a vacation that's taken place on, I guess on the alley Westbound.

MR. CLOUD: Did you research the property to the West?

MR. HALL: We have, but it's a little difficult to gain additional information because of the nature of that property.

MR. CLOUD: Okay.

MR. HALL: We have spoken with them as well as with their attorneys and they are in favor of the vacation. We invited them to attend and have given them all the information they need.

MR. CLOUD: Okay. Utility Authority, Roger, do you have comments on agenda item two?

MR. GREEN: I have no objection at all.

MR. CLOUD: Okay, the Planning Department, we're concerned, it appears there is a dumpster facility that is in this alley now so we probably need something from the Solid Waste Department referencing that they approve of that. We do have one person signed up, is this Miss Yeager?

MS. KEEGAN: My name is Kelli Keegan and...

MR. CLOUD: Okay, could you come up and be sworn in please?

KELLI KEEGAN SWORN IN

MR. CLOUD: Could you join us at the table there? Do you have questions or comments on the vacation?

MS. KEEGAN: Yes. As I stated, my name is Kelli Keegan and I'm an attorney with Luebben-Johnson, & Barnhouse, and our lawfirm represents the property that is situated to the West, and that property is Safehouse, and I've actually prepared a letter for the Board and if I may, can I give each one of you a copy of

MR. CLOUD: Sure, thanks.

MS. KEEGAN: Would you like me to go ahead and continue, or would you like some time to review?

MR. CLOUD: Could you tell us the nugget of the letter please?

MS. KEEGAN: Sure, absolutely. As I stated, we represent Safehouse and Safehouse is a domestic violence shelter, and nearly a thousand families go through the shelter per year. It is situated to the West of the property that is at issue here and there is an easement that runs all the way through the block. The easement has not ever been vacated and Safehouse opposes the vacation that's before this Board. There's several reasons why safehouse opposes the vacation.

The primary reason is that their trash pick-up would be severely effected in that it would no longer be able to be picked up where it is right now. They have commercial waste disposal service and the Solid Waste Department has come out and done a site review and that person is here today. His name is James Baca, and after doing his review I'll basically let him give his comments, but...

MR. CLOUD: Excuse me, could you provide a copy of this letter to Mr. Hall?

MS. KEEGAN: Sure. So as I stated, the alley is in use right now, it's used 3 times per week by Solid Waste. There is a large dumpster located there and there's also 10 to 15 individual trashbins and to relocate those, the whole trash set-up would be a great expense to Safehouse and there's also a problem as far as where it could be relocated to. The Safehouse facility is basically an enclosed facility. It's all walled and all gated for security reasons – just the nature of the type of facility that it is. Also, section 14-14-7-2 of the Albuquerque Code of Ordinances states that one or two, it basically states that two factors must be met in order for a vacation of an easement, and in this case none of the three factors are met. The public welfare would be served by retaining this easement, as I just stated it's in use, and it's a very important use for this facility.

MR. CLOUD: If I might make just a correction, I know our advertisement says public easement is a right-of-way, so it is public right-of-way so its publically owned property so, but the same rules do apply for vacation of public right-of-way.

MS. KEEGAN: The second factor is also not met here and that would be that it would be more beneficial if the easment was vacated and the development was more beneficial to the public welfare, versus a detriment that would occur if the easement was vacated, and in this case as I stated, the cost that would be incurred by Safehouse would be a great detriment to Safehouse as they don't have funding to do this type of thing. And additionally, the third factor isn't met either. Safehouse does have a property right in this easement in that its using it for the benefit of Safehouse and therefore a substantial property right would be infringed upon. Our office did contact Mr. Hall last Friday and we basically wanted to see if there was anyway we would be able to come to an agreement because this has obviously caused a large problem for Safehouse as they won't be able to have their trash picked up. So I left open the possiblility of you know, reaching some type of agreement, and Mr. Hall basically just said Solid Waste would provide some solution and Solid Waste did do a site visit and I will let him let the board know what he found.

MR. CLOUD: James Baca, do you want to speak? Do you want to come in and be sworn in please?

JAMES BACA SWORN IN

MR. CLOUD: Could you have a seat at the table please so we can get you on the microphone? Thanks.

MR. BACA: My name is James Baca with the City Solid Waste Department and, I went out there and met Kelli and the two directors for the Safehouse and my conclusion came up to as to I thought maybe what they could do is come to some kind of agreement on a shared container or enclosure if they do vacate the alley, and maybe with the fence that adjacents to the property of whoever owns - the Chevron people own that property, if they could use their bin through that one gate if they built an enclosure there. Now I guess Kelli was telling me that they didn't know where they were going to build the enclosure. I said well maybe you guys can get together and find out like either on a proposed plan and see where they are going to build and maybe use that as a shared enclosure or bin. Either that or um, I'm not sure how that would work if um, how it would work with public easements - or I guess you were saying it was a public right?

MR. CLOUD: It's a public right-of way and there are utilities. We'd probably have to retain public easements anyway for utilities, and I'm not sure for a joint use of a Solid Waste facility. That may just be an agreement between the two properties.

MR. BACA: There's only one light pole or one utility pole that's on that property and that's it, so I mean, I'm not sure how that would work.

MR. CLOUD: So, but if you received something in writing between the two properties is that what you'd be looking for?

MR. BACA: That would be fine and like I said, they could share the enclosure from behind the Cheron part of the property, and that would be fine for us.

MR. CLOUD: Okay. Thank you. Mr. Bingham?

Brad Bingham: Kelli I have a question of you. The only, I mean the alley right now isn't functional for the public because of your property encroachment of a building and retaining wall that was built who knows how long ago. Is that your understanding as well?

MS. KEEGAN: That is correct, it's a totally enclosed facility

MR. BINGHAM: So essentially the alley that is on your property is not used by the public?

MS. KEEGAN: No its not.

MR. BINGHAM: Okay, I want to make that clear because if its not fuctioning from one end to the other as an alley, it isn't, the public's right, or the public benefit hasn't been usurped if this vacation goes through.

MS. KEEGAN: Um, I don't - that's not entirely the case because this application is to vacate a specific portion of the alley, it's a portion of the alley that's beside lots 1, 2 and 3, and so at issue is not the rest of the alley and that is...

MR. BINGHAM: It is, it is completely the rest of the alley. That is essentially the fact that it can't be used from one end to the other negates it as an alley.

MR. CLOUD: That was part of the Transportation comments is that we usually don't do a portional a partial vacation and, so I'm curious if you have any information about how the Safehouse acquired their portion of that, because usually there needs to be a vacation process and I don't know how long its been since that property has been built on, that alley right-of-way.

MS. KEEGAN: Right, and I know that Safehouse acquired it in 1982, and prior to that time I believe it was a different type of facility so I don't know when the walls were built, but Safehouse has you know, they have not submitted an application to have it vacated, nor do they intend to do so.

MR. CLOUD: Do you know if your deed papers mention anything about owning the alley? Your part of it?

MS. KEEGAN: No, I'm not aware of that, it is designated as a public alley on the plat.

MR. CLOUD: Right but you have structures on that alley.

MR. BINGHAM: In the alley itself.

MR. CLOUD: And so, I'm assuming you're claiming ownership of that portion of the alley where your structures are.

MS. KEEGAN: Its still being used for some public purposes. There's power lines that go across it and presumably there are some lines underneath as well.

MR. CLOUD: Isn't there a building on the far West end that goes over this right-of-way?

MS. KEEGAN: I actually have Brian Johnson who's the shelter program director here with me as well and he's more familiar with where buildings are situated on it, but we haven't done any type of legal analysis to determine weather or not the alley has in fact been vacated by you know, buildings being situated on it and I don't, I know that you feel that it is an issue before the Board, but this application

is specifically for vacating a portion of the alley, and so that's what our analysis was figured for. We don't have an application to have our portion of.....

MR. CLOUD: We're just curious about the history – how you aquired it, and if there was a vacation or just a quit-claim or something from the City.

MS. KEEGAN: There's no vacation, it is still designated as a public alley.

MR. BINGHAM: So how can the public use it?

MS. KEEGAN: If the public has a need to use it or somebody who wants to use it and you know, brings a claim that they should be able to use it, then we would address that at that time.

MR. CLOUD: I think that time is now, we are looking at vacationing the Eastern portion of the alley and it appears to us that the Western portion has been quit-claimed or vacated in some manner to Safehouse so, as Mr. Bingham has indicated the public benefit of the alley is to be a cross connection through, there is the benefit of the Solid Waste, so let me turn to Mr. Hall. Do you know who owns the property on the South side of this alley, have they expressed any interest in acquiring some of this?

MR. HALL: Yeah, first let me apologize, I did not mean to misrepresent Miss Keegan. Apparently when I said I didn't believe that they were opposed to the – I apoligize I guess I misunderstood her. When I did speak with her last week I assumed that the board would help provide a solution for waste pick-up and so didn't necessarily care to give an answer at that point. To answer your question, the property to the South is the Chevron convenience store. We're in negotiations to purchase that location.

MR. CLOUD: So you'd have the whole eastern half of the block then is that correct?

MR. HALL: Yes sir, that's our plans.

MR. CLOUD: Okay. Are you amianable to having some type of joint refuse agreement with Safehouse?

MR. HALL: Due to being unfamiliar with the agreement, I would just need some explanantion as to how that would operate, how that would work.

MR. CLOUD: You need to talk to the Solid Waste Department. It would be your initiative with that other property owner to try to work that out.

MR. HALL: Okay, I guess without having an attorney here to as they've done, our only immediate concern would be that the public right-of way is not in use to

anyone other than Safehouse, and while I greatly respect what they do, I guess I have a hard time understanding why it would be our responsibility to ensure that a public right-of-way is met when its only in use by one party.

MR. CLOUD: They have a right to have their trash picked up through the alley, so that is a property right, that by the Ordinance we probably could not abridge by approving this vacation. If you can provide them an alternate means of refuse service by, it may be an easement I think is more of an agreement than an easement, but if you can reach an agreement then there is no property right that goes away by the vacation.

MR. HALL: Would it be inappropriate to suggest that their refuse be picked up on their portion of the alley?

MR. CLOUD: I don't think there's an alley there. I think it has been technically vacated if not literally – its technically been vacated. The City has probably quit-claimed it. I think you need to get with the adjacent property owners, get with the Solid Waste Department, see what type of agreement they want. I'm a little surprised you're doing a dumpster and 15 individual trash bins, that seems like a very awkward way to get service.

MR. HALL: Yeah I've never noticed those, We've only noticed the dumpster but perhaps they are there. Are they on the opposite side of the fence?

MS. KEEGAN: They are yeah, there are 85 residents at this time, so there's a great deal...

MR. CLOUD: I think it would be very difficult for this Board to approve this vacation if they're expressing an interest to keep their property right in trash service through the alley, so what we can do is we can table this, we can defer it to a specific date, allow you an opportunity to get with that property owner, see if you can work something out. Otherwise we could take an action today and probably vote to deny your vacation request and that could be appealed if you like to the City Council. But I think in the clear language of the Ordinance, we couldn't approve the vacation, and I would expect the Council could not either.

MR. HALL: Okay, looks like our decision is pretty easy then. We'll see if we can come up with an arrangement. How would you like us to present that arrangement to you?

MR. CLOUD: Well if we can defer this to a specific date, you would not have to re-advertise, so if you want to take a month or 4 to 6 weeks, whatever you think it might take to get this worked out, we could defer to a specific date in January or early February.

MR. HALL: January would be fine for us.

MR. CLOUD: Okay. If we went to January 23rd. Miss Keegan if you could please find out what right the Safehouse has to use that right-of-way. Again, I'm thinking of a quit-claim deed from the City but, if you could research the deeds to the property and let us know how it came to be in your acquisition.

MS. KEEGAN: I sure will.

MR. CLOUD: Okay.

MR. HALL: Sir, just one more question, if we were to decide not to build across both properties presumably, and just use the property which is in question here, and we were to determine that we would need use of the entire alley, that goes through the property what would then be the

MR. CLOUD: Well there are some physical restraints there obviously.

MR. HALL: Would there be action that would need to be taken.

MR. CLOUD: If you want to contact the City Attorney if you felt that you needed that, you could contact the City Attorney and they could see about what that might entail but, I believe given the existing physical improvements, even if they don't have acquisition, the City would probably negotiate an encroachment agreement with them rather than tear out the improvements so I don't think it's something that would come about to open up that alley.

MR. HALL: Okay. Thank you.

MR. CLOUD: Is there anyone else who wished to speak on agenda item number 2, vacation of the alley? Okay. We're going to defer agenda item number two then to the meeting of January 23rd, 2008. Thank you Mr. Hall

MR. HALL: Thank you



DEVELOPMENT REVIEW BOARD

MINUTES

Plaza del Sol Hearing Room, Basement, Plaza del Sol Building

January 23, 2008

MEMBERS:

Jack Cloud, AICP, DRB Chairman, Planning Department

Angela Gomez, Administrative Assistant

Kristal Metro, P.E., Transportation Development

Brad Bingham, P.E., Hydrology/ Alternate City Engineer

Roger Green, P.E., Albuquerque/ Bernalillo Co. WUA

Christina Sandoval, Parks/Municipal Development

Project# 1006953

07DRB-70406 VACATION OF PUBLIC EASEMENT

LOGAN HALL request(s) the above action(s) for all or a portion of Lot(s) 1-A, Block(s) 4, **TERRACE ADDITION**, zoned SU-2/NCR, located on LEAD AVE SE BETWEEN LOCUST AVE SE AND ELM ST SE containing approximately 0.4539 acre(s). (K-15)

PERSONS SPEAKING ON BEHALF OF THE REQUEST:

Logan Hall, 2107 Corte Del Caballo NW, Albuquerque, NM 87120

PERSONS PRESENT IN INTEREST:

Kelli J. Keegan, 7424 4th Street NW, Albuquerque, NM 87107

MR. CLOUD DRB CHAIR: This is project 1006953 Logan Hall requesting a vacation of a public right-of-way for the alley in the Terrace Addition. Good morning.

MR. HALL: Good Morning.

MR. HALL SWORN IN

MR. CLOUD: This was deferred from December, do you have an update for the Board?

MR. HALL: Yes. Just per the previous hearing we were asked to come to an agreement with Safehouse who has the adjoining property. We've presented them with our proposal for an agreement and I just found out this morning approximately an hour ago that they as least as I understand it they have not yet made a decision on whether or not they would agree to that, so I guess I'm not quite sure where to go from here. I've got copies if you'd like to be given a copy of the agreement.

MR. CLOUD: I believe they are present. Did you want to testify this morning?

MS. KEEGAN: Yes.

MR. CLOUD: Okay, could you be sworn in please?

MS. KEEGAN SWORN IN

MS. KEEGAN: Thank you Mr. Cloud.

MR. CLOUD: Would you speak into the microphone?

MS. KEEGAN: Thank you Board members, good morning. Since the last hearing, thirty three days have past and we had not heard from Mr. Hall or anybody representing that company until yesterday. An attorney representing them contacted our office via phone call saying that they wanted to work out an agreement. He then sent over a written agreement which as I stated this was yesterday. We do have a copy of that agreement. In response to that I drafted a letter and faxed it over to I guess the attorney that's representing Mr. Hall and I have a copy of that letter for the board this morning which I would like to give to each board member.

MR. CLOUD: Before you do that, would you tell us is this still something you're entertaining, I mean obviously you haven't had a chance to review it so, do you have any idea how long it would take you to review this proposal?

MS. KEEGAN: I don't, I mean at least a few weeks I would say, but given we've had thirty three days to work out the agreement, Safehouse's position is they still, they obviously oppose the application and you know, they were given the opportunity to work with us over a month. But as I state in this letter which I will give the board, Safehouse's goal still is to work with them to come up with a solution.

MR. CLOUD: Mr. Hall do you think a couple weeks will....

MR HALL: Sure. I don't want to get into a – I mean this is kind of silly but we've tried to contact them at least from my understanding our attorney tried to contact them last week. The Holiday season I don't think our attorney wasn't in and I'm fairly certain some of their attorney's weren't in either so its not that we're – we're happy to put together an agreement it seems pretty simple. It's probably – I've spoken also with I believe his name is James Baca who testified last time. I think there are other options.

MR. CLOUD: So you spoke with the Solid Waste Department? Mr. Baca with Solid Waste?

MR HALL: Yeah. So I think there are other options. We're happy to do this one. I think its fair and provides them for what they've asked. I apologize if we were I guess delinquent from their perspective. It wasn't our intention to hurry them at all I mean...

MR. CLOUD. Yeah these hearings roll back up on you before you know it, so - could we try a two week deferral Miss Keegan?

MS. KEEGAN: Sure.

MR. CLOUD: Okay, Mr. Hall, two weeks?

MR. HALL: Sure that's fine.

MR. CLOUD: Any questions or comments by the board? We will defer agenda item one Angela two weeks, that would be the meeting of February 6th. And if you could, you know, get us hopefully get something worked that Friday before give us a fax or an email or something to let us know how its going. That would be Friday the 1st of February.

MS. KEEGAN: Can I just go ahead and give the letter to Angela to distribute for the record for the board?

MR. CLOUD: Sure. That would be great.

MS. KEEGAN: Thank you.

MR. CLOUD: Thank you.

MR. HALL: Would you also like a copy of the agreement we sent to them?

MR. CLOUD: Sure. One copy should be fine. Is there anybody else wanting to testify on agenda item number one? Okay, if not then we will defer two weeks. That is the end of our public hearing portion of the agenda.



DEVELOPMENT REVIEW BOARD

MINUTES

Plaza del Sol Hearing Room, Basement, Plaza del Sol Building

February 6, 2008

MEMBERS:

Jack Cloud, AICP, DRB Chairman, Planning Department

Angela Gomez, Administrative Assistant

Kristal Metro, P.E. , Transportation Development

Brad Bingham, P.E., Hydrology/ Alternate City Engineer

Roger Green, P.E., Albuquerque/ Bernalillo Co.WUA

Christina Sandoval, Parks/Municipal Development

Project# 1006953

07DRB-70406 VACATION OF PUBLIC EASEMENT

LOGAN HALL request(s) the above action(s) for all or a portion of Lot(s) 1-A, Block(s) 4, **TERRACE ADDITION**, zoned SU-2/NCR, located on LEAD AVE SE BETWEEN LOCUST AVE SE AND ELM ST SE containing approximately 0.4539 acre(s). (K-15)

PERSONS SPEAKING ON BEHALF OF THE REQUEST:

Logan Hall, 2107 Corte Del Caballo NW, Albuquerque, NM 87120

Jeff Dahl, P.O. Box AA, Albuquerque, NM 87103

PERSONS PRESENT IN INTEREST:

Kelli J. Keegan, 7424 4th Street NW, Albuquerque, NM 87107

MR. CLOUD: The next item is agenda item number 4, project number 1006953. Logan Hall requests vacation of public, this is actually an alley I believe in the Terrace addition in block 4. Good morning.

MR. DAHL: Good morning Mr. Chair I'm Jeffrey Dahl, Mr. Hall's attorney.

MR. CLOUD: Could you be sworn in for the public hearing please?

MR. DAHL SWORN IN

MR. CLOUD: So yes, this has been heard a couple of times now by the board, Mr. Dahl did you want to give us some new information?

MR. DAHL: Sure. We've been attempting to work out an agreement with Safehouse which is the property immediately to the West of my clients property and where the easement goes to. The issue the way I understand it is having ingress and egress for purposes of removing the trash. They have a public dumpster that's been placed on the easement and then they have some other garbage cans that they place out there for collection. Miss Keegan who is here, the attorney for Safehouse, we have been talking even as recently as last night, but I think that the one hold up that we have is my client's willing to give Safehouse an easement to have the trash picked up but they want it to be a permissive use easement rather than a permanent grant of easement in case that it becomes a nuisance situation. We don't want the trash being blown around or not kept up and so I really think that's the only issue that we have before us is weather or not they will agree to a permissive uses easement as opposed to a permanent grant of easement.

MR. CLOUD. Okay. I had to do some more checking last night as well, and again I mentioned our - we have a what's called a geographical information system, and its you know, to show the lot lines and its got photographs and cases histories. It appears that this alley had been vacated a long time ago. The property to the west have built over their portion of the alley. We do not have any case history of that here, however in trying to determine ownership issues with this, our system is showing that the alley was vacated on your portion as well and they have been, it appears that you're - if you have already purchased this property or whoever you're about to purchase it from, had been paying taxes on that alley for some time. So I don't know if you have the....

MR. DAHL: As I understand it and I may be wrong in my undestanding here, but the easement or the alleged easement, half of it is on the property my client has already purchased the other half my client is negotiating for the purchase of that property, hopes to close within the next week or so.

MR. CLOUD: Well not necessarily, because on the northside there was a replat and that replat did not include the alley. But I wrote down the uniform property code numbers so if you'd like to take this. I'd recommend that you go over to the County Assessor's Office. Do you know where they are? They are at 5th and Tijeras it's a two story bulding just North - one block North of the library. And see what information they have because it may very well be that the vacation that benefited the property to the West has also effectively been vacated and given to

the property on the East as well, so we may not need to do this vacation action if the Assessor has evidence that shows it's already yours.

MR. DAHL: Okay.

MR. HALL: Would that generally appear on a title search?

MR. CLOUD: It should.

MR. DAHL: They'll have some plats over there as well at the Assessor's Office or at least they should.

MR. CLOUD: But you see often your title search will say you're you know, being billed for lots 11 and 12 when actually you know if you dig a little deeper its 11 and 12 plus half the alley, so that's the property to the South and to the North since that was just recently replatted a few years ago it did not include that so, I'm not sure if Rio Grande... on the South or whatever but - or it has the whole thing, but I really recommend you check with the Assessor and see what you can find out about the vacation of that alley. It might make this action moot today. I'd recommend a one more week deferral to allow you to see what the Assessor might have regarding that alley.

MR. DAHL: We'll agree to that sure.

MR. CLOUD: We do have one person signed up to speak Miss Keegan did you want to speak today?

MS. KEEGAN: I don't really have anything further to add based on this new information.

MR. CLOUD: Okay. Did you ever do a title search for your property?

MS. KEEGAN: We have the title for our property...

MR. CLOUD: Do you have any information regarding the alley way and how that was acquired? No? Okay. You might want to go to the Assessor's Office as well and see because clearly you are paying, I imagine you are paying taxes for it too, and they might have some information about how that came to be. So if you're agreeable then we'll defer this one more week to the meeting of February 13th. Did the board have anymore comments? No, okay.



DEVELOPMENT REVIEW BOARD

MINUTES

Plaza del Sol Hearing Room, Basement, Plaza del Sol Building

February 13, 2008

MEMBERS:

Jack Cloud, AICP, DRB Chairman, Planning Department

Angela Gomez, Administrative Assistant

Kristal Metro, P.E., Transportation Development

Brad Bingham, P.E., Hydrology/ Alternate City Engineer

Roger Green, P.E., Albuquerque/ Bernalillo Co.WUA

Christina Sandoval, Parks/Municipal Development

Project# 1006953

07DRB-70406 VACATION OF PUBLIC EASEMENT

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Logan Hall, 2107 Corte Del Caballo NW, Albuquerque, NM 87120

Jeff Dahl, P.O. Box AA, Albuquerque, NM 87103

PERSONS PRESENT IN INTEREST:

Kelli J. Keegan, 7424 4th Street NW, Albuquerque, NM 87107

MR. CLOUD: Next item is agenda item number 7, project 1006953. Logan Hall requests the vacation of the public right-of-way of the alley in block 4 in the Terrace Addition.

MR. HALL AND MR. DAHL SWORN IN

MR. DAHL: Good morning Mr. Chair, Board, after last weeks...

MR. CLOUD: Could you state your name for the record again please?

MR. DAHL: Yes my name is Jefferey Dahl, I'm an attorney with Kelaher McCloud representing Brad Hall and Associates. After last weeks meeting, we have gone to GIS mapping. It appears clear from the mapping that the easement in this case, the public easement must have been vacated some time ago. There isn't - it shows no public easement at the present time, simply a dotted line meaning that there was an easement there at one time but its been removed. We've also looked at the deeds for the surrounding areas and they don't seem to mention any public easement. The problem is there is nothing that I can tell in any records that show when the easement was vacated. And apparently at least as to my clients property they are not being assesed for that portion that used to be the public easement. And so I guess what we need is something that would be of record to go forward in this case. It's clear that there's no public easement. Safehouse, which is the property to the West, has built over the easement as part of their construction, but my client is still not being assessed for it and I can have that taken care of I guess at the County Assessor's Office but...

MR. CLOUD: Our georgraphic information system gets their information from the Assessor so, but when you went to the Assessor's they said that they are not charging you for that?

MR. DAHL: They're saying it's not being assessed is that correct?

MR. HALL: That's correct.

MR. CLOUD: So did they say how come they had it down as being owned by this particular adjacent property?

MR. DAHL: They did not. They did not so...so my client's willing to have that obviously assessed and has no problem with that, but it is kind of a kunundrum.

MR. CLOUD: Okay. Well the other thing is that if you had shown posession of the property, then you could have avoided having to go through the City Real Estate Office.

MR. DAHL: Sure.

MR. CLOUD: But now per this vacation you will have to acquire it through the City Real Estate Office. Miss Keegan, you are signed up to speak? Do you want to come forward please?

MS. KEEGAN SWORN IN

MR. CLOUD: Did you find anything out about your alley on your client's property about acquisition or vacation?

MS. KEEGAN: Thank you Board. My name is Kelli Keegan, and I do represent Safehouse, which is the property owner to the West of this alley that's at issue. What basically - I haven't seen what Mr. Hall obtained from the County Assessor's Office. (*Discussion between Mr. Dahl and Miss Keegan*) At this point our position is that basically the alley has never formally been vacated and the alley exists to this day and as you know it is in use by the Solid Waste Department. If this application continues to go forward we will maintain our position that the two of the three factors have to be met under the Ordinance are in fact not met and Safehouse - it's really important that they have their solid waste picked up, and the dumpsters are there and this is a paved alley and its used three times per week for that purpose. So at this point I've seen - the presumption is that the alley exists until there is conclusive evidence that it's been vacated and at this point I haven't seen any evidence that it's been vacated. You had asked me to look at the deeds of the property. All of the deeds that I've seen say they are subject - and I actually have copies - say that they are subject to any recorded easements or incumbrances of record, and this alley is as you can see from the map that was submitted by the applicant - the alley is duly noted on this map that it's a public alley and also the deed to these lots that are owned by the applicant it says that its subject to any alley - alley's of record or easements of record. This is a public alley, not an easement, and there is an exhibit that references the public alley so at this point from everything that we have before us, it looks like the alley does exist.

MR. CLOUD: Okay

MS KEEGAN: And so you know going through this...

MR. CLOUD: So the deeds for the Safehouse do not show any acquisition from the City of Albuquerque acquiring title of it?

MS KEEGAN: Well the current deed that transfers ownership from the prior owners to Safehouse - it just says its subject to any easements, that verbage that they say easements, alleys and incumbrence of record. Now I haven't went through the entire chain of title, you know, back to 1912 whenever this plat was established that put these alleys in. That's certainly something that could be done is to go through the chain of title of each of these surrounding properties and I mean, that would be quite time consuming but I mean that could be done.

MR. CLOUD: Well I think - is there anybody else here who wants to speak on this item?

MR. DAHL: Can I respond?

MR. CLOUD: Briefly sure.

MR. DAHL: Sure. First of all we have copies of the deeds that were issued in 1982 to the Women's Community Association Inc. which I believe was the predecessor to Safehouse. They make no mention of any easements and Safehouse is being assessed for that property, while my client is not being assessed, Safehouse is. So obviously there is no easement that goes through the entire block - there is no public easement.

MR. CLOUD: Well I was hoping that the assessor might have some record of some action but it sounds like they did not, so we're not necessarily going to take the Assessor's - whether or not they are charging you or not, as a definitive answer to this situation, so Miss Keegan by your testimony, we're going to have to assume that the alley still runs through Safehouse as well, and it puts us in an awkward position because we could vacate the alley provided Mr. Hall would provide a turn around for the portion of the alley that runs through your property, but that seems highly impractical. But I think we would have to, from Planning's perspective, I would argue with you, that there is a substantial property right here. The pick up of refuse can be done on site in many different ways. The fact that this was arranged at this time that they come through what the old alley was I don't think that would be considered a substantial property right by the Planning Department... Board, Comments?

MS SANDOVAL: I would have no objection to the vacation. It appears that there is already non-compliance with Safehouse and I wouldn't have an objection.

MR. CLOUD: City Engineer, Brad?

MR. BINGHAM: I also agree that this doesn't - it hasn't been an alley, it doesn't work as an alley, there's a retaining wall in the middle of it, there is a building on the West end of it that is owned and operated by Safehouse. Vacating this portion of the alley does not keep any property West of this alley from getting access to an already used public right of way, so my opinion is that this hasn't worked as an alley, it's an access point for a dumpster which can be managed from any drive on this property and so I would have no objection to the vacation.

MR. CLOUD: Water Authority, Roger?

MR. GREEN: I have no objection to a vacation.

MR. CLOUD: Okay. Transportation Development, Kristal?

MS. METRO: We do not typically vacate a portion of an alley, however as has been discussed, this area does not appear to function as an alley. There's a sudden grade change in the midpoint of the alley and in addition a building is

located within the right of way. As such, this area can no longer be considered a functioning alley way.

MR. CLOUD: So you would not look to have, even though there may be a platted alley to the West, you would not look to have a turn around platted for this because it would serve no purpose in practicality?

MS. METRO: That would be the typical response, but that doesn't seem to serve any purpose based on the aerial photographs of this area.

MR. CLOUD: Okay, I think based on the testimony of the Board, we're probably prepared to approve this vacation. Mr. Hall I hope you can provide some accommodation for refuse pickup with adjacent property owners, but I'm not sure we can make that a condition of this vacation. And just to be clear we are not going to require a turnaround Kristal? You would not require a turnaround?

MS. METRO: That's correct.

MR. CLOUD: Based on existing conditions - Board concurs? We'll approve the vacation request then, that again in terms of the public welfare, this alley I don't believe is serving the public. It does not go through, therefore the public welfare is not served by retaining the right of way. I think there is a net benefit to the public welfare to approve the vacation again based on the impracticality of having a through alley, and that it would relieve the City of any obligation or liability for this portion of an alley, and that there is no convincing evidence any substantial property right is being abridged against the will of the owner or the right, and that the refuse pick up really is not going to be considered as a substantial property right.

If you were present for the earlier vacation hearing, we did have a vacation request where somebody wanted to vacate the only legal access to a property and again that's not the case here - that would qualify as a substantial property right. Other arrangements can be made for refuse pickup, and hopefully if the current situation is working fairly well for the Safehouse, that they could negotiate with Mr. Hall to get some type of use easement with – for refuse pickup on his property. There is a 15 day appeal period if you wish to appeal this decision you may do so. It could be referred to the City Council and heard by Land Use Hearing Officer who will make a recommendation to the City Council. By signing up we will notify you by mail of our decision.

MR. DAHL: Thank you Mr. Chair.

CITY OF ALBUQUERQUE

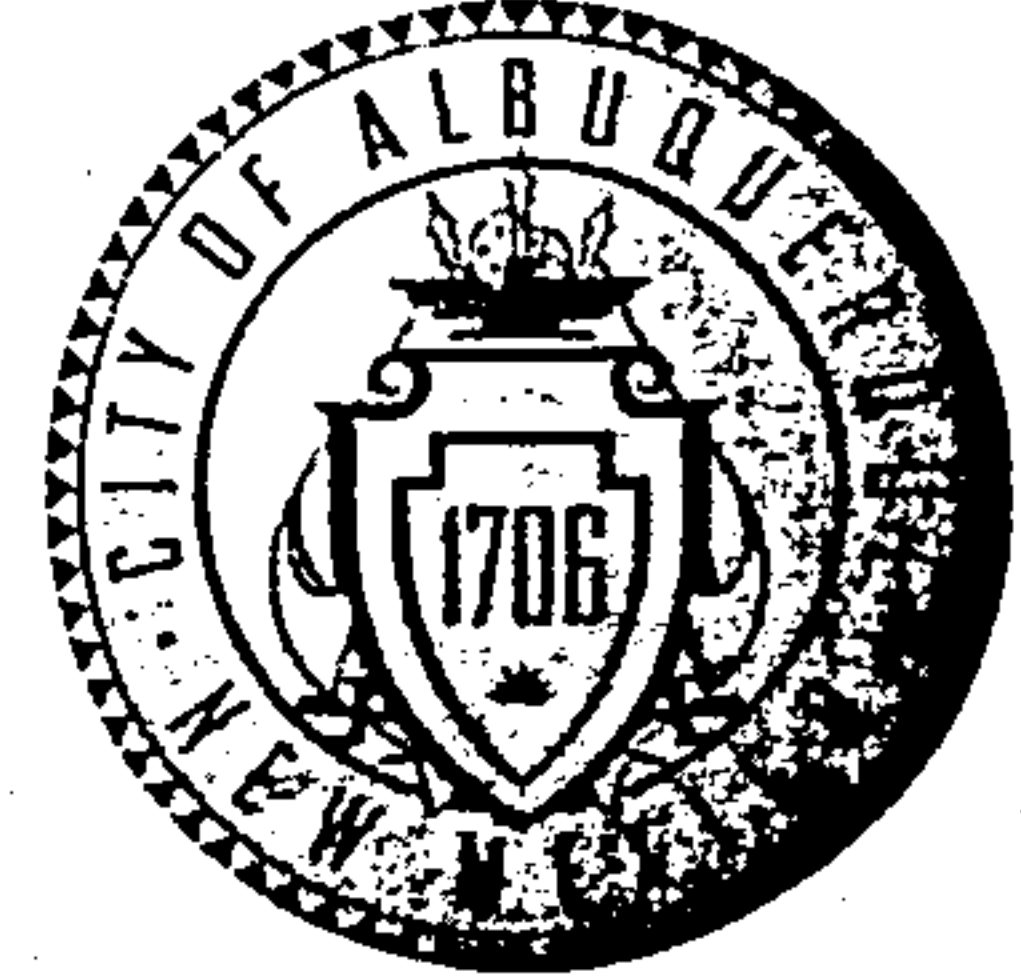
Planning Department

Richard Dineen, Director

Development Review Division

600 2nd Street NW – 3rd Floor

Albuquerque, NM 87102



NOTICE OF APPEAL

March 3, 2008

TO WHOM IT MAY CONCERN:

The Planning Department received the attached appeal on February 28, 2008. You will receive a Notice of Hearing as to when the appeal will be heard by the Land Use Hearing Officer.

Please refer to enclosed Bill (F/S OC-04-6, Land Use Hearing Officer Rules of Procedure and Qualifications) for any questions you may have regarding the Land Use Hearing Officer rules of procedure.

Any questions you might have regarding Land Use Hearing Officer policy or procedure that are not answered in the enclosed bill can be answered by Crystal Ortega, Clerk to the Council, (505) 768-3100.

CITY COUNCIL APPEAL NUMBER: AC-08-3

PLANNING DEPARTMENT CASE FILE NUMBERS: 1002637
07DRB-70406

APPELLANT(s): S.A.F.E. House
P.O. Box 25363
Albuquerque, NM 87125

AGENT(s): Karl E. Johnson, Luebben Johnson & Barnhouse
7424 4th Street NW
Los Ranchos de Albuquerque, NM 87107

cc: Logan Hall – 2107 Corte Del Caballo NW - Albuquerque, NM 87120
Kelli Keegan – 7424 4th St NW - Los Ranchos de Albuquerque, NM 87107
Jeff Dahl – P.O. Box AA – Albuquerque, NM 87103
Marilyn Maldonado, COA Planning Department, 600 2nd Street NW – 4th Floor, Abq., NM 87102
Scott Howell, COA Legal Real Property, 1 Civil Plaza – 4th Floor
Crystal Ortega, Clerk to the Council, City County Bldg – 9th Floor
DRB File
Enclosure: LUHO Rules of Procedure and Qualifications (6 pages)



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

Albuquerque Geographic Information System

Map amended through: 5/17/2007

Note: Grey Shading Represents Area Outside of the City Limits

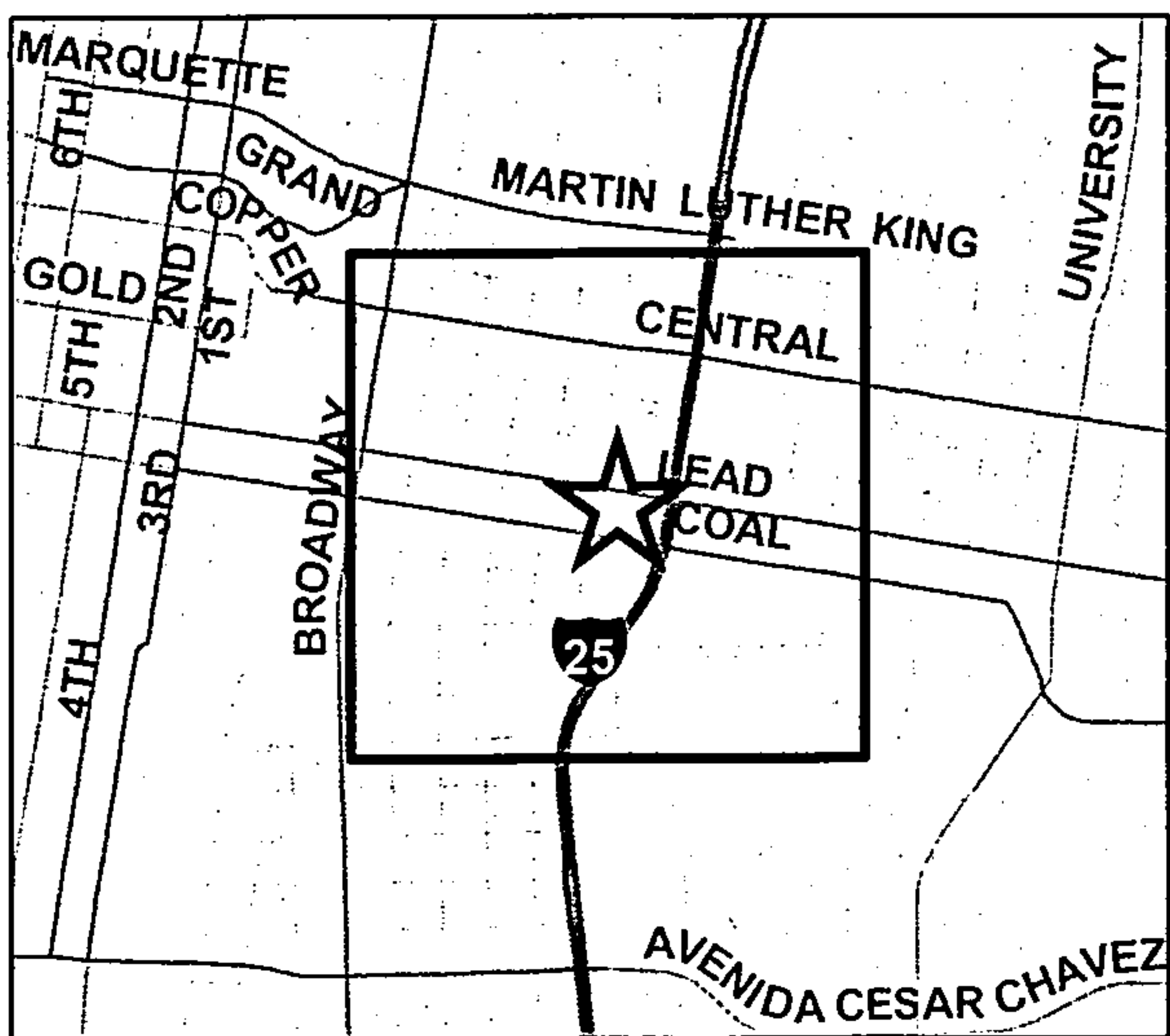
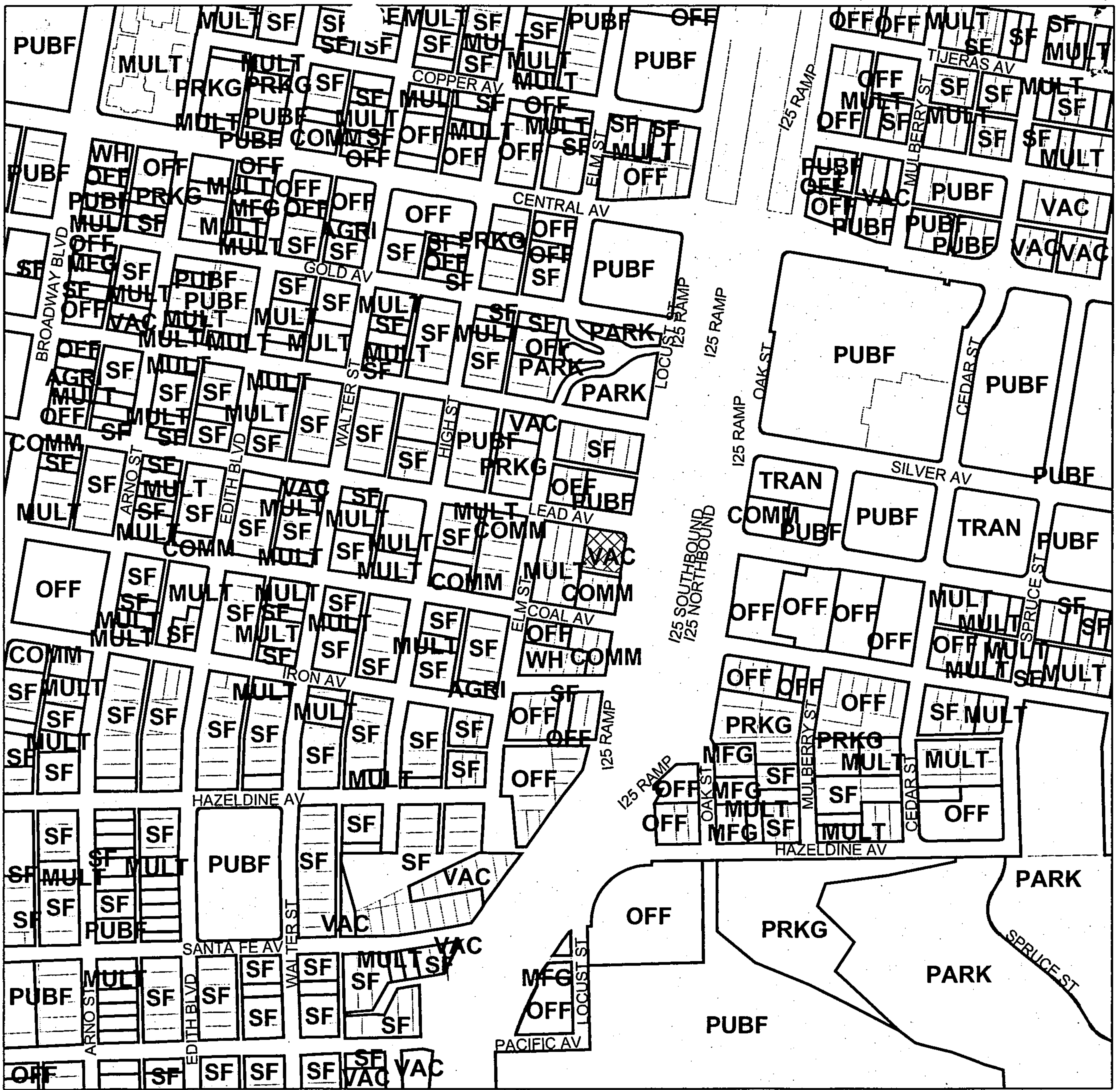
Zone Atlas Page:
K-15-Z

Selected Symbols

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

0 750 1,500 Feet

65



LAND USE MAP

Note: Grey shading indicates County.

KEY to Land Use Abbreviations

- AGRI Agricultural
- COMM Commercial - Retail
- DRNG Drainage
- MFG Manufacturing or Mining
- MULT Multi-Family or Group Home
- OFF Office
- PARK Park, Recreation, or Open Space
- PRKG Parking
- PUBF Public Facility
- SF Single Family
- TRAN Transportation Facility
- VAC Vacant Land or Abandoned Buildings
- WH Warehousing & Storage



1 inch equals 500 feet

Project Number:
1006953

Hearing Date:
December 19, 2007

Zone Map Page:
D-18

Additional Case Numbers:
07DRB-70406

66



Mayor Martin J. Chávez

CITY OF ALBUQUERQUE

Albuquerque, New Mexico

Planning Department

INTER-OFFICE MEMORANDUM

March 11, 2008

TO: Brad Winter, President, City Council

NPW

FROM:  Richard Dineen, Planning Department Director

SUBJECT: AC-08-03 - 07DRB-70406 Project# 1006953 / 1002637

- Karl E. Johnson, Luebben - Johnson & Barnhouse - LLP, agents for S.A.F.E. House, appeal the decision of the Development Review Board (DRB) to approve a vacation of public right-of-way for all or a portion of the east-west alley in Block(s) 4, **TERRACE ADDITION**, zoned SU-2/NCR, located on the south side of LEAD AVE SE BETWEEN LOCUST AVE SE AND ELM ST SE containing approximately 0.4539 acre(s). Original Applicant for vacation: Logan Hall - *deferred from 12/19/07, 1/23/08 & 2/6/08.* (K-15)

BACKGROUND: Logan Hall applied for the vacation of the subject alley adjacent to his property in the eastern half of Block 4 of the Terrace Addition. The appellant, S.A.F.E. House, owns the property in the western half of Block 4, and had taken possession of the alley adjacent to its property some time ago, or it was taken by previous successors in title.

At the first Development Review Board (DRB) public hearing on December 19, 2007, the agents for the appellants submitted a letter claiming that the requested vacation did not meet the requirements of City ordinances. The agents continue to endorse those claims in this appeal.

The key component of the appellant's objection to the vacation appears to be use of the remaining alley for its solid waste pick up. The DRB tabled the request to January 23, 2008 to allow the two property owners an opportunity to negotiate an agreement regarding dumpster use and location.

Lacking time for an adequate review of a proposed agreement, the request was tabled again to February 6, 2008. In the interim, it was noted that the City's Geographic Information System, or GIS, was showing the alley as already being part of the applicant's property by virtue of assigning the alley to the applicant's Uniform Property Code, or UPC. The request was deferred one more week to allow the applicant to check the County Assessor's records.

At the February 13, 2008 public hearing, neither the applicant nor appellant were able to provide any additional information. The DRB considered the facts of the request and approved the vacation with Findings and Conditions.

ISSUES

The appellant claims that the DRB erred in Finding that "The public welfare is in no way served by retaining the eastern portion of the alley, because of the existing condition of the western portion of the alley." The appellant claims that the DRB should disregard the western portion of the alley; that the appellant itself is providing for the public welfare through its programs and services; and that by servicing the appellant's property, there is a benefit to the public welfare by retaining the alley right of way.

For the DRB to find that the public welfare is served by retaining this right of way, it would have to have found that the alley was functional (i.e. a throughway from street to street) and that it was needed for use by the public. In the Notice of Decision, the DRB found that, based on existing buildings and development on and over the western portion of the alley by the appellant (the referenced "existing condition"), that the public welfare is not served by retaining half an alley that dead ends.

Regarding the services provided by the appellant, the appellant is claiming 'public welfare' for what is considered by the DRB to be more of a private benefit vis. a vis the Subdivision Ordinance. The ownership of property is subject to change on any given day; that is why with any subdivision matters, consideration is given to the function of the property, and not to the property owner. For example, an easement on a subdivision plat is granted to benefit a property (e.g. 'an access easement to benefit Lot A') and not to the owner of a property (e.g. 'an access easement to Jane Doe'), simply because the benefit must 'run with the land,' as it were. Should the appellant's property change hands and become an Adult Amusement Establishment, there would likely be little support in the community that retaining this right of way would be serving the 'public welfare.'

Regarding the utility services existing in the alley, these are routinely provided through utility easements (again, to benefit a property, but a specific property owner). When the replat required with the Condition of Approval is presented to the DRB for approval, PNM will be one of the signatories to the plat and they will require an adequate easement to continue their operations and service to the adjoining property.

The appellant claims that the DRB erred in Finding that " There is no convincing evidence that any substantial property right is being abridged against the will of the owner of the right; concerns regarding refuse pick- up may be addressed through the City's Solid Waste Department for the adjacent property."

Regarding the appellant's claim that it existing Solid Waste pick up is a "substantial" property right, this was considered at the first DRB public hearing. In coming to its final decision, the DRB ultimately considered that the existing solid waste service did not qualify for the level of property right to be considered "substantial." Typically, refuse service may be provided from a (through) alley, however dumpsters are to be stored on private property. There are other options than the continuation of a procedure which does not comply with current standards (i.e. storing a dumpster in public right of way).

The appellant contends that its only option is to sell the property or invest in significant construction to comply with the standards of the City's Solid Waste Department for refuse service on its own property. However, at the beginning of the public hearing process for this vacation there was presented an opportunity to enter into a joint use agreement with the vacation applicant regarding solid waste pick up. This appeal may provide an opportunity for reconsideration of that proposal.

The Planning Department supports the DRB's approval of the vacation and recommends that the appeal be denied because there was no error in applying the City's Subdivision Ordinance or in the DRB's decision (including its stated facts), and because the DRB did not act arbitrarily, capriciously, nor was it manifestly abusive of discretion.

APPROVED:



Russell Brito, Manager
Development Review Division
Planning Department

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City of Albuquerque



DEVELOPMENT/ PLAN REVIEW APPLICATION

Supplemental form

SUBDIVISION

- Major Subdivision action
- Minor Subdivision action
- Vacation
- Variance (Non-Zoning)

SITE DEVELOPMENT PLAN

- for Subdivision
- for Building Permit
- Administrative Amendment (AA)
- IP Master Development Plan
- Cert. of Appropriateness (LUCC)

STORM DRAINAGE

- Storm Drainage Cost Allocation Plan

S Z

ZONING & PLANNING

- Annexation
 - County Submittal
 - EPC Submittal
 - Zone Map Amendment (Establish or Change Zoning)
 - Sector Plan (Phase I, II, III)
 - Amendment to Sector, Area, Facility or Comprehensive Plan
 - Text Amendment (Zoning Code/Sub Regs)
 - Street Name Change (Local & Collector)
 - APPEAL / PROTEST of...**
- Decision by: DRB, EPC, LUCC, Planning Director or Staff, ZHE, Zoning Board of Appeals

PRINT OR TYPE IN BLACK INK ONLY. The applicant or agent must submit the completed application in person to the Planning Department Development Services Center, 600 2nd Street NW, Albuquerque, NM 87102. Fees must be paid at the time of application. Refer to supplemental forms for submittal requirements.

APPLICANT INFORMATION:

Professional/Agent (if any): Karl E. Johnson, Luebben Johnson & Barnhouse LLP PHONE: 842-6123
 ADDRESS: 7424 4th Street NW FAX: (505) 842-6124
 CITY: Los Ranchos de Albuquerque STATE NM ZIP 87107 E-MAIL: KJohnson@LuebbenLaw.com

APPLICANT: S.A.F.E. House PHONE: 247-4219
 ADDRESS: PO Box 25363 FAX: _____
 CITY: Albuquerque STATE NM ZIP 87125 E-MAIL: #
 Proprietary Interest in site: Public Use List all owners: S.A.F.E. House

DESCRIPTION OF REQUEST: Appeal to City Council through Land Use Hearing Officer - Determination of Action of DRB re: Subdivision Ord. Vacation of 16-Ft Alley

Is the applicant seeking incentives pursuant to the Family Housing Development Program? Yes. No.

SITE INFORMATION: ACCURACY OF THE EXISTING LEGAL DESCRIPTION IS CRUCIAL! ATTACH A SEPARATE SHEET IF NECESSARY.

Lot or Tract No. Lot 1-A, Block 4 Publically owned Block: 4 Unit: _____
 Subdiv/Addn/TBKA: Terrace Addition
 Existing Zoning: SU-2/NCR Proposed zoning: NONE
 Zone Atlas page(s): K-15-2 UPC Code: _____ MRGCD Map No _____

CASE HISTORY:

List any current or prior case number that may be relevant to your application (Proj., App., DRB-, AX, Z, V, S, etc.):
Project # 1006953 1002637

CASE INFORMATION:

Within city limits? Yes Within 1000FT of a landfill? NO
 No. of existing lots: N/A No. of proposed lots: _____ Total area of site (acres): _____
 LOCATION OF PROPERTY BY STREETS: On or Near: Lead Ave SE
 Between: Locust Ave SE and Elm St SE

Check-off if project was previously reviewed by Sketch Plat/Plan , or Pre-application Review Team . Date of review: _____

SIGNATURE Sandy Bryan for Karl Johnson DATE 2-28
 (Print) Sandy Bryan for Karl E. Johnson Applicant: Agent:

FOR OFFICIAL USE ONLY

- INTERNAL ROUTING
- All checklists are complete
- All fees have been collected
- All case #s are assigned
- AGIS copy has been sent
- Case history #s are listed
- Site is within 1000ft of a landfill
- F.H.D.P. density bonus
- F.H.D.P. fee rebate

Application case numbers	Action	S.F.	Fees
<u>08CC - 30002</u>	<u>APPEAL</u>		<u>\$ 190.00</u>
	<u>ADV</u>		<u>\$ 50.00</u>
			\$
			\$
			\$
			\$
Hearing date			Total
<u>1006953</u>			<u>\$ 240.00</u>

Sandy Handley 02/28/08 Project # 1002637
 Planner signature / date

FORM A: APPEAL

Appeal to the Zoning Board of Appeals regarding:

DECISION OF THE ZONING HEARING EXAMINER

(BOA01)

Project number of case being appealed: _____

Application number of case being appealed: _____

Reason for the appeal *

Appellant's basis of standing as an appellant *

Letter of authorization from the appellant if this application for appeal is submitted by an agent

Copy of the Official Notification of Decision regarding the matter being appealed

Fee (see schedule)

Appeal to the Landmarks and Urban Conservation Commission regarding:

CERTIFICATE OF APPROPRIATENESS
 DECISION OF THE PLANNING DIRECTOR OR STAFF

(LUCCAPP)

Project number of case being appealed: _____

Application number of case being appealed: _____

Reason for the appeal *

Appellant's basis of standing as an appellant *

Letter of authorization from the appellant if this application for appeal is submitted by an agent

Copy of the Official Notification of Decision regarding the matter being appealed

Fee (see schedule)

Appeal to the Environmental Planning Commission regarding:

DECLARATORY RULING OF THE ZONING ENFORCEMENT OFFICER
 DETERMINATION OF THE IMPACT FEE ADMINISTRATOR

(EPC09)

(EPC10)

Project number of case being appealed: _____

Application number of case being appealed: _____

Reason for the appeal *

Appellant's basis of standing as an appellant *

Letter of authorization from the appellant if this application for appeal is submitted by an agent

Copy of the Official Notification of Decision regarding the matter being appealed

Fee (see schedule)

Appeal to the City Council through the Land Use Hearing Officer regarding:

ADMINISTRATIVE AMENDMENT/DECISION OF PLANNING DIRECTOR/STAFF (CCSTAFF)
 DETERMINATION OR ACTION OF THE EPC (CCEPC)
 DETERMINATION OR ACTION OF THE DRB RE: SUBDIVISION ORD (CCDRB)
 ACTION OF THE ZONING BOARD OF APPEALS REGARDING AN APPEAL (CCBOA)
 DECISION OF THE LANDMARKS URBAN CONSERVATION COMMISSION (CCLUCC)

X Project number of case being appealed: ~~1006953~~ / 1002637 1006953

X Application number of case being appealed: 07DRB-70406

X Reason for the appeal *

X Appellant's basis of standing as an appellant *

X Letter of authorization from the appellant if this application for appeal is submitted by an agent *

X Copy of the Official Notification of Decision regarding the matter being appealed *

X Fee (see schedule) *

* See attached documents.

* Criteria for reasonable appeals and criteria for standing as an appellant are given in Zoning Code §14-16-4-4. Any appeal must meet these criteria to be heard. The applicant should review these and other relevant documents carefully before preparing an application for appeal.

I, the applicant, acknowledge that any information required but not submitted with this application will likely result in deferral of actions.

S.A.F.E. House by Karl E. Johnson
Applicant name (print)

Karl Johnson
Applicant signature / date



Form revised 04/2007

- Checklists complete
- Fees collected
- Case #'s assigned
- Related #'s listed

Application case numbers

08CC-30007

Sandy Handley 02/28/08
Planner signature / date

Project # 1002637

ATTACHMENT TO APPEAL
TO THE CITY COUNCIL THROUGH THE LAND USE HEARING OFFICER
DETERMINATION OR ACTION OF THE DEVELOPMENT REVIEW BOARD

Project number of case being appealed: 1006953 / 1002637
Application number of case being appealed: 07DRB-70406

STANDING

Appellant S.A.F.E. House has standing to file this appeal pursuant to Subdivision Regulations § 14-14-8-2 (A)¹ as a person who owns a property interest within 300 feet of the subject site. The west boundary of the public alley sought to be vacated abuts the east boundary of property owned by Appellant.

BASIS FOR APPEAL

I. Background

Section 14-14-8-3 of the Subdivision Regulations provides that applications for an appeal shall clearly articulate the reasons for the appeal. Appellants must specifically cite and explain one or more of the following alleged errors:

- (A) Error in applying adopted city plans, policies and ordinances in arriving at the decision;
- (B) Error in the appealed action or decision, including its stated facts;
- (C) Error in acting arbitrarily or capriciously or being manifestly abusive of discretion.

The Official Notice of Decision issued by the Development Review Board on February 13, 2008, approving the vacation of the eastern portion of the alley in Block 4 of the Terrace Addition, contains no findings of fact upon which the Board relies. Hence, it is impossible to determine whether the Board in arriving at its decision (A) misapplied adopted city plans, policies or ordinances to the relevant facts; (B) misapprehended the relevant facts; or, (C) simply acted arbitrarily or capriciously. Hence, Appellant S.A.F.E. House appeals the Board Decision on all three grounds for error listed above.

II. Argument

Section 14-14-7-2(B) of the Subdivision Regulations provides that vacation of a public alley shall be approved only when it is determined that:

¹ Although the Appeal Form A to which this document is attached references §14-16-4-4 of the Zoning Code for appeals and standing criteria, it appears that the applicable regulations for appeals concerning the vacation of a public easement are found in §§ 14-14-8-2 and -3 of the Subdivision Regulations. The difference is immaterial, however, because the provisions of both are identical.

- (1) The public welfare is in no way served by retaining the way or easement; or
- (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; and in addition to divisions (1) or (2) of this division (B):
- (3) There is no convincing evidence that any substantial property right is being abridged against the will of the owner of the right.

Hence, to approve the vacation of a public alley, the Board must determine that *either* factor (1) or (2) is met; *and* that factor (3) is met. The Board in this case determined that factors (B)(1) and (B)(3) were met, which was in error for the following reasons.

A. The Board's determination that factor B(1) is met is in error because it either misapplies adopted city ordinances to the relevant facts, misapprehends the relevant facts, or is arbitrary and capricious.

With respect to factor (B)(1), the Board concludes that "The public welfare is in no way served by retaining the eastern portion of the alley, because of the existing condition of the western portion of the alley." The Board erred in reaching this decision because the public welfare most assuredly *is* served by retaining the eastern portion of the alley, regardless of the condition of the western portion.

Appellant S.A.F.E. House provides essential shelter, programs and services to victims of domestic violence, a mission that is vital to the health and public welfare of our community. The eastern portion of the alley is used three times per week by the Albuquerque Solid Waste Department, which provides commercial solid waste collection services for the S.A.F.E. House facility. The collection service includes one large dumpster and 12 to 15 trash bin containers which are emptied three times per week, on Monday, Wednesday and Friday. The only route of ingress and egress to access the containers is via the public alley.

Additionally, this alley is used by PNM. The above-ground utility lines and the utility poles are located on the easement, including at least one pole located on the alley with what appears to be a transformer on it. Access to this pole would be impaired should the easement be vacated. There are also concerns regarding access to underground utility lines that may be located in the alley.

The eastern portion of the alley thus serves the public welfare by supplying access to both the Albuquerque Solid Waste Department vehicles and PNM, thereby providing vital services to a facility that in itself serves the public welfare. Hence, the Board's determination with respect to factor B(1) either misconstrues the meaning of service of the public welfare, misapprehends or ignores the relevant facts demonstrating such service, or is simply arbitrary and capricious.

B. The Board's determination that factor B(3) is met is in error because it either misapplies adopted city ordinances to the relevant facts, misapprehends the relevant facts, or is arbitrary and capricious.

With respect to factor (B)(3), the Board concludes that "There is no convincing evidence that any substantial property right is being abridged against the will of the owner of the right; concerns regarding refuse pick-up may be addressed through the City's Solid Waste Department for the adjacent property." The Board erred in reaching this decision because there most assuredly *is* evidence that a property right would be abridged against the will of the owner of such right.

S.A.F.E. House has a public right in the alley enjoyed in common with all other citizens as well as private rights arising from ownership of property contiguous to the alley. As owner of property contiguous to the alley, S.A.F.E. House has an easement in the alley. An easement is a property right, it is an interest in the land of another that entitles the owner of such interest to a limited use or enjoyment of the land in which the interest exists. S.A.F.E. House is a facility that serves the entire community for whose benefit the City uses the alley. Therefore, vacation of the alley would abridge S.A.F.E. House's property rights against its will.

The Board's conclusion that S.A.F.E. House's "concerns regarding refuse pick-up may be addressed through the City's Solid Waste Department" is also in error. S.A.F.E. House has explored alternative refuse pick-up arrangements with the Solid Waste Department, and the only other possible location where the containers could be placed would require S.A.F.E. House to undertake the expense of (A) removing an existing concrete and stucco wall; (B) building a new concrete and stucco wall with three sides and installing a gate on the fourth side; and, (C) making required sidewalk and driveway modifications. S.A.F.E. House is a nonprofit community service that operates on a limited budget, and it does not have funding for a project of this magnitude, nor should it be forced against its will to undertake it. Construction of an enclosed structure for the dumpster, with street access, is the *only* alternative as the City's Solid Waste Department vehicles cannot enter the facility in its current state due to serious security and safety issues. The S.A.F.E. House facility is gated, secure and access is monitored due to the nature of the services it provides. S.A.F.E. House provides services to over 1,000 families annually so there are many children in the common outside areas of the facility which render it hazardous and unsafe for Solid Waste Department vehicles to enter the facility.

A substantial property right in preserving the alley for refuse pick-up service is thus being abridged against the will of S.A.F.E. House, which will be forced as a result either to sell its property and relocate its facility, or to divert funds from services for victims of domestic violence to pay for a significant construction project that would be totally unnecessary but for vacation of the public easement. Hence, the Board's determination with respect to factor B(3) either misconstrues the meaning of abridgement of a substantial property right, misapprehends or ignores the relevant facts demonstrating such abridgement, or is simply arbitrary and capricious.

III. Conclusion.

For the foregoing reasons, Appellant S.A.F.E. House requests that the Land Use Hearing Officer reverse the Board's determination approving the vacation of the public easement.



AUTHORIZING LUBBEN JOHNSON AND BARNHOUSE LLP TO ACT AS AGENT

February 25, 2008

Steve Chavez
Land Use Hearing Officer
City of Albuquerque
Plaza del Sol Building
600 2nd St. NW
Albuquerque, NM 87102

RE: Appeal of Determination or Action of the Development Review Board
Project number of case being appealed: 1006953 / 1002637
Application number of case being appealed: 07DRB-70406

Dear Mr. Chavez:

This letter authorizes the law firm and each of the attorneys of Luebben Johnson & Barnhouse LLP to act as agent for and on behalf of Appellant SAFE House in the above referenced appeal of the decision of the Development Review Board.

Sincerely,

Michele Fuller, Director
SAFE House

City of Albuquerque



DEVELOPMENT/ PLAN REVIEW APPLICATION

Supplemental form

SUBDIVISION

- Major Subdivision action
- Minor Subdivision action
- Vacation
- Variance (Non-Zoning)

SITE DEVELOPMENT PLAN

- for Subdivision
- for Building Permit
- Administrative Amendment (AA)
- IP Master Development Plan
- Cert. of Appropriateness (LUCC)

STORM DRAINAGE (Form D)

- Storm Drainage Cost Allocation Plan

S Z ZONING & PLANNING

- Annexation
- County Submittal
- EPC Submittal
- Zone Map Amendment (Establish or Change Zoning)
- Sector Plan (Phase I, II, III)
- Amendment to Sector, Area, Facility or Comprehensive Plan
- Text Amendment (Zoning Code/Sub Regs)
- Street Name Change (Local & Collector)
- L A APPEAL / PROTEST of...**
- Decision by: DRB, EPC, LUCC, Planning Director or Staff, ZHE, Zoning Board of Appeals

PRINT OR TYPE IN BLACK INK ONLY. The applicant or agent must submit the completed application in person to the Planning Department Development Services Center, 600 2nd Street NW, Albuquerque, NM 87102. Fees must be paid at the time of application. Refer to supplemental forms for submittal requirements.

APPLICATION INFORMATION:

Professional/Agent (if any): _____ PHONE: _____
 ADDRESS: _____ FAX: _____
 CITY: _____ STATE _____ ZIP _____ E-MAIL: _____

APPLICANT: Logan Hall PHONE: 505-507-0280
 ADDRESS: 210 Corte del Caballo NW FAX: 810-358-7525
 CITY: Albuquerque STATE NM ZIP 87120 E-MAIL: hall.logan@gmail.com

Proprietary interest in site: Purchasing Premises List all owners: Brad Hall

DESCRIPTION OF REQUEST: Request that the 10' public alley be vacated in order to build out location extending across neighboring properties

Is the applicant seeking incentives pursuant to the Family Housing Development Program? Yes No

SITE INFORMATION: ACCURACY OF THE EXISTING LEGAL DESCRIPTION IS CRUCIAL! ATTACH A SEPARATE SHEET IF NECESSARY.

Lot or Tract No. Plat of Lot 1-A Block: 4 Unit: _____
 Subdiv/Addn/TBKA: Terrace Addition
 Existing Zoning: SU-2/NCR Proposed zoning: None (Vacate Only) MRGCD Map No _____
 Zone Atlas page(s): K-15-2 UPC Code: _____

CASE HISTORY:

List any current or prior case number that may be relevant to your application (Proj., App., DRB-, AX-, Z-, V-, S-, etc.): _____

CASE INFORMATION:

Within city limits? Yes Within 1000FT of a landfill? NO
 No. of existing lots: 1 No. of proposed lots: 1 Total area of site (acres): 4.539

LOCATION OF PROPERTY BY STREETS: On or Near: Lead Ave SE
 Between: Locust Ave SE and Elm St SE

Check-off if project was previously reviewed by Sketch Plat/Plan , or Pre-application Review Team . Date of review: _____

SIGNATURE: Logan Hall DATE 11/20/07
 (Print) Logan Hall Applicant: Agent:

FOR OFFICIAL USE ONLY

- INTERNAL ROUTING
- All checklists are complete
- All fees have been collected
- All case #s are assigned
- AGIS copy has been sent
- Case history #s are listed
- Site is within 1000ft of a landfill
- F.H.D.P. density bonus
- F.H.D.P. fee rebate

Application case numbers	Action	S.F.	Fees
<u>07DRB 70406</u>	<u>VPE</u>	<u>V</u>	<u>\$300.00</u>
	<u>ADV</u>		<u>\$75.00</u>
			<u>\$20.00</u>
			\$
			\$
			\$
			\$
			Total
			<u>\$395.00</u>

Hearing date 12/19/05 Project # 10069513
Smider Handlen

Form revised 4/07

(PUBLIC HEARING CASE)

BULK LAND VARIANCE (DRB04)

- Application for Minor Plat on FORM S-3, including those submittal requirements. 24 copies
 - Letter briefly describing and explaining: the request, compliance with the Development Process Manual, and all improvements to be waived.
 - Notice on the proposed Plat that there are conditions to subsequent subdivision (refer to DPM)
 - Office of Community & Neighborhood Coordination inquiry response, notifying letter, certified mail receipts
 - Sign Posting Agreement
 - Fee (see schedule)
 - List any original and/or related file numbers on the cover application
- DRB Public hearings are approximately 30 DAYS after the filing deadline. Your attendance is required.**

VACATION OF PUBLIC EASEMENT (DRB27)

VACATION OF PUBLIC RIGHT-OF-WAY (DRB28)

- The complete document which created the public easement (folded to fit into an 8.5" by 14" pocket) 24 copies.
(Not required for City owned public right-of-way.)
 - Drawing showing the easement or right-of-way to be vacated, etc. (not to exceed 8.5" by 11") 24 copies
 - Zone Atlas map with the entire property(ies) clearly outlined
 - Letter briefly describing, explaining, and justifying the request
 - Office of Community & Neighborhood Coordination inquiry response, notifying letter, certified mail receipts
 - Sign Posting Agreement
 - Fee (see schedule)
 - List any original and/or related file numbers on the cover application
- Unless the vacation is shown on a DRB approved plat recorded by the County Clerk within one year, it will expire.
DRB Public hearings are approximately 30 DAYS after the filing deadline. Your attendance is required.

SIDEWALK VARIANCE (DRB20)

SIDEWALK WAIVER (DRB21)

- Scale drawing showing the proposed variance or waiver (not to exceed 8.5" by 14") 6 copies
 - Zone Atlas map with the entire property(ies) clearly outlined
 - Letter briefly describing, explaining, and justifying the variance or waiver
 - List any original and/or related file numbers on the cover application
- DRB meetings are approximately 8 DAYS after the Tuesday noon filing deadline. Your attendance is required.**

SUBDIVISION DESIGN VARIANCE FROM MINIMUM DPM STANDARDS (DRB25)

- Scale drawing showing the location of the proposed variance or waiver (not to exceed 8.5" by 14") 24 copies
 - Zone Atlas map with the entire property(ies) clearly outlined
 - Letter briefly describing, explaining, and justifying the variance
 - Office of Community & Neighborhood Coordination inquiry response, notifying letter, certified mail receipts
 - Sign Posting Agreement
 - Fee (see schedule)
 - List any original and/or related file numbers on the cover application
- DRB meetings are approximately 30 DAYS after the filing deadline. Your attendance is required.**

TEMPORARY DEFERRAL OF SIDEWALK CONSTRUCTION (DRB19)

EXTENSION OF THE SIA FOR TEMPORARY DEFERRAL OF SIDEWALK CONSTRUCTION (DRB07)

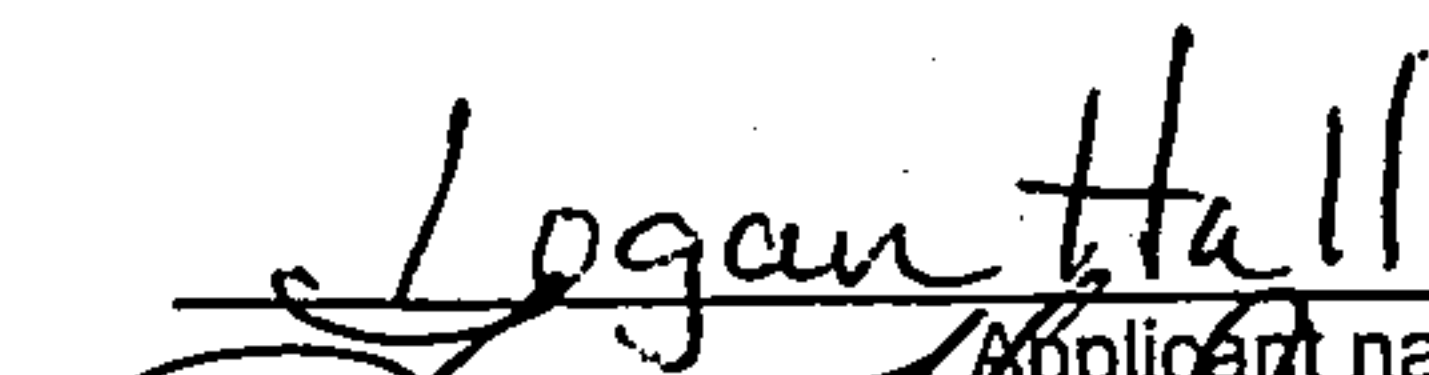

- Drawing showing the sidewalks subject to the proposed deferral or extension (not to exceed 8.5" by 14") 6 copies
 - Zone Atlas map with the entire property(ies) clearly outlined
 - Letter briefly describing, explaining, and justifying the deferral or extension
 - List any original and/or related file numbers on the cover application
- DRB meetings are approximately 8 DAYS after the Tuesday noon filing deadline. Your attendance is required.**

VACATION OF PRIVATE EASEMENT (DRB26)

VACATION OF RECORDED PLAT (DRB29)

- The complete document which created the private easement/recorded plat (not to exceed 8.5" by 14") 6 copies
 - Scale drawing showing the easement to be vacated (8.5" by 11") 6 copies
 - Zone Atlas map with the entire property(ies) clearly outlined
 - Letter/documents briefly describing, explaining, and justifying the vacation 6 copies
 - Letter of authorization from the grantors and the beneficiaries (private easement only)
 - Fee (see schedule)
 - List any original and/or related file numbers on the cover application
- Unless the vacation is shown on a DRB approved plat recorded by the County Clerk within one year, it will expire.
DRB meetings are approximately 8 DAYS after the Tuesday noon filing deadline. Your attendance is required.

I, the applicant, acknowledge that any information required but not submitted with this application will likely result in deferral of actions.

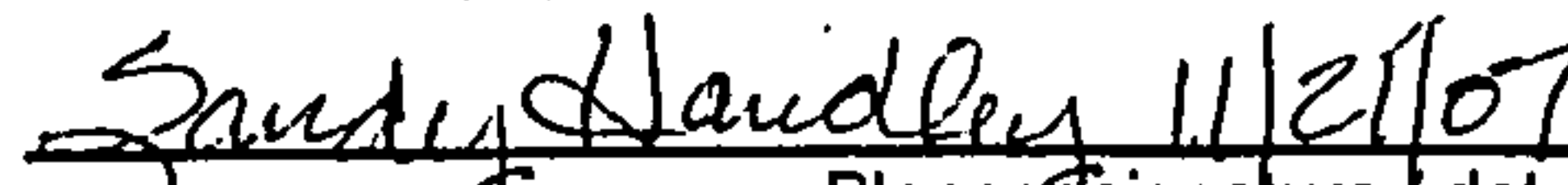

 Applicant name (print)

 Applicant signature / date 11/21/07



Form revised 4/07

- Checklists complete
- Fees collected
- Case #s assigned
- Related #s listed

Application case numbers
 07DRB - 70406


 Planner signature / date 11/21/07
 Project # 1006953

SIGN POSTING AGREEMENT

REQUIREMENTS

POSTING SIGNS ANNOUNCING PUBLIC HEARINGS

All persons making application to the City under the requirements and procedures established by the City Zoning Code or Subdivision Ordinance are responsible for the posting and maintaining of one or more signs on the property which the application describes. Vacations of public rights-of-way (if the way has been in use) also require signs. Waterproof signs are provided at the time of application. If the application is mailed, you must still stop at the Development Services Front Counter to pick up the sign.

The applicant is responsible for ensuring that the signs remain posted throughout the 15-day period prior to public hearing. Failure to maintain the signs during this entire period may be cause for deferral or denial of the application. Replacement signs for those lost or damaged are available from the Development Services Front Counter at a charge of \$3.75 each.

1. LOCATION

- A. The sign shall be conspicuously located. It shall be located within twenty feet of the public sidewalk (or edge of public street). Staff may indicate a specific location.
- B. The face of the sign shall be parallel to the street; and the bottom of the sign shall be at least two feet from the ground.
- C. No barrier shall prevent a person from coming within five feet of the sign to read it.

2. NUMBER

- A. One sign shall be posted on each paved street frontage. Signs may be required on unpaved street frontages.
- B. If the land does not abut a public street, then, in addition to a sign placed on the property, a sign shall be placed on and at the edge of the public right-of-way of the nearest paved City street. Such a sign must direct readers toward the subject property by an arrow and an indication of distance.

3. PHYSICAL POSTING

- A. A heavy stake with two crossbars or a full plywood backing works best to keep the sign in place, especially during high winds.
- B. Large headed nails or staples are best for attaching signs to a post or backing; the sign tears out less easily.

4. TIME

Signs must be posted from DEC. 4, 2007 To DEC. 19, 2007

5. REMOVAL

- A. The sign is not to be removed before the initial hearing on the request.
- B. The sign should be removed within five (5) days after the initial hearing.

I have read this sheet and discussed it with the Development Services Front Counter Staff. I understand (A) my obligation to keep the sign(s) posted for (15) days and (B) where the sign(s) are to be located. I am being given a copy of this sheet.

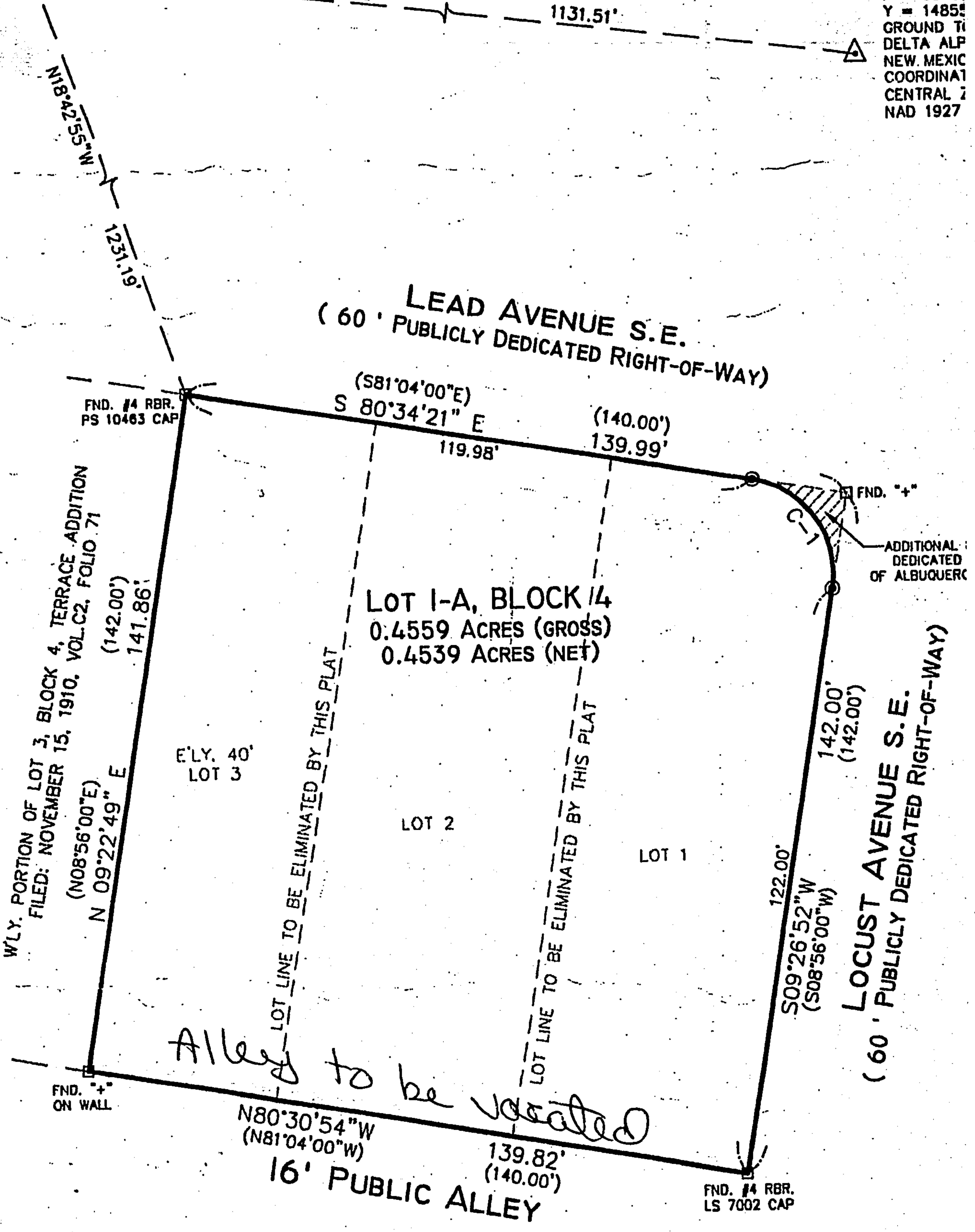
[Signature]
(Applicant or Agent)

11/21/07
(Date)

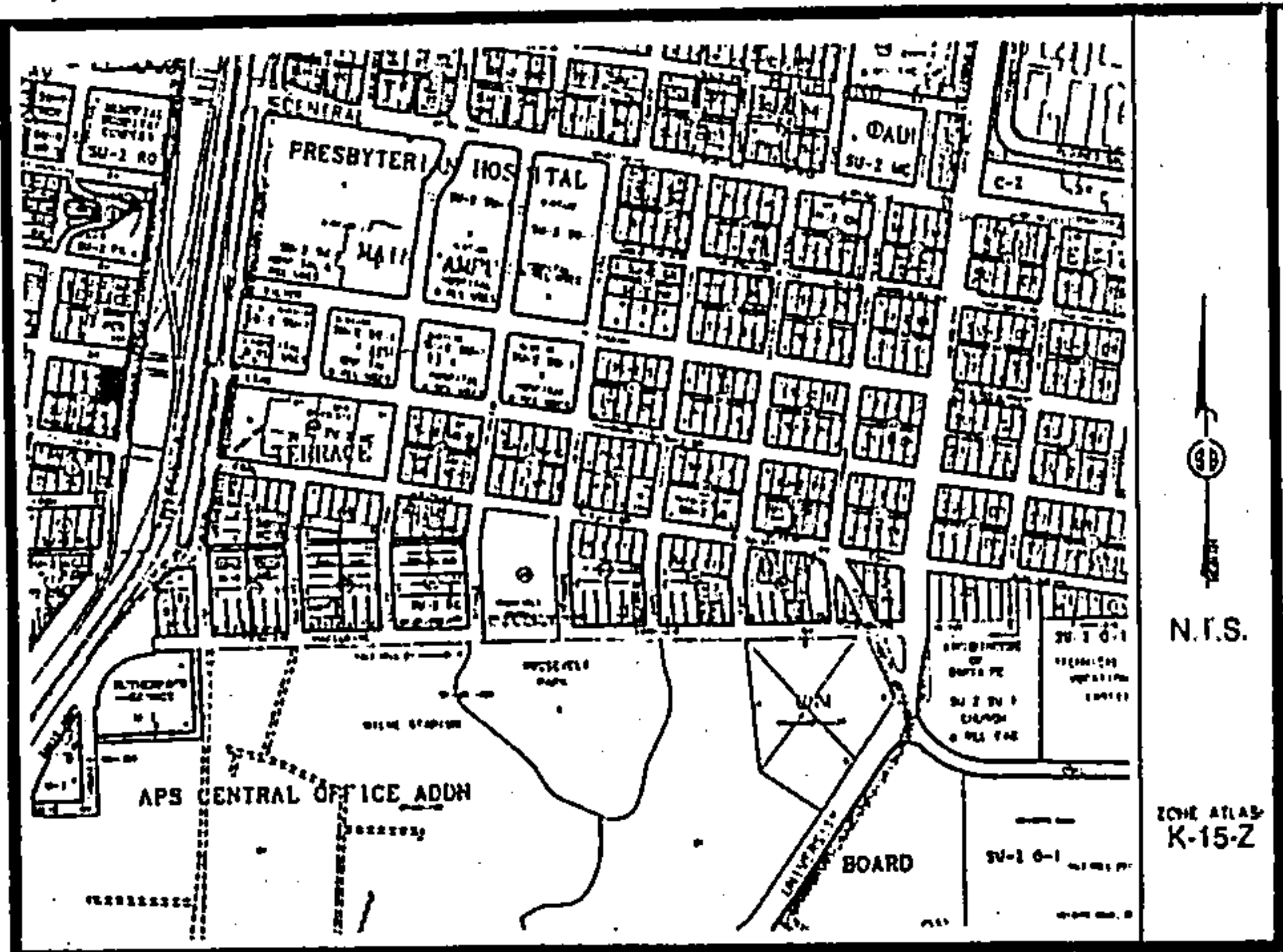
I issued 2 signs for this application, 11/21/07 Sandy Handley
(Date) (Staff Member):

DRB PROJECT NUMBER: 1006953

Y = 1485
 GROUND TI
 DELTA ALP
 NEW MEXIC
 COORDINAT
 CENTRAL 7
 NAD 1927



CURVE TABLE				
3TH	RADIUS	DELTA	CHORD	CHORD BEARING
42	20.00	90°01'13"	28.29	S35°33'44"E



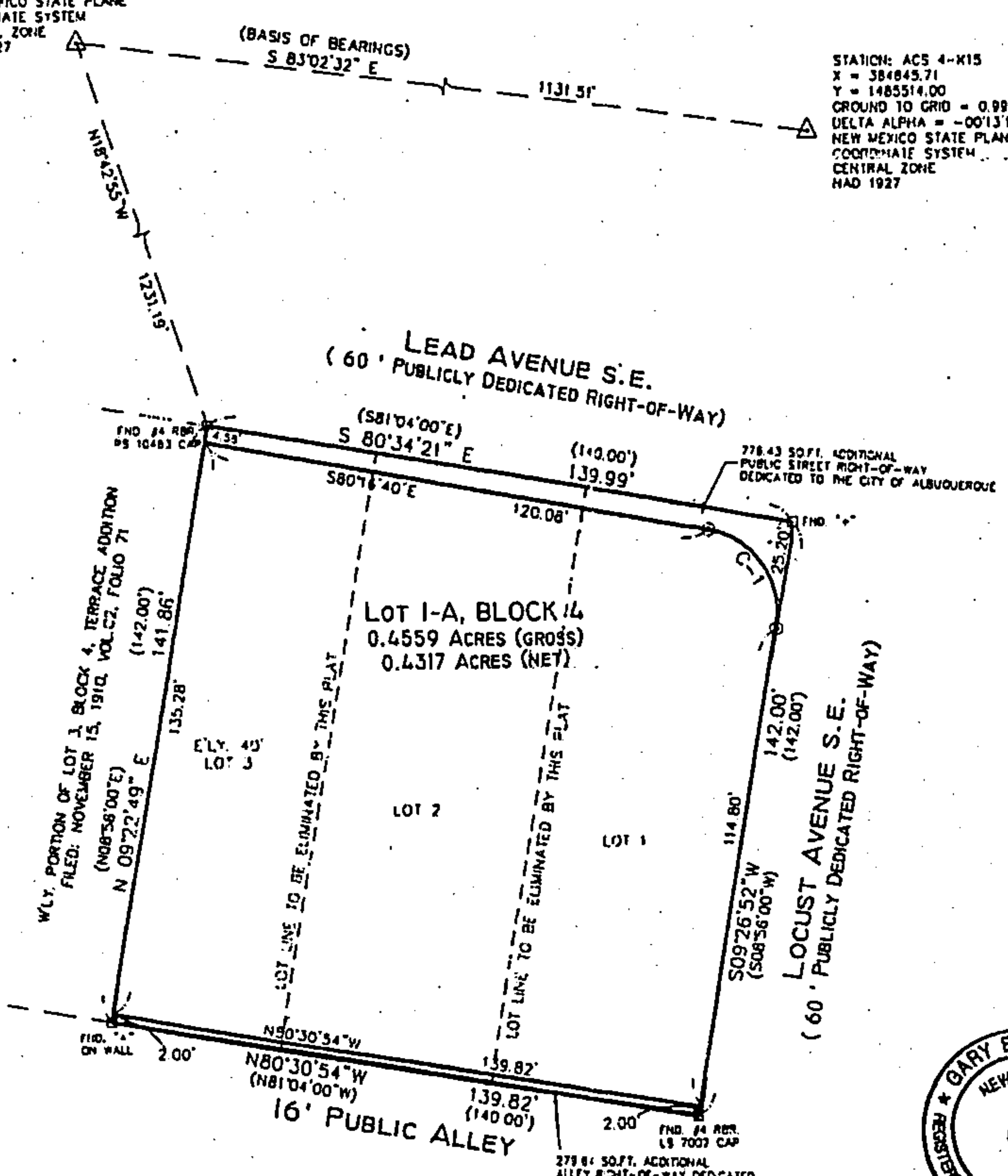
Vicinity Map

SUBDIVISION DATA / NOTES

1. PLAT WAS COMPILED USING EXISTING RECORD DATA & ACTUAL FIELD SURVEY.
2. BEARINGS ARE NEW MEXICO STATE PLANE GRID BEARINGS, CENTRAL ZONE, NAD 1927, AND ARE BASED ON ACS CONTROL MONUMENTS 5-K15 B(R) AND 4-K15, AS SHOWN HEREON.
3. DISTANCES ARE GROUND DISTANCES.
4. PLAT SHOWS ALL EASEMENTS OF RECORD.
5. BEARINGS AND DISTANCES IN PARENTHESIS () ARE PER THE PLAT OF TERRACE ADDITION, FILED IN BERNALILLO COUNTY, NEW MEXICO ON NOVEMBER 15, 1910 IN VOLUME C2, FOLIO 71.
6. GROSS ACREAGE: 0.4659 ACRES
7. NUMBER OF EXISTING LOTS: 3
8. NUMBER OF LOTS CREATED: 1
9. PROPERTY IS ZONED SU-2MCR.
10. SUBJECT PROPERTY CREATED BY REAL ESTATE CONTRACT FOR ADJOINING PROPERTIES RECORDED JULY 29, 1958, DOCUMENT NO 74067

STATION: ACS 5-K15 B(R)
 X = 383522.91
 Y = 1485651.02
 GROUND TO GRID = 0.99967800
 DELTA ALPHA = -0013'28"
 NEW MEXICO STATE PLANE
 COORDINATE SYSTEM
 CENTRAL ZONE
 NAD 1927

STATION: ACS 4-K15
 X = 384645.71
 Y = 1485514.00
 GROUND TO GRID = 0.99967393
 DELTA ALPHA = -0013'18"
 NEW MEXICO STATE PLANE
 COORDINATE SYSTEM
 CENTRAL ZONE
 NAD 1927



SCALE: 1" = 30'
 PROJECT NO. 0301RS10
 DRAWN BY: RS
 ZONE ATLAS: K-15-Z
 TERRADDN CR5

MONUMENT LEGEND

- △ - FOUND CONTROL STATION AS NOTED
- - FOUND MONUMENT AS NOTED
- ⊙ - SET 1/2" REBAR W/YELLOW PLASTIC CAP STAMPED "GRITSKO LS8888" UNLESS OTHERWISE NOTED

THIS IS TO CERTIFY THAT TAXES ARE CURRENT & PAID ON
 UPC#: 1015 067 087 282 312 03
 PROPERTY OWNER OF RECORD:
 BERNALILLO COUNTY TREASURER'S OFFICE:
 26/01/03

CURVE	LENGTH	RADIUS	DELTA	CHORD	CHORD BEARING
C-1	31.32	20.00	89°43'32"	28.22	S35°24'54"E

Legal Description
 Lots numbered One (1) and Two (2) and the Easterly 40' of Lot numbered Three (3) in Block numbered Four (4) of TERRACE ADDITION, as the same shown and designated on said plat thereof filed in the office of the County Clerk of Bernalillo County, New Mexico on November 15, 1910 in Volume C2, folio 71 and being more particularly described as follows:
 BEGINNING at the Southeast corner of said Lot 1, being a point on the West Right of Way of Locust Street SE and the North Right of Way of a 16' public alley; thence from said point of beginning N80°30'54" W, 139.82 feet along the North Right of Way of said alley to the Southwest corner, thence leaving said alley, N09°22'49" E, 141.86 feet to the Northwest corner being a point on the South Right of Way of Lead Avenue SE; thence S80°34'21" E, 139.99 feet along said South Right of Way to the Northeast corner and intersection with the West Right of Way of Locust Avenue SE; thence S09°26'52" W, 142.00 feet along said West Right of Way to the point of beginning and containing 0.4559 acres, more or less.

FREE CONSENT
 THE UNDERSIGNED OWNER(S) AND PROPRIETOR(S) OF THE PROPERTY DESCRIBED HEREON DO HEREBY CONSENT TO THE PLATTING OF SAID PROPERTY AS SHOWN HEREON AND THE SAME IS WITH THE FREE CONSENT AND IN ACCORDANCE WITH THEIR DESIRES AND DO HEREBY REPRESENT THAT THE UNDERSIGNED INDIVIDUALS ARE AUTHORIZED TO SO ACT AND DO HEREBY GRANT ADDITIONAL EASEMENT(S) AS SHOWN AND DO HEREBY DEDICATE ADDITIONAL STREET RIGHT-OF-WAY TO THE CITY OF ALBUQUERQUE IN FEE SIMPLE WITH WARRANTY COVENANTS.

OWNER(S) SIGNATURE: Edward L. Gallinger DATE: 1-23-03
 OWNER(S) PRINT NAME: EDWARD L. GALLINGER
 ADDRESS: P.O. BOX 575, TIERRAS ULTIMAS 87059 TRACT:
 ACKNOWLEDGMENT
 STATE OF NEW MEXICO)
 COUNTY OF BERNALILLO)
 THIS INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS 23 DAY OF JANUARY, 2003.
 BY: EDWARD L. GALLINGER
 MY COMMISSION EXPIRES: 10/01/05
Sarah Amato
 NOTARY PUBLIC

PLAT OF
LOT 1-A, BLOCK 4
TERRACE ADDITION
 SITUATE WITHIN SECTION 21,
 T. 10 N., R. 3 E., N.M.P.M.
 CITY OF ALBUQUERQUE
 BERNALILLO COUNTY, NEW MEXICO
 JANUARY, 2003



DISCLOSURE STATEMENT
 THE PURPOSE OF THIS PLAT IS TO ELIMINATE LOT LINES OF THREE (3) EXISTING LOTS AND CREATE ONE (1) NEW LOT AND DEDICATES ADDITIONAL RIGHT OF WAY.

- APPLICATION NO. & PROJECT NO.: 1002637/03 DAB-00712
- CITY APPROVALS:**
- [Signature] 5-1-03 DATE
CITY SURVEYOR
 - [Signature] 8-20-03 DATE
TRAFFIC ENGINEERING
 - [Signature] 8/20/03 DATE
PARKS RECREATION
 - [Signature] 8/20/03 DATE
UTILITY DEVELOPMENT DIVISION
 - N/A DATE
REAL PROPERTY DIVISION
 - [Signature] 8-20-03 DATE
A.M.A.F.C.A.
 - [Signature] 8/20/03 DATE
CITY ENGINEER
 - [Signature] 8/20/03 DATE
CITY PLANNER, ALBUQUERQUE PLANNING DIVISION

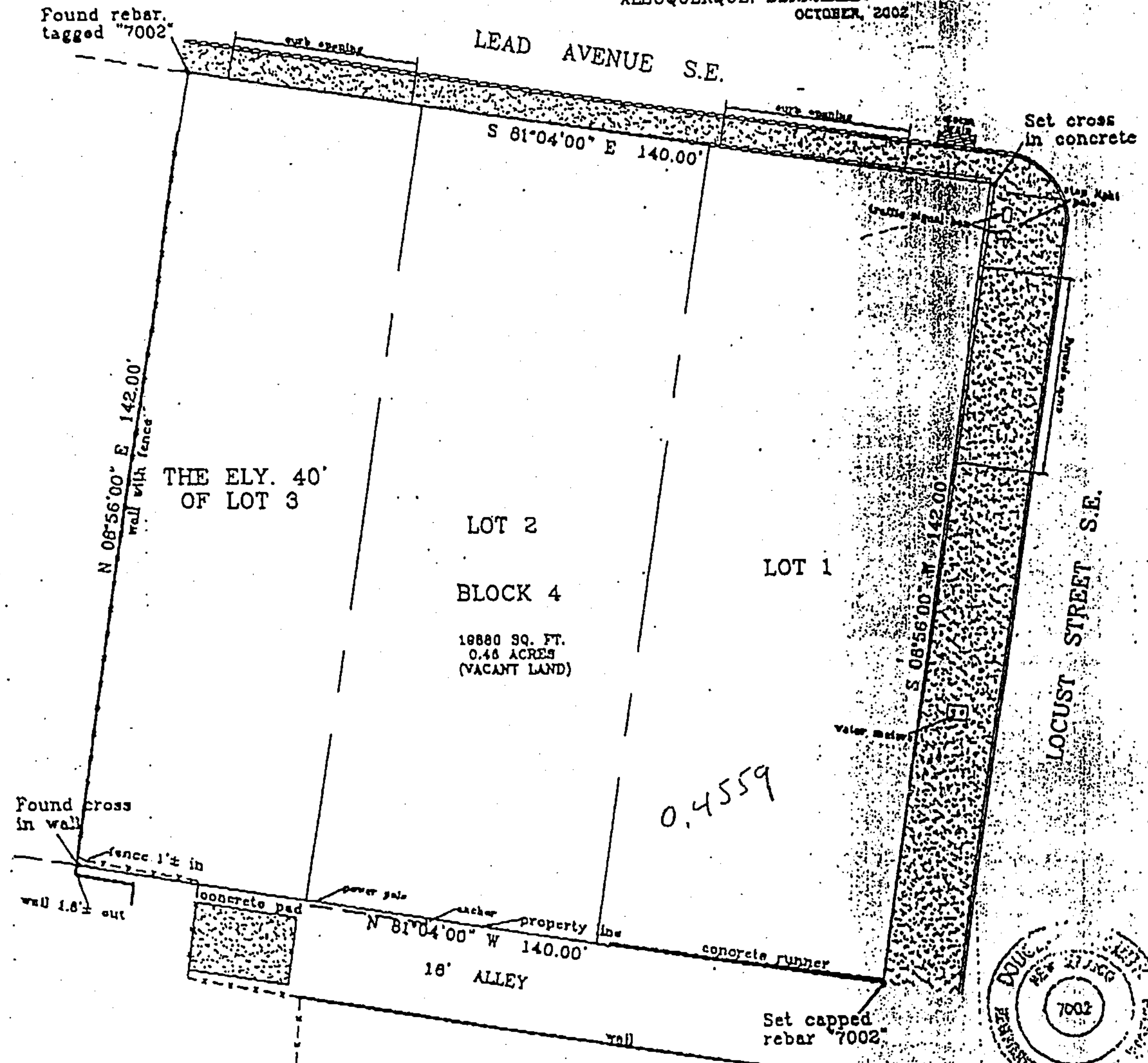
SURVEYOR'S CERTIFICATION
 I, Gary E. Grisko, a duly qualified Registered Professional Land Surveyor under the laws of the State of New Mexico, do hereby certify that this plat and description were prepared by me or under my supervision, shows all easements as shown on the plat of record or made known to me by the owners and/or proprietors of the subdivision shown hereon, utility companies and other parties expressing an interest and meets the minimum requirements for monumentation and surveys of the Albuquerque Subdivision Ordinance, and further meets the Minimum Standards for Land Surveying in the State of New Mexico and is true and correct to the best of my knowledge and belief.
Gary E. Grisko Feb 17, 2003
 Gary E. Grisko Date
 New Mexico Professional Surveyor, 8686



SURVEYS SOUTHWEST, LTD.
 333 LOMAS BLVD., N.E. PHONE: (505) 998-0303
 ALBUQUERQUE, NEW MEXICO FAX: (505) 998-0306
 87102 T10N R3E SEC. 21

12

PLAT OF SURVEY
 OF
 LOTS 1, 2 AND THE ELY. 40' OF LOT 3
 BLOCK 4
 TERRACE ADDITION
 ALBUQUERQUE, BERNALILLO COUNTY, NEW MEXICO
 OCTOBER, 2002



LEGAL DESCRIPTION:

Lots numbered One (1) and Two (2) and the easterly 40 feet of Lot numbered Three (3) in Block numbered Four (4) of TERRACE ADDITION, as the same are shown and designated on the plat thereof, filed in the Office of the County Clerk of Bernalillo County, New Mexico on November 15, 1910. Beginning at the northeast corner which is the northeast corner of said lot 1 in block 4 running thence S 08° 56' W along the westerly line of a public street known as Locust Street, S.E. (now contained within the right of way of U.S. Interstate Highway 25, also known as the New Mexico State Road 422) a distance of 142.00 feet to the Southeast corner of said lot 1; thence N 81° 04' W, along the southerly lines of said lots 1, 2 and 3, which is the northerly line of a public alley, 140.00 feet to the southwest corner; thence, N 08° 56' E, 142.00 feet to the northwest corner; thence, S 81° 04' E, along the northerly line of said lots 2 and 1, which is the southerly line of a public street known as Lead Avenue S.E. a distance of 140.00 feet to the place of beginning.

DOCUMENTS USED IN THIS SURVEY

Plat of Terrace Addition filed 11/15/10, Vol. C2, folio 71
 Fidelity National Title Co. binder dated 10/4/02, CF#02-1023274-B-VG

FLOOD CERTIFICATION:

It is hereby certified that the above described property is not located within a 100 year flood hazard boundary in accordance with current HUD Federal Administration flood hazard boundary maps dated September 20, 1998. Zone "X", Community Panel No. 350010 334

SURVEYOR'S CERTIFICATION:

I, Douglas H. Smith, a New Mexico Professional Surveyor (#7002) certify that I conducted and am responsible for this survey, that this survey is true and correct to the best of my knowledge and that this survey and plat meet the Minimum Standard for Surveying in the State of New Mexico. I further certify that this survey is not a land division or subdivision as defined in the New Mexico Subdivision Act and that this is a boundary survey plat of an existing tract or tracts.

October 8, 2002
 Date of Survey

Douglas H. Smith, N.M.P.S. No. 7002

Logan Hall
Brad Hall & Associates Inc.
2107 Corte Del Caballo NW
Albuquerque, NM 87120
October 29, 2007

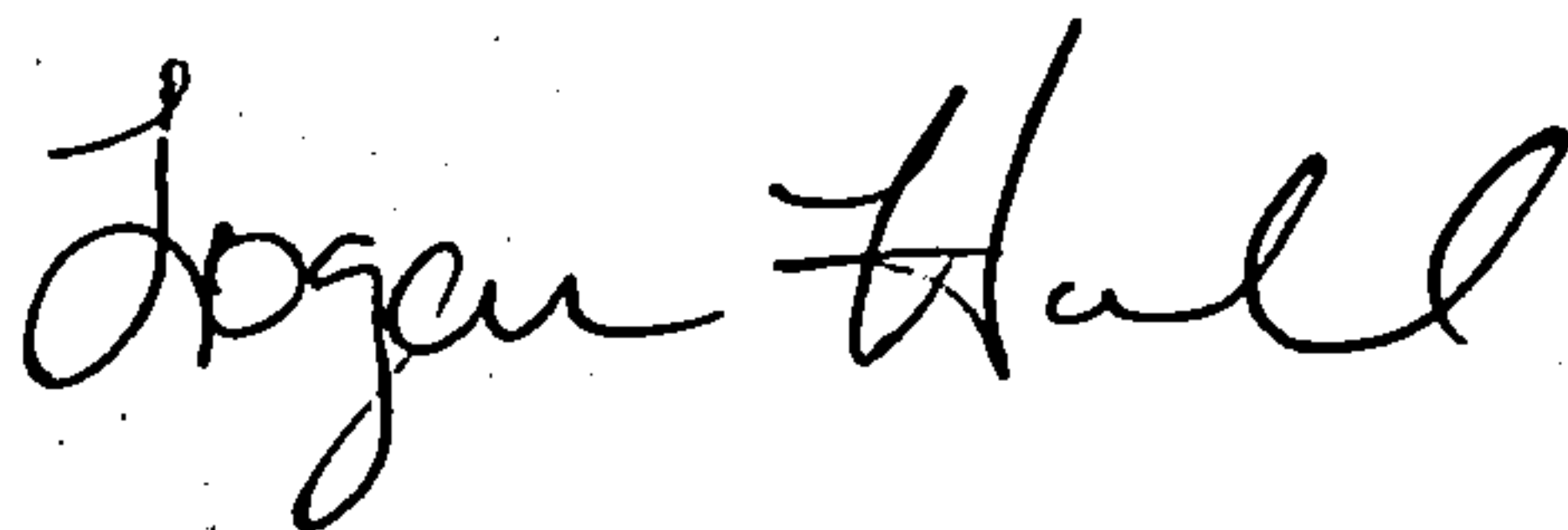
City Of Albuquerque
Development Review Board
Minor Cases
600 2nd Street NW
Albuquerque, NM

Dear: Development Review Board

This letter is a request for vacating a 16' public alley at the property located at the corner of Locust Avenue S.E. and Lead Avenue S.E.. We are currently under contract to purchase this property and are in negotiations to purchase the property next to it which currently houses a Chevron gas station owned by Rio Grande Oil. It would seem that the 16' public alley is not in use and has already been vacated in the west direction, as there are buildings that have built over the public alley way. Our request is to see the remainder of the alley vacated, allowing us to build a convenient store and gas station which will stretch across both property lots. The newly built location will offer a fully up-to-date gas station, grocery mart, and potential fast-food eatery. We are fully aware that this property is located in the historic district and welcome the opportunity to build an aesthetically pleasing location which will meet the goals of the district and enhance the current locations offerings.

If you have questions about my request or would like to speak with me, please call me at (505) 507-0280. I look forward to hearing your position on this issue. Thank you for your consideration.

Sincerely,



Logan Hall



Fidelity National Title
INSURANCE COMPANY

November 15, 2007

To Whom It May Concern:

A search of the Bernalillo County records does not show any "vacation" by the City of Albuquerque, as to the alleyway as shown within the following legal description:

Lots numbered Four (4), Five (5), Six (6), Seven (7), Eight (8), Nine (9), Ten (10), and the West Ten feet (W. 10') of Lot numbered Three, in Block numbered Four (4) of the Terrace Addition to the City of Albuquerque, New Mexico, as the same is shown and designated on the map of said addition, filed in the office of the Probate Clerk and Ex-officio Recorder of Bernalillo County, New Mexico, on May 20, 1905.

Sincerely,

Kay Reel

Kay Reel
Title Officer



DEVELOPER INQUIRY SHEET

(To be completed prior to application submittal)

The Office of Neighborhood Coordination (ONC) located in Room 120 (basement) of the Plaza Del Sol Building, 600 Second Street NW, Fax: (505) 924-3913 – will need the following information **BEFORE** neighborhood association information will be released to the applicant/agent on any project being presented to the Planning Department of the City of Albuquerque. If you have any questions, please feel free to contact our office at (505) 924-3914. Your Developer Inquiry is for the following:

Cell Tower & Type: [] Free-Standing Tower -OR- [] Concealed Tower

Private Development [] (i.e., EPC, DRB, LUCC, Liquor Submittal)

City Project []

CONTACT NAME: Logan Hall

COMPANY NAME: Brad Hall & Associates Inc.

ADDRESS/ZIP: 2107 Corte Del Caballo NW, Albuquerque, NM 87101

PHONE: 505-507-0280 FAX: 1-866-358-7525

LEGAL DESCRIPTION INFORMATION

PLEASE FORWARD INFORMATION ON ANY NEIGHBORHOOD ASSOCIATION IN THE AREA OF THE PROPERTY DESCRIBED BELOW:

Vacate Public Alley on block 4 of the Terrace addition to the city of Albuquerque

LEGAL DESCRIPTION

LOCATED ON

Acust and Elm
STREET NAME OR OTHER IDENTIFYING LANDMARK

BETWEEN head ~~road~~ AND
STREET NAME OR OTHER IDENTIFYING LANDMARK

Coal
STREET NAME OR OTHER IDENTIFYING LANDMARK

THE SITE IS INDICATED ON THE FOLLOWING ZONE ATLAS PAGE (K-15).
(PLEASE MARK/HATCH ZONE MAP WHERE PROPERTY IS LOCATED)
(Zone Map **MUST** be provided with request)



City of Albuquerque

PLEASE NOTE: The Neighborhood Association information listed in this letter is valid for one (1) month. If you haven't filed your application within one (1) month of the date of this letter – you will need to get an updated letter from our office. It is your responsibility to provide current information – outdated information may result in a deferral of your case.

Date: 19 November 2007

TO CONTACT NAME: Logan Hall
COMPANY/AGENCY: Paradise Hall Assoc., Inc.
ADDRESS/ZIP: 2107 Corte Del Caballo NW 87120
PHONE/FAX #: 507-0280 / 1-866-358-7525

Thank you for your inquiry of 19 Nov. 07 (date) requesting the names of **Recognized**

Neighborhood Associations who would be affected under the provisions of O-92 by your proposed project at Vacate Public Alley block 4 of the Terrance Addition to the City of ABA located on Locust and Elm between Lead and Coal
zone map page(s) K-15.

Our records indicate that the **Recognized Neighborhood Association(s)** affected by this proposal and the contact names are as follows:

Silver Hill NA
Neighborhood Association
Contacts: Bill Cobb
1701 Silver Ave. SE 87106
247-8296(h)
Gordon Reiselt
1515 Silver SE 87106
242-3345(h)

Spruce Park NA Inc.
Neighborhood Association
Contacts: Daniel Laird
603 Cedar NE 87106
766-7696(h) 844-6188(w)
Bart Chimenti
1502 Roma NE 87106
293-6734(h)

See reverse side for additional Neighborhood Association Information: YES NO { }

Please note that according to O-92 you are required to notify each of these contact persons by **CERTIFIED MAIL, RETURN RECEIPT REQUESTED, BEFORE** the Planning Department will accept your application filing. **IMPORTANT! FAILURE OF ADEQUATE NOTIFICATION MAY RESULT IN YOUR APPLICATION HEARING BEING DEFERRED FOR 30 DAYS.** If you have any questions about the information provided, please contact our office at (505) 924-3914 or by fax at 924-3913.

Sincerely,

Dalana Carmona
OFFICE OF NEIGHBORHOOD COORDINATION

.....
• Attention: Both contacts per
• neighborhood association
• need to be notified.
•

!!!Notice to Applicants!!!

SUGGESTED INFORMATION FOR NEIGHBORHOOD NOTIFICATION LETTERS

Applicants for Zone Change, Site Plan, Sector Development Plan approval or an amendment to a Sector Development Plan by the EPC, DRB, etc. are required under Council Bill O-92 to notify all affected recognized neighborhood associations **PRIOR TO FILING THE APPLICATION TO THE PLANNING DEPARTMENT**. Because the purpose of the notification is to ensure communication as a means of identifying and resolving problems early, it is essential that the notification be fully informative.

WE RECOMMEND THAT THE NOTIFICATION LETTER INCLUDE THE FOLLOWING INFORMATION:

1. The street address of the subject property.
2. The legal description of the property, including lot or tract number (if any), block number (if any), and name of the subdivision.
3. A physical description of the location, referenced to streets and existing land uses.
4. A complete description of the actions requested of the EPC:
 - a) If a **ZONE CHANGE OR ANNEXATION**, the name of the existing zone category and primary uses and the name of the proposed category and primary uses (i.e., "from the R-T Townhouse zone, to the C-2 Community Commercial zone").
 - b) If a **SITE DEVELOPMENT OR MASTER DEVELOPMENT PLAN** approval or amendment describe the physical nature of the proposal (i.e., "an amendment to the approved plan to allow a drive-through restaurant to be located just east of the main shopping center entrance off Montgomery Blvd.").
 - c) If a **SECTOR DEVELOPMENT PLAN OR PLAN AMENDMENT** a general description of the plan area, plan concept, the mix of zoning and land use categories proposed and description of major features such as location of significant shopping centers, employment centers, parks and other public facilities.
 - d) The name, address and telephone number of the applicant and of the agent (if any). In particular the name of an individual contact person will be helpful so that neighborhood associations may contact someone with questions or comments.

Information from the Office of Neighborhood Coordination

The following information should always be in each application packet that you submit for an EPC or DRB application. Listed below is a "Checklist" of the items needed.

- [X] ONC's "Official" Letter to the applicant (*if there are associations*). A copy must be submitted with application packet -OR-
- [] The ONC "Official" Letter (*if there are no associations*). A copy must be submitted with application packet.
- [X] Copies of Letters to Neighborhood Associations (*if there are associations*). A copy must be submitted with application packet.
- [X] Copies of the certified receipts to Neighborhood Associations (*if there are associations*). A copy must be submitted with application packet.

Just a reminder - Our ONC "Official" Letter is only valid for a one (1) month period and if you haven't submitted your application by this date, you will need to get an updated letter from our office.

Any questions, please feel free to contact Stephani at 924-3902 or via an e-mail message at swinklepleck@cabq.gov.

Thank you for your cooperation on this matter.

.....
(below this line for ONC use only)

Date of Inquiry: 19 Nov. 07 Time Entered: 3:04 PM ONC Rep. Initials: OC

U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT
 (Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com®

OFFICIAL USE

ALBUQUERQUE NM 87106

Postage	\$ 0.41	0106 03 NOV 21 2007 Postmark Here
Certified Fee	\$2.65	
Return Receipt Fee (Endorsement Required)	\$2.15	
Restricted Delivery Fee (Endorsement Required)	\$0.00	
Total Postage & Fees	\$ 5.21	

11/21/2007

Sent To Bill Cobb
 Street, Apt. No., or PO Box No. 1701 Silver Ave SE
 City, State, ZIP+4 Albuquerque, NM 87106

PS Form 3800, June 2002 See Reverse for Instructions

U.S. Postal Service™
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ALBUQUERQUE NM 87106

Postage	\$ 0.41	0106 03 NOV 21 2007 Postmark Here
Certified Fee	\$2.65	
Return Receipt Fee (Endorsement Required)	\$2.15	
Restricted Delivery Fee (Endorsement Required)	\$0.00	
Total Postage & Fees	\$ 5.21	

11/21/2007

Sent To Bart Chiment
 Street, Apt. No., or PO Box No. 1502 Roma NE
 City, State, ZIP+4 Albuquerque, NM 87106

PS Form 3800, June 2002 See Reverse for Instructions

U.S. Postal Service™
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OFFICIAL USE

ALBUQUERQUE NM 87102

Postage	\$ 0.41	0106 03 NOV 21 2007 Postmark Here
Certified Fee	\$2.65	
Return Receipt Fee (Endorsement Required)	\$2.15	
Restricted Delivery Fee (Endorsement Required)	\$0.00	
Total Postage & Fees	\$ 5.21	

11/21/2007

Sent To Steve Grant
 Street, Apt. No., or PO Box No. 209 High Street NE
 City, State, ZIP+4 Albuquerque, NM 87102

PS Form 3800, June 2002 See Reverse for Instructions

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ALBUQUERQUE NM 87106

Postage	\$ 0.41	0106 03 NOV 21 2007 Postmark Here
Certified Fee	\$2.65	
Return Receipt Fee (Endorsement Required)	\$2.15	
Restricted Delivery Fee (Endorsement Required)	\$0.00	
Total Postage & Fees	\$ 5.21	

11/21/2007

Sent To Gordon Reisel
 Street, Apt. No., or PO Box No. 1515 Silver Ave SE
 City, State, ZIP+4 Albuquerque, NM 87106

PS Form 3800, June 2002 See Reverse for Instructions

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OFFICIAL USE

ALBUQUERQUE NM 87106

Postage	\$ 0.41	0106 03 NOV 21 2007 Postmark Here
Certified Fee	\$2.65	
Return Receipt Fee (Endorsement Required)	\$2.15	
Restricted Delivery Fee (Endorsement Required)	\$0.00	
Total Postage & Fees	\$ 5.21	

11/21/2007

Sent To Daniel Laird
 Street, Apt. No., or PO Box No. 1003 Cedar NE
 City, State, ZIP+4 Albuquerque, NM 87106

PS Form 3800, June 2002 See Reverse for Instructions

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OFFICIAL USE

ALBUQUERQUE NM 87106

Postage	\$ 0.41	0106 03 NOV 21 2007 Postmark Here
Certified Fee	\$2.65	
Return Receipt Fee (Endorsement Required)	\$0.00	
Restricted Delivery Fee (Endorsement Required)	\$0.00	
Total Postage & Fees	\$ 3.06	

11/21/2007

Sent To Peter Schillke
 Street, Apt. No., or PO Box No. 1217 Coal Ave SE
 City, State, ZIP+4 Albuquerque, NM 87106

PS Form 3800, June 2002 See Reverse for Instructions

4532 7046 7046 0000 0100 0070 9006 7006 9154 4548 7046 7046 0000 0100 0070 9006 7006 4471 7046 7046 0000 0100 0070 9006 7006 4444 7046 7046 0000 0100 0070 9006 7006

4549 7046 7046 0000 0100 0070 9006 7006 4525 4525 7046 7046 0000 0100 0070 9006 7006 4544 7046 7046 0000 0100 0070 9006 7006

Logan Hall
Brad Hall & Associates Inc.
2107 Corte Del Caballo NW
Albuquerque, NM 87120
October 29, 2007

South Broadway Neighborhood Association
Jessica Rochelas
912 Edith SE
Albuquerque, NM 87102

Dear: Susan Dixon

This letter is to inform you of a request for vacating a 16' public alley at the property located at the corner of Locust Avenue S.E. and Lead Avenue S.E., between Locust and Elm, of block 4 of the Terrace Addition. Brad Hall & Associates Inc. (BHA) is currently under contract to purchase this property and is in negotiations to purchase the property next to it which currently houses a Chevron gas station owned by Rio Grande Oil. It would seem that the 16' public alley is not in use in the west direction, as there are buildings that have built over the public alley way by the shelter which occupies the west side of the block. Our request is to see the alley vacated, allowing us to build a convenient store and gas station which will stretch across both property lots. The newly built location will offer a fully up-to-date gas station, grocery mart, and potential fast-food eatery. We are fully aware that this property is located in the historic district and welcome the opportunity to build an aesthetically pleasing location which will meet the goals of the district and enhance the current locations offerings. BHA owns multiple c-store locations across the western United States and does not have intentions of selling alcohol.

It is anticipated that this request will be heard by the DRB during a public hearing on December 19, 2007 at 9:00 am.

If you have questions about our request or would like to speak with me directly, please call me at (505) 507-0280. I look forward to hearing your position on this issue. Thank you for your consideration.

Sincerely,

Logan Hall

Logan Hall
Brad Hall & Associates Inc.
2107 Corte Del Caballo NW
Albuquerque, NM 87120
October 29, 2007

Broadway Central Corridors Partnership Inc.
Rob Dickson
301 Central Ave. NE #313
Albuquerque, NM 87102

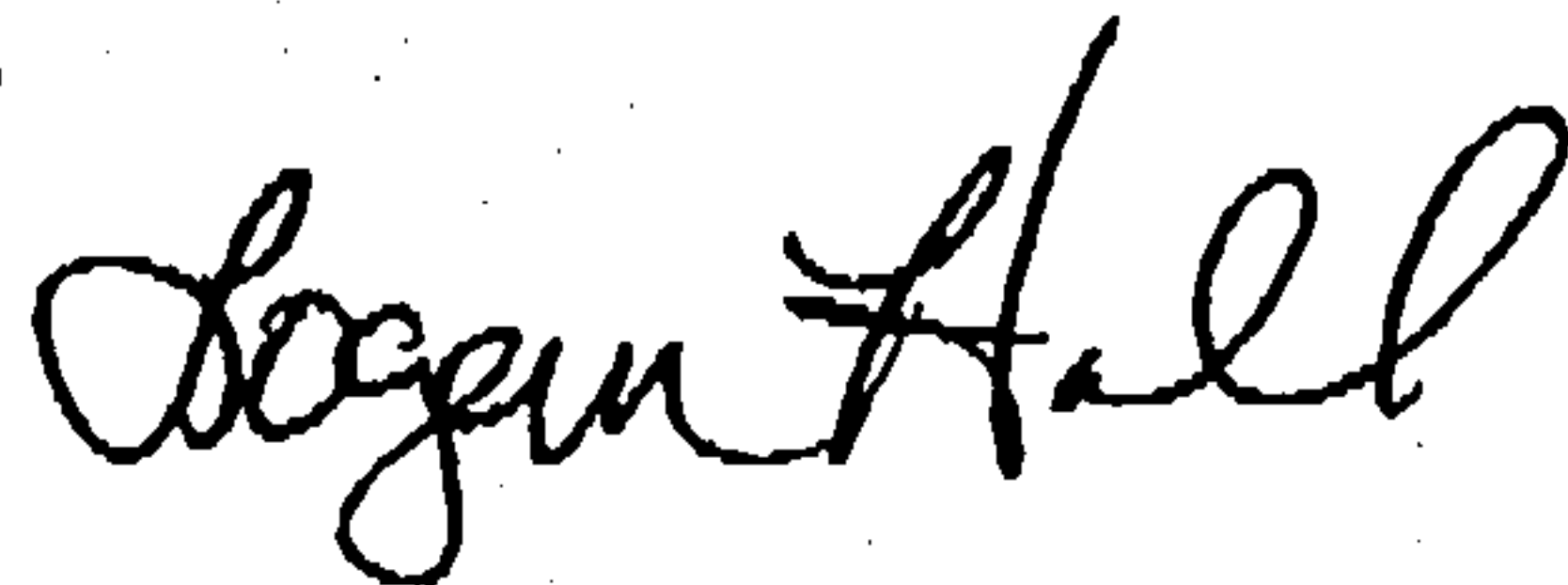
Dear: Rob Dickson

This letter is to inform you of a request for vacating a 16' public alley at the property located at the corner of Locust Avenue S.E. and Lead Avenue S.E., between Locust and Elm, of block 4 of the Terrace Addition. Brad Hall & Associates Inc. (BHA) is currently under contract to purchase this property and is in negotiations to purchase the property next to it which currently houses a Chevron gas station owned by Rio Grande Oil. It would seem that the 16' public alley is not in use in the west direction, as there are buildings that have built over the public alley way by the shelter which occupies the west side of the block. Our request is to see the alley vacated, allowing us to build a convenient store and gas station which will stretch across both property lots. The newly built location will offer a fully up-to-date gas station, grocery mart, and potential fast-food eatery. We are fully aware that this property is located in the historic district and welcome the opportunity to build an aesthetically pleasing location which will meet the goals of the district and enhance the current locations offerings. BHA owns multiple c-store locations across the western United States and does not have intentions of selling alcohol.

It is anticipated that this request will be heard by the DRB during a public hearing on December 19, 2007 at 9:00 am.

If you have questions about our request or would like to speak with me directly, please call me at (505) 507-0280. I look forward to hearing your position on this issue. Thank you for your consideration.

Sincerely,



Logan Hall

CC:

Terry Keene
424 Central Ave. SE
Albuquerque, NM 87102

Susan Dixon
1213 Edith SE
Albuquerque, NM 87102

Jessica Rodelas
912 Edith SE
Albuquerque, NM 87102

Bill Cobb
1701 Silver Ave. SE
Albuquerque, NM 87106

Gordon Reiselt
1515 Silver SE
Albuquerque, NM 87106

Daniel Laird
603 Cedar NE
Albuquerque, NM 87106

Bart Chimenti
1502 Roma NE
Albuquerque, NM 87106

Peter Schillke
1217 Coal Ave. SE
Albuquerque, NM 87106

Mardon Gardella
411 Maple St. NE
Albuquerque, NM 87106

Steve Grant
209 High St. NE
Albuquerque, NM 87102

Kay Adams
816 Silver Ave SE
Albuquerque, NM 87102

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CITY OF ALBUQUERQUE
PLANNING DEPARTMENT
DEVELOPMENT REVIEW BOARD

December 19, 2007

Project# 1006953
07DRB-70406 VACATION OF PUBLIC EASEMENT

LOGAN HALL request(s) the above action(s) for all or a portion of Lot(s) 1-A, Block(s) 4, **TERRACE ADDITION**, zoned SU-2/NCR, located on LEAD AVE SE BETWEEN LOCUST AVE SE AND ELM ST SE containing approximately 0.4539 acre(s). (K-15)

AMAFCA

No adverse comments.

COG

MPO staff have no comment on this development proposal. For information, Lead Av has a functional classification of urban principal arterial

Transit

No comments received.

Zoning Enforcement

No adverse comments.

Neighborhood Coordination

Letter(s) sent to:

Silver Hill NA (R),
Spruce Park NA (R),
Sycamore NA (R),
Huning Highland Historic District Assoc. (R),
South Broadway NA (R)

APS

Terrace Addition, Lot 1-A, Block 4, is located on Lead Ave SE between Locust Ave SE and Elm St SE. The owner of the above property requests a Vacation of Public Easement for a gas station, grocery mart, and potential fast-food eatery. This will have no adverse impacts to the APS district.

Police Department

No crime prevention or CPTED comments at this time.

Fire Department

No adverse comments.

PNM Electric & Gas

No adverse comments.

Comcast

No comments received.

QWEST

No comments received.

Environmental Health

No comments received.

M.R.G.C.D.

No adverse comments.

Open Space Division

Open Space has no adverse comments.

City Engineer

The Hydrology section has no objection to the vacation request.

Transportation Development

The alley cannot be vacated in part; provide additional information regarding the previous vacations stated in your letter

Parks & Recreation

Defer to Transportation.

ABCWUA

Sketch Plat was heard under Project #2637.

No objection to Vacation request.

Planning Department

Specific, written comments/ approval from the Solid Waste Department is needed based on the existing refuse facilities.

Impact Fee Administrator

No comment on proposed vacation of the 16 foot alley way. However, impact fees will be assessed at the time a permit is issued for a new building on the new lot according to the total square foot and use of the building. These fees are available on the city's website- www.cabq.gov. Go to the "A-Z" feature and under the "I" impact fees will be the first item in this list. The areas for which these will be assessed are the eastside for Public Safety.

IT IS REQUIRED THAT THE APPLICANT AND/OR AGENT BE PRESENT AT THE HEARING

Cc: Logan Hall – 2107 Corte Del Caballo NW – Albuquerque, NM 87120

Scott Howell

Marilyn Maldonado

File

**CITY OF PLANNING
PLANNING DEPARTMENT
PROPERTY OWNERSHIP LIST**

Meeting Date: December 19, 2007
Zone Atlas Page: K-15
Notification Radius: 100 Ft.

Project#: 1006953
App#: 07DRB-70406

Cross Reference and Location: LEAD AVE SE BETWEEN LOCUST AVE SE AND
ELM ST SE

Applicant: LOGAN HALL
2107 CORTE DEL CABALLO NW
ALBUQUERQUE, NM 87120

Agent:

Special Instructions:

**Notice must be mailed from the
City's 15 day's prior to the meeting.**

Date Mailed: NOVEMBER 30, 2007
Signature: ERIN TREMLIN



**PUBLIC HEARING--DEVELOPMENT REVIEW BOARD
CITY OF ALBUQUERQUE**

Notice is hereby given that the Development Review Board, City of Albuquerque, will hold a public hearing in the Plaza del Sol Hearing Room, Basement, Plaza del Sol Building, 600 2nd St NW, on Wednesday, December 19, 2007, beginning at 9:00 a.m. for the purpose of considering the following:

Project# 1000539

07DRB-70400 VACATION OF PUBLIC
EASEMENT

07DRB-70401 VACATION OF PRIVATE
EASEMENT

07DRB-70402 MINOR - TEMP DEFR SWDK
CONST

07DRB-70403 MINOR - PRELIMINARY/
FINAL PLAT APPROVAL

MARK GOODWIN AND ASSOCIATES PA agent(s) for HOPE CHRISTIAN SCHOOL request(s) the above action(s) for all or a portion of Lot(s) 6, 7, 8-A ,9A-1, 10& 26, Block(s) 11, **NORTH ALBUQUERQUE ACRES Unit(s) A**, zoned SU-1 PRIVATE SCHOOL, located on PALOMAS NE BETWEEN SAN PEDRO AND LOUISIANA containing approximately 6.75 acre(s). (D-18)

Project# 1004073

07DRB-70399 MAJOR - 2YR SUBD IMP
AGMT EXT (2YR SIA)

MARK GOODWIN AND ASSOCIATES PA agent(s) for JTH, LLC request(s) the above action(s) for all or a portion of Lot(s) 1-5, **JUAN TABO HILLS Unit(s) 1**, zoned R-D, located on JUAN TABO BLVD NE BETWEEN EUBANK BLVD NE AND FOUR HILLS ROAD SE containing approximately 244.4124 acre(s). (M-21, M-22)

Project# 1006953

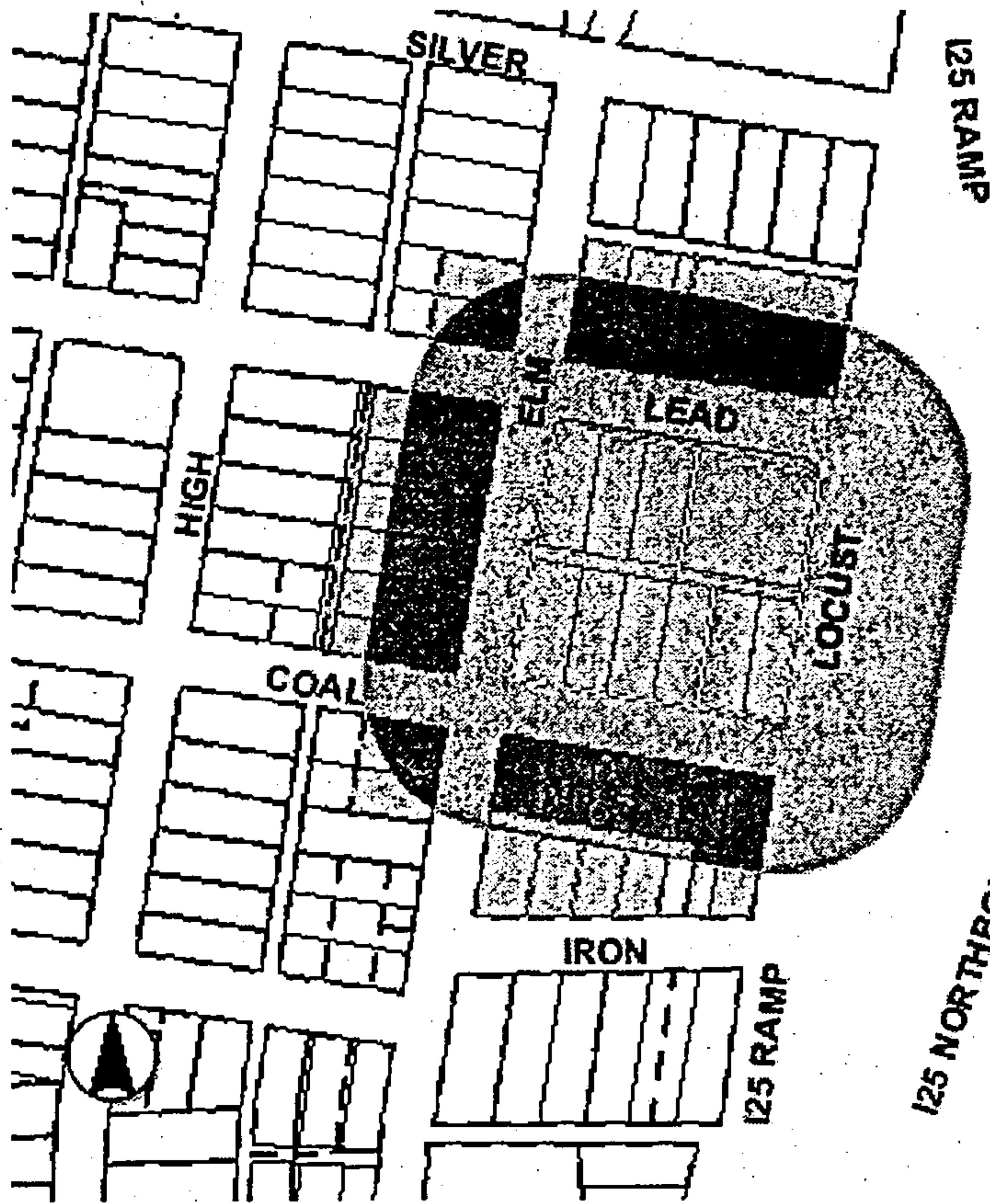
07DRB-70406 VACATION OF PUBLIC
EASEMENT

LOGAN HALL request(s) the above action(s) for all or a portion of Lot(s) 1-A, Block(s) 4, **TERRACE ADDITION**, zoned SU-2/NCR, located on LEAD AVE SE BETWEEN LOCUST AVE SE AND ELM ST SE containing approximately 0.4539 acre(s). (K-15)

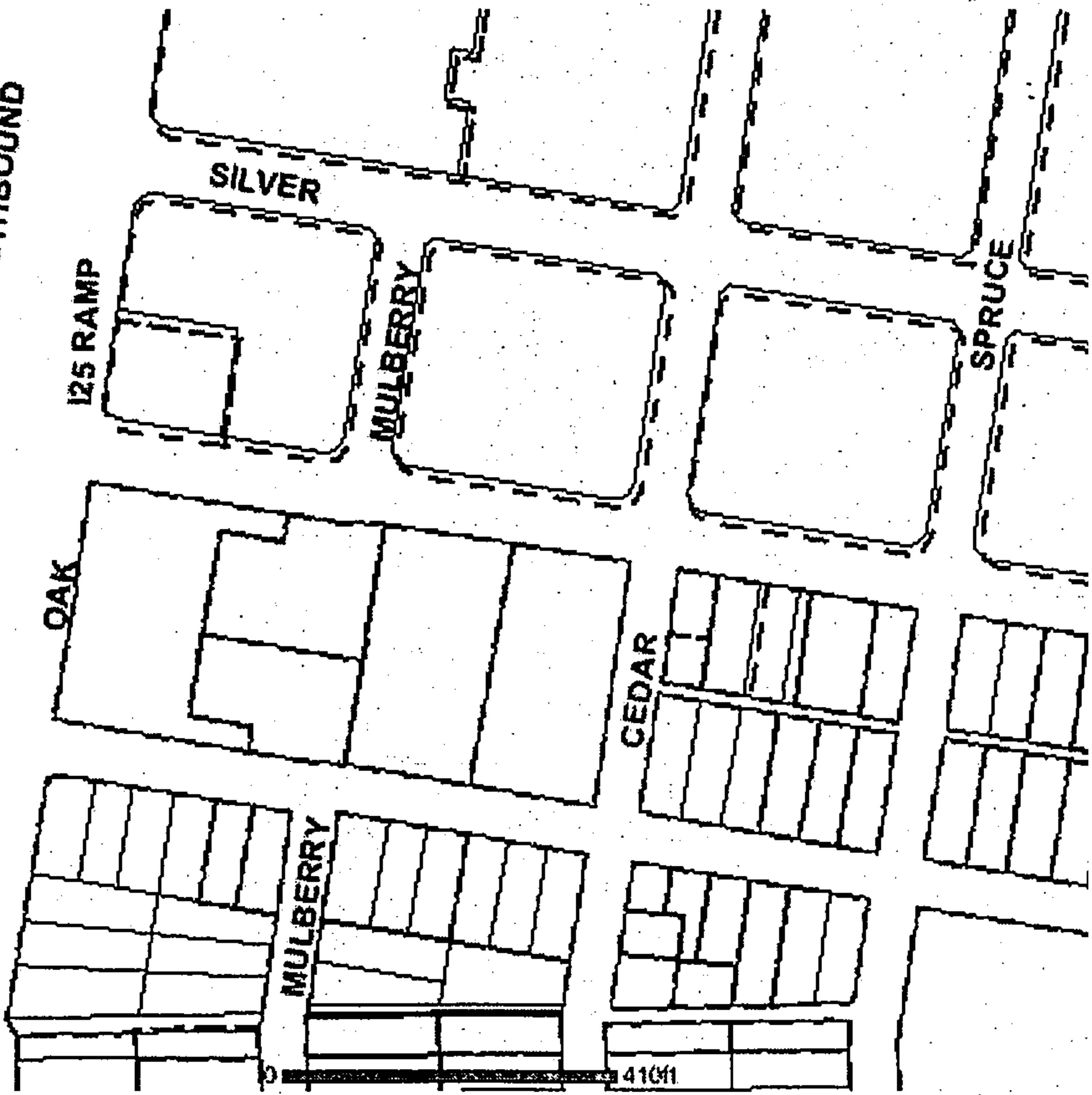
Details of the application(s) may be examined at the Development Services Center of the Planning Department, Second Floor, Plaza Del Sol Building, 600 2nd St NW, between 10:00 a.m. and 12:00 p.m. or 2:00 p.m. and 4:00 p.m. Monday through Friday except holidays INDIVIDUALS WITH DISABILITIES who need special assistance to participate at this hearing should contact Angela Gomez, Planning Department, at 924-3946 (VOICE) or teletypewriter (TTY) 924-3361 - TTY users may also access the Voice number via the New Mexico Relay Network by calling toll-free 1-800-659-8331.


Development Review Board

TO BE PUBLISHED IN THE ALBUQUERQUE JOURNAL MONDAY, DECEMBER 3, 2007.



I25 SOUTHBOUND
I25 NORTHBOUND



Rec	UPC CODE	OWNER	OWNER ADDRESS	OWNER CITY	OWNER STATE	OWNER ZIP CODE	PROPERTY CLASS	TAX DISTRICT	LEGAL
1	1015057 0272093 1110	SANTISTEVAN LEO & ANGEL & ERNEST & GLORIA	808 COAL AVE SE	ALBU QUER QUE	N M	871 02	R	A1 A	005TERRACE ADDN PORT L4, 5 & 6
2	1015057 0102532 0103	HELLENIC COMMU NITY OF N M	308 HIGH ST SE	ALBU QUER QUE	N M	871 02 3 631	V	A1 A	041HUNING HIGHLAND ADD E 106 1/2 FT LT 5 X 6
3	1015057 0412592 0206	GRADY RENTALS L LC	PO BOX 30 801	ALBU QUER QUE	N M	871 90 0 801	C	A1 A	LOT 12 A BLK 3 PLAT OF LOT 12- A TERRACE ADDN CONT 25,365 SQ FT M/L
4	1015057 0032293 2306	BUNGAY PROPERT IES LLC	116 CAMI NO ENCAN TADO	SANT A FE	N M	875 01	C	A1 A	040LOTS 1 THRU 6 X E1/2 OF VAC ALLEY ADJ HUNINGS HIGHLAND AD D
5	1015057 0162033 1111	SIMPSON DIANE L	628 FAIR WAY LP	RIO R ANCH O	N M	871 24	C	A1 A	* 006 005TERRACE ADDN N1*2 OF L6
6	1015057 0392023 1105	SRD PARTNER LIM ITED CO	320 CENT RAL SW S UITE 36	ALBU QUER QUE	N M	871 02	C	A1 A	LOT 1, 2, 3, 12 & E 28' OF LT 11 BLK 5 TERRAC E ADDN & VAC ALLEY ADJ EXC PORTS TO R/ W CONT 18,064 SQ FT M/L
7	1015057 0032033 3906	BUNGAY PROPERT IES LLC	116 CAMI NO ENCAN TADO	SANT A FE	N M	875 01	V	A1 A	039E 100 FT OF LOTS 1 X 2 H HIGHLANDS AD D
8	1015057 0262542 0201	SCHUTZBERGER R ICHARD & KATHY L	2908 CALL E GRANDE NE	ALBU QUER QUE	N M	871 04	C	A1 A	003TERRACE ADD LTS 7 X 8 X W 20FT LT 9
9	1015057 0362313 1203	GALLINGER EDWA RD L & SHARON E	PO BOX 57 5	TIJER AS	N M	870 59	V	A1 A	LT 1-A BLK 4 PLAT OF LOT 1- A BLOCK 4 TERRACE ADDITION CONT .4317 AC
10	1015057 0262013 1109	SANTISTEVAN LEO & ANGEL & ERNEST & GLORIA	808 COAL AVE SE	ALBU QUER QUE	N M	871 02	V	A1 A	* 004 005TERRACE ADDN N62 FT E34 FT L4
11	1015057 0402173 1202	RIO GRANDE OIL C O OF BERN CO	PO BOX 25 564	ALBU QUER QUE	N M	871 25 0 564	C	A1 A	004TERRACE ADDITION LOTS 11 X 12
12	1015057 0161983 1112	MORRIS HARY O J R	502 ELM S T SE	ALBU QUER QUE	N M	871 02 3 925	R	A1 A	005TERRACE ADDN S42 FT OF L6S42 OF W24 OF 5
13	1015057 0242223 1201	S.A.F.E. HOUSE IN C	PO BOX 25 363	ALBU QUER QUE	N M	871 25 0 363	R	A1 A	0004LOTS 4 THRU 10 & W10FT OF LOT 3 TER RACE ADDN
14	1015057 0141913 1101	NATL HEATING & V ENT CO INC	818 IRON AVE SE	ALBU QUER QUE	N M	871 02 3 945	C	A1 A	* 007 005TERRACE ADDN
15	1015057 0291913 1104	813 IRON LLC	813 IRON AVE SE	ALBU QUER QUE	N M	871 02 3 944	R	A1 A	* 010 005TERRACE ADDN
16	1015057 0191913 1102	NATL HEATING & V ENT CO INC	818 IRON AVE SE	ALBU QUER QUE	N M	871 02 3 945	C	A1 A	* 008 005TERRACE ADDN
17	1015057 0251913 1103	NATL HEATING & V ENT CO INC	818 IRON AVE SE	ALBU QUER QUE	N M	871 02 3 945	C	A1 A	* 009 005TERRACE ADDN

Or Current Resident
IRON LLC
813 IRON AVE SE
ALBUQUERQUE, NM 87102 3944

Or Current Resident
BUNGAY PROPERTIES LLC
116 CAMINO ENCANTADO
SANTA FE, NM 87501

Or Current Resident
BUNGAY PROPERTIES LLC
116 CAMINO ENCANTADO
SANTA FE, NM 87501

Or Current Resident
GALLINGER EDWARD L & SHARON E
PO BOX 575
TIJERAS, NM 87059

Or Current Resident
GRADY RENTALS LLC
PO BOX 30801
ALBUQUERQUE, NM 87190 0801

Or Current Resident
HELLENIC COMMUNITY OF N M
308 HIGH ST SE
ALBUQUERQUE, NM 87102 3631

Or Current Resident
MORRIS HARY O JR
502 ELM ST SE
ALBUQUERQUE, NM 87102 3925

Or Current Resident
NATL HEATING & VENT CO INC
818 IRON AVE SE
ALBUQUERQUE, NM 87102 3945

Or Current Resident
RIO GRANDE OIL CO OF BERN CO
PO BOX 25564
ALBUQUERQUE, NM 87125 0564

Or Current Resident
S.A.F.E. HOUSE INC
PO BOX 25363
ALBUQUERQUE, NM 87125 0363

Or Current Resident
SANTISTEVAN LEO & ANGEL &
ERNEST & GLORIA
808 COAL AVE SE
ALBUQUERQUE, NM 87102

Or Current Resident
SCHUTZBERGER RICHARD & KATHY
L
2908 CALLE GRANDE NE
ALBUQUERQUE, NM 87104

Or Current Resident
SIMPSON DIANE L
628 FAIRWAY LP
RIO RANCHO, NM 87124

Or Current Resident
SRD PARTNER LIMITED CO
320 CENTRAL SW SUITE 36
ALBUQUERQUE, NM 87102

Project# 1006953
LOGAN HALL
2107 CORTE DEL CABALLO NW
ALBUQUERQUE, NM 87120

Project# 1006953
BILL COBB
Silver Hill NA
1701 SILVER AVE SE
ALBUQUERQUE, NM 87106

Project# 1006953
GORDON REISELT
Silver Hill NA
1515 SILVER SE
ALBUQUERQUE, NM 87106

Project# 1006953
DANIEL LAIRD
Spruce Park NA
603 CEDAR NE
ALBUQUERQUE, NM 87106

Project# 1006953
BART CHIMENTI
Spruce Park NA
1502 ROMA NE
ALBUQUERQUE, NM 87106





LUEBBEN·JOHNSON
& BARNHOUSE·LLP
attorneys at law

kkeegan@luebbenlaw.com

December 19, 2007

Development Review Board
City of Albuquerque
Plaza del Sol Building
600 2nd St. NW
Albuquerque, NM 87102

Sheran Matson, AICP, Chair, Planning Dept.
Wilfred Gallegos, Transportation Development, Planning Dept.
Brad Bingham, Alternate City Engineer, Planning Dept.
Roger Green, Utility Development, Water Utility Dept.
Christina Sandoval, Parks & Recreation

Re: *07DRB-70406 Vacation of Public Easement*

Dear Development Review Board:

This law firm represents S.A.F.E. House Inc. ("SAFE House"). SAFE House owns the land to the west of the property for which vacation of the public easement has been requested. SAFE House operates a domestic violence shelter on the property it owns at this location. SAFE House opposes the request to vacate the public easement. The easement is in use and is the only route of access providing SAFE House essential solid waste removal services.

SAFE House is a nonprofit corporation. The mission of SAFE House is to shelter and empower survivors of intimate partner domestic violence and to improve the way New Mexico responds to this violence. Over 1,000 families go through the doors of SAFE House annually. SAFE House provides programming aimed at healing the wounds, breaking the cycle, and improving the lives of families in our community.

The easement is used three times per week by the Albuquerque Solid Waste Department ("Solid Waste Department"), which provides commercial solid waste

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collection services for the SAFE House facility. The collection service includes one large dumpster and 12 to 15 trash bin containers which are emptied three times per week, on Monday, Wednesday and Friday. The only route of ingress and egress to access the containers is via the public easement.

Additionally, this easement is used by PNM. The above-ground utility lines and the utility poles are located on the easement, including at least one pole located on the easement with what appears to be a transformer on it. Access to this pole would be impaired should the easement be vacated. There are also concerns regarding access to under-ground lines that may be located in the easement.

The application before the Board requests the portion of the easement, adjacent to lots 1, 2 and 3, be vacated. Section 14-14-7-2 in the Albuquerque Code of Ordinances, provides that vacation of a public easement shall be approved only when it is determined that:

- (1) The public welfare is in no way served by retaining the way or easement;
or
- (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; and in addition to division (1) or (2) of this division (B):
- (3) There is no convincing evidence that any substantial property right is being abridged against the will of the owner of the right.

To vacate an easement the Board must find that either factor (1) or (2) is met and that factor (3) is met. In this case none of the three factors are met.

The first factor is not met because the public welfare is served by retaining the easement. SAFE House provides essential shelter, programs and services to victims of domestic violence, a mission that is vital to the health of our community. In order to provide these services the SAFE House facility must receive operational services, such as solid waste removal, and the easement allows for this necessary service.

The second factor is not met. This factor requires balancing the benefit of vacation against the detriment resulting from vacation. Although the applicant would clearly benefit from vacation of the easement, the applicant must demonstrate how its development would benefit the public welfare, and it has failed to do so. The detriment to the public welfare resulting from vacation of the easement is great. As stated above, in order to provide its services, the SAFE House facility must receive operational services, such as solid waste removal. If the easement were vacated SAFE House would be forced to relocate the collection containers. The expense and logistics of relocating the collection

containers would be detrimental to SAFE House. After reviewing options with the Solid Waste Department, it appears that there is only one possible alternative location where the containers could be placed which would require, among other modifications, removing an existing concrete and stucco wall, building a new concrete and stucco wall with three sides and one side with a gate, and cement work required for any sidewalk and driveway modifications. SAFE House operates on a limited budget and does not have funding for this type of project. There is no evidence the applicant's development would benefit the public welfare, thus the benefit does not outweigh the detriment to SAFE House and the services it provides to our community.

The third factor is not met because there is evidence that a property right would be abridged against the will of the owner of such right. An easement is a property right in that it is an interest in land in the possession of another which entitles the owner of such interest to a limited use or enjoyment of the land in which the interest exists. A public easement is an easement for the benefit of an entire community. SAFE House has a property right in the easement as it is a member of the community, an adjacent property owner, and the easement is used by the City for the benefit of SAFE House. Therefore, vacation of the easement would abridge SAFE House's property right against its will.

On Friday, December 14, 2007, this office contacted the applicant, Logan Hall, in an effort to resolve this issue prior to today's hearing. Mr. Hall was advised that SAFE House's goal was to solve the problem that would be created by vacation of the easement and that if an agreement or solution could be reached, SAFE House would not oppose Mr. Hall's application. Mr. Hall declined the invitation to seek a compromise solution. Instead, he stated that waste management would have a solution and that he couldn't speak on behalf of the company seeking to have the City vacate the public easement.

Please feel free to contact me if you have any questions or comments regarding SAFE House's opposition to the request to vacate the public easement.

For the Firm,


Kelli J. Keegan

Cloud, Jack W.

From: Gomez, Angela J.
Sent: Monday, February 04, 2008 9:14 AM
To: Cloud, Jack W.
Subject: FW: Response to the Development Review Board's request for an update by February 1

From: Kelli Keegan [mailto:KKeegan@luebbenlaw.com]
Sent: Friday, February 01, 2008 4:08 PM
To: Gomez, Angela J.
Cc: jad@keleher-law.com; Hall.Logan@gmail.com; Michele Fuller
Subject: Response to the Development Review Board's request for an update by February 1

Ms. Gomez,

Re: Project # 1006953 07DRB-70406 VACATION OF PUBLIC EASEMENT

At the January 23, 2008, hearing, the Development Review Board requested that it be informed by February 1, 2008, of whether an agreement had been reached between Logan Hall and S.A.F.E. House Inc.

No agreement has yet been reached. S.A.F.E. House does not agree to Logan Hall's proposal. No further negotiations have taken place, due to Logan Hall's attorney, Jeffrey Dahl, being out of his office due to illness yesterday and today, and my being out of the office due to illness on Wednesday. Therefore, S.A.F.E. House maintains its position of opposition to the application.

Please feel free to contact me should you have any questions or concerns.

Thank you.

Kelli J. Keegan
Luebben Johnson & Barnhouse LLP
7424 4th Street NW
Los Ranchos de Albuquerque, NM 87107
Voice: (505) 842-6123 - Ext. 405
Fax: (505) 842-6124
Email: kkeegan@luebbenlaw.com
Web: www.luebbenlaw.com

THIS MESSAGE IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHICH IT IS ADDRESSED AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED, CONFIDENTIAL AND EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAW. If the reader of this message is not the intended recipient or agent responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination or copying of this communication is strictly prohibited. If you have received this electronic transmission in error, please delete it from your system without copying it, and notify the sender by reply e-mail or by calling (505) 842-6123 so that our address record can be corrected. Thank you.



LUEBBEN·JOHNSON
& BARNHOUSE·LLP
attorneys at law

kkeegan@luebbenlaw.com

January 22, 2008

VIA FAX AND EMAIL

Jeffrey A. Dahl
Keleher & Mcleod
P.O. Drawer AA
Albuquerque, NM 87103
FAX (505) 346-1370
EMAIL: jad@keleher-law.com

Re: 07DRB-70406 Vacation of Public Easement

Dear Mr. Dahl:

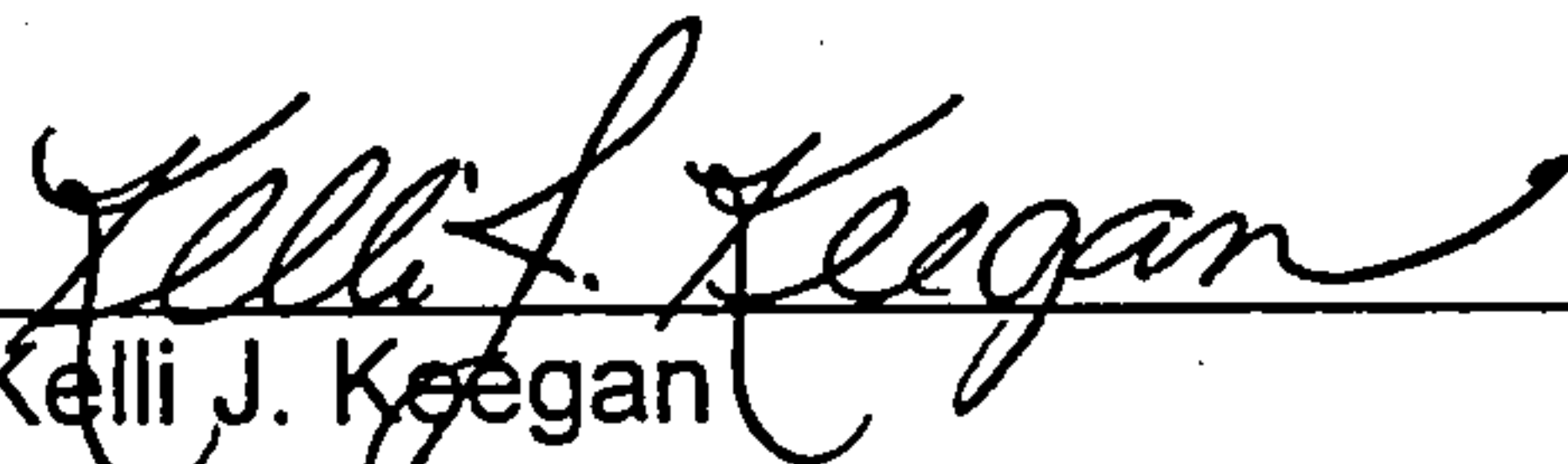
This letter responds to your telephone call to our office this morning and your subsequent email transmitting a proposed agreement regarding the above-referenced application. At the December 19, 2007, Development Review Board Hearing, Logan Hall was given two options: 1) have his application denied that day; or, 2) have his application deferred to the January 23, 2008, hearing, allowing him an opportunity to reach an agreement with S.A.F.E. House during the deferment period.

Mr. Hall did not contact us during this period, and your first contact with our office regarding a proposed agreement comes one day before the Development Review Board Hearing. Thus no agreement has yet been reached, but as I have previously advised Mr. Hall, S.A.F.E. House's goal is to solve the problem that would be created by vacation of the easement.

Jeffrey A. Dahl
January 22, 2008
Page 2 of 2

Therefore, at tomorrow's hearing I will not oppose another deferment period should you choose to request this of the Board. This would provide our office adequate time to review your proposal with our client, and then work with you toward a fair and legally sufficient solution.

For the Firm,


Kelli J. Keegan

cc: Development Review Board
James Baca, Albuquerque Solid Waste Department
Michele Fuller, S.A.F.E. House, Inc. Director

**AGREEMENT BY AND BETWEEN BRAD HALL & ASSOCIATES, INC. AND
S.A.F.E. HOUSE, INC. REGARDINGG VACATION OF PUBLIC EASEMENT**

WHEREAS, BRAD HALL & ASSOCIATES, INC (hereafter Hall) is the owner of that real property described as Lot 1A Block 4 Terrace Addition, located on Lead Avenue SE and Locust SE containing approximately .4539 acres, and

WHEREAS, S.A.F.E. HOUSE INC. (hereafter SAFE House) owns the land to the west of the Hall property and utilizes a public easement on the aforementioned property belonging to Hall for purposes of having its commercial solid waste serviced by the Albuquerque Solid Waste Department, and

WHEREAS, Hall has applied to vacate the public easement before the Development Review Board of the City of Albuquerque in order to maximize its use of the aforementioned property, and

WHEREAS, SAFE House has formally opposed the Hall's proposal to vacate the public easement with the Development Review Board of the City of Albuquerque, and

WHEREAS, Hall and SAFE House desire to resolve any differences regarding their respective uses of the aforementioned easement;

NOW THEREFORE it is agreed, upon mutual consideration, as follows:

1. SAFE House agrees to withdraw its opposition to Hall's application to vacate the public easement and Hall agrees to allow SAFE House to use the easement for pick up of its commercial solid waste and access to a large dumpster container upon the following conditions:
 - a. SAFE House agrees to indemnify and hold Hall harmless from and against any and all claims, demands, causes of action, debts or

liabilities arising out of or on account of SAFE House's use of the easement, occasioned by SAFE House's negligence.

- b. SAFE House agrees to be responsible for any and all costs associated with the pick up of its commercial waste, whether assessed by the City of Albuquerque or any other waste management company involved in servicing the hauling of commercial waste belonging to SAFE House.
- c. SAFE House agrees that it does not have presently, nor will it assert, at any time hereafter, any claim on the aforementioned property belonging to Hall by way of prescriptive easement, adverse possession or otherwise and that upon vacation of the public easement, if granted by the City of Albuquerque, SAFE House will make no further claim on the prior easement except as set forth in this Agreement.
- d. If the public easement is vacated by the City of Albuquerque, any use of the easement by SAFE House by Hall will be deemed a permissive use only of the easement by Hall.
- e. SAFE House agrees to store any waste or trash receptacles, including any large dumpster containers, on its own property. If SAFE House fails to adequately maintain its waste and waste containers and receptacles to such an extent that it constitutes a nuisance or devalues Hall's property, Hall shall be permitted to withdraw access to the easement on Hall's property.

2. Notices. All notices and other communications required or permitted to be given hereunder shall be in writing and shall be deemed to have been duly

given and delivered if mailed, certified, postage prepaid to Hall and/or SAFE House.

3. Applicable Law. This Agreement shall be governed, construed and enforced in accordance with the laws of the State of New Mexico.
4. Binding Effect. All of the agreements between the parties shall be binding upon and inured to the benefit of the parties, their successors and assigns.
5. Entire Agreement. This Agreement merges all previous negotiations between the parties hereto and constitutes the entire agreement and understanding between the parties with respect to the subject matter hereof. No alteration, modification or amendment hereto shall be valid except when in writing and when signed by the parties.

Dated: _____

BRAD HALL & ASSOCIATES INC.,

By Logan Hall, Manager

S.A.F.E. HOUSE, INC.

By



OFFICIAL NOTICE OF DECISION

CITY OF ALBUQUERQUE
PLANNING DEPARTMENT
DEVELOPMENT REVIEW BOARD

February 13, 2008

Project# 1006953 / 1002637
07DRB-70406 VACATION OF PUBLIC EASEMENT

LOGAN HALL request(s) the above action(s) for all or a portion of Lot(s) 1-A, Block(s) 4, **TERRACE ADDITION**, zoned SU-2/NCR, located on LEAD AVE SE BETWEEN LOCUST AVE SE AND ELM ST SE containing approximately 0.4539 acre(s). (K-15)
(Deferred from 12/19/07, 1/23/08 & 2/6/08)

At the February 13, 2008, Development Review Board meeting, the vacation of the eastern portion of the alley in Block 4 of the Terrace Addition was approved as shown on Exhibit B in the Planning file per section 14-14-7-2(A)(1) and (B) (1)(3) of the Subdivision Ordinance. A turn around is not required based on existing conditions.

(A)(1) The 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 eastern portion of the alley, because of the existing condition of the western portion of the alley.

(B)(3) There is no convincing evidence that any substantial property right is being abridged against the will of the owner of the right; concerns regarding refuse pick-up may be addressed through the City's Solid Waste Department for the adjacent property.

CONDITIONS:

1. Final disposition shall be through the City Real Estate Office
2. The vacated property shall be shown on a 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 February 28, 2008 in the manner described below.

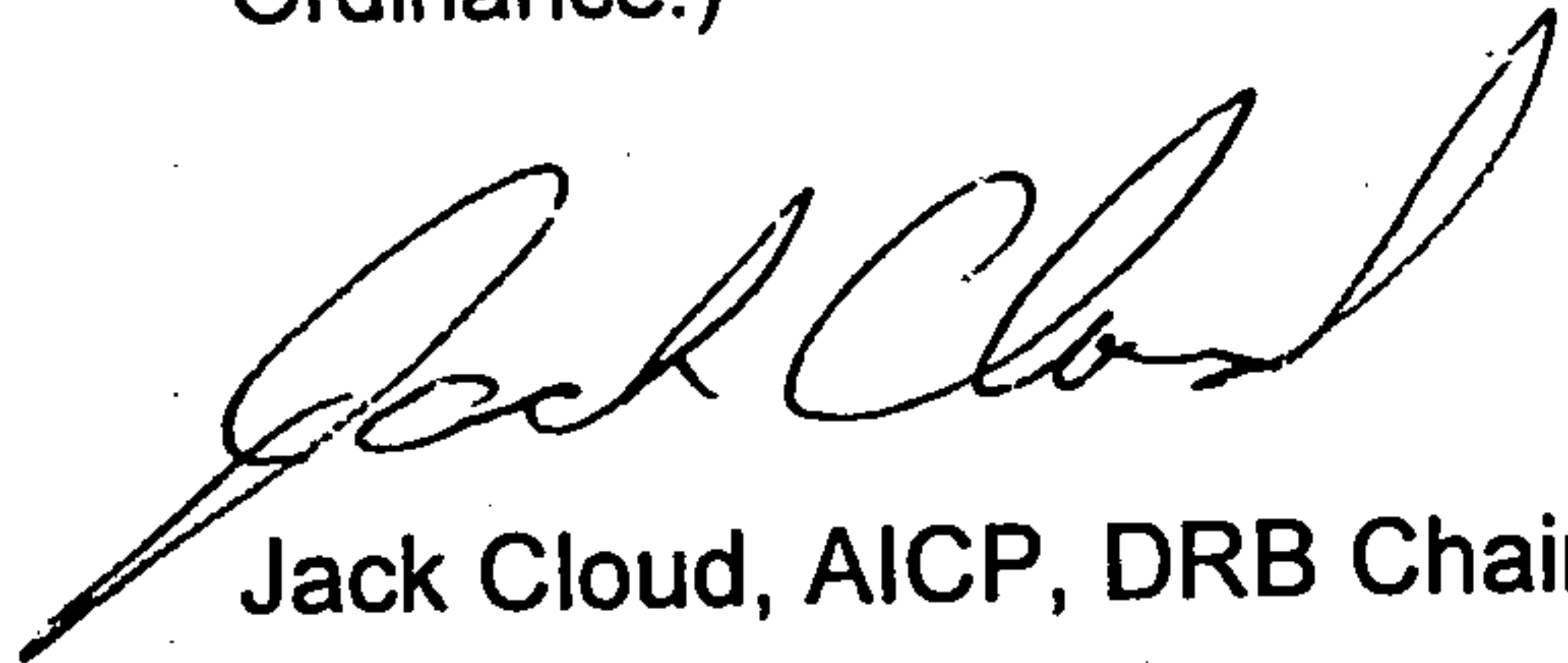
Appeal is to the Land Use Hearing Officer. Any person aggrieved with any determination of the Development Review Board may file an appeal on the Planning Department form, to the Planning Department, within 15 days of the Development Review Board's decision.

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.

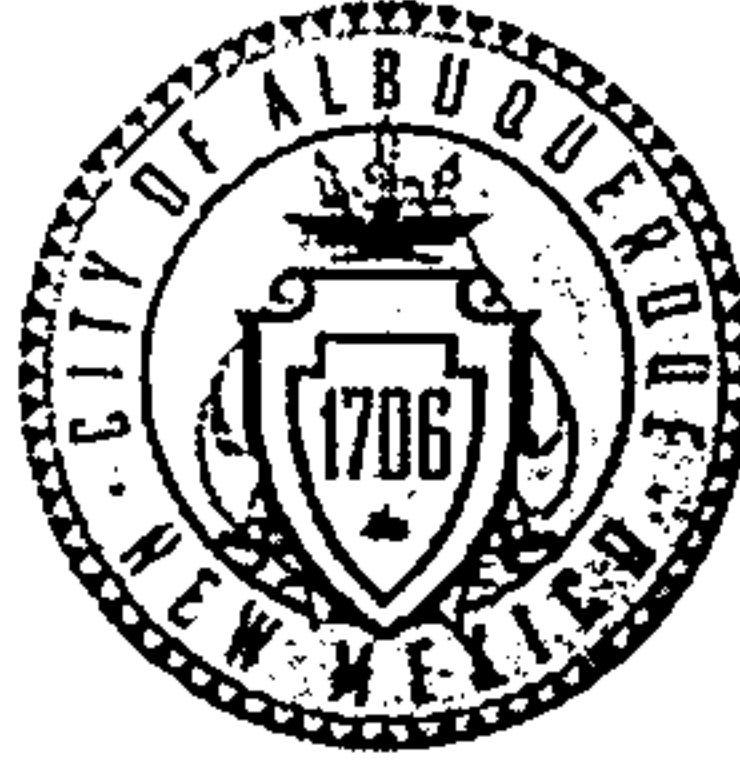
You will receive notice if any other person files an appeal. Successful applicants are reminded that other requirements of the City must be complied with, even after approval of the referenced application(s).

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: Logan Hall – 2107 Corte Del Caballo NW – Albuquerque, NM 87120
Cc: Kelli Keegan – 7424 4th St NW – Los Ranchos de Albuquerque, NM 87107
Cc: Jeff Dahl – P.O. Box AA – Albuquerque, NM 87103
Marilyn Maldonado
Scott Howell
File



DEVELOPMENT REVIEW BOARD

MINUTES

Plaza del Sol Hearing Room, Basement, Plaza del Sol Building

December 19, 2007

MEMBERS:

Jack Cloud, AICP, DRB Chairman, Planning Department

Angela Gomez, Administrative Assistant

**Kristal Metro, P.E. , Transportation Development
Brad Bingham, P.E., Hydrology/ Alternate City Engineer**

**Roger Green, P.E., Albuquerque/ Bernalillo Co.WUA
Christina Sandoval, Parks/Municipal Development**

Project# 1006953

07DRB-70406 VACATION OF PUBLIC EASEMENT

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PERSONS SPEAKING ON BEHALF OF THE REQUEST:

Logan Hall, 2107 Corte Del Caballo NW, Albuquerque, NM 87120

PERSONS PRESENT IN INTEREST:

Kelli J. Keegan, 7424 4th Street NW, Albuquerque, NM 87107
James Baca – City of Albuquerque Solid Waste Division

MR. CLOUD DRB CHAIR: The first item we will hear today is agenda item 2, which is now project # 1002637. Logan Hall requests the vacation for a public alley in the Terrace Addition. Could you be sworn in please?

MR. HALL SWORN IN

MR. CLOUD: Would you state your name please and describe your request.

MR. HALL: My name is Logan Hall, and we are requesting to have a 16 foot public alley vacated located on the corner of Elm, excuse me, Lead and Locust between those adjacent properties.

MR. CLOUD: Did you get a copy of the comments?

MR. HALL: I did.

MR. CLOUD: Okay, we'll go over the other comments from other agencies and then take the comments from the board. Going through the comments from other agencies, AMAFCA had no adverse comments. Council of Governments had no comment, this informational comment regarding Lead Avenue. No comments received from Transit. No adverse comments from Zoning Enforcement. Neighborhood Coordination indicates the neighborhoods which were notified. APS has no adverse comment, nor did the Police department, Fire Department, PNM, Comcast, Qwest, Environmental Health, or Council of Governments or Open Space Division. So we'll take comments from the Board. Parks and Recreation, Christina?

MS. SANDOVAL: We would defer to Transportation.

MR. CLOUD: City Engineer, Brad?

MR. BINGHAM: I would be in favor of a vacation of this portion of the alley.

MR. CLOUD: Transportation Development, Kristal?

MS. METRO: Well your letter still states that you believe that this public alley has been vacated in the West direction. If that's the case, I need to see proof of that vacation before you can vacate the other part of the alley.

MR. CLOUD: Have you researched that at all, what happened?

MR. HALL: We have. After sending in the letter we were able to perform a title search. The title search was taken back into, I mean it took a little excessive time because you know, it was 18 you know, I mean its old old, yeah it was a long time ago and we provided that to you but there has never been a vacation that's taken place on, I guess on the alley Westbound.

MR. CLOUD: Did you research the property to the West?

MR. HALL: We have, but it's a little difficult to gain additional information because of the nature of that property.

MR. CLOUD: Okay.

MR. HALL: We have spoken with them as well as with their attorneys and they are in favor of the vacation. We invited them to attend and have given them all the information they need.

MR. CLOUD: Okay. Utility Authority, Roger, do you have comments on agenda item two?

MR. GREEN: I have no objection at all.

MR. CLOUD: Okay, the Planning Department, we're concerned, it appears there is a dumpster facility that is in this alley now so we probably need something from the Solid Waste Department referencing that they approve of that. We do have one person signed up, is this Miss Yeager?

MS. KEEGAN: My name is Kelli Keegan and...

MR. CLOUD: Okay, could you come up and be sworn in please?

KELLI KEEGAN SWORN IN

MR. CLOUD: Could you join us at the table there? Do you have questions or comments on the vacation?

MS. KEEGAN: Yes. As I stated, my name is Kelli Keegan and I'm an attorney with Luebben-Johnson, & Barnhouse, and our lawfirm represents the property that is situated to the West, and that property is Safehouse, and I've actually prepared a letter for the Board and if I may, can I give each one of you a copy of

MR. CLOUD: Sure, thanks.

MS. KEEGAN: Would you like me to go ahead and continue, or would you like some time to review?

MR. CLOUD: Could you tell us the nugget of the letter please?

MS. KEEGAN: Sure, absolutely. As I stated, we represent Safehouse and Safehouse is a domestic violence shelter, and nearly a thousand families go through the shelter per year. It is situated to the West of the property that is at issue here and there is an easement that runs all the way through the block. The easement has not ever been vacated and Safehouse opposes the vacation that's before this Board. There's several reasons why safehouse opposes the vacation.

The primary reason is that their trash pick-up would be severely effected in that it would no longer be able to be picked up where it is right now. They have commercial waste disposal service and the Solid Waste Department has come out and done a site review and that person is here today. His name is James Baca, and after doing his review I'll basically let him give his comments, but...

MR. CLOUD: Excuse me, could you provide a copy of this letter to Mr. Hall?

MS. KEEGAN: Sure. So as I stated, the alley is in use right now, it's used 3 times per week by Solid Waste. There is a large dumpster located there and there's also 10 to 15 individual trashbins and to relocate those, the whole trash set-up would be a great expense to Safehouse and there's also a problem as far as where it could be relocated to. The Safehouse facility is basically an enclosed facility. It's all walled and all gated for security reasons – just the nature of the type of facility that it is. Also, section 14-14-7-2 of the Albuquerque Code of Ordinances states that one or two, it basically states that two factors must be met in order for a vacation of an easement, and in this case none of the three factors are met. The public welfare would be served by retaining this easement, as I just stated it's in use, and it's a very important use for this facility.

MR. CLOUD: If I might make just a correction, I know our advertisement says public easement is a right-of-way, so it is public right-of-way so its publically owned property so, but the same rules do apply for vacation of public right-of-way.

MS. KEEGAN: The second factor is also not met here and that would be that it would be more beneficial if the easment was vacated and the development was more beneficial to the public welfare, versus a detriment that would occur if the easement was vacated, and in this case as I stated, the cost that would be incurred by Safehouse would be a great detriment to Safehouse as they don't have funding to do this type of thing. And additionally, the third factor isn't met either. Safehouse does have a property right in this easement in that its using it for the benefit of Safehouse and therefore a substantial property right would be infringed upon. Our office did contact Mr. Hall last Friday and we basically wanted to see if there was anyway we would be able to come to an agreement because this has obviously caused a large problem for Safehouse as they won't be able to have their trash picked up. So I left open the possiblility of you know, reaching some type of agreement, and Mr. Hall basically just said Solid Waste would provide some solution and Solid Waste did do a site visit and I will let him let the board know what he found.

MR. CLOUD: James Baca, do you want to speak? Do you want to come in and be sworn in please?

JAMES BACA SWORN IN

MR. CLOUD: Could you have a seat at the table please so we can get you on the microphone? Thanks.

MR. BACA: My name is James Baca with the City Solid Waste Department and, I went out there and met Kelli and the two directors for the Safehouse and my conclusion came up to as to I thought maybe what they could do is come to some kind of agreement on a shared container or enclosure if they do vacate the alley, and maybe with the fence that adjacents to the property of whoever owns - the Chevron people own that property, if they could use their bin through that one gate if they built an enclosure there. Now I guess Kelli was telling me that they didn't know where they were going to build the enclosure. I said well maybe you guys can get together and find out like either on a proposed plan and see where they are going to build and maybe use that as a shared enclosure or bin. Either that or um, I'm not sure how that would work if um, how it would work with public easements - or I guess you were saying it was a public right?

MR. CLOUD: It's a public right-of way and there are utilities. We'd probably have to retain public easements anyway for utilities, and I'm not sure for a joint use of a Solid Waste facility. That may just be an agreement between the two properties.

MR. BACA: There's only one light pole or one utility pole that's on that property and that's it, so I mean, I'm not sure how that would work.

MR. CLOUD: So, but if you received something in writing between the two properties is that what you'd be looking for?

MR. BACA: That would be fine and like I said, they could share the enclosure from behind the Cheron part of the property, and that would be fine for us.

MR. CLOUD: Okay. Thank you. Mr. Bingham?

Brad Bingham: Kelli I have a question of you. The only, I mean the alley right now isn't functional for the public because of your property encroachment of a building and retaining wall that was built who knows how long ago. Is that your understanding as well?

MS. KEEGAN: That is correct, it's a totally enclosed facility

MR. BINGHAM: So essentially the alley that is on your property is not used by the public?

MS. KEEGAN: No its not.

MR. BINGHAM: Okay, I want to make that clear because if its not fuctioning from one end to the other as an alley, it isn't, the public's right, or the public benefit hasn't been usurped if this vacation goes through.

MS. KEEGAN: Um, I don't - that's not entirely the case because this application is to vacate a specific portion of the alley, it's a portion of the alley that's beside lots 1, 2 and 3, and so at issue is not the rest of the alley and that is...

MR. BINGHAM: It is, it is completely the rest of the alley. That is essentially the fact that it can't be used from one end to the other negates it as an alley.

MR. CLOUD: That was part of the Transportation comments is that we usually don't do a portional a partial vacation and, so I'm curious if you have any information about how the Safehouse acquired their portion of that, because usually there needs to be a vacation process and I don't know how long its been since that property has been built on, that alley right-of-way.

MS. KEEGAN: Right, and I know that Safehouse acquired it in 1982, and prior to that time I believe it was a different type of facility so I don't know when the walls were built, but Safehouse has you know, they have not submitted an application to have it vacated, nor do they intend to do so.

MR. CLOUD: Do you know if your deed papers mention anything about owning the alley? Your part of it?

MS. KEEGAN: No, I'm not aware of that, it is designated as a public alley on the plat.

MR. CLOUD: Right but you have structures on that alley.

MR. BINGHAM: In the alley itself.

MR. CLOUD: And so, I'm assuming you're claiming ownership of that portion of the alley where your structures are.

MS. KEEGAN: Its still being used for some public purposes. There's power lines that go across it and presumably there are some lines underneath as well.

MR. CLOUD: Isn't there a building on the far West end that goes over this right-of-way?

MS. KEEGAN: I actually have Brian Johnson who's the shelter program director here with me as well and he's more familiar with where buildings are situated on it, but we haven't done any type of legal analysis to determine weather or not the alley has in fact been vacated by you know, buildings being situated on it and I don't, I know that you feel that it is an issue before the Board, but this application

is specifically for vacating a portion of the alley, and so that's what our analysis was figured for. We don't have an application to have our portion of.....

MR. CLOUD: We're just curious about the history – how you aquired it, and if there was a vacation or just a quit-claim or something from the City.

MS. KEEGAN: There's no vacation, it is still designated as a public alley.

MR. BINGHAM: So how can the public use it?

MS. KEEGAN: If the public has a need to use it or somebody who wants to use it and you know, brings a claim that they should be able to use it, then we would address that at that time.

MR. CLOUD: I think that time is now, we are looking at vacationing the Eastern portion of the alley and it appears to us that the Western portion has been quit-claimed or vacated in some manner to Safehouse so, as Mr. Bingham has indicated the public benefit of the alley is to be a cross connection through, there is the benefit of the Solid Waste, so let me turn to Mr. Hall. Do you know who owns the property on the South side of this alley, have they expressed any interest in acquiring some of this?

MR. HALL: Yeah, first let me apologize, I did not mean to misrepresent Miss Keegan. Apparently when I said I didn't believe that they were opposed to the – I apologize I guess I misunderstood her. When I did speak with her last week I assumed that the board would help provide a solution for waste pick-up and so didn't necessarily care to give an answer at that point. To answer your question, the property to the South is the Chevron convenience store. We're in negotiations to purchase that location.

MR. CLOUD: So you'd have the whole eastern half of the block then is that correct?

MR. HALL: Yes sir, that's our plans.

MR. CLOUD: Okay. Are you amianable to having some type of joint refuse agreement with Safehouse?

MR. HALL: Due to being unfamiliar with the agreement, I would just need some explanantion as to how that would operate, how that would work.

MR. CLOUD: You need to talk to the Solid Waste Department. It would be your initiative with that other property owner to try to work that out.

MR. HALL: Okay, I guess without having an attorney here to as they've done, our only immediate concern would be that the public right-of way is not in use to

anyone other than Safehouse, and while I greatly respect what they do, I guess I have a hard time understanding why it would be our responsibility to ensure that a public right-of-way is met when its only in use by one party.

MR. CLOUD: They have a right to have their trash picked up through the alley, so that is a property right, that by the Ordinance we probably could not abridge by approving this vacation. If you can provide them an alternate means of refuse service by, it may be an easement I think is more of an agreement than an easement, but if you can reach an agreement then there is no property right that goes away by the vacation.

MR. HALL: Would it be inappropriate to suggest that their refuse be picked up on their portion of the alley?

MR. CLOUD: I don't think there's an alley there. I think it has been technically vacated if not literally – its technically been vacated. The City has probably quit-claimed it. I think you need to get with the adjacent property owners, get with the Solid Waste Department, see what type of agreement they want. I'm a little surprised you're doing a dumpster and 15 individual trash bins, that seems like a very awkward way to get service.

MR. HALL: Yeah I've never noticed those, We've only noticed the dumpster but perhaps they are there. Are they on the opposite side of the fence?

MS. KEEGAN: They are yeah, there are 85 residents at this time, so there's a great deal...

MR. CLOUD: I think it would be very difficult for this Board to approve this vacation if they're expressing an interest to keep their property right in trash service through the alley, so what we can do is we can table this, we can defer it to a specific date, allow you an opportunity to get with that property owner, see if you can work something out. Otherwise we could take an action today and probably vote to deny your vacation request and that could be appealed if you like to the City Council. But I think in the clear language of the Ordinance, we couldn't approve the vacation, and I would expect the Council could not either.

MR. HALL: Okay, looks like our decision is pretty easy then. We'll see if we can come up with an arrangement. How would you like us to present that arrangement to you?

MR. CLOUD: Well if we can defer this to a specific date, you would not have to re-advertise, so if you want to take a month or 4 to 6 weeks, whatever you think it might take to get this worked out, we could defer to a specific date in January or early February.

MR. HALL: January would be fine for us.

MR. CLOUD: Okay. If we went to January 23rd. Miss Keegan if you could please find out what right the Safehouse has to use that right-of-way. Again, I'm thinking of a quit-claim deed from the City but, if you could research the deeds to the property and let us know how it came to be in your acquisition.

MS. KEEGAN: I sure will.

MR. CLOUD: Okay.

MR. HALL: Sir, just one more question, if we were to decide not to build across both properties presumably, and just use the property which is in question here, and we were to determine that we would need use of the entire alley, that goes through the property what would then be the

MR. CLOUD: Well there are some physical restraints there obviously.

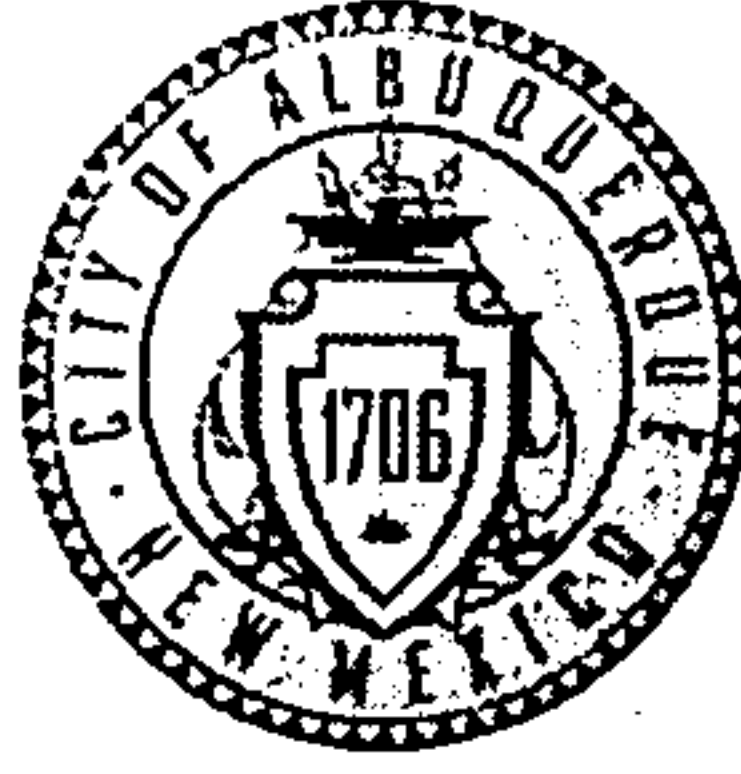
MR. HALL: Would there be action that would need to be taken.

MR. CLOUD: If you want to contact the City Attorney if you felt that you needed that, you could contact the City Attorney and they could see about what that might entail but, I believe given the existing physical improvements, even if they don't have acquisition, the City would probably negotiate an encroachment agreement with them rather than tear out the improvements so I don't think it's something that would come about to open up that alley.

MR. HALL: Okay. Thank you.

MR. CLOUD: Is there anyone else who wished to speak on agenda item number 2, vacation of the alley? Okay. We're going to defer agenda item number two then to the meeting of January 23rd, 2008. Thank you Mr. Hall

MR. HALL: Thank you



DEVELOPMENT REVIEW BOARD

MINUTES

Plaza del Sol Hearing Room, Basement, Plaza del Sol Building

January 23, 2008

MEMBERS:

Jack Cloud, AICP, DRB Chairman, Planning Department

Angela Gomez, Administrative Assistant

Kristal Metro, P.E., Transportation Development

Brad Bingham, P.E., Hydrology/ Alternate City Engineer

Roger Green, P.E., Albuquerque/ Bernalillo Co. WUA

Christina Sandoval, Parks/Municipal Development

Project# 1006953

07DRB-70406 VACATION OF PUBLIC EASEMENT

LOGAN HALL request(s) the above action(s) for all or a portion of Lot(s) 1-A, Block(s) 4, **TERRACE ADDITION**, zoned SU-2/NCR, located on LEAD AVE SE BETWEEN LOCUST AVE SE AND ELM ST SE containing approximately 0.4539 acre(s). (K-15)

PERSONS SPEAKING ON BEHALF OF THE REQUEST:

Logan Hall, 2107 Corte Del Caballo NW, Albuquerque, NM 87120

PERSONS PRESENT IN INTEREST:

Kelli J. Keegan, 7424 4th Street NW, Albuquerque, NM 87107

MR. CLOUD DRB CHAIR: This is project 1006953 Logan Hall requesting a vacation of a public right-of-way for the alley in the Terrace Addition. Good morning.

MR. HALL: Good Morning.

MR. HALL SWORN IN

MR. CLOUD: This was deferred from December, do you have an update for the Board?

MR. HALL: Yes. Just per the previous hearing we were asked to come to an agreement with Safehouse who has the adjoining property. We've presented them with our proposal for an agreement and I just found out this morning approximately an hour ago that they as least as I understand it they have not yet made a decision on whether or not they would agree to that, so I guess I'm not quite sure where to go from here. I've got copies if you'd like to be given a copy of the agreement.

MR. CLOUD: I believe they are present. Did you want to testify this morning?

MS. KEEGAN: Yes.

MR. CLOUD: Okay, could you be sworn in please?

MS. KEEGAN SWORN IN

MS. KEEGAN: Thank you Mr. Cloud.

MR. CLOUD: Would you speak into the microphone?

MS. KEEGAN: Thank you Board members, good morning. Since the last hearing, thirty three days have past and we had not heard from Mr. Hall or anybody representing that company until yesterday. An attorney representing them contacted our office via phone call saying that they wanted to work out an agreement. He then sent over a written agreement which as I stated this was yesterday. We do have a copy of that agreement. In response to that I drafted a letter and faxed it over to I guess the attorney that's representing Mr. Hall and I have a copy of that letter for the board this morning which I would like to give to each board member.

MR. CLOUD: Before you do that, would you tell us is this still something you're entertaining, I mean obviously you haven't had a chance to review it so, do you have any idea how long it would take you to review this proposal?

MS. KEEGAN: I don't, I mean at least a few weeks I would say, but given we've had thirty three days to work out the agreement, Safehouse's position is they still, they obviously oppose the application and you know, they were given the opportunity to work with us over a month. But as I state in this letter which I will give the board, Safehouse's goal still is to work with them to come up with a solution.

MR. CLOUD: Mr. Hall do you think a couple weeks will....

MR HALL: Sure. I don't want to get into a – I mean this is kind of silly but we've tried to contact them at least from my understanding our attorney tried to contact them last week. The Holiday season I don't think our attorney wasn't in and I'm fairly certain some of their attorney's weren't in either so its not that we're – we're happy to put together an agreement it seems pretty simple. It's probably – I've spoken also with I believe his name is James Baca who testified last time. I think there are other options.

MR. CLOUD: So you spoke with the Solid Waste Department? Mr. Baca with Solid Waste?

MR HALL: Yeah. So I think there are other options. We're happy to do this one. I think its fair and provides them for what they've asked. I apologize if we were I guess delinquent from their perspective. It wasn't our intention to hurry them at all I mean...

MR. CLOUD. Yeah these hearings roll back up on you before you know it, so - could we try a two week deferral Miss Keegan?

MS. KEEGAN: Sure.

MR. CLOUD: Okay, Mr. Hall, two weeks?

MR. HALL: Sure that's fine.

MR. CLOUD: Any questions or comments by the board? We will defer agenda item one Angela two weeks, that would be the meeting of February 6th. And if you could, you know, get us hopefully get something worked that Friday before give us a fax or an email or something to let us know how its going. That would be Friday the 1st of February.

MS. KEEGAN: Can I just go ahead and give the letter to Angela to distribute for the record for the board?

MR. CLOUD: Sure. That would be great.

MS. KEEGAN: Thank you.

MR. CLOUD: Thank you.

MR. HALL: Would you also like a copy of the agreement we sent to them?

MR. CLOUD: Sure. One copy should be fine. Is there anybody else wanting to testify on agenda item number one? Okay, if not then we will defer two weeks. That is the end of our public hearing portion of the agenda.



DEVELOPMENT REVIEW BOARD

MINUTES

Plaza del Sol Hearing Room, Basement, Plaza del Sol Building

February 6, 2008

MEMBERS:

Jack Cloud, AICP, DRB Chairman, Planning Department

Angela Gomez, Administrative Assistant

Kristal Metro, P.E., Transportation Development

Brad Bingham, P.E., Hydrology/ Alternate City Engineer

Roger Green, P.E., Albuquerque/ Bernalillo Co. WUA

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Project# 1006953

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PERSONS SPEAKING ON BEHALF OF THE REQUEST:

Logan Hall, 2107 Corte Del Caballo NW, Albuquerque, NM 87120

Jeff Dahl, P.O. Box AA, Albuquerque, NM 87103

PERSONS PRESENT IN INTEREST:

Kelli J. Keegan, 7424 4th Street NW, Albuquerque, NM 87107

MR. CLOUD: The next item is agenda item number 4, project number 1006953. Logan Hall requests vacation of public, this is actually an alley I believe in the Terrace addition in block 4. Good morning.

MR. DAHL: Good morning Mr. Chair I'm Jeffrey Dahl, Mr. Hall's attorney.

MR. CLOUD: Could you be sworn in for the public hearing please?

MR. DAHL SWORN IN

MR. CLOUD: So yes, this has been heard a couple of times now by the board, Mr. Dahl did you want to give us some new information?

MR. DAHL: Sure. We've been attempting to work out an agreement with Safehouse which is the property immediately to the West of my clients property and where the easement goes to. The issue the way I understand it is having ingress and egress for purposes of removing the trash. They have a public dumpster that's been placed on the easement and then they have some other garbage cans that they place out there for collection. Miss Keegan who is here, the attorney for Safehouse, we have been talking even as recently as last night, but I think that the one hold up that we have is my client's willing to give Safehouse an easement to have the trash picked up but they want it to be a permissive use easement rather than a permanent grant of easement in case that it becomes a nuisance situation. We don't want the trash being blown around or not kept up and so I really think that's the only issue that we have before us is weather or not they will agree to a permissive uses easement as opposed to a permanent grant of easement.

MR. CLOUD. Okay. I had to do some more checking last night as well, and again I mentioned our - we have a what's called a geographical information system, and its you know, to show the lot lines and its got photographs and cases histories. It appears that this alley had been vacated a long time ago. The property to the west have built over their portion of the alley. We do not have any case history of that here, however in trying to determine ownership issues with this, our system is showing that the alley was vacated on your portion as well and they have been, it appears that you're - if you have already purchased this property or whoever you're about to purchase it from, had been paying taxes on that alley for some time. So I don't know if you have the....

MR. DAHL: As I understand it and I may be wrong in my undestanding here, but the easement or the alleged easement, half of it is on the property my client has already purchased the other half my client is negotiating for the purchase of that property, hopes to close within the next week or so.

MR. CLOUD: Well not necessarily, because on the northside there was a replat and that replat did not include the alley. But I wrote down the uniform property code numbers so if you'd like to take this. I'd recommend that you go over to the County Assessor's Office. Do you know where they are? They are at 5th and Tijeras it's a two story bulding just North - one block North of the library. And see what information they have because it may very well be that the vacation that benefited the property to the West has also effectively been vacated and given to

the property on the East as well, so we may not need to do this vacation action if the Assessor has evidence that shows it's already yours.

MR. DAHL: Okay.

MR. HALL: Would that generally appear on a title search?

MR. CLOUD: It should.

MR. DAHL: They'll have some plats over there as well at the Assessor's Office or at least they should.

MR. CLOUD: But you see often your title search will say you're you know, being billed for lots 11 and 12 when actually you know if you dig a little deeper its 11 and 12 plus half the alley, so that's the property to the South and to the North since that was just recently replatted a few years ago it did not include that so, I'm not sure if Rio Grande... on the South or whatever but - or it has the whole thing, but I really recommend you check with the Assesor and see what you can find out about the vacation of that alley. It might make this action moot today. I'd recommend a one more week deferral to allow you to see what the Assesor might have regarding that alley.

MR. DAHL: We'll agree to that sure.

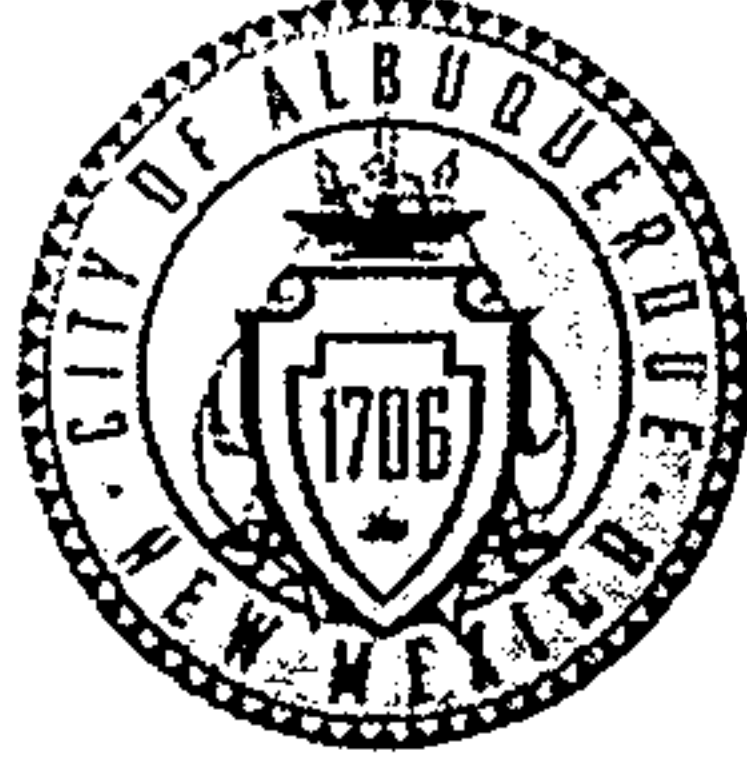
MR. CLOUD: We do have one person signed up to speak Miss Keegan did you want to speak today?

MS. KEEGAN: I don't really have anything further to add based on this new information.

MR. CLOUD: Okay. Did you ever do a title search for your property?

MS. KEEGAN: We have the title for our property...

MR. CLOUD: Do you have any information regarding the alley way and how that was acquired? No? Okay. You might want to go to the Assesor's Office as well and see because clearly you are paying, I imagine you are paying taxes for it too, and they might have some information about how that came to be. So if you're agreeable then we'll defer this one more week to the meeting of February 13th. Did the board have anymore comments? No, okay.



DEVELOPMENT REVIEW BOARD

MINUTES

Plaza del Sol Hearing Room, Basement, Plaza del Sol Building

February 13, 2008

MEMBERS:

Jack Cloud, AICP, DRB Chairman, Planning Department

Angela Gomez, Administrative Assistant

**Kristal Metro, P.E., Transportation Development
Brad Bingham, P.E., Hydrology/ Alternate City Engineer**

**Roger Green, P.E., Albuquerque/ Bernalillo Co.WUA
Christina Sandoval, Parks/Municipal Development**

Project# 1006953

07DRB-70406 VACATION OF PUBLIC EASEMENT

LOGAN HALL request(s) the above action(s) for all or a portion of Lot(s) 1-A, Block(s) 4, **TERRACE ADDITION**, zoned SU-2/NCR, located on LEAD AVE SE BETWEEN LOCUST AVE SE AND ELM ST SE containing approximately 0.4539 acre(s). (K-15)

PERSONS SPEAKING ON BEHALF OF THE REQUEST:

Logan Hall, 2107 Corte Del Caballo NW, Albuquerque, NM 87120

Jeff Dahl, P.O. Box AA, Albuquerque, NM 87103

PERSONS PRESENT IN INTEREST:

Kelli J. Keegan, 7424 4th Street NW, Albuquerque, NM 87107

MR. CLOUD: Next item is agenda item number 7, project 1006953. Logan Hall requests the vacation of the public right-of-way of the alley in block 4 in the Terrace Addition.

MR. HALL AND MR. DAHL SWORN IN

MR. DAHL: Good morning Mr. Chair, Board, after last weeks...

MR. CLOUD: Could you state your name for the record again please?

MR. DAHL: Yes my name is Jefferey Dahl, I'm an attorney with Kelaher McCloud representing Brad Hall and Associates. After last weeks meeting, we have gone to GIS mapping. It appears clear from the mapping that the easement in this case, the public easement must have been vacated some time ago. There isn't - it shows no public easement at the present time, simply a dotted line meaning that there was an easement there at one time but its been removed. We've also looked at the deeds for the surrounding areas and they don't seem to mention any public easement. The problem is there is nothing that I can tell in any records that show when the easement was vacated. And apparently at least as to my clients property they are not being assesed for that portion that used to be the public easement. And so I guess what we need is something that would be of record to go forward in this case. It's clear that there's no public easement. Safehouse, which is the property to the West, has built over the easement as part of their construction, but my client is still not being assessed for it and I can have that taken care of I guess at the County Assessor's Office but...

MR. CLOUD: Our georgraphic information system gets their information from the Assessor so, but when you went to the Assessor's they said that they are not charging you for that?

MR. DAHL: They're saying it's not being assessed is that correct?

MR. HALL: That's correct.

MR. CLOUD: So did they say how come they had it down as being owned by this particular adjacent property?

MR. DAHL: They did not. They did not so...so my client's willing to have that obviously assessed and has no problem with that, but it is kind of a kunundrum.

MR. CLOUD: Okay. Well the other thing is that if you had shown posession of the property, then you could have avoided having to go through the City Real Estate Office.

MR. DAHL: Sure.

MR. CLOUD: But now per this vacation you will have to acquire it through the City Real Estate Office. Miss Keegan, you are signed up to speak? Do you want to come forward please?

MS. KEEGAN SWORN IN

MR. CLOUD: Did you find anything out about your alley on your client's property about acquisition or vacation?

MS. KEEGAN: Thank you Board. My name is Kelli Keegan, and I do represent Safehouse, which is the property owner to the West of this alley that's at issue. What basically - I haven't seen what Mr. Hall obtained from the County Assessor's Office. (*Discussion between Mr. Dahl and Miss Keegan*) At this point our position is that basically the alley has never formally been vacated and the alley exists to this day and as you know it is in use by the Solid Waste Department. If this application continues to go forward we will maintain our position that the two of the three factors have to be met under the Ordinance are in fact not met and Safehouse - it's really important that they have their solid waste picked up, and the dumpsters are there and this is a paved alley and its used three times per week for that purpose. So at this point I've seen - the presumption is that the alley exists until there is conclusive evidence that it's been vacated and at this point I haven't seen any evidence that it's been vacated. You had asked me to look at the deeds of the property. All of the deeds that I've seen say they are subject - and I actually have copies - say that they are subject to any recorded easements or incumbrances of record, and this alley is as you can see from the map that was submitted by the applicant - the alley is duly noted on this map that it's a public alley and also the deed to these lots that are owned by the applicant it says that its subject to any alley - alley's of record or easements of record. This is a public alley, not an easement, and there is an exhibit that references the public alley so at this point from everything that we have before us, it looks like the alley does exist.

MR. CLOUD: Okay

MS KEEGAN: And so you know going through this...

MR. CLOUD: So the deeds for the Safehouse do not show any acquisition from the City of Albuquerque acquiring title of it?

MS KEEGAN: Well the current deed that transfers ownership from the prior owners to Safehouse - it just says its subject to any easements, that verbage that they say easements, alleys and incumbrence of record. Now I haven't went through the entire chain of title, you know, back to 1912 whenever this plat was established that put these alleys in. That's certainly something that could be done is to go through the chain of title of each of these surrounding properties and I mean, that would be quite time consuming but I mean that could be done.

MR. CLOUD: Well I think - is there anybody else here who wants to speak on this item?

MR. DAHL: Can I respond?

MR. CLOUD: Briefly sure.

MR. DAHL: Sure. First of all we have copies of the deeds that were issued in 1982 to the Women's Community Association Inc. which I believe was the predecessor to Safehouse. They make no mention of any easements and Safehouse is being assessed for that property, while my client is not being assessed, Safehouse is. So obviously there is no easement that goes through the entire block - there is no public easement.

MR. CLOUD: Well I was hoping that the assessor might have some record of some action but it sounds like they did not, so we're not necessarily going to take the Assessor's - whether or not they are charging you or not, as a definitive answer to this situation, so Miss Keegan by your testimony, we're going to have to assume that the alley still runs through Safehouse as well, and it puts us in an awkward position because we could vacate the alley provided Mr. Hall would provide a turn around for the portion of the alley that runs through your property, but that seems highly impractical. But I think we would have to, from Planning's perspective, I would argue with you, that there is a substantial property right here. The pick up of refuse can be done on site in many different ways. The fact that this was arranged at this time that they come through what the old alley was I don't think that would be considered a substantial property right by the Planning Department... Board, Comments?

MS SANDOVAL: I would have no objection to the vacation. It appears that there is already non-compliance with Safehouse and I wouldn't have an objection.

MR. CLOUD: City Engineer, Brad?

MR. BINGHAM: I also agree that this doesn't - it hasn't been an alley, it doesn't work as an alley, there's a retaining wall in the middle of it, there is a building on the West end of it that is owned and operated by Safehouse. Vacating this portion of the alley does not keep any property West of this alley from getting access to an already used public right of way, so my opinion is that this hasn't worked as an alley, it's an access point for a dumpster which can be managed from any drive on this property and so I would have no objection to the vacation.

MR. CLOUD: Water Authority, Roger?

MR. GREEN: I have no objection to a vacation.

MR. CLOUD: Okay. Transportation Development, Kristal?

MS. METRO: We do not typically vacate a portion of an alley, however as has been discussed, this area does not appear to function as an alley. There's a sudden grade change in the midpoint of the alley and in addition a building is

located within the right of way. As such, this area can no longer be considered a functioning alley way.

MR. CLOUD: So you would not look to have, even though there may be a platted alley to the West, you would not look to have a turn around platted for this because it would serve no purpose in practicality?

MS. METRO: That would be the typical response, but that doesn't seem to serve any purpose based on the aerial photographs of this area.

MR. CLOUD: Okay, I think based on the testimony of the Board, we're probably prepared to approve this vacation. Mr. Hall I hope you can provide some accommodation for refuse pickup with adjacent property owners, but I'm not sure we can make that a condition of this vacation. And just to be clear we are not going to require a turnaround Kristal? You would not require a turnaround?

MS. METRO: That's correct.

MR. CLOUD: Based on existing conditions - Board concurs? We'll approve the vacation request then, that again in terms of the public welfare, this alley I don't believe is serving the public. It does not go through, therefore the public welfare is not served by retaining the right of way. I think there is a net benefit to the public welfare to approve the vacation again based on the impracticality of having a through alley, and that it would relieve the City of any obligation or liability for this portion of an alley, and that there is no convincing evidence any substantial property right is being abridged against the will of the owner or the right, and that the refuse pick up really is not going to be considered as a substantial property right.

If you were present for the earlier vacation hearing, we did have a vacation request where somebody wanted to vacate the only legal access to a property and again that's not the case here - that would qualify as a substantial property right. Other arrangements can be made for refuse pickup, and hopefully if the current situation is working fairly well for the Safehouse, that they could negotiate with Mr. Hall to get some type of use easement with - for refuse pickup on his property. There is a 15 day appeal period if you wish to appeal this decision you may do so. It could be referred to the City Council and heard by Land Use Hearing Officer who will make a recommendation to the City Council. By signing up we will notify you by mail of our decision.

MR. DAHL: Thank you Mr. Chair.

CITY OF ALBUQUERQUE

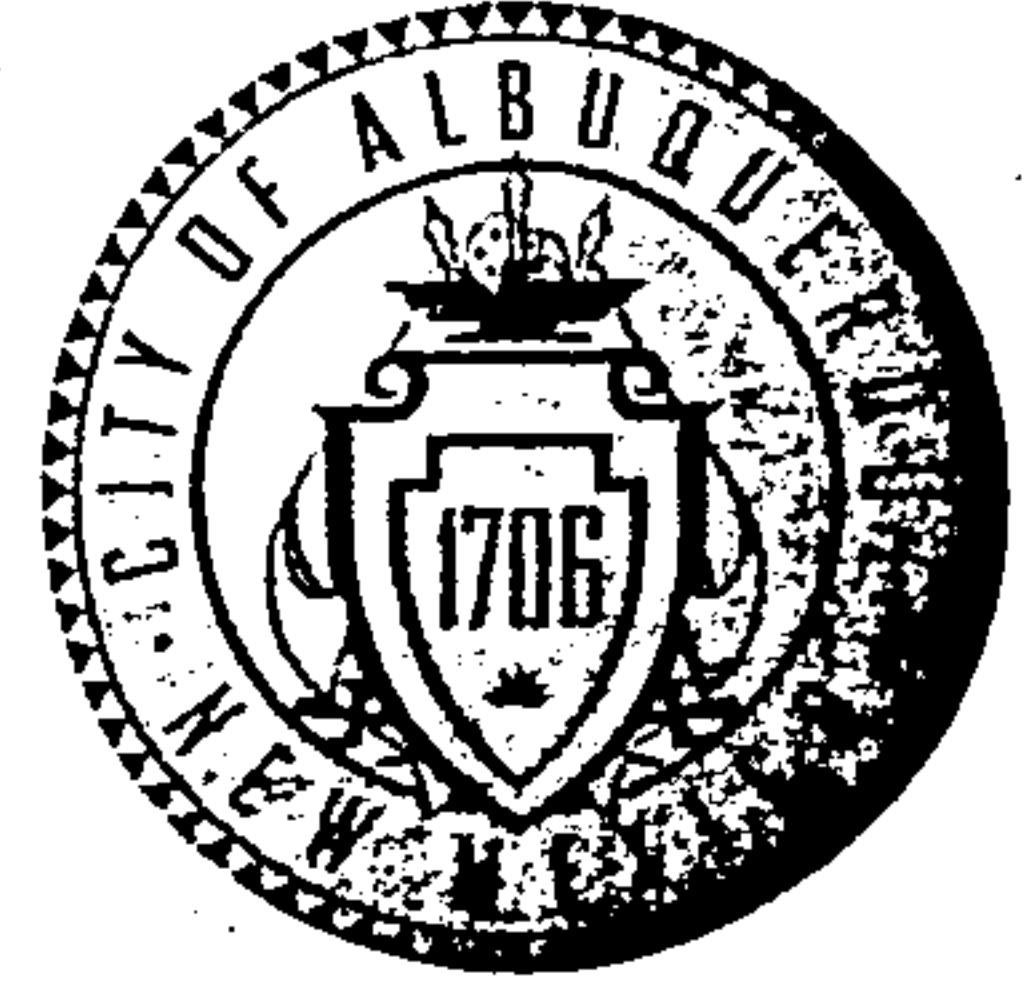
Planning Department

Richard Dineen, Director

Development Review Division

600 2nd Street NW – 3rd Floor

Albuquerque, NM 87102



NOTICE OF APPEAL

March 3, 2008

TO WHOM IT MAY CONCERN:

The Planning Department received the attached appeal on February 28, 2008. You will receive a Notice of Hearing as to when the appeal will be heard by the Land Use Hearing Officer.

Please refer to enclosed Bill (F/S OC-04-6, Land Use Hearing Officer Rules of Procedure and Qualifications) for any questions you may have regarding the Land Use Hearing Officer rules of procedure.

Any questions you might have regarding Land Use Hearing Officer policy or procedure that are not answered in the enclosed bill can be answered by Crystal Ortega, Clerk to the Council, (505) 768-3100.

CITY COUNCIL APPEAL NUMBER: AC-08-3

PLANNING DEPARTMENT CASE FILE NUMBERS: 1002637
07DRB-70406

APPELLANT(s): S.A.F.E. House
P.O. Box 25363
Albuquerque, NM 87125

AGENT(s): Karl E. Johnson, Luebben Johnson & Barnhouse
7424 4th Street NW
Los Ranchos de Albuquerque, NM 87107

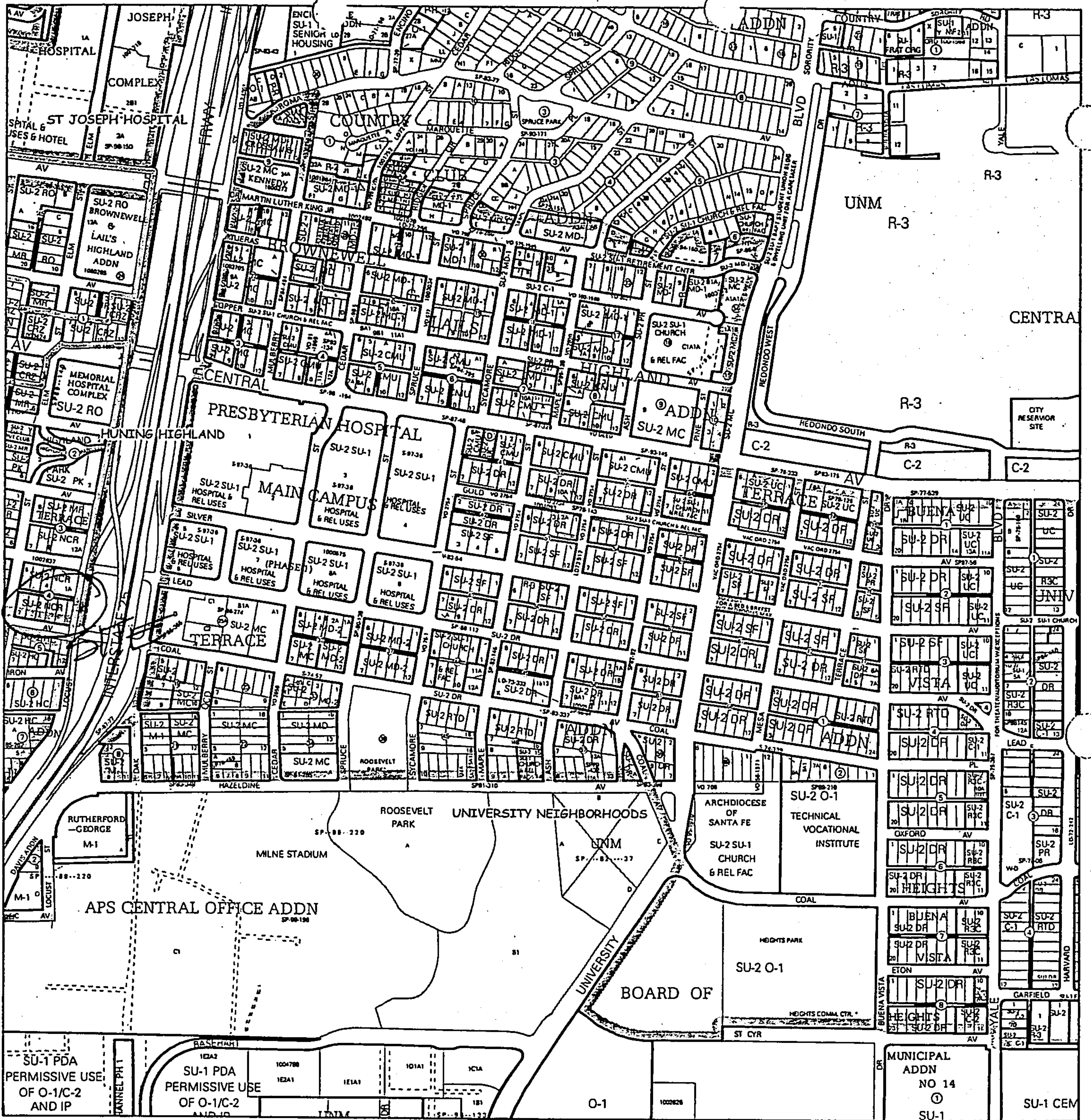
cc: Logan Hall – 2107 Corte Del Caballo NW – Albuquerque, NM 87120
Kelli Keegan – 7424 4th St NW - Los Ranchos de Albuquerque, NM 87107
Jeff Dahl – P.O. Box AA – Albuquerque, NM 87103
Marilyn Maldonado, COA Planning Department, 600 2nd Street NW – 4th Floor, Abq., NM 87102
Scott Howell, COA Legal Real Property, 1 Civil Plaza – 4th Floor
Crystal Ortega, Clerk to the Council, City County Bldg – 9th Floor
DRB File
Enclosure: LUHO Rules of Procedure and Qualifications (6 pages)

PO Box 1293

Albuquerque

NM 87103

www.cabq.gov



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

Map amended through: 5/17/2007

Note: Grey Shading Represents Area Outside of the City Limits

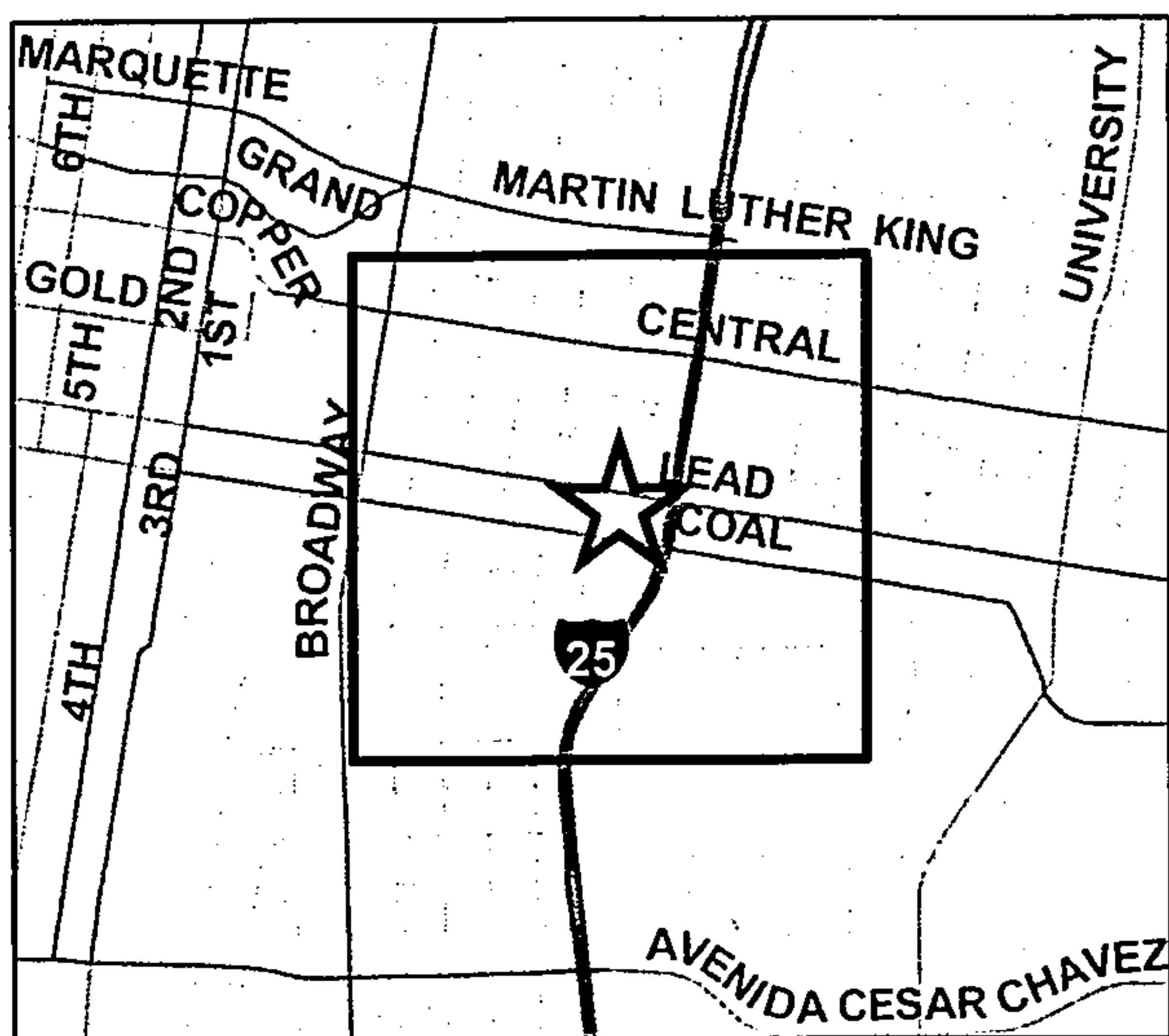
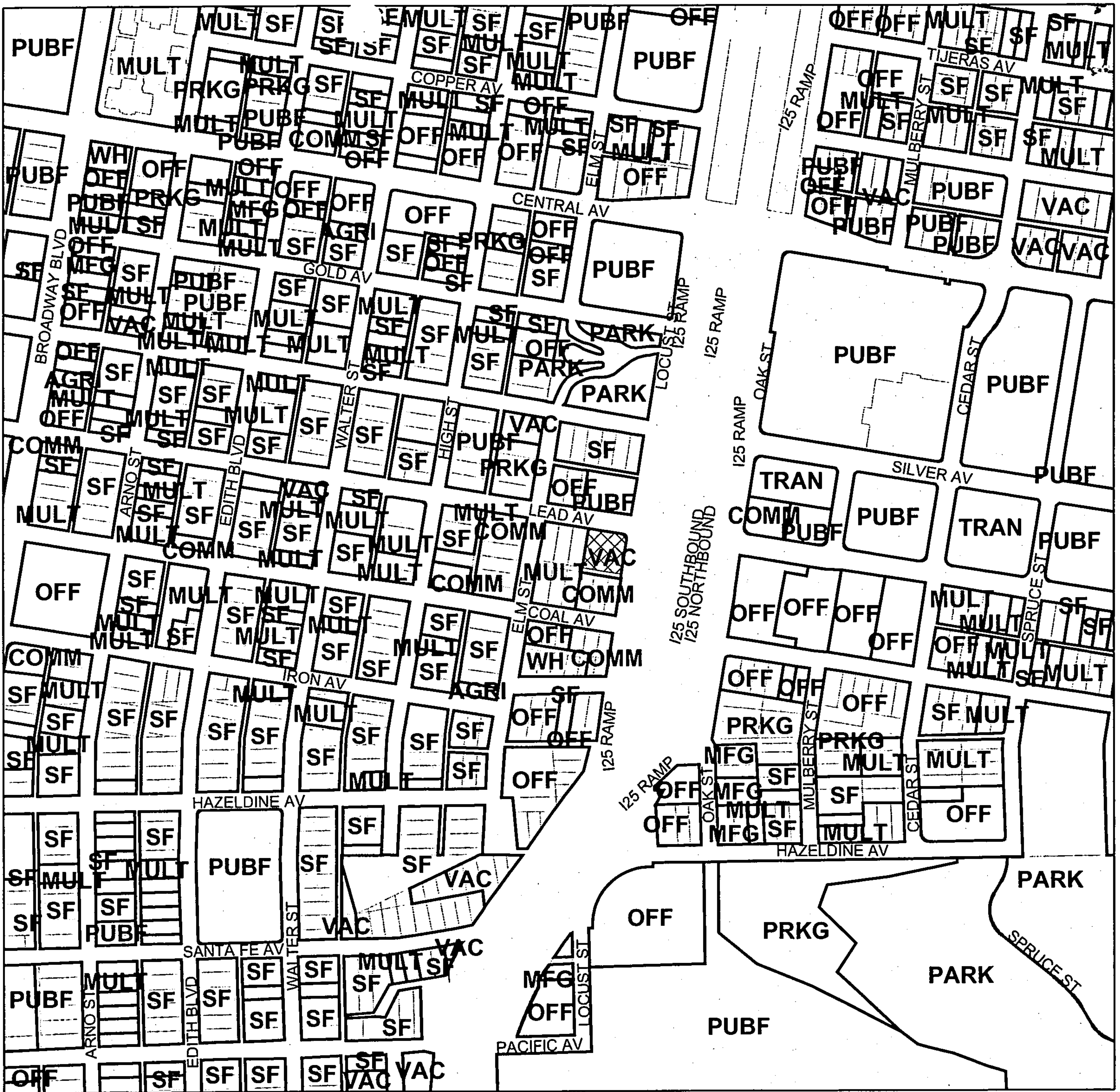
Zone Atlas Page:
K-15-Z

Selected Symbols

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

0 750 1,500 Feet

65



LAND USE MAP

Note: Grey shading indicates County.

KEY to Land Use Abbreviations

- AGRI Agricultural
- COMM Commercial - Retail
- DRNG Drainage
- MFG Manufacturing or Mining
- MULT Multi-Family or Group Home
- OFF Office
- PARK Park, Recreation, or Open Space
- PRKG Parking
- PUBF Public Facility
- SF Single Family
- TRAN Transportation Facility
- VAC Vacant Land or Abandoned Buildings
- WH Warehousing & Storage



1 inch equals 500 feet

Project Number:
1006953

Hearing Date:
December 19, 2007

Zone Map Page:
D-18

Additional Case Numbers:
07DRB-70406

66



CHAVEZ LAW FIRM, P.C.

STEVEN M. CHAVEZ
ATTORNEY AT LAW

April 29, 2008

Kelli Keegan, Esq.
Luebben-Johnson & Barnhouse,
LLP
7424 4th Street NW
Albuquerque, NM 87107
Via Fax: 842-6124

Russell D. Brito
Planning Department
600 2nd Street NW, 3rd Floor
Albuquerque, NM 87102
Via Fax: 924-3339

Logan Hall
Brad Hall & Associates Inc.
2107 Corte Del Caballo NW
Albuquerque, NM 87120

RE: Albuquerque Appeal
No. AC-08-03

Dear Parties:

Enclosed is a copy of my Recommendation on the above referenced appeal matter. The Original has been forwarded to the City Council with the Exhibits, if any. Please call the City Council for information about when this matter will be reviewed by the Council. Thank you.

Cordially,

CHAVEZ LAW FIRM, P.C.

By: 
STEVEN M. CHAVEZ
Land Use Hearing Officer

cc/ Office of the City Council
File

LAND USE HEARING OFFICER'S RECOMMENDATION

APPEAL NO. AC-08-03
07DRB-70406
Project No. 1006953 / 10022637

S.A.F.E. HOUSE, Appellants,

BRAD LOGAN HALL, Party Opponent.

I. PROCEDURAL BACKGROUND

1
2
3 The matters presented in this appeal concern two parcels of land and an alleyway in S.E.
4 Albuquerque. Brad Logan Hall, through Logan Hall & Associates, Inc. (Hall), entered into a
5 contract to purchase and develop a vacant parcel of land at the corner of Locust Street and Lead
6 Avenue S.E. Apparently, to maximize development space, Hall applied to the Development Review
7 Board (DRB) to vacate a public alleyway on the South side of the vacant parcel.

8
9 The alleyway is publically owned by the City of Albuquerque. The alleyway is utilized
10 primarily by an adjacent property owner, S.A.F.E. House, a commercial business, (Appellants) and
11 the City of Albuquerque. It is undisputed Appellants' solid waste trash bins are located in the alley.
12 It is also undisputed that the alley serves as the ingress/ egress for Appellants' solid waste disposal
13 removal by the City's Solid Waste trucks. Notably, the alley is not a thoroughfare. The alley
14 extends from Lead Avenue and ends at the West side of Appellants' parcel of land.

15
16 On November 20, 2007, Hall submitted an application to the City to vacate the subject
17 alleyway. The DRB held its first public hearing on the Hall application on December 19, 2007.
18 Appellants opposed the application, claiming they had a property right in trash removal in the
19 alleyway. At that hearing, after some testimony and arguments were presented, the DRB deferred
20 the Hall application on the grounds that it wanted the parties to attempt to resolve the dispute on their
21 own.

22 The matter was again taken up by the DRB at its January 23, 2008 public hearing. The DRB
23 again deferred the Hall application, allowing Mr. Hall and Appellants more time to attempt a
24 resolution to the dispute over the alleyway.

25
26 On February 6, 2008, after additional testimony and arguments were presented at its public
27 hearing, the DRB approved the Hall application to vacate the public alleyway. Appellants filed their
28 timely appeal and this Land Use Hearing Officer heard the appeal on April 21, 2008.
29
30

1 **II. ISSUES PRESENTED BY APPELLANTS**
2

3 This appeal concerns the public alleyway, its use or uses, and whether, or not, the standards
4 for vacating a public alleyway were satisfied. Specifically, Appellants appeal the decision of the
5 DRB claiming that the DRB erred in its application and analysis of the applicable City Subdivision
6 Regulation for vacating public right-of-ways and easements.
7
8

9 **III. STANDARD OF REVIEW**
10

11 A review of an appeal is a whole record review to determine if there is error:

- 12
13 1. In applying adopted city plans, policies, and ordinances in arriving at the decision;
14 2. In the appealed action or decision, including its stated facts;
15 3. In acting arbitrary, capriciously or manifestly abusive of discretion.
16

17 The decision and record must be supported by a preponderance of the evidence to be upheld.
18 The Land Use Hearing Officer may not substitute his judgment for that of the reviewing Body
19 below. The Land Use Hearing Officer's opinion is advisory to the City Council. The Land Use
20 Hearing Officer may recommend that the Council "grant, in whole or in part, an appeal, deny, in
21 whole or in part, an appeal, or remand an appeal for reconsideration if the remand is necessary to
22 clarify or supplement the record, or if the remand would expeditiously dispose of the matter."¹
23
24

25 **IV. DISCUSSION**
26

27 After reviewing the entire record, including the exhibits tendered at the Appeal hearing by
28 both parties, arguments of counsel and testimony, I find that the record does not support the decision
29 of the DRB. The DRB's decision lacks the analytical substance specifically required by the
30 applicable Regulation for vacating the alleyway. The DRB also failed to properly evaluate
31 Appellants' claims under the Regulation. In doing so it ignored relevant sections under the
32 applicable Regulation in approving the Hall application. Although, a remand would give the DRB
33 an opportunity to add to the record, for the reasons stated below, I also find that the DRB erred in
34 concluding that Appellants do not have a substantial property right that is affected by the vacation
35 action. Thus, a remand is not necessary in this case. I therefore respectfully recommend that the
36 City Council reverse the DRB and grant the appeal.
37

38 The City of Albuquerque has adopted very specific standards for vacating public right-of-
39 ways. The subject of contention in this appeal, the alleyway, is a public right-of-way, as defined
40 in the Comprehensive Zoning Code Section 14-16-1-5. The applicable City Regulation for this

¹ See Rules of the Land Use Hearing Officer adopted by the City Council, February 18, 2004. Bill No. F/S OC-04-6.

1 standard is Section 14-14-7-2 Vacation of Public Rights of Way, Private Ways and Easements. It
2 states in pertinent part:

3
4 (A) Rights of way, including public rights of way, private ways, and
5 easements shown on recorded plats, may be vacated, that is, terminated,
6 by recording a new subdivision plat or by plat amendment, as described
7 in §14-14-7-1 of this part. In addition, where nothing except vacation of
8 public rights of way, private ways, and easements is proposed, it may be
9 initiated by a request to vacate filed by either:

10
11 **(1) The owners of a majority of the front footage of land abutting the**
12 **proposed vacation; or**

13
14 (2) The Planning Director, if he or she finds vacation likely to be in the
15 public interest. A request to vacate shall be processed under the
16 procedures of division (E) of this section in addition to the procedures
17 relating to minor subdivision applications under Part 3 of this article.

18
19 **(B) The vacation of public rights of way, private ways, or easements,**
20 **whether by new plat, plat amendment, or request to vacate, shall be**
21 **approved only when it is determined that:**

22
23 **(1) The public welfare is in no way served by retaining the way or**
24 **easement; or**

25
26 **(2) There is a net benefit to the public welfare because the**
27 **development made possible by the vacation is clearly more beneficial**
28 **to the public welfare than the minor detriment resulting from the**
29 **vacation; and in addition to divisions (1) or (2) of this division (B):**

30
31 **(3) There is no convincing evidence that any substantial property**
32 **right is being abridged against the will of the owner of the right.**

33
34 (C) In approving the vacation the Development Review Board may
35 require that some or all of the public rights of way or easements be
36 retained by the appropriate governmental entity as shown on the original
37 plat.

38
39
40 **A. Majority of Owners of Property Abutting the Alleyway**

41
42 First, Section 14-14-7-2(A) requires that the DRB make some initial findings in evaluating
43 an application. If the application is exclusively to vacate a public right-of-way, the DRB must decide
44 whether the prerequisites of subsection (A)(1) or (A)(2) are satisfied before moving forward in its

1 analysis on the substance of the application. The Hall application was only to vacate the alleyway.
2

3 In its February 13, 2008 Official Notice of Decision, the DRB found that “[t]he vacation
4 request was filed by the owners of a majority of the footage of land abutting the proposed vacation.”²
5 Yet, there is no evidence in the record supporting this essential finding. In fact, the record clearly
6 demonstrates that the applicant has only entered into a contract (presumably a purchase agreement)
7 with the land owner of the vacant land to the North of the subject alleyway. Moreover, the evidence
8 reveals that the applicant, Mr. Hall has only commenced purchase negotiations with the land owner
9 of the property abutting the other side of the alleyway (Chevron gas station owner). Thus, although
10 Mr. Hall can be considered an anticipated property owner of the vacant property abutting the
11 alleyway, a mere statement from the applicant that he is negotiating the purchase of the Chevron gas
12 station is grossly insufficient to establish ownership of the Chevron property for purposes of Section
13 14-14-7-2(A)(1). The record is devoid of any documentation regarding the Chevron gas station.
14

15 The application was filed only by Hall and no other property owners. There is no evidence
16 in the record that demonstrates the positions of the actual abutting property owners (other than the
17 opposition of Appellants). The DRB may have assumed because Mr. Hall is somewhere in the
18 process of acquiring the Chevron gas station, the owner of the Chevron gas station consents to the
19 vacation action. Yet, there is no evidence in the record supporting this proposition, and therefore,
20 the DRB abused its discretion in making assumptions of ownership and consent. Accordingly, the
21 DRB erred in making a finding that the vacation application was filed by a majority of the property
22 owners abutting the alleyway when, in fact, it was not.
23

24 25 **B. Whether, or Not, the Public Welfare Is Served By Retaining The Alleyway** 26

27 Next, in their appeal, Appellants maintain that there was no basis for the finding that the
28 public welfare is “in no way served” by retaining the alleyway because the DRB did not adequately
29 analyze how the alleyway affects the public welfare. I agree with Appellants. The DRB did not
30 fairly evaluate whether, or not, the public welfare is served, or not served, by retaining the alleyway.
31 I am particularly bothered that some DRB members found that the alleyway “served no purpose in
32 practicality”³ because it is not a typical thoroughfare alleyway.
33

34 There is overwhelming evidence that the alleyway serves at least two legitimate purposes.
35 It is an ingress and egress for the Appellants (although limited to pedestrian traffic it is still a
36 functional entry). There was evidence that the entry from the alleyway is functional and is used (for
37 lack of a better term) “to take the garbage out” to the solid waste container(s) located in the alleyway.
38 Secondly, it is the location where Appellants’ solid waste disposal is stored and collected by the City
39 of Albuquerque. It was erroneous to find that the alleyway serves no purpose. And, although, the

² See the Official Notice of Decision, February 13, 2008, Page 41 of the Record.

³ See DRB Minutes, February 13, 2008, Page 63 of the Record.

1 alleyway is not functional as a thoroughfare, the DRB's analysis should not have ended there to
2 determine that it does not serve the public welfare.

3
4 In analyzing whether, or not, the public welfare is "in no way served," the DRB should have
5 developed its analysis to include all the existing functions of the alleyway. For example, it should
6 have examined whether, or not, the public welfare is not served by the collection of Appellants'
7 commercial solid waste from the alleyway rather than from a location off of Lead Avenue.⁴ In doing
8 so, I would respectfully refer the DRB, for its future consideration of similar cases, to the City of
9 Albuquerque's Health Safety and Sanitation Ordinance, Section 9-10-1-7(B)(3)(b)(1). Therein, the
10 City Council has determined through legislative enactment that "[c]ollection [of solid waste] from
11 public alleys shall be maximized, to the extent that it is consistent with efficient collection routes."

12
13 Appellants effectively demonstrated that the alleyway serves the public merely as a result
14 from its intended use for the storage and removal of solid waste. Ordinance Section 9-10-1-7(B)(3)
15 includes the pertinent policy considerations in addressing the question regarding public welfare with
16 regard to solid waste collection sites. As a matter of public policy, the alleyway serves the public
17 welfare because it serves to:

- 18
19 1. Maximizes the use of the alleyway for solid waste collection;
20 2. Minimizes the view of the storage and collection of solid waste from the view of
21 Lead Avenue and other public streets; and
22 3. Provide a solid waste storage and collection location that maximizes the distance
23 from residences and outdoor recreation or relaxation areas.

24
25 The DRB erred in finding that the alleyway serves no public purpose. The alley way does
26 serve an important purpose for the public.

27
28
29 **C. The Benefit to the Public vs. the Detriment Resulting From the Vacation**

30
31 Appellants argue that the DRB should have either conducted an analysis under Section 14-
32 14-7-2(B)(2), or explained why it ignored the balancing test of the applicable Regulation. I agree.

33
34 The DRB failed to apply the balancing test and it failed to articulate a reason or reasons why
35 it did not apply the test. Its failure has the appearance of arbitrary and, or, capricious conduct.
36 Moreover, as stated above, because Appellants demonstrated that they would be damaged by the
37 vacation action, the balancing test seems appropriate to apply in this case.

38
39 The balancing test of Section 14-7-2(B)(2) is one of the two alternative criterion that must

⁴ There was evidence in the Record that the only viable alternative for Appellants' commercial solid waste collection, other than the alleyway, is from an entrance located on Lead Avenue.



1 be demonstrated under the Regulation. Notwithstanding, the DRB, should explain why it believes
2 the test is inapplicable, especially when it is confronted by a contestant (Appellant) who believes the
3 test should be applied, as was the case here. However, if it had applied the balancing test of
4 subsection (B)(2), it would not affect my recommendation for the reasons stated below.
5
6

7 **D. Substantial Property Right**

8

9 Finally, the final prong for DRB consideration on the issue of whether or not it should
10 approve a vacation of a public right-of-way is found in Section 14-7-2(B)(3). Appellants contend
11 that they have a substantial property right in the alleyway because it is being well utilized for their
12 commercial solid waste collection and removal. To support their claim, Appellants presented
13 evidence showing that losing the right to solid waste storage and removal in the alleyway would
14 damage them financially. This evidence was not rebutted. They also presented evidence of the
15 additional cost of relocating the solid waste containers to another location on the Appellants'
16 property.
17

18 The record reveals that the DRB took the position that Appellants do not have a substantial
19 property right in solid waste removal in the public alleyway. I disagree. The evidence shows that
20 Appellants, for many years, have utilized the alleyway for its solid waste storage and removal with
21 the consent of the City of Albuquerque. In addition, it is a specific policy of the City that solid waste
22 storage and removal take place, whenever possible from alleyways.⁵ Thus, Appellants are utilizing
23 the subject alleyway in a manner for which it was intended. Whether, or not, it dead ends at
24 Appellants' property is irrelevant. The alleyway's primary function is for solid waste storage and
25 removal. The legitimate use of the alleyway by Appellants is appurtenant to Appellants' legal uses
26 of their property. In New Mexico, a substantial property right can be one that is appurtenant to a
27 property owner's use of his or her property.⁶
28

29 The question becomes -- does the vacation action change the character of Appellants' use of
30 their property, to such an extent that it substantially damages them? As stated above, Appellants
31 presented evidence that relocating the solid waste container(s) would result in a substantial expense
32 to them. In addition, Appellants demonstrated that the solid waste containers would have to be
33 placed in an area on their property that will cause safety problems for Appellants' clientele.
34 Therefore, I find that Appellants have a legitimate and substantial property right in the alleyway.
35
36
37
38

⁵ See generally City Ordinance, Section 9-10-1-7.

⁶ See Phillips Mercantile Co. Albuquerque, 60 N.M. 1 (S.Ct. 1955), quoting from Roberts v. City of Detroit, 241 Mich. 71, 216 N.W. 410, 412.

1 **V. SUMMARY OF RECOMMENDATION**

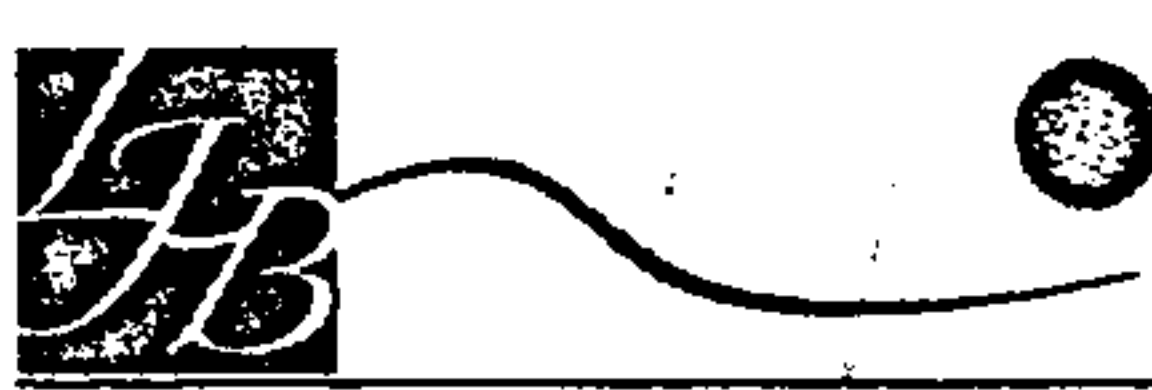
2
3 As stated above, the DRB erred by not making proper findings under Section 14-7-2 of the
4 City's Subdivision Regulations. The evidence supports that the public welfare is served by
5 retaining the alleyway for its originally intended use. Even though the alleyway dead-ends at
6 Appellants' property, it does not diminish the fact that it is being utilized for its intended purpose;
7 a purpose that is supported by the public policy of the City of Albuquerque— for the storage,
8 collection, and removal of solid waste. Finally, the additional cost and changes to the uses on the
9 Appellants property if the alleyway were vacated triggers a property right that is not trivial.

10
11 The purposes for which the alleyway is being used is a substantial property right under the
12 circumstances demonstrated in the record. Taking away the alleyway results, not only in a
13 significant detriment to Appellants financially, but it would result in a change in the character of
14 Appellants use of their property.

15
16 Therefore, I find that Appellants have a substantial property right in their use of the alleyway,
17 and vacation of the alleyway is inappropriate. I respectfully recommend that the City Council grant
18 Appellants' appeal and reverse the DRB's decision.

19
20
21
22
23
24 _____
25 Steven M. Chavez, Esq.
26 Land Use Hearing Officer
27

April 29 2008



LUEBBEN·JOHNSON
& BARNHOUSE·LLP
attorneys at law

kkeegan@luebbenlaw.com

April 9, 2008

Crystal Ortega, Clerk of the Council
City of Albuquerque – Council Services
One Civic Plaza NW, 9th Floor
Albuquerque, N.M. 87102

Re: Ac-08-03, 07DRB-70406 Project # 1006953 / 1002637


Dear Ms. Ortega:

Enclosed is new information which appellant, S.A.F.E. House Inc., will offer for consideration at the hearing with the City of Albuquerque Land Use Hearing Officer, scheduled tomorrow at 9:30 a.m. in the above referenced matter.

Please call me at extension 405 should you have any questions.

Thank you.

For the Firm,


Kelli Keegan, Esq.
Attorney for S.A.F.E. House

Cc: Jeffrey Dahl, Attorney for Brad Hall & Associates, Inc.

RECEIVED
CITY COUNCIL OFFICE
08 APR -9 AM 11:11

Prepared By and Return to:

Fidelity National Title Insurance Co.
8500 Menaul Blvd NE #B-150
Albuquerque, NM 87112

GF# 16001535-FNT16

**WARRANTY DEED
(Joint Tenants)**

Edward L. Gallinger, a single person, for consideration paid, grants to Brad H. Hall and Andrea P.

Hall, husband and wife, whose address is 2840 Sunnybrook Lane, Idaho Falls, Idaho 83404,

as joint tenants, the following described real estate in Bernalillo County, New Mexico:

Lot numbered One-A (1-A) in Block numbered Four (4) Terrace Addition, situate within Section 21, T. 10 N., R. 3 E., N.M.P.M., City of Albuquerque, Bernalillo County, New Mexico, January 2000, filed in the Office of the County Clerk of Bernalillo County, New Mexico, on August 26, 2003, in Plat Book 2003C, folio 263.

with warranty covenants.

SUBJECT TO Patent, reservations, restrictions, and easements of record and to taxes for the year 2008, and subsequent years.

Witness my hand and seal this 11th day of December, 2007.


Edward L. Gallinger

ACKNOWLEDGEMENT FOR NATURAL PERSONS

STATE OF NEW MEXICO
COUNTY OF BERNALILLO

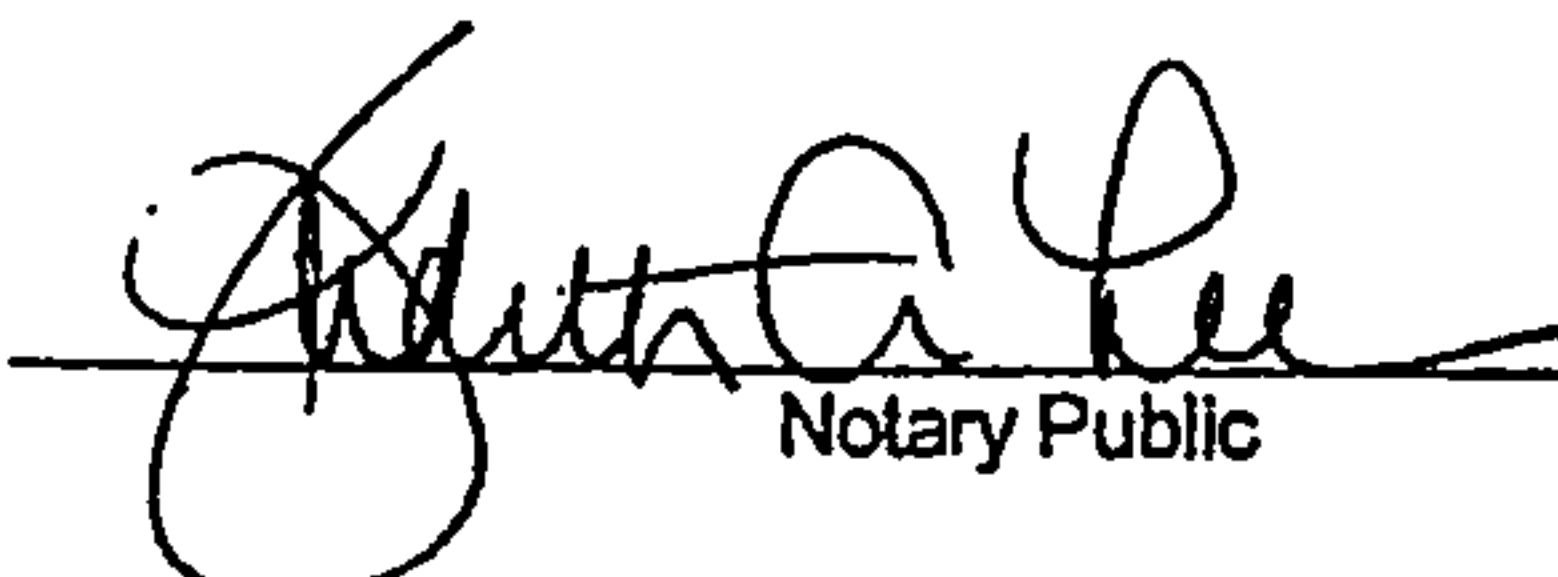
This instrument was acknowledged before me this 11th day of December, 2007, by Edward L. Gallinger.

(Name or Names of Person or Persons Acknowledging)

My Commission Expires: 6-4-2011

(Seal)




Notary Public

Doc# 2007167278

12/12/2007 11:40 AM Page: 1 of 1
MDJT R:\$9.00 M. Toulouse, Bernalillo County




WARRANTY DEED
(Joint Tenants)

Frederick Fiber and Elaine M. Fiber, Trustees of the Frederick Fiber and Elaine M. Fiber Revocable Trust Agreement dated December 13, 1991,
for consideration paid, grant to
Edward L. Gallinger and Sharon E. Gallinger, husband and wife
whose address is P.O. Box 257, Tijeras, New Mexico 87059
as joint tenants the following described real estate in Bernalillo County, New Mexico:

SEE EXHIBIT ONE ATTACHED HERETO AND MADE A PART HEREOF
with warranty covenants.

SUBJECT TO Patent, reservations, restrictions, and easements of record and to taxes for
the year 2002, and subsequent years.

Witness our hands and seals this 15 day of October, 2002


Frederick Fiber, Trustee
Fiber


Elaine M. Fiber, Trustee

ACKNOWLEDGMENT FOR NATURAL PERSONS

STATE OF NEW MEXICO

COUNTY OF Bernalillo

This instrument was acknowledged before me on October 15, 2002,
by Frederick Fiber and Elaine M. Fiber, Trustees of the Frederick Fiber and Elaine M. Fiber Revocable Trust Agreement dated December 13, 1991
(Name or Names of Person or Persons Acknowledging)

My commission expires: 11/16/2004
(Seal)


Notary Public
Vivian J. Gonzales

ACKNOWLEDGMENT FOR CORPORATION

STATE OF NEW MEXICO

COUNTY OF Bernalillo

FOR RECORDER'S USE ONLY

This instrument was acknowledged before me _____
by _____
(Name of Officer)
of _____
(Title of Officer) (Name of Corporation Acknowledging)
a _____ corporation, on behalf of said corporation.
(State of Incorporation)

My commission expires:
(Seal)



Mary Herrera

Bern. Co. HOJT

R 11.00

2002134833

5741297

Page: 1 of 2

10/16/2002 10:48A

Bk-A43 Pg-3665

EXHIBIT ONE

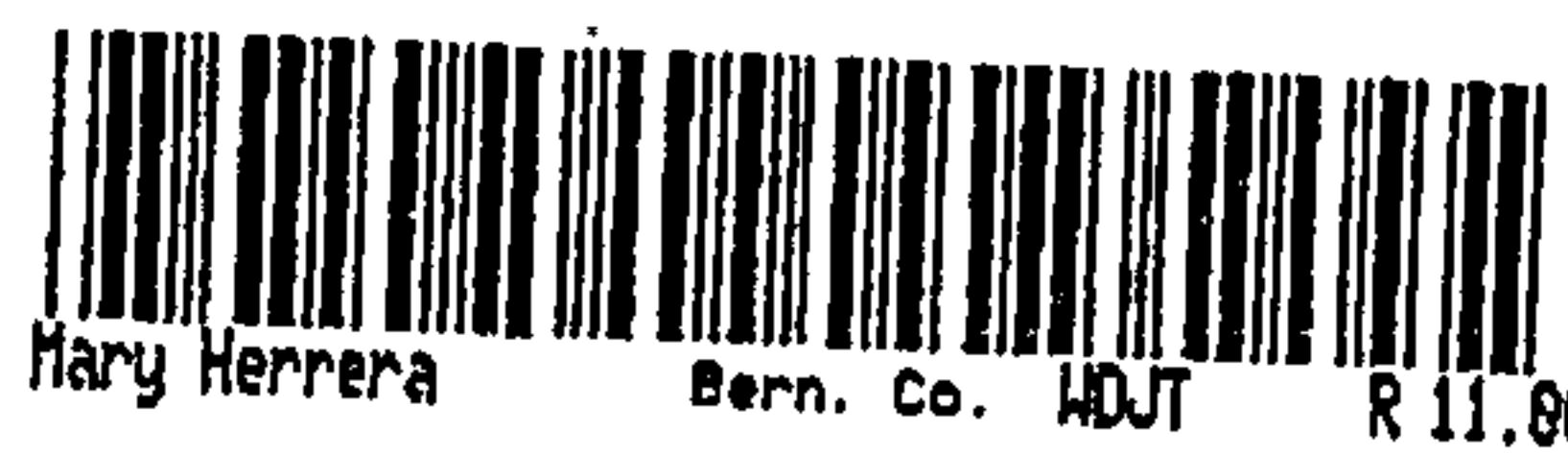
Lots numbered One (1) and Two (2) and the easterly 40 feet of Lot numbered Three (3) in Block numbered Four (4) of TERRACE ADDITION, as the same are shown and designated on the plat thereof, filed in the Office of the County Clerk of Bernalillo County, New Mexico on December 14, 1961 and amended on November 15, 1910.
Beginning at the northeast corner which is the northeast corner of said lot 1 and block 4 running thence

S 08° 9' W, along the westerly line of a public street known as Locust Street, S.E., (now contained within the right of way of U.S. Interstate Highway 25, also known as the New Mexico State Road 422) a distance of 142.00 feet to the Southeast corner which is the Southeast corner of said lot 1; thence

N 81° 04' W, along the southerly lines of said lots 1, 2 and 3, which is the northerly line of a public alley, 140.00 feet to the southwest corner; thence,

N 08° 49' E, 142.00 feet to the northwest corner; thence,

S 81° 04' E, along the northerly lines of said lots 3, 2 and 1, which is the southerly line of a public street known as Lead Ave. SE, a distance of 140.00 feet to the place of beginning.



Mary Herrera

Bern. Co. WDJT

R 11.00

2002134033

5741287

Page: 2 of 2

10/16/2002 10:40A

Bk-R43 Pg-3665

6. S.A.F.E. House Inc. must have trash collection service. If S.A.F.E. House Inc. is forced to relocate the dumpster, it will have no choice but to cut delivery of essential programs and services for domestic violence victims. To obtain funds for this project, S.A.F.E. House Inc. would have to take out a loan and subsequently find funding to pay the loan. This would force S.A.F.E. House Inc. to incur a debt, at a time when it is already operating at a net loss at the end of the fiscal year. S.A.F.E. House Inc. operates on a tight budget with no reserves carried forward to the new fiscal year.

7. Essential programs and services for domestic violence victims need to be increased not decreased. S.A.F.E. House Inc. uses its limited budget to achieve its purpose: providing shelter, programs and services to women and children who are in a state of crisis. Taking up to \$20,000 away from this purpose would have a significant impact on countless women and children who come to this facility for help.

Debbie Brickman 4/8/08

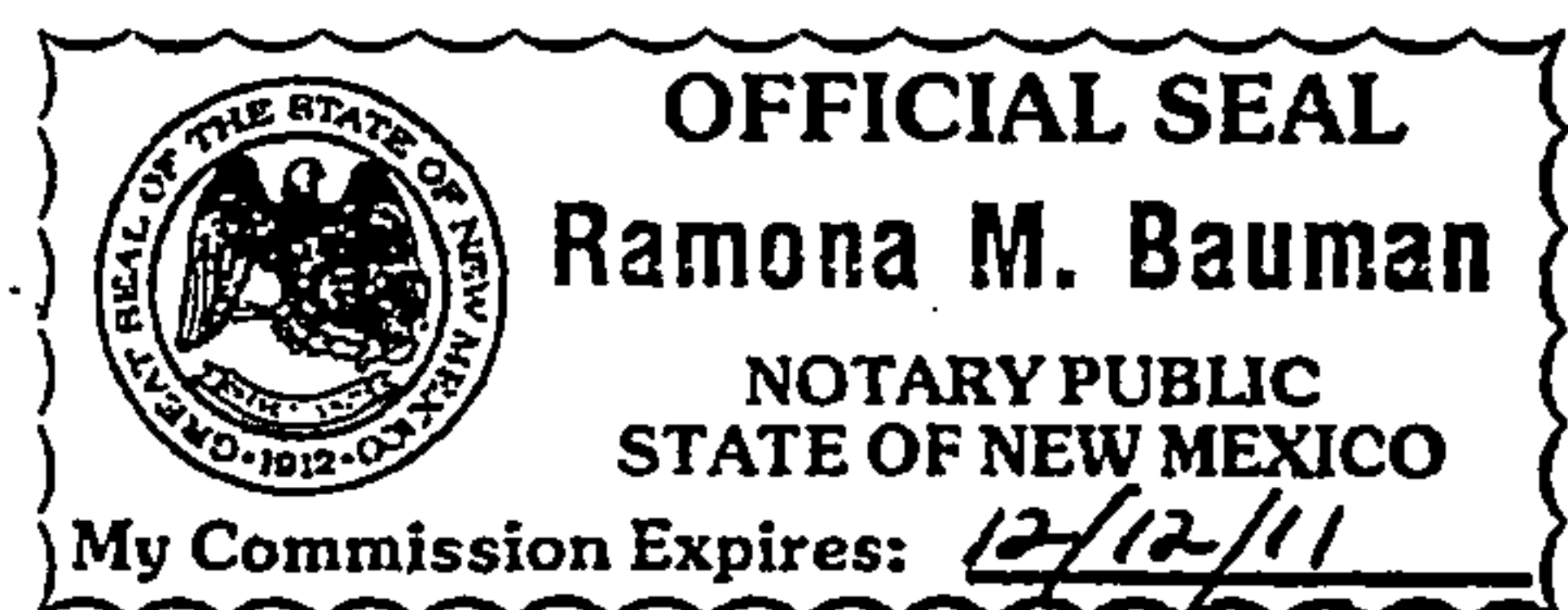
Debbie Brickman

Subscribed and sworn to before me, this 8th day of April, 2008.

Notary Seal:

Ramona Bauman
Signature of Notary

Ramona Bauman
Printed name of Notary



NOTARY PUBLIC

My commission expires: Dec 12, 2011.

95023012

WARRANTY DEED

1433

ASHLEY J. GOLD, TRUSTEE UNDER THE ASHLEY J. GOLD AND BETTIE JO MAHAN GOLD REVOCABLE TRUST, AS AMENDED, DATED OCTOBER 27, 1993, for consideration paid, grant to FREDERICK FIBER AND ELAINE M. FIBER, Trustees of the Frederick Fiber and Elaine M. Fiber TRUST AGREEMENT DATED DECEMBER 13, 1991, whose address is 1116 SALAMANCA NW, ALBUQUERQUE, NM 87107. Revocable

the following described real estate in BERNALILLO County, New Mexico: LOTS NUMBERED ONE (1) AND TWO (2) AND THE EASTERLY 40.00 FEET OF LOT NUMBERED THREE (3) IN BLOCK NUMBERED FOUR (4) OF TERRACE ADDITION TO THE CITY OF ALBUQUERQUE, NEW MEXICO, AS THE SAME ARE SHOWN AND DESIGNATED ON THE AMENDED PLAT OF SAID ADDITION, FILED IN THE OFFICE OF THE COUNTY CLERK OF BERNALILLO COUNTY, NEW MEXICO, ON MAY 20, 1905 AND MORE PARTICULARLY DESCRIBED BY SURVEY OF ELDER COMPANY ON DECEMBER 14, 1961, *AS FOLLOWS: * AND AMENDED NOVEMBER 15, 1910,

BEGINNING AT THE NORTHEAST CORNER WHICH IS THE NORTHEAST CORNER OF THE SAID LOT 1 AND BLOCK 4 RUNNING THENCE, S. 8° 49' W., ALONG THE WESTERLY LINE OF A PUBLIC STREET KNOWN AS LOCUST STREET, S.E., (NOW CONTAINED WITHIN THE RIGHT-OF-WAY OF U.S. INTERSTATE HIGHWAY 25, ALSO KNOWN AS THE NEW MEXICO STATE ROAD 422) A DISTANCE OF 142.00 FEET TO THE SOUTHEAST CORNER WHICH IS THE SOUTHEAST CORNER OF SAID LOT 1; THENCE N. 81° 04' W., ALONG THE SOUTHERLY LINES OF SAID LOTS 1, 2 AND 3, WHICH IS THE NORTHERLY LINE OF A PUBLIC ALLEY, 140.00 FEET TO THE SOUTHWEST CORNER; THENCE, N. 8° 49' E., 142.00 FEET TO THE NORTHWEST CORNER; THENCE, S. 81° 04' E., ALONG THE NORTHERLY LINES OF SAID LOTS 3, 2 AND 1, WHICH IS THE SOUTHERLY LINE OF A PUBLIC STREET KNOWN AS LEAD AVENUE S.E., A DISTANCE OF 140.00 FEET TO THE PLACE OF BEGINNING, BERNALILLO COUNTY, NEW MEXICO.

SUBJECT TO: RESERVATIONS, RESTRICTIONS, EASEMENTS OF RECORD AND TAXES FOR THE YEAR 1995 AND SUBSEQUENT YEARS.

with warranty covenants.

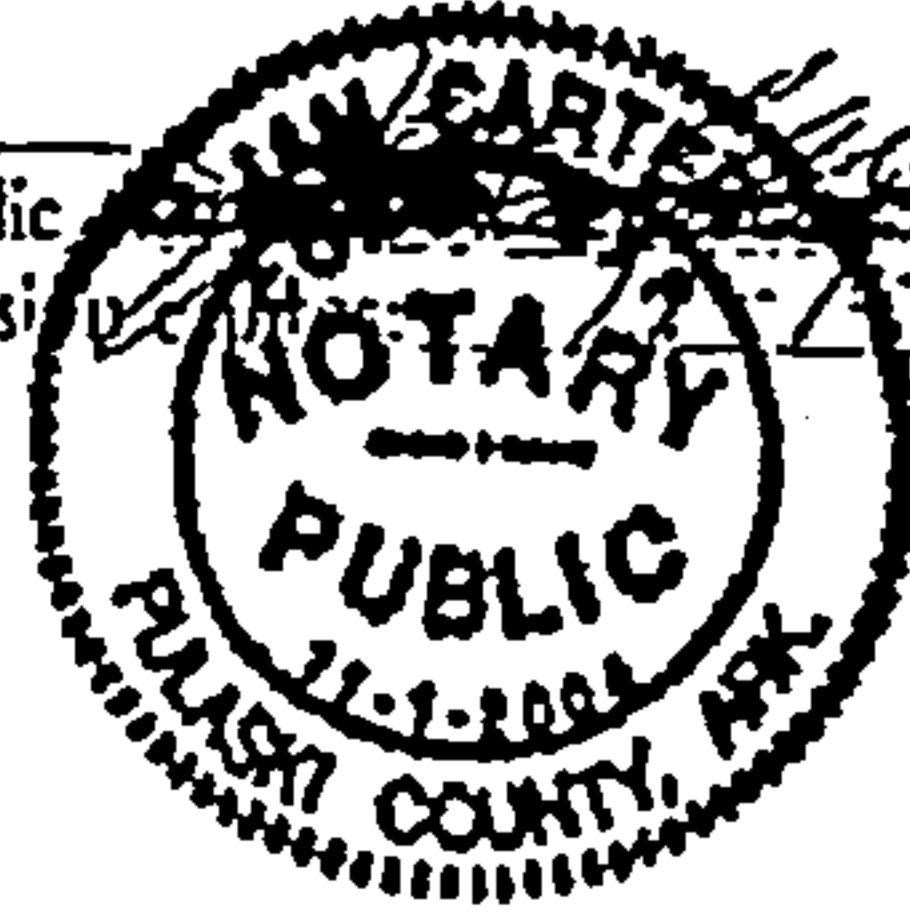
WITNESS HIS hand and seal this 1st day of March 1995.

Ashley J. Gold (Seal) ASHLEY J. GOLD, TRUSTEE (Seal)

State of ARKANSAS County of Pulaski ss:

This instrument was acknowledged before me on March 1, 1995 by ASHLEY J. GOLD, TRUSTEE, UNDER THE ASHLEY J. GOLD AND BETTIE JO MAHAN GOLD REVOCABLE TRUST, AS AMENDED, DATED OCTOBER 27, 1993. (Seal)

Notary Public My commission expires 12/2004



FOR RECORDER'S USE ONLY STATE OF NEW MEXICO COUNTY OF BERNALILLO FILED FOR RECORD 95 MAR -7 PM 2:38 95-16 ss 1433 JUDY D. WOODWARD CO. CLERK

85 63498

WARRANTY DEED

723

Bank of New Mexico (now First Interstate Bank of Albuquerque), Trustee of the Ashley J. Gold and Bettie Jo Gold Revocable Trust

for consideration paid, grant to Ashley J. Gold and Bettie Jo Mahan Gold, his wife, Trustee under the Ashley J. Gold and Bettie Jo Mahan Gold Revocable Trust Agreement, as amended, or their successors

whose address is 1709 Stagecoach Rd., S.E. Albuquerque, New Mexico 87123

the following described real estate in Bernalillo County, New Mexico:

Lots 1 and 2 and the Easterly 40.00 feet of 3 in Block 4 of TERRACE ADDITION to the City of Albuquerque, New Mexico, as the same are shown and designated on the Amended Plat of said Addition filed in the office of the County Clerk of Bernalillo County, New Mexico, May 20, 1905, and more particularly described by survey of Elder Company on December 14, 1961, as follows:

Beginning at the Northeast corner which is the Northeast corner of the said Lot 1 and Block 4 and running thence S. 8° 49' W., along the Westerly line of a public street known as Locust Street, S.E., (now contained within the Right-of-Way of U. S. Interstate Highway 25, also known as the New Mexico State Road 422) a distance of 142.00 feet to the Southeast corner which is the Southeast corner of said Lot 1; thence N. 81° 04' W., along the Southerly lines of said Lots 1, 2 and 3, which is the Northerly line of a public alley, 140.00 feet to the Southwest corner; thence N. 8° 49' E., 142.00 feet to the Northwest corner; thence S. 81° 04' E., along the Northerly lines of said Lots 3, 2 and 1, which is the Southerly line of a public street known as Lead Avenue, S.E., a distance of 140.00 feet to the place of beginning, Bernalillo County, New Mexico.

SUBJECT TO all reservations, restrictions, easements and encumbrances of record.

with warranty covenants.

WITNESS our hand and seal this 19th day of July, 1985.

BANK OF NEW MEXICO (now First Interstate Bank of Albuquerque) by: Betty Attwood, Trust Officer

ACKNOWLEDGMENT FOR NATURAL PERSONS

STATE OF NEW MEXICO

COUNTY OF BERNALILLO ss.

The foregoing instrument was acknowledged before me this 19th day of July, 1985 by Betty Attwood

My commission expires: (Seal)

Notary Public

FOR RECORDER'S USE ONLY STATE OF NEW MEXICO COUNTY OF BERNALILLO FILED FOR RECORD 1985 AUG -2 AM 8:33 246 APG 723 DOUGRES C. WALLER CLERK & RECORDER

ACKNOWLEDGMENT FOR CORPORATION

STATE OF NEW MEXICO

COUNTY OF BERNALILLO ss.

The foregoing instrument was acknowledged before me this 19th day of July, 1985 by Betty Attwood

of Bank of New Mexico (now First Interstate Bank of Albuquerque) corporation, on behalf of said corporation.

My commission expires:

OFFICIAL SEAL JUDITH MAHAR NOTARY PUBLIC - NEW MEXICO My Commission Expires 9-25-88



82 57462

~~82 56883~~

WARRANTY DEED

812

1

ANNA MARIE ANDRE, a widow, f/k/a ANNA MARIE SAMSONSEN, for consideration paid, grant to THE WOMEN'S COMMUNITY ASSOCIATION, INC., a New Mexico corporation.

whose address is P. O. Box 6472 Albuquerque, NM 87107

the following described real estate in Bernalillo County, New Mexico:

lots numbered Four (4), Five (5), Six (6), Seven (7), Eight (8), Nine (9), Ten (10), and the West Ten Feet (W.10') of Lot numbered Three (3), in Block numbered Four (4) of the TERRACE ADDITION to the City of Albuquerque, New Mexico, as the same is shown and designated on the Map of said Addition, filed in the office of the Probate Clerk and Ex-officio Recorder of Bernalillo County, New Mexico, on May 20th, 1905.

SUBJECT TO: Reservations, restrictions and easements of record.

SUBJECT TO: Taxes for the year 1982 and years thereafter.

THIS DOCUMENT IS BEING RE-RECORDED TO CORRECTLY REFLECT THE LEGAL DESCRIPTION.

STATE OF NEW MEXICO
COUNTY OF BERNALILLO

NOV 23 3 25 PM '82

TERRELL C. CULP
CO. CLERK & RECORDER
DEPUTY

[Handwritten signature]

with warranty covenants.

WITNESS MY hand and seal this 28th day of October, 1982

(Seal) *Anna Marie Andre* (Seal)
ANNA MARIE ANDRE

(Seal) (Seal)

ACKNOWLEDGMENT FOR NATURAL PERSONS

STATE OF NEW MEXICO

COUNTY OF BERNALILLO

The foregoing instrument was acknowledged before me this 28th day of October, 1982 by ANNA MARIE ANDRE, a widow.

(Name or Names of Person or Persons Acknowledging)

My commission expires: (Seal)

OFFICIAL SEAL
Signature: *[Signature]*
JOYCE V. VIVY

ACKNOWLEDGMENT FOR CORPORATION

STATE OF NEW MEXICO

COUNTY OF

The foregoing instrument was acknowledged before me this day of 19 by (Name of Officer)

(Title of Officer) of (Name of Corporation Acknowledging) corporation, on behalf of said corporation.

My commission expires: (Seal)

Notary Public

FOR RECORDED USE ONLY
OCT 23 3 42 PM '82
812-4 812
TERRELL C. CULP
CO. CLERK & RECORDER
DEPUTY

EXHIBIT
23

RETURN TO PNTI 48,078-J

82 56858

807

QUITCLAIM DEED

ALBUQUERQUE NATIONAL BANK as Trustee for the Elmer Ponder and Zeltha Ponder Trusts,

to Anna Marie Andre, a widow for consideration paid, quitclaim

whose address is

the following described real estate in Bernalillo County, New Mexico:

Lots numbered Four (4), Five (5), Six (6), Seven (7), Eight (8), Nine (9), Ten (10), and the West Ten Feet (W.10') of Lot numbered Three (3), in Block numbered Four (4) of the TERRANCE ADDITION to the City of Albuquerque, New Mexico, as the same is shown and designated on the Map of said Addition, filed in the office of the Probate Clerk and Ex-officio Recorder of Bernalillo County, New Mexico, on May 20th, 1905.

43,079-5
RETURN TO PNTI

WITNESS its hand and seal this 14th day of October 1982

(Seal) ALBUQUERQUE NATIONAL BANK as Trustee (Seal) for the ELMER PONDER & ZELTHA PONDER TRUSTS

(Seal) R.C. Kelly, Trust Officer (Seal)

ACKNOWLEDGMENT FOR NATURAL PERSONS

STATE OF NEW MEXICO

COUNTY OF Bernalillo ss.

The foregoing instrument was acknowledged before me this 14th day of October 1982 by R.G. KELLY, Trust Officer for Albuquerque National Bank, NEW MEXICO

My commission expires: 5-24-86 (Seal)

OFFICIAL SEAL
Signature: R.G. Kelly
CITERN P. JONES
Notary Bond Filled with Secretary of State
Commission Expires 5-24-86
Notary Public

ACKNOWLEDGMENT FOR CORPORATION

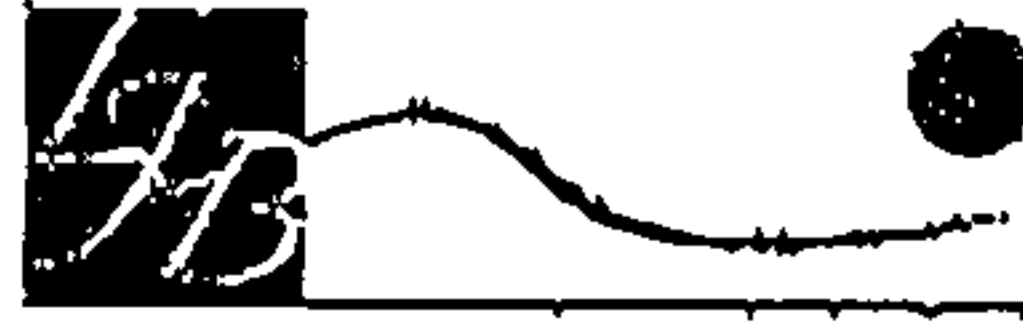
STATE OF NEW MEXICO
COUNTY OF ss.

The foregoing instrument was acknowledged before me this day of 19 by (Name of Officer)

(Title of Officer) of (Name of Corporation Acknowledging) a (State of Incorporation) corporation, on behalf of said corporation.

My commission expires: (Seal) Notary Public

FOR RECORDER'S USE ONLY
D-171-A-807
Jan. 1982



**LUEBBEN·JOHNSON
& BARNHOUSE·LLP**
attorneys at law

yantone@luebbenlaw.com

**PRIVILEGED AND CONFIDENTIAL INFORMATION
ATTORNEY-CLIENT COMMUNICATION AND/OR WORK PRODUCT
DO NOT RELEASE WITHOUT AUTHORIZATION**

FAX COVER SHEET

To: Jack Cloud, AICP, DRB Chair	From: Yvonne C. Antona, Legal Secretary
Organization: Planning Department	Date: Thursday, May 15, 2008
Fax Number: 505-924-3339	Total No. of Pages (including cover): 6 Pages
Subject: AC-08-3	For Transmission Problems, Call: (505) 842-6123

MESSAGE

Please see attached S.A.F.E. House's Comments to the City Council in Support of the Land Use Hearing Officer's Recommendation document.

THIS MESSAGE IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHICH IT IS ADDRESSED AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED, CONFIDENTIAL AND EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAW. If the reader of this message is not the intended recipient or agent responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination or copying of this communication is strictly prohibited. If you have received this electronic transmission in error, please delete it from your system without copying it, and notify the sender by reply e-mail or by calling (505) 842-6123 or toll-free (866) 448-6123 so that our address record can be corrected. Thank you.

7424 4th street nw
505.842.6123

los ranchos de albuquerque
• toll-free 866.448.6123 •
www.luebbenlaw.com

new mexico 87107
• fax 505.842.6124

APPEAL NO. AC-08-03
07DRB-70406
Project No. 1006953 / 10022637

S.A.F.E. HOUSE, Appellants,

BRAD LOGAN HALL, Party Opponent.

**S.A.F.E. HOUSE'S COMMENTS TO THE CITY COUNCIL
IN SUPPORT OF
THE LAND USE HEARING OFFICER'S RECOMMENDATION**

S.A.F.E. House, Inc. (SAFE House) submits the following comments in support of the Land Use Hearing Officer's recommendation and respectfully requests the City Council vote to accept the recommendation in its entirety.¹

The Land Use Hearing Officer has correctly found that the law applicable to vacation of alleyways was erroneously applied by the Development Review Board (DRB) and therefore SAFE House's appeal should be granted and the DRB's decision to vacate the alley should be reversed. SAFE House concurs with the Land Use Hearing Officer's findings and recommendations and wishes to add only a few additional comments to underscore them.

I. Comments Regarding the Procedural Background

SAFE House is a non-profit organization which provides shelter, programs and services for adult and child victims of domestic violence, a mission that is vital to the health and public welfare of our community. SAFE House has served our community for over three decades.

The SAFE House facility is located on the west side of Block 4 of the Terrace Addition. The alley at issue in this case is located on the east side of Block 4.² The SAFE House facility uses the alley as an ingress and egress route from its property to a dumpster. The City of Albuquerque Solid Waste Department uses the alley three times a week to provide trash collection services for the SAFE House facility. Trash collection is a vital service to SAFE House as the facility serves over 1,000 families annually.

There is a vacant lot on the north side of the alley (northeast corner of Block 4) which, last fall, Brad Logan Hall ("Hall") entered into a purchase agreement to buy. There is a lot on the

¹ SAFE House submits its comments pursuant to Section 24 (12) of the City of Albuquerque City Council Rules of Procedure.

² Hall's application requested vacation of an alley which is 16 feet wide and 140 feet long and runs west from Locust street (140 feet) to the east side of the SAFE House property.

south side of the alley (southeast corner of Block 4) where a Chevron gas station is located and which is owned by the third property owner in Block 4.

In November of 2007, Hall filed an application to vacate the alley, apparently because he thought he would be able to buy the parcel on the south side of the alley where the Chevron gas station is located and then try to combine the north and south lots and the alley all into one lot.

On December 19, 2007, Hall's application came for hearing before the DRB. At the hearing, SAFE House opposed the application to vacate the alley and presented argument that the statutory factors necessary for vacation of an alley were not met.³ The DRB stated the factors for vacation were not met and told Logan Hall he had a choice, either the application would be denied that day, or the application could be deferred to give him an opportunity to attempt to reach an agreement with SAFE House and then if an agreement was reached the application may be granted.⁴ Hall chose the latter of the options. No agreement was reached between the parties, and after numerous deferrals the DRB heard the matter again on February 13, 2008. Although no new evidence was presented by Hall that would have established the statutory factors for vacation were met, in an aboutface from its position two months earlier, the DRB voted to approve Hall's application and vacate the alley.⁵

SAFE House appealed the DRB's decision because the DRB (A) misapplied adopted city policies and ordinances to the relevant facts; (B) misapprehended the relevant facts; and (C) acted arbitrarily, capriciously and abused its discretion.

II. Comments Regarding the Discussion

A. Majority of Owners of Property Abutting the Alleyway

The DRB should never have considered Hall's application because it was not filed by a majority of the property owners abutting the alleyway.⁶ The DRB erroneously applied the law to the facts in this case because the application was not filed by "the owners of a majority of the front footage of land abutting the proposed vacation" as is required by Albuquerque Code of Ordinances § 14-14-7-2 (A)(1). This was a fatal flaw in Hall's application and Hall failed to submit any evidence that he owned a "majority of the front footage of land abutting" the alley, thus the DRB erred by proceeding to consider the application instead of dismissing the deficient application.

³ The statutory factors that must be met for vacation of an alley are set out in Albuquerque Code of Ordinances § 14-14-7-2 (B). Section 14-14-7-2 (B) provides that vacation of a public alley shall be approved only when it is determined that:

- (1) The public welfare is in no way served by retaining the way or easement; or
- (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; and in addition to divisions (1) or (2) of this division (B):
- (3) There is no convincing evidence that any substantial property right is being abridged against the will of the owner of the right.

⁴ Page 50 of the Record.

⁵ Page 63 of the Record.

⁶ The DRB's February 13, 2008, Notice of Decision contains a finding that Section 14-14-7-2 (A)(1) was met, "[t]he vacation request was filed by the owners of a majority of the footage of land abutting the proposed vacation."

B. Whether, or Not, the Public Welfare Is Served By Retaining the Alleyway

With regard to Albuquerque Code of Ordinances § 14-14-7-2 (B)(1) and whether the public welfare is served by the alley, one of the functions of the alley is that it provides the City of Albuquerque Solid Waste Department access to the trash collection site for the SAFE House facility. Trash collection from this alley serves the public welfare.

One need look no further than the City's own ordinances to find that trash collection from alleyways serves the public welfare. Albuquerque Code of Ordinances § 9-10-1-7 (B)(3)(b) provides criteria for the evaluation and selection of commercial collection sites, criteria which clearly consider the public welfare, such as collection from public alleys shall be maximized, ready, safe access by city vehicles and crews shall be available, views from public streets shall be minimized, distances from residences and outdoor recreation or relaxation areas shall be maximized and distances from bus stops shall be maximized. The alley at issue in this case provides access to a collection site which meets all of these criteria and therefore the alley serves the public welfare.

If the alley were vacated there is only one alternate location for the trash collection site. The alternate location would be at the top of a hill directly off of Coal Avenue, a three lane one-way thoroughfare. This alternate location would not meet the criteria of § 9-10-1-7 (B)(3)(b) and would pose serious safety issues for the public (to both members of the general public driving, cycling or walking on Coal Avenue and members of the public receiving services inside the facility).⁷ The safety, suitability and negative effect on the public welfare with regard to this alternate location, were neither acknowledged nor considered by the DRB.

Not only is the public welfare served by the alley because it provides access to a safe and suitable trash collection site, but the public welfare is served by the alley because it allows access for a vital service to a facility that serves the public.

C. The Benefit to the Public vs. the Detriment Resulting From the Vacation

The DRB failed consider Albuquerque Code of Ordinances § 14-14-7-2 (B)(2). The DRB should have considered this factor based on the facts of this case or at least provided a reason why the factor would not be considered. This factor requires balancing the benefit of vacation against the detriment resulting from vacation, with regard to the public welfare. Although Hall might *personally* benefit if the alley were vacated, the statute considers whether there is "a net benefit to the *public welfare*." Hall failed to demonstrate how vacation of the alley would benefit the public welfare.

On the other hand, SAFE House demonstrated that there would be substantial detriment to the public welfare if the alley were vacated. SAFE House would be forced to relocate the trash collection site to a location next to Coal Avenue, resulting in: 1) safety concerns for the public traveling on Coal Avenue and safety and security concerns for the public receiving services at SAFE House, and 2) the expense of such a project would leave SAFE House with no choice but

⁷ Exhibits numbered 11, 14, and 18, accepted by the Land Use Hearing Officer on April 21, 2008.

to cut delivery of essential programs and services for domestic violence victims.⁸ Both of these results would be detrimental to the public welfare.

D. Substantial Property Right

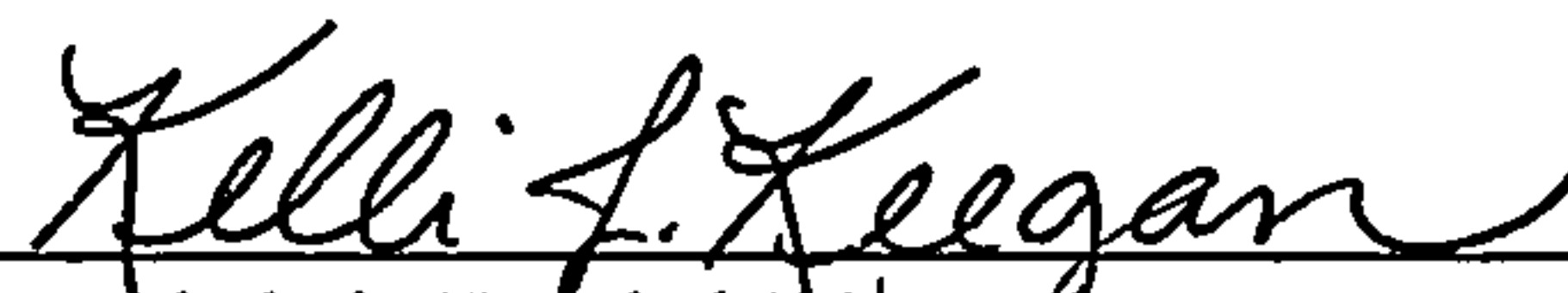
With regard to Albuquerque Code of Ordinances § 14-14-7-2 (B)(3) which requires a finding that there is *no* convincing evidence that *any* substantial property right would be abridged, the right to use the alley is a substantial property right. The alley has been used for decades for purposes that are consistent with alleyways: ingress, egress, and trash collection. Use of the alley constitutes a substantial property right because if the alley were vacated: 1) SAFE House's right to use the alley for any purpose would be completely cut off (as would the City of Albuquerque Solid Waste Department's right), and 2) if this property right is cut off, SAFE House would be forced to incur a debt of well over \$23,000, just so that it could receive trash collection services.⁹ SAFE House is a nonprofit organization that operates on a limited budget, and it does not have funding for a project of this magnitude. Thus, access via the alley constitutes a very important property right to SAFE House.

III. Conclusion

For the foregoing reasons, S.A.F.E. House requests the City Council vote to accept the Land Use Hearing Officer's findings and recommendations in their entirety, which will reverse the DRB's decision to vacate the alley.

Dated: May 15, 2008

Respectfully Submitted,



Randolph "Dolph" Barnhouse

Karl E. Johnson

Kelli J. Keegan

Luebben Johnson & Barnhouse LLP

7424 4th Street N.W.

Los Ranchos, NM 87107

(505) 842-6123 (voice)

(505) 842-6124 (fax)

Attorneys for S.A.F.E. HOUSE, Appellants

⁸ Exhibits numbered 11, 14, and 18, accepted by the Land Use Hearing Officer on April 21, 2008; and Exhibit number 21, Affidavit of SAFE House Finance Director Debbie Brickman, accepted by the Land Use Hearing Officer on April 21, 2008.

⁹ Exhibit regarding estimate from fencing company showing the estimated costs of over \$23,000 and additional costs (exclusions) not included in the estimate, such Exhibit was accepted by the Land Use Hearing Officer on April 21, 2008; and Exhibit number 21, Affidavit of SAFE House Finance Director Debbie Brickman, accepted by the Land Use Hearing Officer on April 21, 2008, providing information regarding the fact that SAFE House does not have funding to cover the damage it would sustain if its property right in the alley is cut off.

Copy faxed and mailed May 15, 2008, to:

Jeffrey A. Dahl
Keleher & McLeod, P.A.
P.O. Box AA
Albuquerque, NM 87103
FAX (505) 346-1370

Attorney for BRAD LOGAN HALL, Party Opponent

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Albuquerque, NM 87102
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Scott Howell
COA Legal Real Property
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Albuquerque, NM 87102
FAX (505) 768-3817

City of Albuquerque Planning Department
One Stop Shop – Development and Building Services

02/28/2008 Issued By: PLNSDH

Permit Number: 2008 030 002 **Category Code 950**

Application Number: 08CC-30002, Appeals Of Drb Subdivision Ordanances

Address:

Location Description: LEAD AVE SE BETWEEN LUCUST AVE SE AND ELM ST SE

Project Number: 1002637

Applicant
Safe House

Po Box 25363
Albuquerque NM 87125
247-4219

Agent / Contact
Lubben Johnson And Barnhouse
Karl E Johnson
7424 4th St Nw
Albuquerque NM 87107
842-8123

Application Fees

441018/4971000	Public Notification	\$50.00
441006/4971000	CC Actions	\$190.00
TOTAL:		\$240.00

City Of Albuquerque
Treasury Division

2/28/2008 4:22PM LOC: ANNX
WS# 007 TRANS# 0057
RECEIPT# 00094997-00094997
PERMIT# 2008030002 TRSMSP
Trans Amt \$240.00
APN Fee \$50.00
Conflict Manag. Fee \$190.00
CK \$240.00
CHANGE \$0.00

Thank You

City of Albuquerque



DEVELOPMENT/ PLAN REVIEW APPLICATION

Supplemental form

SUBDIVISION

- Major Subdivision action
- Minor Subdivision action
- Vacation
- Variance (Non-Zoning)

SITE DEVELOPMENT PLAN

- for Subdivision
- for Building Permit
- Administrative Amendment (AA)
- IP Master Development Plan
- Cert. of Appropriateness (LUCC)

STORM DRAINAGE

- Storm Drainage Cost Allocation Plan

S Z ZONING & PLANNING

- Annexation
- County Submittal
- EPC Submittal
- Zone Map Amendment (Establish or Change Zoning)
- Sector Plan (Phase I, II, III)
- Amendment to Sector, Area, Facility or Comprehensive Plan
- Text Amendment (Zoning Code/Sub Regs)
- Street Name Change (Local & Collector)
- APPEAL / PROTEST of...**
 - Decision by: DRB, EPC, LUCC, Planning Director or Staff, ZHE, Zoning Board of Appeals

PRINT OR TYPE IN BLACK INK ONLY. The applicant or agent must submit the completed application in person to the Planning Department Development Services Center, 600 2nd Street NW, Albuquerque, NM 87102. Fees must be paid at the time of application. Refer to supplemental forms for submittal requirements.

APPLICANT INFORMATION:

Professional/Agent (if any): Karl E Johnson, Luebben Johnson & Barnhouse LLP PHONE: 842-6123
 ADDRESS: 7424 4th Street NW FAX: (505) 842-6124
 CITY: Los Ranchos de Albuquerque STATE NM ZIP 87107 E-MAIL: KJohnson@LuebbenLaw.com

APPLICANT: S.A.F.E. House PHONE: 247-4219
 ADDRESS: PO Box 25363 FAX: _____
 CITY: Albuquerque STATE NM ZIP 87125 E-MAIL: #

Proprietary interest in site: ~~OWNER~~ Use of Public List all owners: S.A.F.E. House

DESCRIPTION OF REQUEST: Appeal to City Council through Land Use Hearing Officer - Determination of Action of DRB Re: Subdivision Ord - Vacation of 16-Ft Alley
 Is the applicant seeking incentives pursuant to the Family Housing Development Program? Yes. No.

SITE INFORMATION: ACCURACY OF THE EXISTING LEGAL DESCRIPTION IS CRUCIAL! ATTACH A SEPARATE SHEET IF NECESSARY.

Lot or Tract No. Lot 1-A, Block 4, Publically adjacent to 5th St Block: 4 Unit: _____
 Subdiv/Addn/TBKA: Terrace Addition
 Existing Zoning: SU-2/NCR Proposed zoning: NONE - (Circled)
 Zone Atlas page(s): K-15-2 UPC Code: _____ MRGCD Map No _____

CASE HISTORY:

List any current or prior case number that may be relevant to your application (Proj., App., DRB-, AX, Z, V, S, etc.):
Project # 1006953 1002637

CASE INFORMATION:

Within city limits? Yes Within 1000FT of a landfill? NO
 No. of existing lots: N/A No. of proposed lots: _____ Total area of site (acres): _____
 LOCATION OF PROPERTY BY STREETS: On or Near: Lead Ave SE
 Between: Locust Ave SE and Elm St SE

Check-off if project was previously reviewed by Sketch Plat/Plan , or Pre-application Review Team . Date of review: _____

SIGNATURE Sandy Bryan for Karl Johnson DATE 2-28
 (Print) Sandy Bryan for Karl E. Johnson Applicant: Agent:

FOR OFFICIAL USE ONLY

INTERNAL ROUTING	Application case numbers	Action	S.F.	Fees
<input checked="" type="checkbox"/> All checklists are complete	<u>08CC - 3000Z</u>	<u>APPEAL</u>	_____	\$ <u>190.00</u>
<input checked="" type="checkbox"/> All fees have been collected	_____	<u>ADV</u>	_____	\$ <u>50.00</u>
<input checked="" type="checkbox"/> All case #s are assigned	_____	_____	_____	\$ _____
<input checked="" type="checkbox"/> AGIS copy has been sent	_____	_____	_____	\$ _____
<input checked="" type="checkbox"/> Case history #s are listed	_____	_____	_____	\$ _____
<input checked="" type="checkbox"/> Site is within 1000ft of a landfill	_____	_____	_____	\$ _____
<input checked="" type="checkbox"/> F.H.D.P. density bonus	_____	_____	_____	\$ _____
<input checked="" type="checkbox"/> F.H.D.P. fee rebate	_____	_____	_____	\$ _____
Hearing date <u>1006953</u>				Total
				\$ <u>240.00</u>

Sandy Handley 02/28/08 Project # 1002637
 Planner signature / date

ATTACHMENT TO APPEAL
TO THE CITY COUNCIL THROUGH THE LAND USE HEARING OFFICER
DETERMINATION OR ACTION OF THE DEVELOPMENT REVIEW BOARD

Project number of case being appealed: 1006953 / 1002637
Application number of case being appealed: 07DRB-70406

STANDING

Appellant S.A.F.E. House has standing to file this appeal pursuant to Subdivision Regulations § 14-14-8-2 (A)¹ as a person who owns a property interest within 300 feet of the subject site. The west boundary of the public alley sought to be vacated abuts the east boundary of property owned by Appellant.

BASIS FOR APPEAL

I. Background

Section 14-14-8-3 of the Subdivision Regulations provides that applications for an appeal shall clearly articulate the reasons for the appeal. Appellants must specifically cite and explain one or more of the following alleged errors:

- (A) Error in applying adopted city plans, policies and ordinances in arriving at the decision;
- (B) Error in the appealed action or decision, including its stated facts;
- (C) Error in acting arbitrarily or capriciously or being manifestly abusive of discretion.

The Official Notice of Decision issued by the Development Review Board on February 13, 2008, approving the vacation of the eastern portion of the alley in Block 4 of the Terrace Addition, contains no findings of fact upon which the Board relies. Hence, it is impossible to determine whether the Board in arriving at its decision (A) misapplied adopted city plans, policies or ordinances to the relevant facts; (B) misapprehended the relevant facts; or, (C) simply acted arbitrarily or capriciously. Hence, Appellant S.A.F.E. House appeals the Board Decision on all three grounds for error listed above.

II. Argument

Section 14-14-7-2(B) of the Subdivision Regulations provides that vacation of a public alley shall be approved only when it is determined that:

¹ Although the Appeal Form A to which this document is attached references §14-16-4-4 of the Zoning Code for appeals and standing criteria, it appears that the applicable regulations for appeals concerning the vacation of a public easement are found in §§ 14-14-8-2 and -3 of the Subdivision Regulations. The difference is immaterial, however, because the provisions of both are identical.

- (1) The public welfare is in no way served by retaining the way or easement; or
- (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; and in addition to divisions (1) or (2) of this division (B):
- (3) There is no convincing evidence that any substantial property right is being abridged against the will of the owner of the right.

Hence, to approve the vacation of a public alley, the Board must determine that *either* factor (1) or (2) is met; *and* that factor (3) is met. The Board in this case determined that factors (B)(1) and (B)(3) were met, which was in error for the following reasons.

A. The Board's determination that factor B(1) is met is in error because it either misapplies adopted city ordinances to the relevant facts, misapprehends the relevant facts, or is arbitrary and capricious.

With respect to factor (B)(1), the Board concludes that "The public welfare is in no way served by retaining the eastern portion of the alley, because of the existing condition of the western portion of the alley." The Board erred in reaching this decision because the public welfare most assuredly *is* served by retaining the eastern portion of the alley, regardless of the condition of the western portion.

Appellant S.A.F.E. House provides essential shelter, programs and services to victims of domestic violence, a mission that is vital to the health and public welfare of our community. The eastern portion of the alley is used three times per week by the Albuquerque Solid Waste Department, which provides commercial solid waste collection services for the S.A.F.E. House facility. The collection service includes one large dumpster and 12 to 15 trash bin containers which are emptied three times per week, on Monday, Wednesday and Friday. The only route of ingress and egress to access the containers is via the public alley.

Additionally, this alley is used by PNM. The above-ground utility lines and the utility poles are located on the easement, including at least one pole located on the alley with what appears to be a transformer on it. Access to this pole would be impaired should the easement be vacated. There are also concerns regarding access to underground utility lines that may be located in the alley.

The eastern portion of the alley thus serves the public welfare by supplying access to both the Albuquerque Solid Waste Department vehicles and PNM, thereby providing vital services to a facility that in itself serves the public welfare. Hence, the Board's determination with respect to factor B(1) either misconstrues the meaning of service of the public welfare, misapprehends or ignores the relevant facts demonstrating such service, or is simply arbitrary and capricious.

B. The Board's determination that factor B(3) is met is in error because it either misapplies adopted city ordinances to the relevant facts, misapprehends the relevant facts, or is arbitrary and capricious.

With respect to factor (B)(3), the Board concludes that "There is no convincing evidence that any substantial property right is being abridged against the will of the owner of the right; concerns regarding refuse pick-up may be addressed through the City's Solid Waste Department for the adjacent property." The Board erred in reaching this decision because there most assuredly *is* evidence that a property right would be abridged against the will of the owner of such right.

S.A.F.E. House has a public right in the alley enjoyed in common with all other citizens as well as private rights arising from ownership of property contiguous to the alley. As owner of property contiguous to the alley, S.A.F.E. House has an easement in the alley. An easement is a property right, it is an interest in the land of another that entitles the owner of such interest to a limited use or enjoyment of the land in which the interest exists. S.A.F.E. House is a facility that serves the entire community for whose benefit the City uses the alley. Therefore, vacation of the alley would abridge S.A.F.E. House's property rights against its will.

The Board's conclusion that S.A.F.E. House's "concerns regarding refuse pick-up may be addressed through the City's Solid Waste Department" is also in error. S.A.F.E. House has explored alternative refuse pick-up arrangements with the Solid Waste Department, and the only other possible location where the containers could be placed would require S.A.F.E. House to undertake the expense of (A) removing an existing concrete and stucco wall; (B) building a new concrete and stucco wall with three sides and installing a gate on the fourth side; and, (C) making required sidewalk and driveway modifications. S.A.F.E. House is a nonprofit community service that operates on a limited budget, and it does not have funding for a project of this magnitude, nor should it be forced against its will to undertake it. Construction of an enclosed structure for the dumpster, with street access, is the *only* alternative as the City's Solid Waste Department vehicles cannot enter the facility in its current state due to serious security and safety issues. The S.A.F.E. House facility is gated, secure and access is monitored due to the nature of the services it provides. S.A.F.E. House provides services to over 1,000 families annually so there are many children in the common outside areas of the facility which render it hazardous and unsafe for Solid Waste Department vehicles to enter the facility.

A substantial property right in preserving the alley for refuse pick-up service is thus being abridged against the will of S.A.F.E. House, which will be forced as a result either to sell its property and relocate its facility, or to divert funds from services for victims of domestic violence to pay for a significant construction project that would be totally unnecessary but for vacation of the public easement. Hence, the Board's determination with respect to factor B(3) either misconstrues the meaning of abridgement of a substantial property right, misapprehends or ignores the relevant facts demonstrating such abridgement, or is simply arbitrary and capricious.

III. Conclusion.

For the foregoing reasons, Appellant S.A.F.E. House requests that the Land Use Hearing Officer reverse the Board's determination approving the vacation of the public easement.



OFFICIAL NOTICE OF DECISION

CITY OF ALBUQUERQUE
PLANNING DEPARTMENT
DEVELOPMENT REVIEW BOARD

February 13, 2008

Project# ~~1006953~~ / 1002637 1006953
07DRB-70406 VACATION OF PUBLIC EASEMENT

LOGAN HALL request(s) the above action(s) for all or a portion of Lot(s) 1-A, Block(s) 4, **TERRACE ADDITION**, zoned SU-2/NCR, located on LEAD AVE SE BETWEEN LOCUST AVE SE AND ELM ST SE containing approximately 0.4539 acre(s). (K-15)
(Deferred from 12/19/07, 1/23/08 & 2/6/08)

At the February 13, 2008, Development Review Board meeting, the vacation of the eastern portion of the alley in Block 4 of the Terrace Addition was approved as shown on Exhibit B in the Planning file per section 14-14-7-2(A)(1) and (B) (1)(3) of the Subdivision Ordinance. A turn around is not required based on existing conditions.

(A)(1) The 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 eastern portion of the alley, because of the existing condition of the western portion of the alley.

(B)(3) There is no convincing evidence that any substantial property right is being abridged against the will of the owner of the right; concerns regarding refuse pick-up may be addressed through the City's Solid Waste Department for the adjacent property.

CONDITIONS:

1. Final disposition shall be through the City Real Estate Office
2. The vacated property shall be shown on a 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 February 28, 2008 in the manner described below.

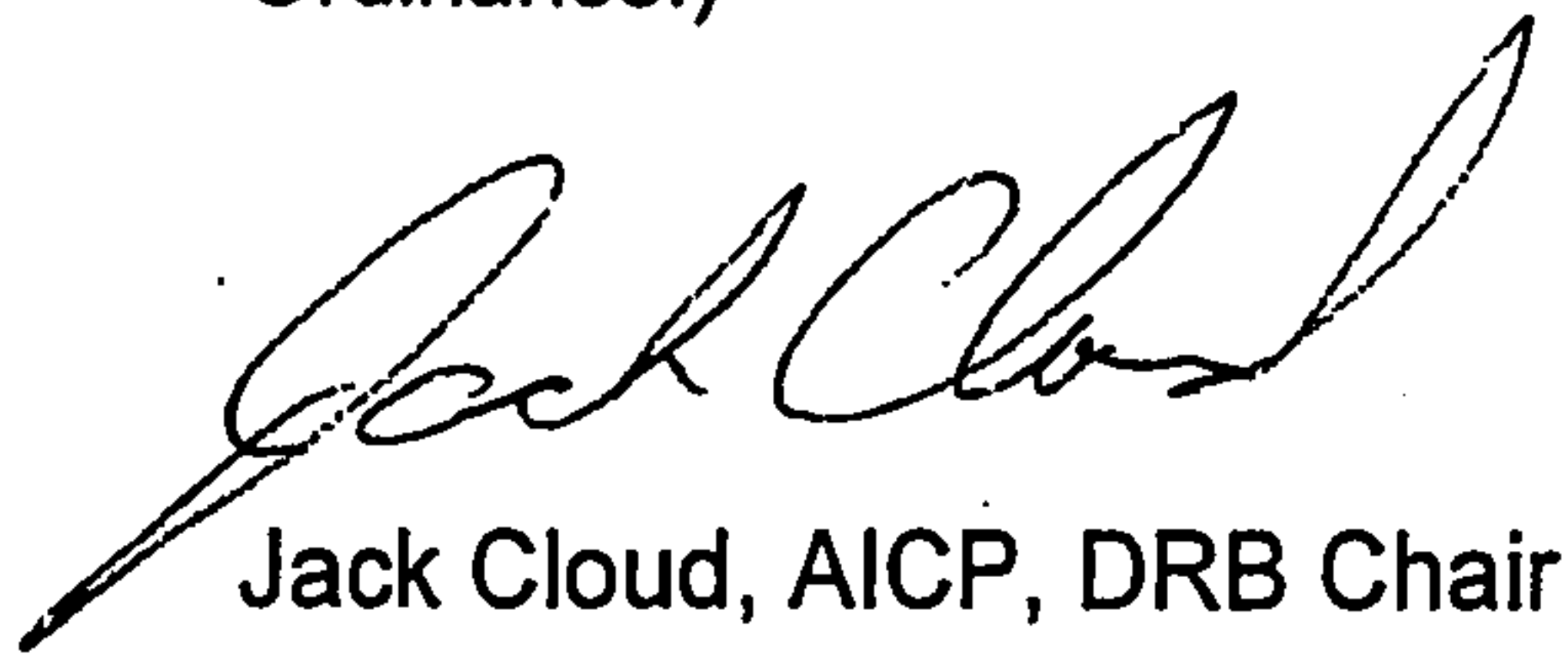
Appeal is to the Land Use Hearing Officer. Any person aggrieved with any determination of the Development Review Board may file an appeal on the Planning Department form, to the Planning Department, within 15 days of the Development Review Board's decision.

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: Logan Hall – 2107 Corte Del Caballo NW – Albuquerque, NM 87120

Cc: Kelli Keegan – 7424 4th St NW – Los Ranchos de Albuquerque, NM 87107

Cc: Jeff Dahl – P.O. Box AA – Albuquerque, NM 87103

Marilyn Maldonado

Scott Howell

File



AUTHORIZING LUBBEN JOHNSON AND BARNHOUSE LLP TO ACT AS AGENT

February 25, 2008

Steve Chavez
Land Use Hearing Officer
City of Albuquerque
Plaza del Sol Building
600 2nd St. NW
Albuquerque, NM 87102

RE: Appeal of Determination or Action of the Development Review Board
Project number of case being appealed: 1006953 / 1002637
Application number of case being appealed: 07DRB-70406

Dear Mr. Chavez:

This letter authorizes the law firm and each of the attorneys of Luebben Johnson & Barnhouse LLP to act as agent for and on behalf of Appellant SAFE House in the above referenced appeal of the decision of the Development Review Board.

Sincerely,

A handwritten signature in cursive script that reads "Michele Fuller". The signature is written in black ink and is positioned above the printed name of the signatory.

Michele Fuller, Director
SAFE House

FORM A: APPEAL

Appeal to the Zoning Board of Appeals regarding:

DECISION OF THE ZONING HEARING EXAMINER (BOA01)

Project number of case being appealed: _____

Application number of case being appealed: _____

- Reason for the appeal *
- Appellant's basis of standing as an appellant *
- Letter of authorization from the appellant if this application for appeal is submitted by an agent
- Copy of the Official Notification of Decision regarding the matter being appealed
- Fee (see schedule)

Appeal to the Landmarks and Urban Conservation Commission regarding:

CERTIFICATE OF APPROPRIATENESS
 DECISION OF THE PLANNING DIRECTOR OR STAFF (LUCCAPP)

Project number of case being appealed: _____

Application number of case being appealed: _____

- Reason for the appeal *
- Appellant's basis of standing as an appellant *
- Letter of authorization from the appellant if this application for appeal is submitted by an agent
- Copy of the Official Notification of Decision regarding the matter being appealed
- Fee (see schedule)

Appeal to the Environmental Planning Commission regarding:

DECLARATORY RULING OF THE ZONING ENFORCEMENT OFFICER (EPC09)
 DETERMINATION OF THE IMPACT FEE ADMINISTRATOR (EPC10)

Project number of case being appealed: _____

Application number of case being appealed: _____

- Reason for the appeal *
- Appellant's basis of standing as an appellant *
- Letter of authorization from the appellant if this application for appeal is submitted by an agent
- Copy of the Official Notification of Decision regarding the matter being appealed
- Fee (see schedule)

Appeal to the City Council through the Land Use Hearing Officer regarding:

ADMINISTRATIVE AMENDMENT/DECISION OF PLANNING DIRECTOR/STAFF (CCSTAFF)
 DETERMINATION OR ACTION OF THE EPC (CCEPC)
 DETERMINATION OR ACTION OF THE DRB RE: SUBDIVISION ORD (CCDRB)
 ACTION OF THE ZONING BOARD OF APPEALS REGARDING AN APPEAL (CCBOA)
 DECISION OF THE LANDMARKS URBAN CONSERVATION COMMISSION (CCLUCC)

Project number of case being appealed: ~~1006953~~ / 1002637 1006953

Application number of case being appealed: 07DRB-70406

- Reason for the appeal *
- Appellant's basis of standing as an appellant *
- Letter of authorization from the appellant if this application for appeal is submitted by an agent *
- Copy of the Official Notification of Decision regarding the matter being appealed *
- Fee (see schedule) *

* See attached documents.

* Criteria for reasonable appeals and criteria for standing as an appellant are given in Zoning Code §14-16-4-4. Any appeal must meet these criteria to be heard. The applicant should review these and other relevant documents carefully before preparing an application for appeal.

I, the applicant, acknowledge that any information required but not submitted with this application will likely result in deferral of actions.

S.A.E.E. House by Karl E. Johnson
Applicant name (print)

Karl Johnson
Applicant signature / date



Form revised 04/2007

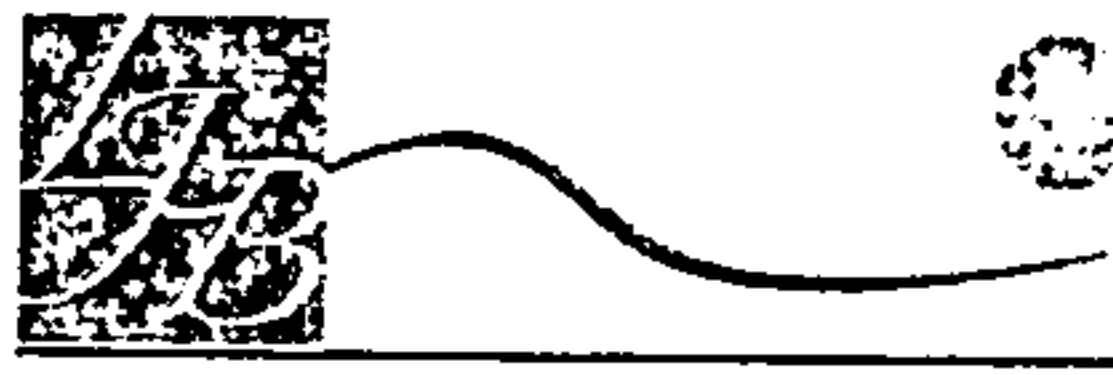
- Checklists complete
- Fees collected
- Case #s assigned
- Related #s listed

Application case numbers

08CC-30002

Sandy Hendley 02/28/08
Planner signature / date

Project # 1002637



LUEBBEN·JOHNSON
& BARNHOUSE·LLP

attorneys at law

kkeegan@luebbenlaw.com

January 22, 2008

VIA FAX AND EMAIL

Jeffrey A. Dahl
Keleher & Mcleod
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Albuquerque, NM 87103
FAX (505) 346-1370
EMAIL: jad@keleher-law.com

Re: 07DRB-70406 Vacation of Public Easement

Dear Mr. Dahl:


This letter responds to your telephone call to our office this morning and your subsequent email transmitting a proposed agreement regarding the above-referenced application. At the December 19, 2007, Development Review Board Hearing, Logan Hall was given two options: 1) have his application denied that day; or, 2) have his application deferred to the January 23, 2008, hearing, allowing him an opportunity to reach an agreement with S.A.F.E. House during the deferment period.

Mr. Hall did not contact us during this period, and your first contact with our office regarding a proposed agreement comes one day before the Development Review Board Hearing. Thus no agreement has yet been reached, but as I have previously advised Mr. Hall, S.A.F.E. House's goal is to solve the problem that would be created by vacation of the easement.

Jeffrey A. Dahl
January 22, 2008
Page 2 of 2

Therefore, at tomorrow's hearing I will not oppose another deferment period should you choose to request this of the Board. This would provide our office adequate time to review your proposal with our client, and then work with you toward a fair and legally sufficient solution.

For the Firm,


Kelli J. Keegan

cc: Development Review Board
James Baca, Albuquerque Solid Waste Department
Michele Fuller, S.A.F.E. House, Inc. Director

**AGREEMENT BY AND BETWEEN BRAD HALL & ASSOCIATES, INC. AND
S.A.F.E. HOUSE, INC. REGARDINGG VACATION OF PUBLIC EASEMENT**

WHEREAS, BRAD HALL & ASSOCIATES, INC (hereafter Hall) is the owner of that real property described as Lot 1A Block 4 Terrace Addition, located on Lead Avenue SE and Locust SE containing approximately .4539 acres, and

WHEREAS, S.A.F.E. HOUSE INC. (hereafter SAFE House) owns the land to the west of the Hall property and utilizes a public easement on the aforementioned property belonging to Hall for purposes of having its commercial solid waste serviced by the Albuquerque Solid Waste Department, and

WHEREAS, Hall has applied to vacate the public easement before the Development Review Board of the City of Albuquerque in order to maximize its use of the aforementioned property, and

WHEREAS, SAFE House has formally opposed the Hall's proposal to vacate the public easement with the Development Review Board of the City of Albuquerque, and

WHEREAS, Hall and SAFE House desire to resolve any differences regarding their respective uses of the aforementioned easement;

NOW THEREFORE it is agreed, upon mutual consideration, as follows:

1. SAFE House agrees to withdraw its opposition to Hall's application to vacate the public easement and Hall agrees to allow SAFE House to use the easement for pick up of its commercial solid waste and access to a large dumpster container upon the following conditions:
 - a. SAFE House agrees to indemnify and hold Hall harmless from and against any and all claims, demands, causes of action, debts or

liabilities arising out of or on account of SAFE House's use of the easement, occasioned by SAFE House's negligence.

- b. SAFE House agrees to be responsible for any and all costs associated with the pick up of its commercial waste, whether assessed by the City of Albuquerque or any other waste management company involved in servicing the hauling of commercial waste belonging to SAFE House.
- c. SAFE House agrees that it does not have presently, nor will it assert, at any time hereafter, any claim on the aforementioned property belonging to Hall by way of prescriptive easement, adverse possession or otherwise and that upon vacation of the public easement, if granted by the City of Albuquerque, SAFE House will make no further claim on the prior easement except as set forth in this Agreement.
- d. If the public easement is vacated by the City of Albuquerque, any use of the easement by SAFE House by Hall will be deemed a permissive use only of the easement by Hall.
- e. SAFE House agrees to store any waste or trash receptacles, including any large dumpster containers, on its own property. If SAFE House fails to adequately maintain its waste and waste containers and receptacles to such an extent that it constitutes a nuisance or devalues Hall's property, Hall shall be permitted to withdraw access to the easement on Hall's property.

2. Notices. All notices and other communications required or permitted to be given hereunder shall be in writing and shall be deemed to have been duly

given and delivered if mailed, certified, postage prepaid to Hall and/or SAFE House.

3. Applicable Law. This Agreement shall be governed, construed and enforced in accordance with the laws of the State of New Mexico.
4. Binding Effect. All of the agreements between the parties shall be binding upon and inured to the benefit of the parties, their successors and assigns.
5. Entire Agreement. This Agreement merges all previous negotiations between the parties hereto and constitutes the entire agreement and understanding between the parties with respect to the subject matter hereof. No alteration, modification or amendment hereto shall be valid except when in writing and when signed by the parties.

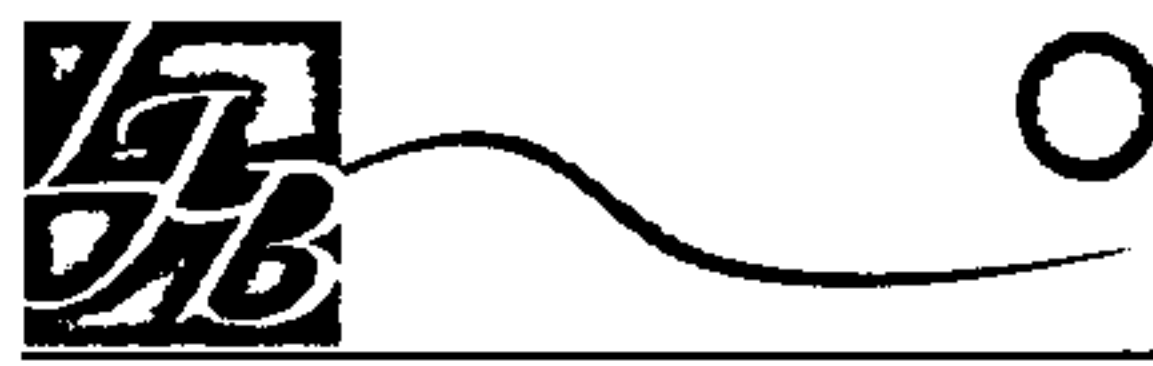
Dated: _____

BRAD HALL & ASSOCIATES INC.,

By Logan Hall, Manager

S.A.F.E. HOUSE, INC.

By



LUEBBEN·JOHNSON
& BARNHOUSE·LLP

attorneys at law

kkeegan@luebbenlaw.com

December 19, 2007

Development Review Board
City of Albuquerque
Plaza del Sol Building
600 2nd St. NW
Albuquerque, NM 87102

Sheran Matson, AICP, Chair, Planning Dept.
Wilfred Gallegos, Transportation Development, Planning Dept.
Brad Bingham, Alternate City Engineer, Planning Dept.
Roger Green, Utility Development, Water Utility Dept.
Christina Sandoval, Parks & Recreation

Re: 07DRB-70406 Vacation of Public Easement

Dear Development Review Board:

This law firm represents S.A.F.E. House Inc. ("SAFE House"). SAFE House owns the land to the west of the property for which vacation of the public easement has been requested. SAFE House operates a domestic violence shelter on the property it owns at this location. SAFE House opposes the request to vacate the public easement. The easement is in use and is the only route of access providing SAFE House essential solid waste removal services.

SAFE House is a nonprofit corporation. The mission of SAFE House is to shelter and empower survivors of intimate partner domestic violence and to improve the way New Mexico responds to this violence. Over 1,000 families go through the doors of SAFE House annually. SAFE House provides programming aimed at healing the wounds, breaking the cycle, and improving the lives of families in our community.

The easement is used three times per week by the Albuquerque Solid Waste Department ("Solid Waste Department"), which provides commercial solid waste

collection services for the SAFE House facility. The collection service includes one large dumpster and 12 to 15 trash bin containers which are emptied three times per week, on Monday, Wednesday and Friday. The only route of ingress and egress to access the containers is via the public easement.

Additionally, this easement is used by PNM. The above-ground utility lines and the utility poles are located on the easement, including at least one pole located on the easement with what appears to be a transformer on it. Access to this pole would be impaired should the easement be vacated. There are also concerns regarding access to under-ground lines that may be located in the easement.

The application before the Board requests the portion of the easement, adjacent to lots 1, 2 and 3, be vacated. Section 14-14-7-2 in the Albuquerque Code of Ordinances, provides that vacation of a public easement shall be approved only when it is determined that:

- (1) The public welfare is in no way served by retaining the way or easement;
or
- (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; and in addition to division (1) or (2) of this division (B):
- (3) There is no convincing evidence that any substantial property right is being abridged against the will of the owner of the right.

To vacate an easement the Board must find that either factor (1) or (2) is met and that factor (3) is met. In this case none of the three factors are met.

The first factor is not met because the public welfare is served by retaining the easement. SAFE House provides essential shelter, programs and services to victims of domestic violence, a mission that is vital to the health of our community. In order to provide these services the SAFE House facility must receive operational services, such as solid waste removal, and the easement allows for this necessary service.

The second factor is not met. This factor requires balancing the benefit of vacation against the detriment resulting from vacation. Although the applicant would clearly benefit from vacation of the easement, the applicant must demonstrate how its development would benefit the public welfare, and it has failed to do so. The detriment to the public welfare resulting from vacation of the easement is great. As stated above, in order to provide its services, the SAFE House facility must receive operational services, such as solid waste removal. If the easement were vacated SAFE House would be forced to relocate the collection containers. The expense and logistics of relocating the collection

containers would be detrimental to SAFE House. After reviewing options with the Solid Waste Department, it appears that there is only one possible alternative location where the containers could be placed which would require, among other modifications, removing an existing concrete and stucco wall, building a new concrete and stucco wall with three sides and one side with a gate, and cement work required for any sidewalk and driveway modifications. SAFE House operates on a limited budget and does not have funding for this type of project. There is no evidence the applicant's development would benefit the public welfare, thus the benefit does not outweigh the detriment to SAFE House and the services it provides to our community.

The third factor is not met because there is evidence that a property right would be abridged against the will of the owner of such right. An easement is a property right in that it is an interest in land in the possession of another which entitles the owner of such interest to a limited use or enjoyment of the land in which the interest exists. A public easement is an easement for the benefit of an entire community. SAFE House has a property right in the easement as it is a member of the community, an adjacent property owner, and the easement is used by the City for the benefit of SAFE House. Therefore, vacation of the easement would abridge SAFE House's property right against its will.

On Friday, December 14, 2007, this office contacted the applicant, Logan Hall, in an effort to resolve this issue prior to today's hearing. Mr. Hall was advised that SAFE House's goal was to solve the problem that would be created by vacation of the easement and that if an agreement or solution could be reached, SAFE House would not oppose Mr. Hall's application. Mr. Hall declined the invitation to seek a compromise solution. Instead, he stated that waste management would have a solution and that he couldn't speak on behalf of the company seeking to have the City vacate the public easement.

Please feel free to contact me if you have any questions or comments regarding SAFE House's opposition to the request to vacate the public easement.

For the Firm,


Kelli J. Keegan



Supplemental form

SUBDIVISION

- Major Subdivision action
- Minor Subdivision action
- Vacation
- Variance (Non-Zoning)

SITE DEVELOPMENT PLAN

- for Subdivision
- for Building Permit
- Administrative Amendment (AA)
- IP Master Development Plan
- Cert. of Appropriateness (LUCC)

STORM DRAINAGE (Form D)

- Storm Drainage Cost Allocation Plan

S Z ZONING & PLANNING

- Annexation.
- County Submittal
- EPC Submittal
- Zone Map Amendment (Establish or Change Zoning)
- Sector Plan (Phase I, II, III)
- Amendment to Sector, Area, Facility or Comprehensive Plan
- Text Amendment (Zoning Code/Sub Regs)
- Street Name Change (Local & Collector)
- L A APPEAL / PROTEST of...**
- Decision by: DRB, EPC, LUCC, Planning Director or Staff, ZHE, Zoning Board of Appeals

PRINT OR TYPE IN BLACK INK ONLY. The applicant or agent must submit the completed application in person to the Planning Department Development Services Center, 600 2nd Street NW, Albuquerque, NM 87102. Fees must be paid at the time of application. Refer to supplemental forms for submittal requirements.

APPLICATION INFORMATION:

Professional/Agent (if any): _____ PHONE: _____
 ADDRESS: _____ FAX: _____
 CITY: _____ STATE _____ ZIP _____ E-MAIL: _____

APPLICANT: Logan Hall PHONE: 505-507-0280
 ADDRESS: 210 Corte Del Caballo NW FAX: 810-358-7525
 CITY: Albuquerque STATE NM ZIP 87120 E-MAIL: hall.logan@gmail.com

Proprietary interest in site: Purchasing Premises List all owners: Brad Hall

DESCRIPTION OF REQUEST: Request that the 16' public alley be vacated in order to build out location extending across neighboring properties

Is the applicant seeking incentives pursuant to the Family Housing Development Program? Yes No

SITE INFORMATION: ACCURACY OF THE EXISTING LEGAL DESCRIPTION IS CRUCIAL! ATTACH A SEPARATE SHEET IF NECESSARY.

Lot or Tract No. Plat of Lot 1-A Block: 4 Unit: _____
 Subdiv/Addn/TBKA: Terrace Addition
 Existing Zoning: SU-2/NCR Proposed zoning: None (Vacate Only) MRGCD Map No. _____
 Zone Atlas page(s): K-15-2 UPC Code: _____

CASE HISTORY:

List any current or prior case number that may be relevant to your application (Proj., App., DRB-, AX, Z, V, S, etc.): _____

CASE INFORMATION:

Within city limits? Yes Within 1000FT of a landfill? NO
 No. of existing lots: 1 No. of proposed lots: 1 Total area of site (acres): 4539
 LOCATION OF PROPERTY BY STREETS: On or Near: Lead Ave SE
 Between: Locust Ave. SE and Elm St. SE
 Check-off if project was previously reviewed by Sketch Plat/Plan , or Pre-application Review Team . Date of review: _____

SIGNATURE: Logan Hall DATE 11/20/07
 (Print) Logan Hall Applicant: Agent:

FOR OFFICIAL USE ONLY

Form revised 4/07

- INTERNAL ROUTING
- All checklists are complete
- All fees have been collected
- All case #s are assigned
- AGIS copy has been sent
- Case history #s are listed
- Site is within 1000ft of a landfill
- F.H.D.P. density bonus
- F.H.D.P. fee rebate

Application case numbers	Action	S.F.	Fees
<u>07DRB 70406</u>	<u>VPE</u>	<u>V</u>	<u>\$ 300.00</u>
_____	<u>ADV</u>	_____	<u>\$ 75.00</u>
_____	_____	_____	<u>\$ 20.00</u>
_____	_____	_____	\$ _____
_____	_____	_____	\$ _____
Hearing date <u>12/19/07</u>			Total <u>\$ 395.00</u>

Sandy Handley
 Planner signature / date

Project # 1006953

FORM V: SUBDIVISION VARIANCES & VACATIONS

BULK LAND VARIANCE (DRB04)

(PUBLIC HEARING CASE)

- Application for Minor Plat on FORM S-3, including those submittal requirements. **24 copies**
- Letter briefly describing and explaining: the request, compliance with the Development Process Manual, and all improvements to be waived.
- Notice on the proposed Plat that there are conditions to subsequent subdivision (refer to DPM)
- Office of Community & Neighborhood Coordination inquiry response, notifying letter, certified mail receipts
- Sign Posting Agreement
- Fee (see schedule)
- List any original and/or related file numbers on the cover application

DRB Public hearings are approximately 30 DAYS after the filing deadline. Your attendance is required.

VACATION OF PUBLIC EASEMENT (DRB27)

VACATION OF PUBLIC RIGHT-OF-WAY (DRB28)

- The complete document which created the public easement (folded to fit into an 8.5" by 14" pocket) **24 copies.**
(Not required for City owned public right-of-way.)
- Drawing showing the easement or right-of-way to be vacated, etc. (not to exceed 8.5" by 11") **24 copies**
- Zone Atlas map with the entire property(ies) clearly outlined
- Letter briefly describing, explaining, and justifying the request
- Office of Community & Neighborhood Coordination inquiry response, notifying letter, certified mail receipts
- Sign Posting Agreement
- Fee (see schedule)
- List any original and/or related file numbers on the cover application

Unless the vacation is shown on a DRB approved plat recorded by the County Clerk within one year, it will expire.
DRB Public hearings are approximately 30 DAYS after the filing deadline. Your attendance is required.

SIDEWALK VARIANCE (DRB20)

SIDEWALK WAIVER (DRB21)

- Scale drawing showing the proposed variance or waiver (not to exceed 8.5" by 14") **6 copies**
- Zone Atlas map with the entire property(ies) clearly outlined
- Letter briefly describing, explaining, and justifying the variance or waiver
- List any original and/or related file numbers on the cover application

DRB meetings are approximately 8 DAYS after the Tuesday noon filing deadline. Your attendance is required.

SUBDIVISION DESIGN VARIANCE FROM MINIMUM DPM STANDARDS (DRB25)

- Scale drawing showing the location of the proposed variance or waiver (not to exceed 8.5" by 14") **24 copies**
- Zone Atlas map with the entire property(ies) clearly outlined
- Letter briefly describing, explaining, and justifying the variance
- Office of Community & Neighborhood Coordination inquiry response, notifying letter, certified mail receipts
- Sign Posting Agreement
- Fee (see schedule)
- List any original and/or related file numbers on the cover application

DRB meetings are approximately 30 DAYS after the filing deadline. Your attendance is required.

TEMPORARY DEFERRAL OF SIDEWALK CONSTRUCTION (DRB19)

EXTENSION OF THE SIA FOR TEMPORARY DEFERRAL OF SIDEWALK CONSTRUCTION (DRB07)

- Drawing showing the sidewalks subject to the proposed deferral or extension (not to exceed 8.5" by 14") **6 copies**
- Zone Atlas map with the entire property(ies) clearly outlined
- Letter briefly describing, explaining, and justifying the deferral or extension
- List any original and/or related file numbers on the cover application

DRB meetings are approximately 8 DAYS after the Tuesday noon filing deadline. Your attendance is required.

VACATION OF PRIVATE EASEMENT (DRB26)

VACATION OF RECORDED PLAT (DRB29)

- The complete document which created the private easement/recorded plat (not to exceed 8.5" by 14") **6 copies**
- Scale drawing showing the easement to be vacated (8.5" by 11") **6 copies**
- Zone Atlas map with the entire property(ies) clearly outlined
- Letter/documents briefly describing, explaining, and justifying the vacation **6 copies**
- Letter of authorization from the grantors and the beneficiaries (private easement only)
- Fee (see schedule)
- List any original and/or related file numbers on the cover application

Unless the vacation is shown on a DRB approved plat recorded by the County Clerk within one year, it will expire.

DRB meetings are approximately 8 DAYS after the Tuesday noon filing deadline. Your attendance is required.

I, the applicant, acknowledge that any information required but not submitted with this application will likely result in deferral of actions.

Logan Hall
Applicant name (print)
Logan Hall 11/21/07
Applicant signature / date



Form revised 4/07

- Checklists complete
- Fees collected
- Case #s assigned
- Related #s listed

Application case numbers
07DRB - 70406

Sandy Handley 11/21/07
Planner signature / date
Project # 1006953

SIGN POSTING AGREEMENT

REQUIREMENTS

POSTING SIGNS ANNOUNCING PUBLIC HEARINGS

All persons making application to the City under the requirements and procedures established by the City Zoning Code or Subdivision Ordinance are responsible for the posting and maintaining of one or more signs on the property which the application describes. Vacations of public rights-of-way (if the way has been in use) also require signs. Waterproof signs are provided at the time of application. If the application is mailed, you must still stop at the Development Services Front Counter to pick up the sign.

The applicant is responsible for ensuring that the signs remain posted throughout the 15-day period prior to public hearing. Failure to maintain the signs during this entire period may be cause for deferral or denial of the application. Replacement signs for those lost or damaged are available from the Development Services Front Counter at a charge of \$3.75 each.

1. LOCATION

- A. The sign shall be conspicuously located. It shall be located within twenty feet of the public sidewalk (or edge of public street). Staff may indicate a specific location.
- B. The face of the sign shall be parallel to the street; and the bottom of the sign shall be at least two feet from the ground.
- C. No barrier shall prevent a person from coming within five feet of the sign to read it.

2. NUMBER

- A. One sign shall be posted on each paved street frontage. Signs may be required on unpaved street frontages.
- B. If the land does not abut a public street, then, in addition to a sign placed on the property, a sign shall be placed on and at the edge of the public right-of-way of the nearest paved City street. Such a sign must direct readers toward the subject property by an arrow and an indication of distance.

3. PHYSICAL POSTING

- A. A heavy stake with two crossbars or a full plywood backing works best to keep the sign in place, especially during high winds.
- B. Large headed nails or staples are best for attaching signs to a post or backing; the sign tears out less easily.

4. TIME

Signs must be posted from DEC. 4, 2007 To DEC. 19, 2007

5. REMOVAL

- A. The sign is not to be removed before the initial hearing on the request.
- B. The sign should be removed within five (5) days after the initial hearing.

I have read this sheet and discussed it with the Development Services Front Counter Staff. I understand (A) my obligation to keep the sign(s) posted for (15) days and (B) where the sign(s) are to be located. I am being given a copy of this sheet.

[Signature]
(Applicant or Agent)

11/21/07
(Date)

I issued 2 signs for this application, 11/21/07 Sandy Handley
(Date) (Staff Member)

DRB PROJECT NUMBER: 1006953

Logan Hall
Brad Hall & Associates Inc.
2107 Corte Del Caballo NW
Albuquerque, NM 87120
October 29, 2007

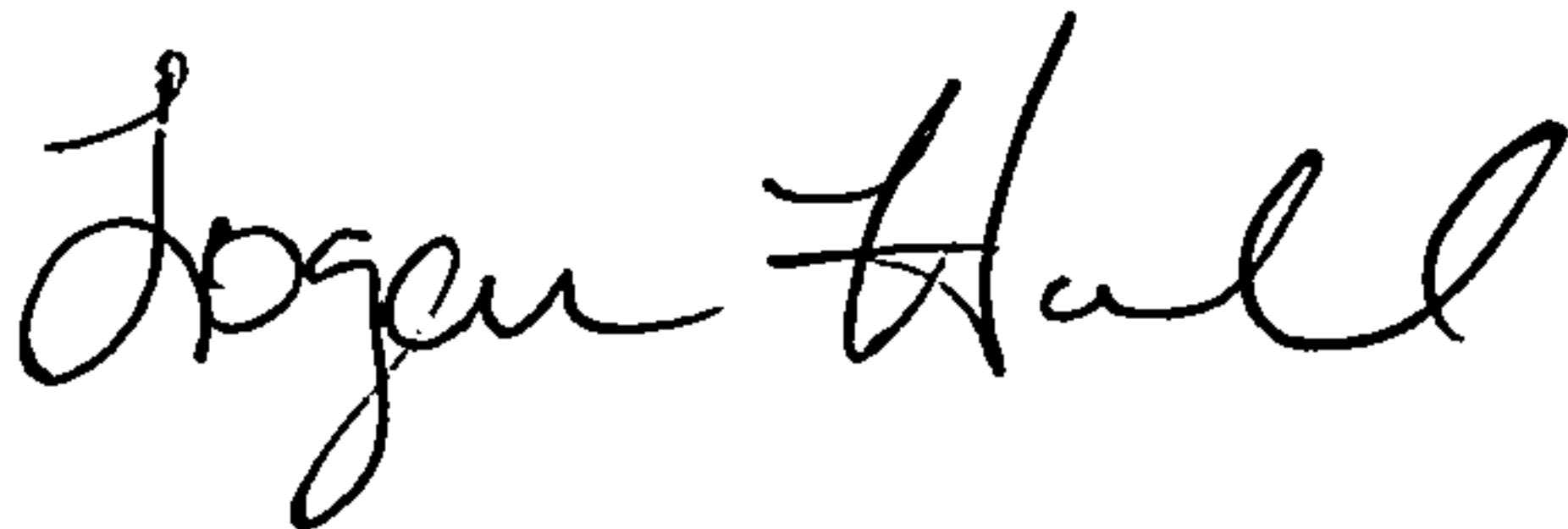
City Of Albuquerque
Development Review Board
Minor Cases
600 2nd Street NW
Albuquerque, NM

Dear: Development Review Board

This letter is a request for vacating a 16' public alley at the property located at the corner of Locust Avenue S.E. and Lead Avenue S.E.. We are currently under contract to purchase this property and are in negotiations to purchase the property next to it which currently houses a Chevron gas station owned by Rio Grande Oil. It would seem that the 16' public alley is not in use and has already been vacated in the west direction, as there are buildings that have built over the public alley way. Our request is to see the remainder of the alley vacated, allowing us to build a convenient store and gas station which will stretch across both property lots. The newly built location will offer a fully up-to-date gas station, grocery mart, and potential fast-food eatery. We are fully aware that this property is located in the historic district and welcome the opportunity to build an aesthetically pleasing location which will meet the goals of the district and enhance the current locations offerings.

If you have questions about my request or would like to speak with me, please call me at (505) 507-0280. I look forward to hearing your position on this issue. Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Logan Hall". The signature is written in black ink and is positioned below the word "Sincerely,".

Logan Hall



Fidelity National Title
INSURANCE COMPANY

November 15, 2007

To Whom It May Concern:

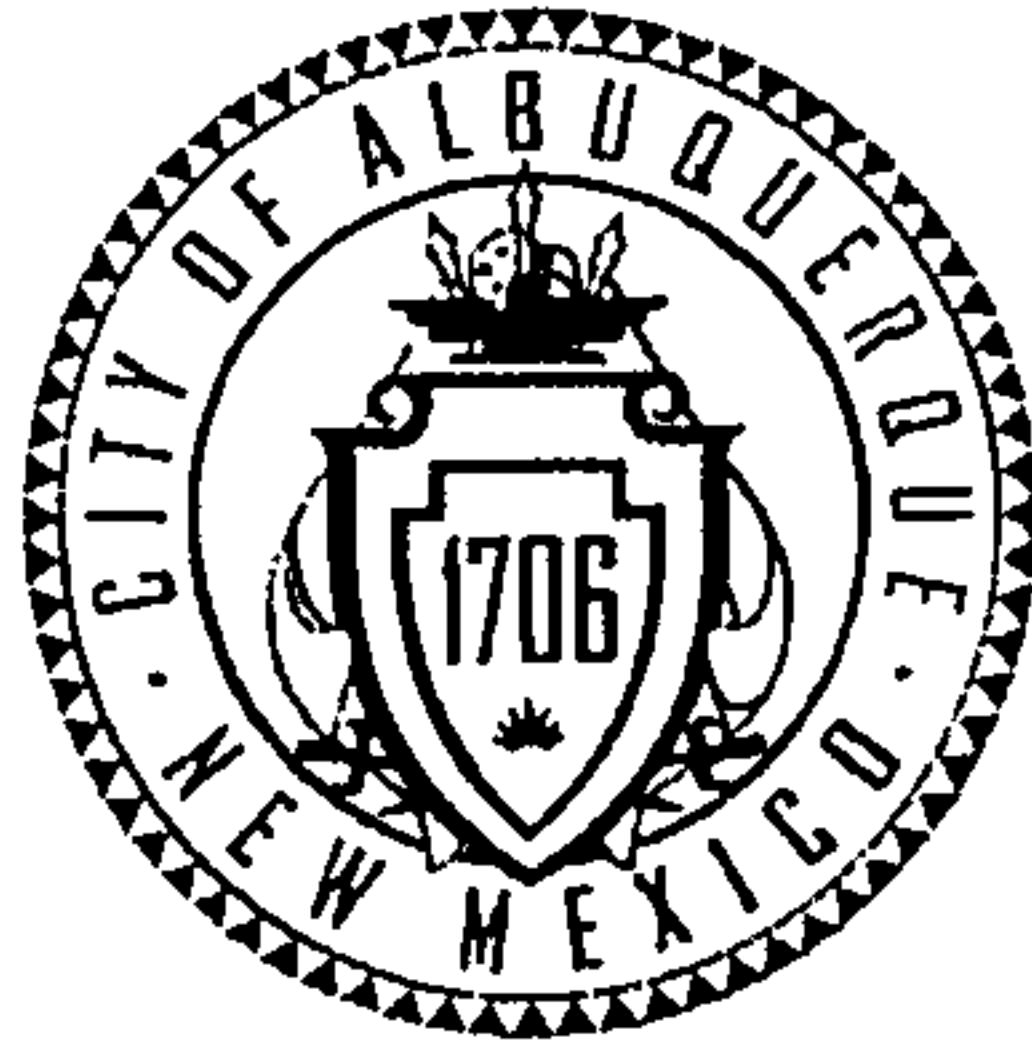
A search of the Bernalillo County records does not show any "vacation" by the City of Albuquerque, as to the alleyway as shown within the following legal description:

Lots numbered Four (4), Five (5), Six (6), Seven (7), Eight (8), Nine (9), Ten (10), and the West Ten feet (W. 10') of Lot numbered Three, in Block numbered Four (4) of the Terrace Addition to the City of Albuquerque, New Mexico, as the same is shown and designated on the map of said addition, filed in the office of the Probate Clerk and Ex-officio Recorder of Bernalillo County, New Mexico, on May 20, 1905.

Sincerely,

Kay Reel

Kay Reel
Title Officer



City of Albuquerque

PLEASE NOTE: The Neighborhood Association information listed in this letter is valid for one (1) month. If you haven't filed your application within one (1) month of the date of this letter – you will need to get an updated letter from our office. It is your responsibility to provide current information – outdated information may result in a deferral of your case.

Date: 19 November 2007

TO CONTACT NAME: Logan Hall
COMPANY/AGENCY: Porac Hall & Assoc., Inc.
ADDRESS/ZIP: 2107 Corte Del Caballo NW 87120
PHONE/FAX #: 507-0280 / 1-866-358-7525

Thank you for your inquiry of 19 Nov. 07 requesting the names of **Recognized**
(date)

Neighborhood Associations who would be affected under the provisions of O-92 by your proposed project at Vacate Public Alley block 4 of the Terrance Addition to the City of ABO located on Locust and Elm between Lead and Coal
zone map page(s) K-15

Our records indicate that the **Recognized Neighborhood Association(s)** affected by this proposal and the contact names are as follows:

Silver Hill NA
Neighborhood Association
Contacts: Bill Cobb
1701 Silver Ave. SE 87106
247-8296(h)
Gordon Reisel
1515 Silver SE 87106
242-3345(h)

Spruce Park NA Inc.
Neighborhood Association
Contacts: Daniel Laird
603 Cedar NE 87106
766-7696(h) 844-6188(w)
Bart Chimenti
1502 Roma NE 87106
293-6734(h)

See reverse side for additional Neighborhood Association Information: YES NO { }

Please note that according to O-92 you are required to notify each of these contact persons by **CERTIFIED MAIL, RETURN RECEIPT REQUESTED, BEFORE** the Planning Department will accept your application filing. **IMPORTANT! FAILURE OF ADEQUATE NOTIFICATION MAY RESULT IN YOUR APPLICATION HEARING BEING DEFERRED FOR 30 DAYS.** If you have any questions about the information provided, please contact our office at (505) 924-3914 or by fax at 924-3913.

Sincerely,

Dalana Carmona
OFFICE OF NEIGHBORHOOD COORDINATION

Attention: Both contacts per neighborhood association need to be notified.

Additional Neighborhood Association Information

Sycamore NA
Neighborhood Association
Contacts: Peter Schillke
1217 Coal Ave SE 87106
243-8368 (h)
Marden Gardella
411 Maple St. NE 87106
843-6154 (h)

Huning Highland Historic District As
Neighborhood Association
Contacts: Steve Grant
209 High St. NE 87102
238-0308 (c)
Kay Adams
816 Silver Ave. SE 87102
224-9535 (h)
224-9535 (h)

Neighborhood Association
Contacts: South Broadway NA
(co chair) Susan Dixon
1213 Edith SE 87102
242-4013 (h)
(co chair) Jessica Rocelas
912 Edith SE 87102
319-0498 (h)

Neighborhood Association
Contacts: _____

ALTHOUGH YOU ARE NOT "OFFICIALLY REQUIRED" BY O-92,
you are most welcomed to notify the following "Unrecognized"
neighborhood associations of this project.

Neighborhood Association
Contacts: _____

Neighborhood Association
Contacts: _____

Neighborhood Association
Contacts: _____

Neighborhood Association
Contacts: _____

!!!Notice to Applicants!!!

SUGGESTED INFORMATION FOR NEIGHBORHOOD NOTIFICATION LETTERS

Applicants for Zone Change, Site Plan, Sector Development Plan approval or an amendment to a Sector Development Plan by the EPC, DRB, etc. are required under Council Bill O-92 to notify all affected recognized neighborhood associations **PRIOR TO FILING THE APPLICATION TO THE PLANNING DEPARTMENT**. Because the purpose of the notification is to ensure communication as a means of identifying and resolving problems early, it is essential that the notification be fully informative.

WE RECOMMEND THAT THE NOTIFICATION LETTER INCLUDE THE FOLLOWING INFORMATION:

1. The street address of the subject property.
2. The legal description of the property, including lot or tract number (if any), block number (if any), and name of the subdivision.
3. A physical description of the location, referenced to streets and existing land uses.
4. A complete description of the actions requested of the EPC:
 - a) If a **ZONE CHANGE OR ANNEXATION**, the name of the existing zone category and primary uses and the name of the proposed category and primary uses (i.e., "from the R-T Townhouse zone, to the C-2 Community Commercial zone").
 - b) If a **SITE DEVELOPMENT OR MASTER DEVELOPMENT PLAN** approval or amendment describe the physical nature of the proposal (i.e., "an amendment to the approved plan to allow a drive-through restaurant to be located just east of the main shopping center entrance off Montgomery Blvd.").
 - c) If a **SECTOR DEVELOPMENT PLAN OR PLAN AMENDMENT** a general description of the plan area, plan concept, the mix of zoning and land use categories proposed and description of major features such as location of significant shopping centers, employment centers, parks and other public facilities.
 - d) The name, address and telephone number of the applicant and of the agent (if any). In particular the name of an individual contact person will be helpful so that neighborhood associations may contact someone with questions or comments.

Information from the Office of Neighborhood Coordination

The following information should always be in each application packet that you submit for an EPC or DRB application. Listed below is a "Checklist" of the items needed.

- [X] ONC's "Official" Letter to the applicant (*if there are associations*). A copy must be submitted with application packet -OR-
- [] The ONC "Official" Letter (*if there are no associations*). A copy must be submitted with application packet.
- [X] Copies of Letters to Neighborhood Associations (*if there are associations*). A copy must be submitted with application packet.
- [X] Copies of the certified receipts to Neighborhood Associations (*if there are associations*). A copy must be submitted with application packet.

Just a reminder - Our ONC "Official" Letter is only valid for a one (1) month period and if you haven't submitted your application by this date, you will need to get an updated letter from our office.

Any questions, please feel free to contact Stephani at 924-3902 or via an e-mail message at swinklepleck@cabq.gov.

Thank you for your cooperation on this matter.

(below this line for ONC use only)

Date of Inquiry: 19 Nov. 07 Time Entered: 3:04 PM ONC Rep. Initials: DC

Logan Hall
Brad Hall & Associates Inc.
2107 Corte Del Caballo NW
Albuquerque, NM 87120
October 29, 2007

South Broadway Neighborhood Association
Jessica Rochelas
912 Edith SE
Albuquerque, NM 87102

Dear: Susan Dixon

This letter is to inform you of a request for vacating a 16' public alley at the property located at the corner of Locust Avenue S.E. and Lead Avenue S.E., between Locust and Elm, of block 4 of the Terrace Addition. Brad Hall & Associates Inc. (BHA) is currently under contract to purchase this property and is in negotiations to purchase the property next to it which currently houses a Chevron gas station owned by Rio Grande Oil. It would seem that the 16' public alley is not in use in the west direction, as there are buildings that have built over the public alley way by the shelter which occupies the west side of the block. Our request is to see the alley vacated, allowing us to build a convenient store and gas station which will stretch across both property lots. The newly built location will offer a fully up-to-date gas station, grocery mart, and potential fast-food eatery. We are fully aware that this property is located in the historic district and welcome the opportunity to build an aesthetically pleasing location which will meet the goals of the district and enhance the current locations offerings. BHA owns multiple c-store locations across the western United States and does not have intentions of selling alcohol.

It is anticipated that this request will be heard by the DRB during a public hearing on December 19, 2007 at 9:00 am.

If you have questions about our request or would like to speak with me directly, please call me at (505) 507-0280. I look forward to hearing your position on this issue. Thank you for your consideration.

Sincerely,

Logan Hall

7006 0100 0005 7046 4488

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Sent To Kay Adams
 Street, Apt. No.; or PO Box No. 810 Silver Ave SE
 City, State, ZIP+4 Albuquerque NM 87102
 PS Form 3800, June 2002 See Reverse for Instructions

7006 0100 0005 7046 4484

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Restricted Delivery Fee (Endorsement Required)	\$0.00	
Total Postage & Fees	\$ 5.21	

Sent To Mardon Gardella
 Street, Apt. No.; or PO Box No. 411 Maple Street NE
 City, State, ZIP+4 Albuquerque, NM 87106
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Restricted Delivery Fee (Endorsement Required)	\$0.00	
Total Postage & Fees	\$ 5.21	

Sent To Jessica Rochelas
 Street, Apt. No.; or PO Box No. 912 Edith SE
 City, State, ZIP+4 Albuquerque, NM 87102
 PS Form 3800, June 2002 See Reverse for Instructions

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Restricted Delivery Fee (Endorsement Required)	\$0.00	
Total Postage & Fees	\$ 5.21	

Sent To Susan Dixon
 Street, Apt. No.; or PO Box No. 1213 Edith SE
 City, State, ZIP+4 Albuquerque, NM 87102
 PS Form 3800, June 2002 See Reverse for Instructions

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Restricted Delivery Fee (Endorsement Required)	\$ 0.00	
Total Postage & Fees	\$ 5.21	

11/21/2007

Sent To Bill Cobb

Street, Apt. No., or PO Box No. 1701 Silver Ave SE

City, State, ZIP+4 Albuquerque, NM 87106

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Return Receipt Fee (Endorsement Required)	\$ 2.15	
Restricted Delivery Fee (Endorsement Required)	\$ 0.00	
Total Postage & Fees	\$ 5.21	

11/21/2007

Sent To Bart Chiment

Street, Apt. No., or PO Box No. 1502 Roma NE

City, State, ZIP+4 Albuquerque, NM 87106

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Return Receipt Fee (Endorsement Required)	\$ 2.15	
Restricted Delivery Fee (Endorsement Required)	\$ 0.00	
Total Postage & Fees	\$ 5.21	

11/21/2007

Sent To Steve Grant

Street, Apt. No., or PO Box No. 209 High Street NE

City, State, ZIP+4 Albuquerque, NM 87102

PS Form 3800, June 2002 See Reverse for Instructions

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Return Receipt Fee (Endorsement Required)	\$ 2.15	
Restricted Delivery Fee (Endorsement Required)	\$ 0.00	
Total Postage & Fees	\$ 5.21	

11/21/2007

Sent To Gordon Reiselt

Street, Apt. No., or PO Box No. 1515 Silver Ave SE

City, State, ZIP+4 Albuquerque, NM 87106

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Certified Fee	\$ 2.65	
Return Receipt Fee (Endorsement Required)	\$ 2.15	
Restricted Delivery Fee (Endorsement Required)	\$ 0.00	
Total Postage & Fees	\$ 5.21	

11/21/2007

Sent To Daniel Laird

Street, Apt. No., or PO Box No. 1403 Cedar NE

City, State, ZIP+4 Albuquerque, NM 87106

PS Form 3800, June 2002 See Reverse for Instructions

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Certified Fee	\$ 2.65	
Return Receipt Fee (Endorsement Required)	\$ 0.00	
Restricted Delivery Fee (Endorsement Required)	\$ 0.00	
Total Postage & Fees	\$ 3.06	

11/21/2007

Sent To Peter Schilke

Street, Apt. No., or PO Box No. 1217 Coal Ave SE

City, State, ZIP+4 Albuquerque, NM 87106

PS Form 3800, June 2002 See Reverse for Instructions

Logan Hall
Brad Hall & Associates Inc.
2107 Corte Del Caballo NW
Albuquerque, NM 87120
October 29, 2007

Broadway Central Corridors Partnership Inc.
Rob Dickson
301 Central Ave. NE #313
Albuquerque, NM 87102

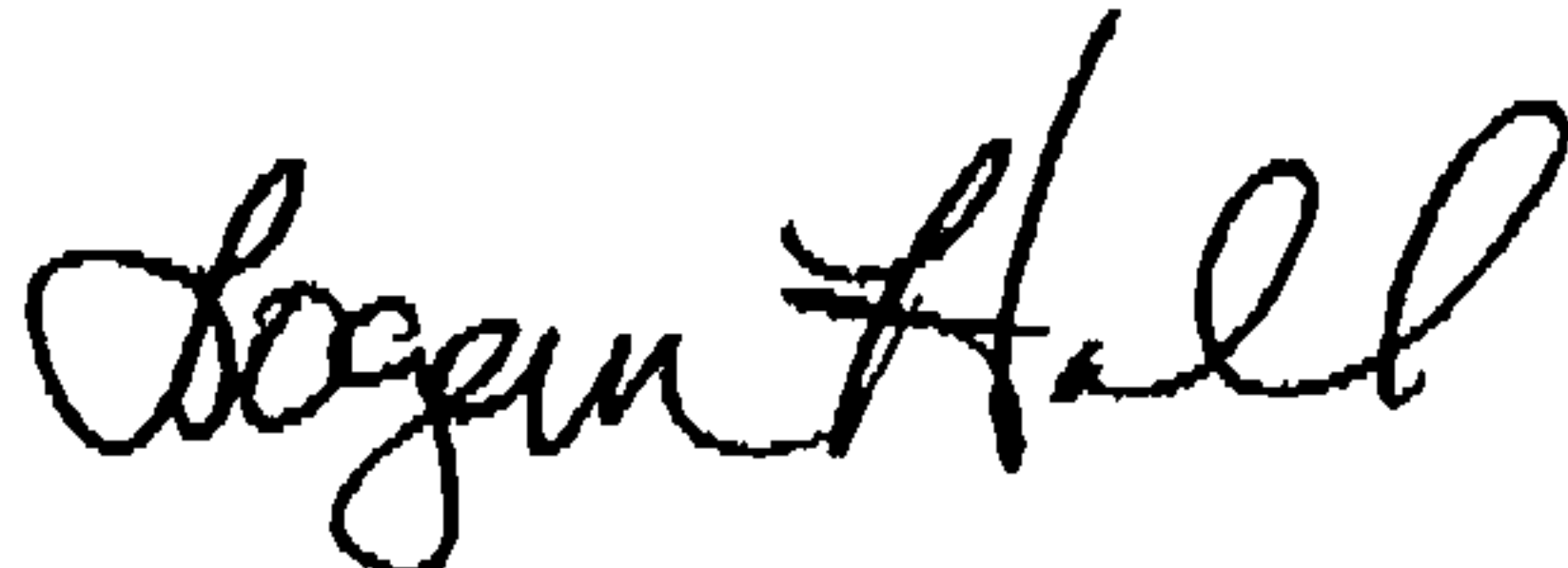
Dear: Rob Dickson

This letter is to inform you of a request for vacating a 16' public alley at the property located at the corner of Locust Avenue S.E. and Lead Avenue S.E., between Locust and Elm, of block 4 of the Terrace Addition. Brad Hall & Associates Inc. (BHA) is currently under contract to purchase this property and is in negotiations to purchase the property next to it which currently houses a Chevron gas station owned by Rio Grande Oil. It would seem that the 16' public alley is not in use in the west direction, as there are buildings that have built over the public alley way by the shelter which occupies the west side of the block. Our request is to see the alley vacated, allowing us to build a convenient store and gas station which will stretch across both property lots. The newly built location will offer a fully up-to-date gas station, grocery mart, and potential fast-food eatery. We are fully aware that this property is located in the historic district and welcome the opportunity to build an aesthetically pleasing location which will meet the goals of the district and enhance the current locations offerings. BHA owns multiple c-store locations across the western United States and does not have intentions of selling alcohol.

It is anticipated that this request will be heard by the DRB during a public hearing on December 19, 2007 at 9:00 am.

If you have questions about our request or would like to speak with me directly, please call me at (505) 507-0280. I look forward to hearing your position on this issue. Thank you for your consideration.

Sincerely,



Logan Hall

CC:

Terry Keene
424 Central Ave. SE
Albuquerque, NM 87102

Susan Dixon
1213 Edith SE
Albuquerque, NM 87102

Jessica Rodelas
912 Edith SE
Albuquerque, NM 87102

Bill Cobb
1701 Silver Ave. SE
Albuquerque, NM 87106

Gordon Reiselt
1515 Silver SE
Albuquerque, NM 87106

Daniel Laird
603 Cedar NE
Albuquerque, NM 87106

Bart Chimenti
1502 Roma NE
Albuquerque, NM 87106

Peter Schilke
1217 Coal Ave. SE
Albuquerque, NM 87106

Mardon Gardella
411 Maple St. NE
Albuquerque, NM 87106

Steve Grant
209 High St. NE
Albuquerque, NM 87102

Kay Adams
816 Silver Ave SE
Albuquerque, NM 87102



DEVELOPER INQUIRY SHEET

(To be completed prior to application submittal)

The Office of Neighborhood Coordination (ONC) located in Room 120 (basement) of the Plaza Del Sol Building, 600 Second Street NW, Fax: (505) 924-3913 – will need the following information **BEFORE** neighborhood association information will be released to the applicant/agent on any project being presented to the Planning Department of the City of Albuquerque. If you have any questions, please feel free to contact our office at (505) 924-3914. Your Developer Inquiry is for the following:

Cell Tower & Type: [] Free-Standing Tower -OR- [] Concealed Tower

Private Development [] (i.e., EPC, DRB, LUCC, Liquor Submittal)

City Project []

CONTACT NAME: Logan Hall
COMPANY NAME: Brad Hall & Associates Inc.
ADDRESS/ZIP: 2107 Corte Del Caballo NW, Albuquerque, NM 87100
PHONE: 505-507-0280 FAX: 1-800-358-7525

LEGAL DESCRIPTION INFORMATION

PLEASE FORWARD INFORMATION ON ANY NEIGHBORHOOD ASSOCIATION IN THE AREA OF THE PROPERTY DESCRIBED BELOW:

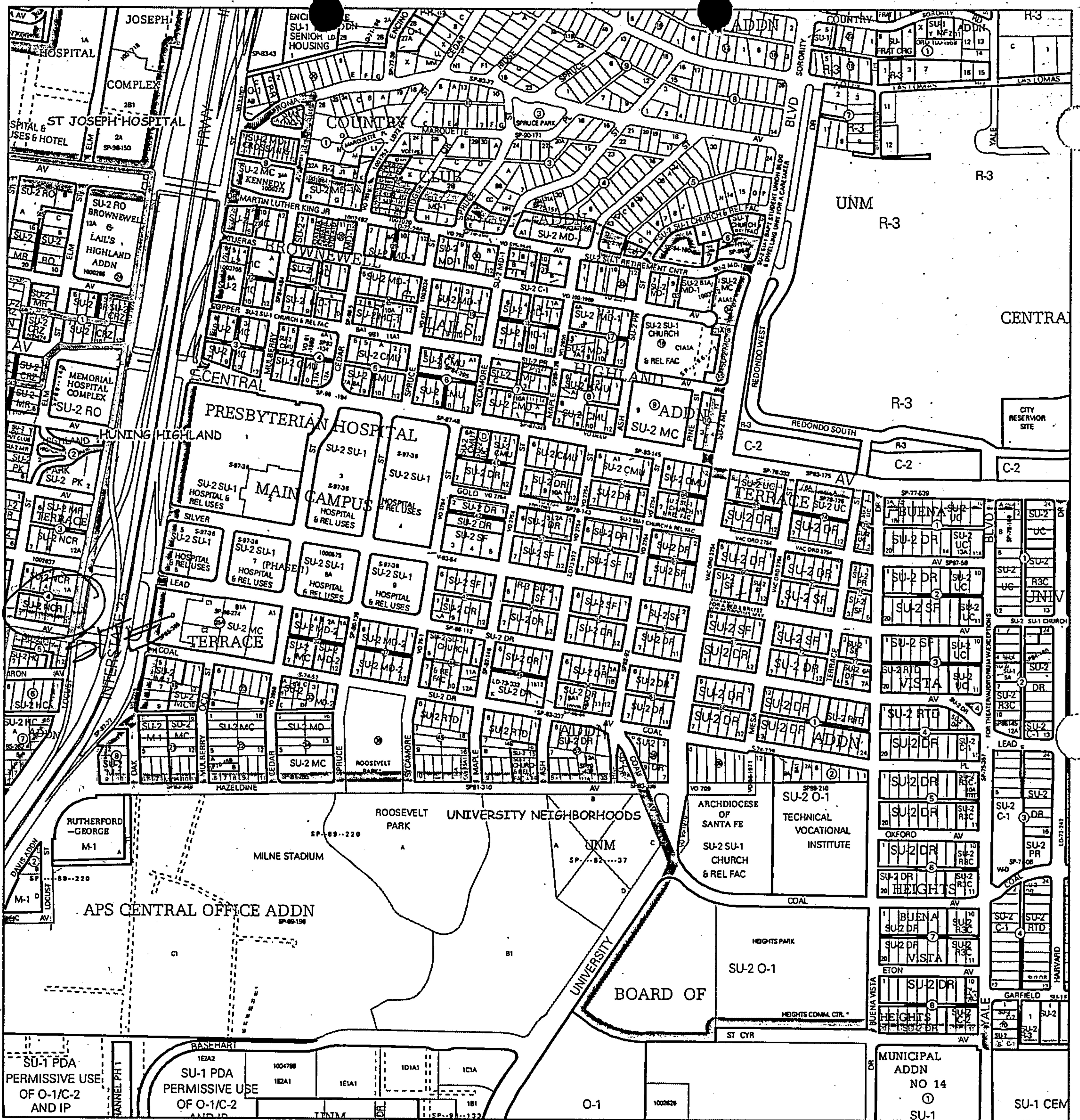
Vacate Public Alley on block 4 of the Terrace addition to the city of Albuquerque

LEGAL DESCRIPTION

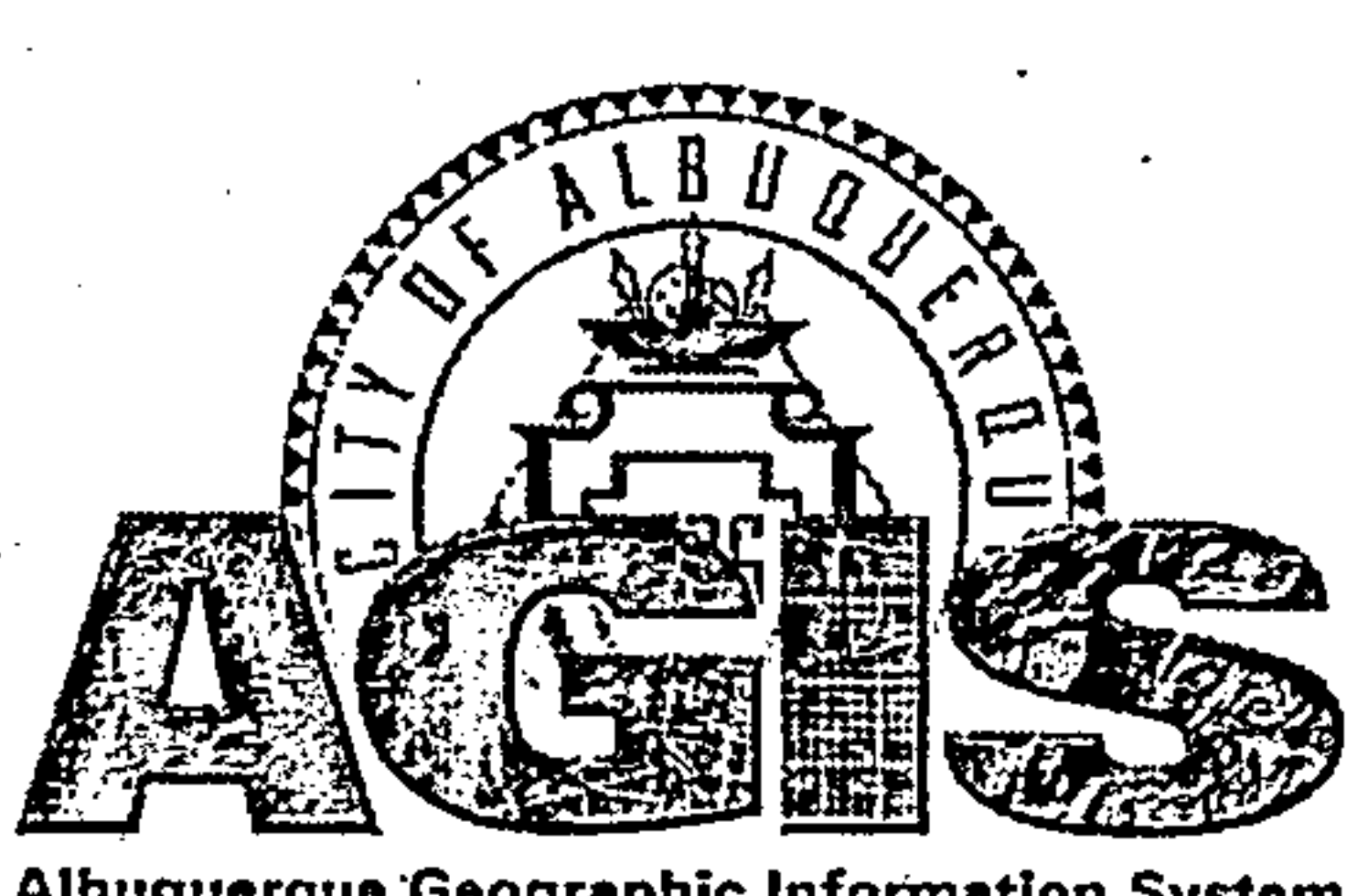
LOCATED ON LOCUST and elm
STREET NAME OR OTHER IDENTIFYING LANDMARK

BETWEEN head ~~end~~ AND
STREET NAME OR OTHER IDENTIFYING LANDMARK
Coal
STREET NAME OR OTHER IDENTIFYING LANDMARK

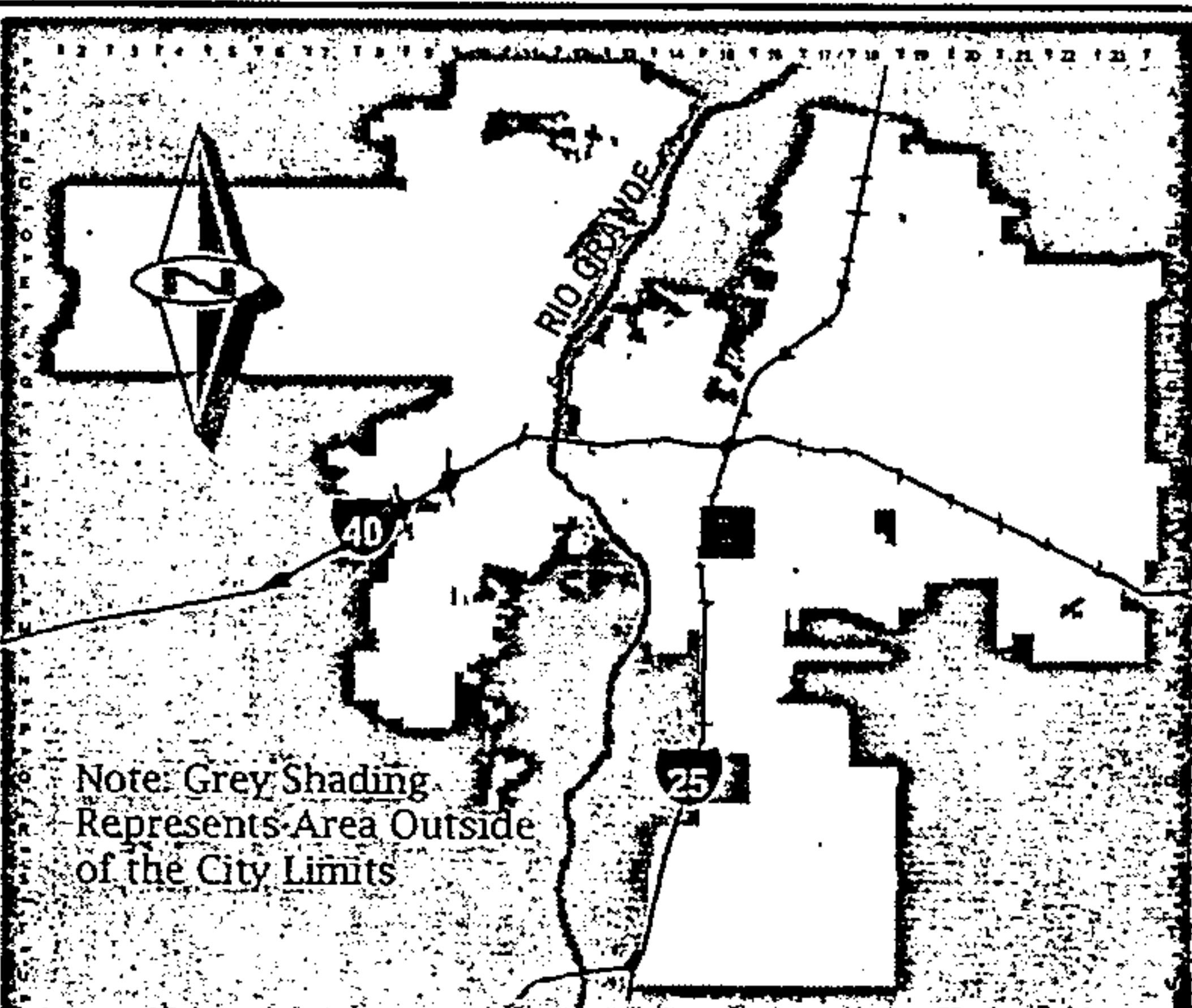
THE SITE IS INDICATED ON THE FOLLOWING ZONE ATLAS PAGE (K-15).
(PLEASE MARK/HATCH ZONE MAP WHERE PROPERTY IS LOCATED)
(Zone Map **MUST** be provided with request)



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



Map amended through: 5/17/2007



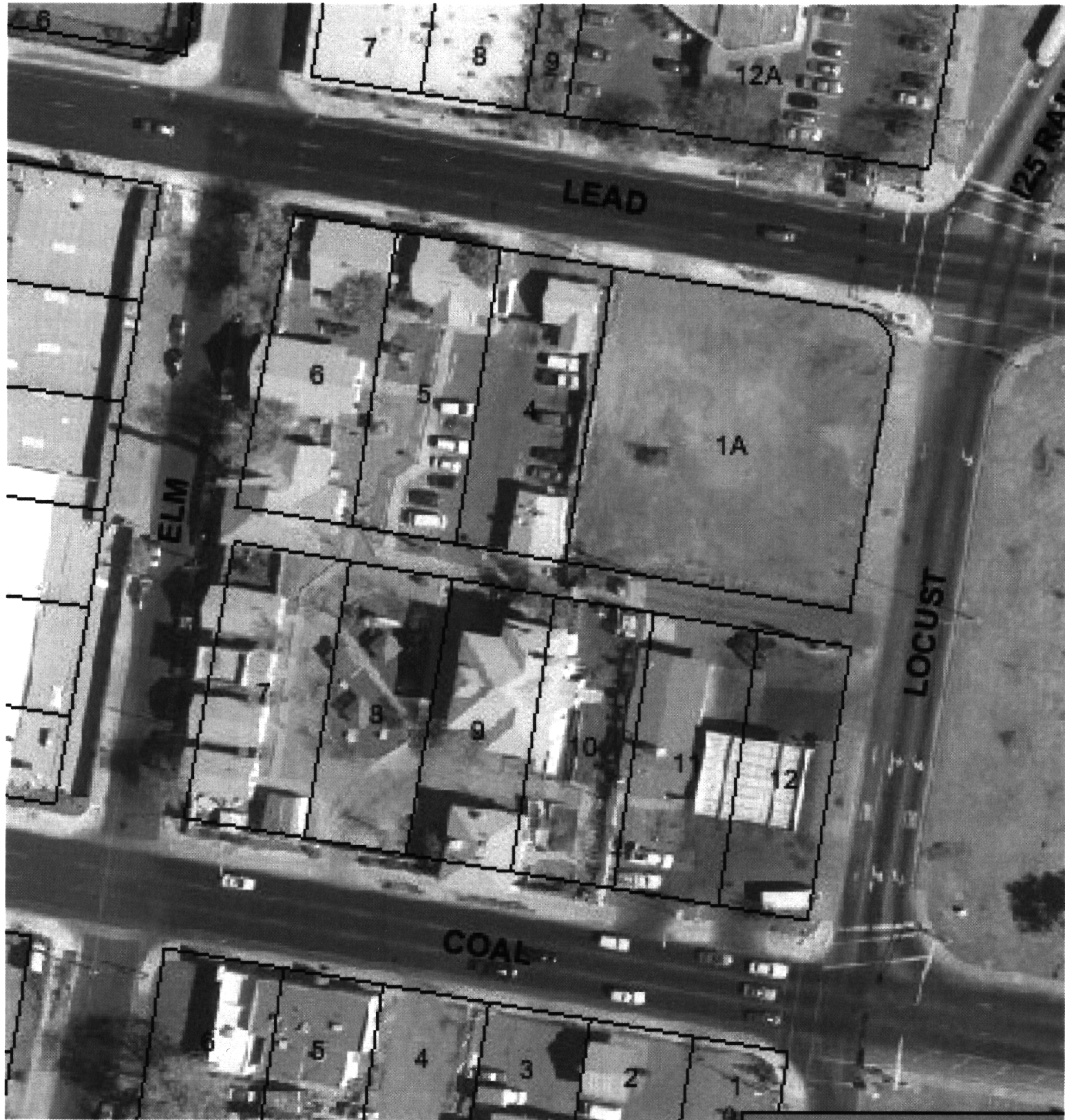
Note: Grey Shading Represents Area Outside of the City Limits

Zone Atlas Page:
K-15-Z

Selected Symbols

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

0 750 1,500 Feet



Cloud, Jack W.

From: Gomez, Angela J.
Sent: Monday, February 04, 2008 9:14 AM
To: Cloud, Jack W.
Subject: FW: Response to the Development Review Board's request for an update by February 1

From: Kelli Keegan [mailto:KKeegan@luebbenlaw.com]
Sent: Friday, February 01, 2008 4:08 PM
To: Gomez, Angela J.
Cc: jad@keleher-law.com; Hall.Logan@gmail.com; Michele Fuller
Subject: Response to the Development Review Board's request for an update by February 1

Ms. Gomez,

Re: Project # 1006953 07DRB-70406 VACATION OF PUBLIC EASEMENT

At the January 23, 2008, hearing, the Development Review Board requested that it be informed by February 1, 2008, of whether an agreement had been reached between Logan Hall and S.A.F.E. House Inc.

No agreement has yet been reached. S.A.F.E. House does not agree to Logan Hall's proposal. No further negotiations have taken place, due to Logan Hall's attorney, Jeffrey Dahl, being out of his office due to illness yesterday and today, and my being out of the office due to illness on Wednesday. Therefore, S.A.F.E. House maintains its position of opposition to the application.

Please feel free to contact me should you have any questions or concerns.

Thank you.

Kelli J. Keegan
Luebben Johnson & Barnhouse LLP
7424 4th Street NW
Los Ranchos de Albuquerque, NM 87107
Voice: (505) 842-6123 - Ext. 405
Fax: (505) 842-6124
Email: kkeegan@luebbenlaw.com
Web: www.luebbenlaw.com

THIS MESSAGE IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHICH IT IS ADDRESSED AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED, CONFIDENTIAL AND EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAW. If the reader of this message is not the intended recipient or agent responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination or copying of this communication is strictly prohibited. If you have received this electronic transmission in error, please delete it from your system without copying it, and notify the sender by reply e-mail or by calling (505) 842-6123 so that our address record can be corrected. Thank you.

2/5/2008

MENTAL HEALTH ADVOCATES

Speaking out for others who Can't.

Jessie A Wirts

Local Collaborative 13 Co-Chair

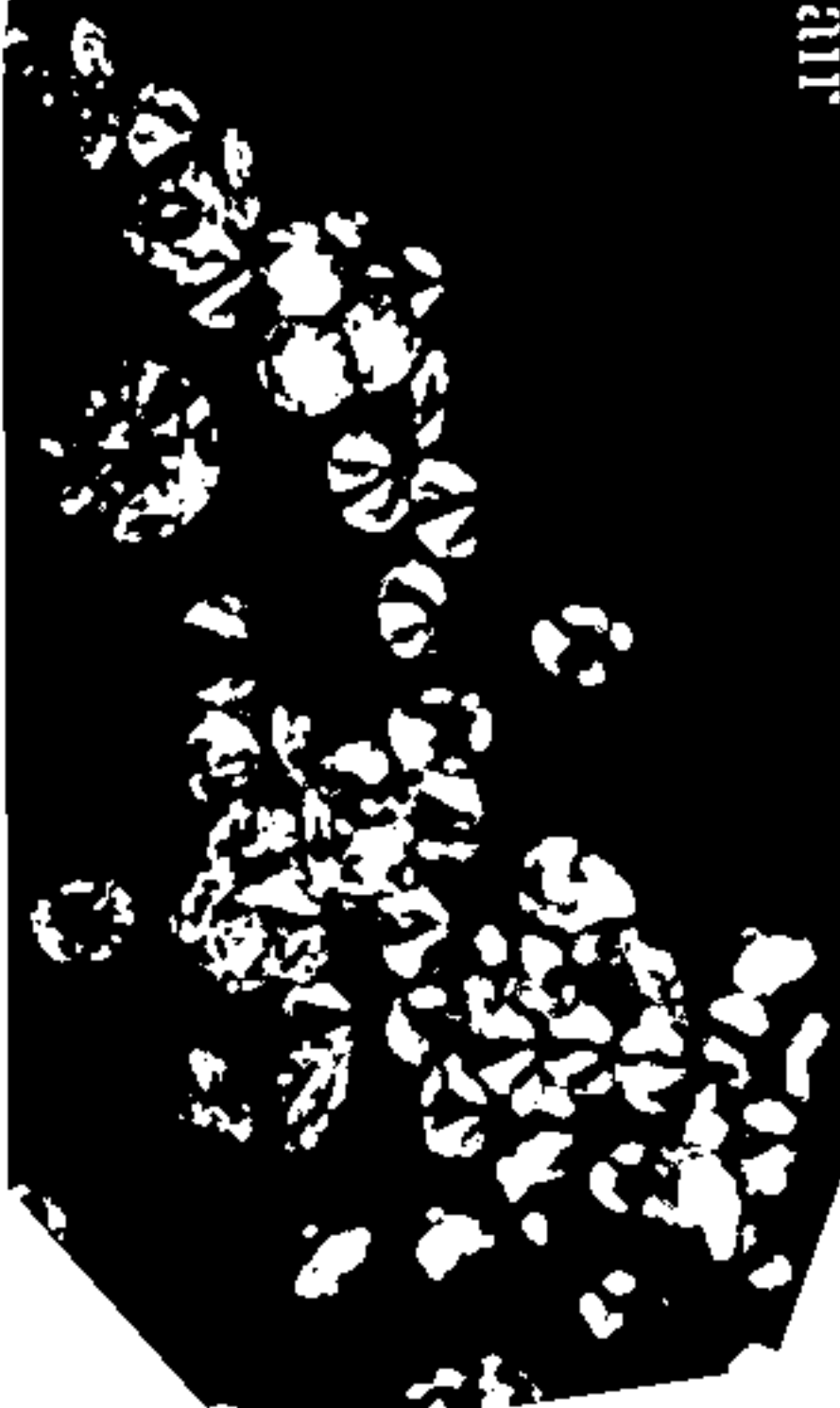
220 N 6th St # B

Belen, NM 87002

Home-505-861-5066

Cell-505-688-9352

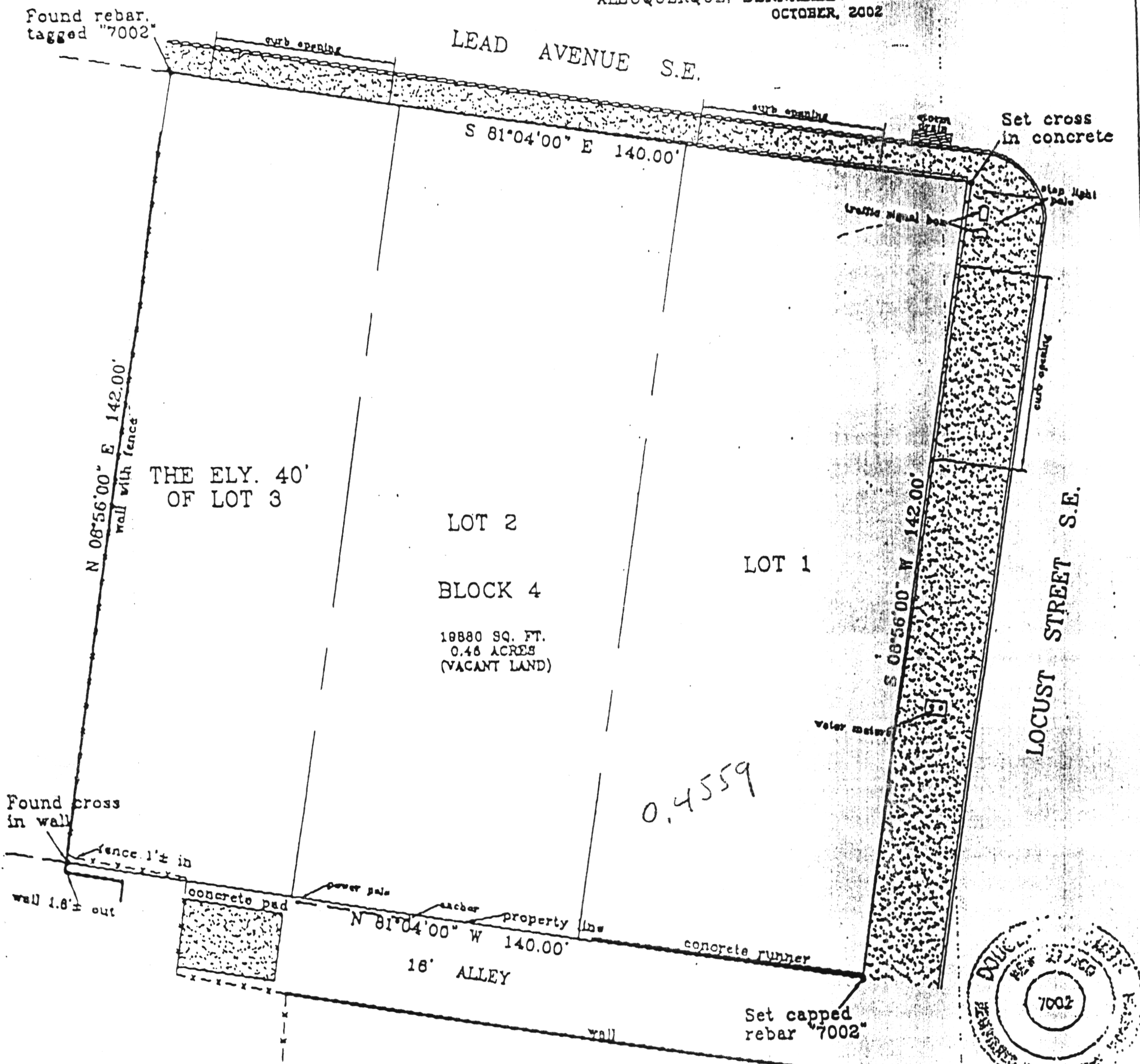
janisemarie70@msn.com



Business Cards are FREE at www.vistaprint.com!



PLAT OF SURVEY
 OF
 LOTS 1, 2 AND THE ELY. 40' OF LOT 3
 BLOCK 4
 TERRACE ADDITION
 ALBUQUERQUE, BERNALILLO COUNTY, NEW MEXICO
 OCTOBER, 2002



LEGAL DESCRIPTION:

Lots numbered One (1) and Two (2) and the easterly 40 feet of Lot numbered Three (3) in Block numbered Four (4) of TERRACE ADDITION, as the same are shown and designated on the plat thereof, filed in the Office of the County Clerk of Bernalillo County, New Mexico on November 15, 1910. Beginning at the northeast corner which is the northeast corner of said lot 1 in block 4 running thence S 08° 56' W along the westerly line of a public street known as Locust Street, S.E., (now contained within the right of way of U.S. Interstate Highway 25, also known as the New Mexico State Road 422) a distance of 142.00 feet to the Southeast corner of said lot 1; thence N 81° 04' W, along the southerly lines of said lots 1, 2 and 3, which is the northerly line of a public alley, 140.00 feet to the southwest corner; thence, N 08° 56' E, 142.00 feet to the northwest corner; thence, S 81° 04' E, along the northerly line of said lots 3, 2 and 1, which is the southerly line of a public street known as Lead Avenue SE, a distance of 140.00 feet to the place of beginning.

DOCUMENTS USED IN THIS SURVEY

Plat of Terrace Addition filed 11/15/10, Vol. C2, folio 71
 Fidelity National Title Co. binder dated 10/4/02, GF#02-10233274-B-VG

FLOOD CERTIFICATION:

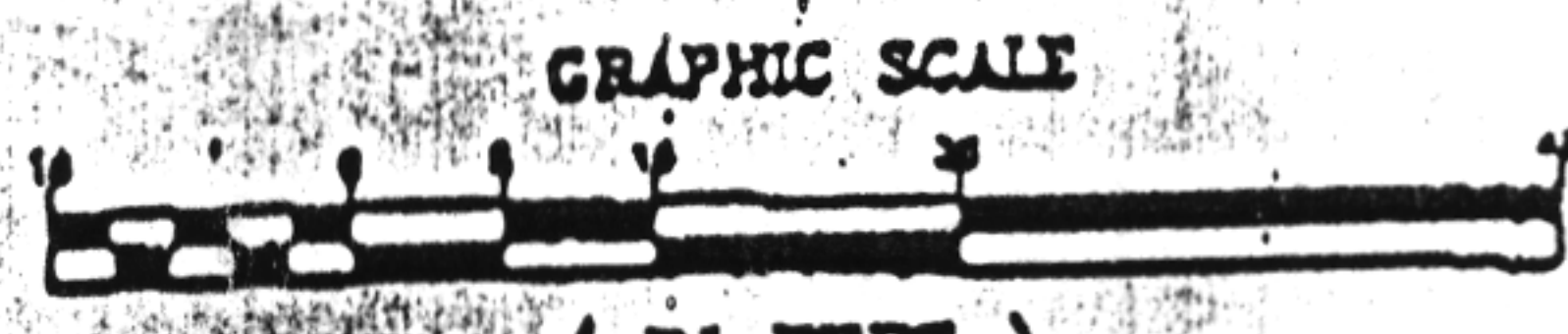
It is hereby certified that the above described property is not located within a 100 year flood hazard boundary in accordance with current HUD Federal Administration flood hazard boundary maps dated September 20, 1998. Zone "X", Community Panel No. 35001C0 334.

SURVEYOR'S CERTIFICATION:

I, Douglas H. Smith, a New Mexico Professional Surveyor (#7002) certify that I conducted and am responsible for this survey, that this survey is true and correct to the best of my knowledge and that this survey and plat meet the Minimum Standard for Surveying in the State of New Mexico. I further certify that this survey is not a land division or subdivision as defined in the New Mexico Subdivision Act and that this is a boundary survey plat of an existing tract or tracts.

October 8, 2002
 Date of Survey

Douglas H. Smith, N.M.P.S. No. 7002



(IN FEET)
 1 inch = 20 ft.
 LS43-24 c



Supplemental form

SUBDIVISION

- Major Subdivision action
- Minor Subdivision action
- Vacation
- Variance (Non-Zoning)

SITE DEVELOPMENT PLAN

- for Subdivision
- for Building Permit
- Administrative Amendment (AA)
- IP Master Development Plan
- Cert. of Appropriateness (LUCC)

STORM DRAINAGE (Form D)

- Storm Drainage Cost Allocation Plan

S Z ZONING & PLANNING

- Annexation
- County Submittal
- EPC Submittal
- Zone Map Amendment (Establish or Change Zoning)
- Sector Plan (Phase I, II, III)
- Amendment to Sector, Area, Facility or Comprehensive Plan
- Text Amendment (Zoning Code/Sub Regs)
- Street Name Change (Local & Collector)
- APPEAL / PROTEST of...**
- Decision by: DRB, EPC, LUCC, Planning Director or Staff, ZHE, Zoning Board of Appeals

PRINT OR TYPE IN BLACK INK ONLY. The applicant or agent must submit the completed application in person to the Planning Department Development Services Center, 600 2nd Street NW, Albuquerque, NM 87102. Fees must be paid at the time of application. Refer to supplemental forms for submittal requirements.

APPLICATION INFORMATION:

Professional/Agent (if any): _____ PHONE: _____
 ADDRESS: _____ FAX: _____
 CITY: _____ STATE _____ ZIP _____ E-MAIL: _____

APPLICANT: Logan Hall PHONE: 505-507-0280

ADDRESS: 2107 Corte Del Cuballo NW FAX: 1-866-358-7525

CITY: Albuquerque NM STATE NM ZIP 87120 E-MAIL: hall.logan@gmail.com

Proprietary interest in site: Purchasing Premises List all owners: Brad Hall

DESCRIPTION OF REQUEST: Requesting that the 16' alley be vacated in order to build out location extending across neighboring properties.

Is the applicant seeking incentives pursuant to the Family Housing Development Program? Yes No

SITE INFORMATION: ACCURACY OF THE EXISTING LEGAL DESCRIPTION IS CRUCIAL! ATTACH A SEPARATE SHEET IF NECESSARY.

Lot or Tract No. Plot of Lot 1-A Block: 4 Unit: _____

Subdiv/Addn/TBKA: Terrace addition

Existing Zoning: SU-2/NCR Proposed zoning: None (vacate only) MRGCD Map No _____

Zone Atlas page(s): K-15-Z UPC Code: _____

CASE HISTORY:

List any current or prior case number that may be relevant to your application (Proj., App., DRB-, AX_Z_, V_, S_, etc.): _____

CASE INFORMATION:

Within city limits? Yes Within 1000FT of a landfill? NO

No. of existing lots: 1 No. of proposed lots: 1 Total area of site (acres): .4539

LOCATION OF PROPERTY BY STREETS: On or Near: Lead Ave SE

Between: Locust Ave SE and ELM ST SE

Check-off if project was previously reviewed by Sketch Plat/Plan , or Pre-application Review Team . Date of review: _____

SIGNATURE: [Signature] DATE: 10/29/07

(Print) Logan Hall Applicant: Agent:

FOR OFFICIAL USE ONLY

Form revised 4/07

	Application case numbers	Action	S.F.	Fees
<input type="checkbox"/> INTERNAL ROUTING				
<input checked="" type="checkbox"/> All checklists are complete	<u>07 DRB - 70346</u>	<u>SK</u>	<u>5(3)</u>	<u>\$ 0</u>
<input checked="" type="checkbox"/> All fees have been collected				\$ _____
<input checked="" type="checkbox"/> All case #s are assigned				\$ _____
<input checked="" type="checkbox"/> AGIS copy has been sent				\$ _____
<input checked="" type="checkbox"/> Case history #s are listed				\$ _____
<input checked="" type="checkbox"/> Site is within 1000ft of a landfill				\$ _____
<input checked="" type="checkbox"/> F.H.D.P. density bonus				\$ _____
<input type="checkbox"/> F.H.D.P. fee rebate				\$ _____
	Hearing date <u>November 7, 2007</u>			Total \$ <u>0</u>

Andrew Garcia 10/29/07 Project # 1002637
 Planner signature / date

FORM S(3): SUBDIVISION - D.R.B. MEETING (UNADVERTISED) OR INTERNAL ROUTING

A Bulk Land Variance requires application on FORM-V in addition to application for subdivision on FORM-S.

SKETCH PLAT REVIEW AND COMMENT (DRB22) Your attendance is required.

- Scale drawing of the proposed subdivision plat (folded to fit into an 8.5" by 14" pocket) **6 copies**
- Site sketch with measurements showing structures, parking, Bldg. setbacks, adjacent rights-of-way and street improvements, if there is any existing land use (folded to fit into an 8.5" by 14" pocket) **6 copies**
- Zone Atlas map with the entire property(ies) clearly outlined
- Letter briefly describing, explaining, and justifying the request
- List any original and/or related file numbers on the cover application

EXTENSION OF MAJOR PRELIMINARY PLAT (DRB08) Your attendance is required.

- Preliminary Plat reduced to 8.5" x 11"
 - Zone Atlas map with the entire property(ies) clearly outlined
 - Letter briefly describing, explaining, and justifying the request
 - Copy of DRB approved infrastructure list
 - Copy of the LATEST Official DRB Notice of approval for Preliminary Plat Extension request
 - List any original and/or related file numbers on the cover application
- Extension of preliminary plat approval expires after one year.**

MAJOR SUBDIVISION FINAL PLAT APPROVAL (DRB12) Your attendance is required.

- Proposed Final Plat (folded to fit into an 8.5" by 14" pocket) **6 copies**
- Signed & recorded Final Pre-Development Facilities Fee Agreement for Residential development only
- Design elevations & cross sections of perimeter walls **3 copies**
- Zone Atlas map with the entire property(ies) clearly outlined
- Bring original Mylar of plat to meeting, ensure property owner's and City Surveyor's signatures are on the plat
- Copy of recorded SIA
- Landfill disclosure and EHD signature line on the Mylar if property is within a landfill buffer
- List any original and/or related file numbers on the cover application
- DXF file and hard copy of final plat data for AGIS is required.

MINOR SUBDIVISION PRELIMINARY/FINAL PLAT APPROVAL (DRB16) Your attendance is required.

- 5 Acres or more: Certificate of No Effect or Approval
- Proposed Preliminary / Final Plat (folded to fit into an 8.5" by 14" pocket) **6 copies** for unadvertised meetings
- Signed & recorded Final Pre-Development Facilities Fee Agreement for Residential development only
- Design elevations and cross sections of perimeter walls (11" by 17" maximum) **3 copies**
- Site sketch with measurements showing structures, parking, Bldg. setbacks, adjacent rights-of-way and street improvements, if there is any existing land use (folded to fit into an 8.5" by 14" pocket) **6 copies**
- Zone Atlas map with the entire property(ies) clearly outlined
- Letter briefly describing, explaining, and justifying the request
- Bring original Mylar of plat to meeting, ensure property owner's and City Surveyor's signatures are on the plat
- Landfill disclosure and EHD signature line on the Mylar if property is within a landfill buffer
- Fee (see schedule)
- List any original and/or related file numbers on the cover application
- Infrastructure list if required (**verify with DRB Engineer**)
- DXF file and hard copy of final plat data for AGIS is required.

AMENDMENT TO PRELIMINARY PLAT (with minor changes) (DRB03) Your attendance is required.

PLEASE NOTE: There are no clear distinctions between significant and minor changes with regard to subdivision amendments. Significant changes are those deemed by the DRB to require public notice and public hearing.

- Proposed Amended Preliminary Plat, Infrastructure List, and/or Grading Plan (folded to fit into an 8.5" by 14" pocket) **6 copies**
- Original Preliminary Plat, Infrastructure List, and/or Grading Plan (folded to fit into an 8.5" by 14" pocket) **6 copies**
- Zone Atlas map with the entire property(ies) clearly outlined
- Letter briefly describing, explaining, and justifying the request
- Bring original Mylar of plat to meeting, ensure property owner's and City Surveyor's signatures are on the plat
- List any original and/or related file numbers on the cover application

Amended preliminary plat approval expires after one year

I, the applicant, acknowledge that any information required but not submitted with this application will likely result in deferral of actions.

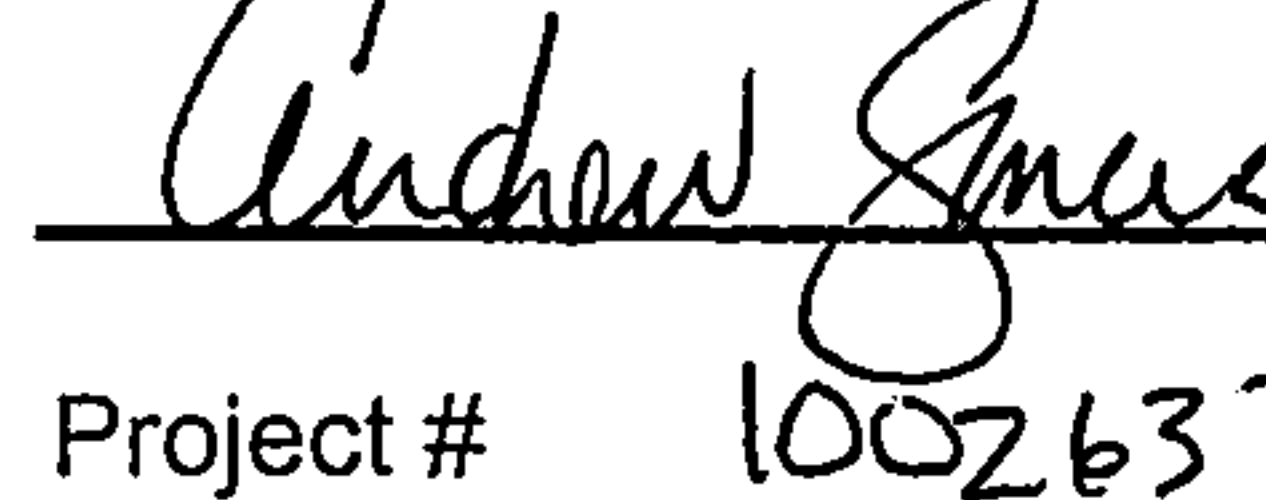

 Applicant name (print) _____

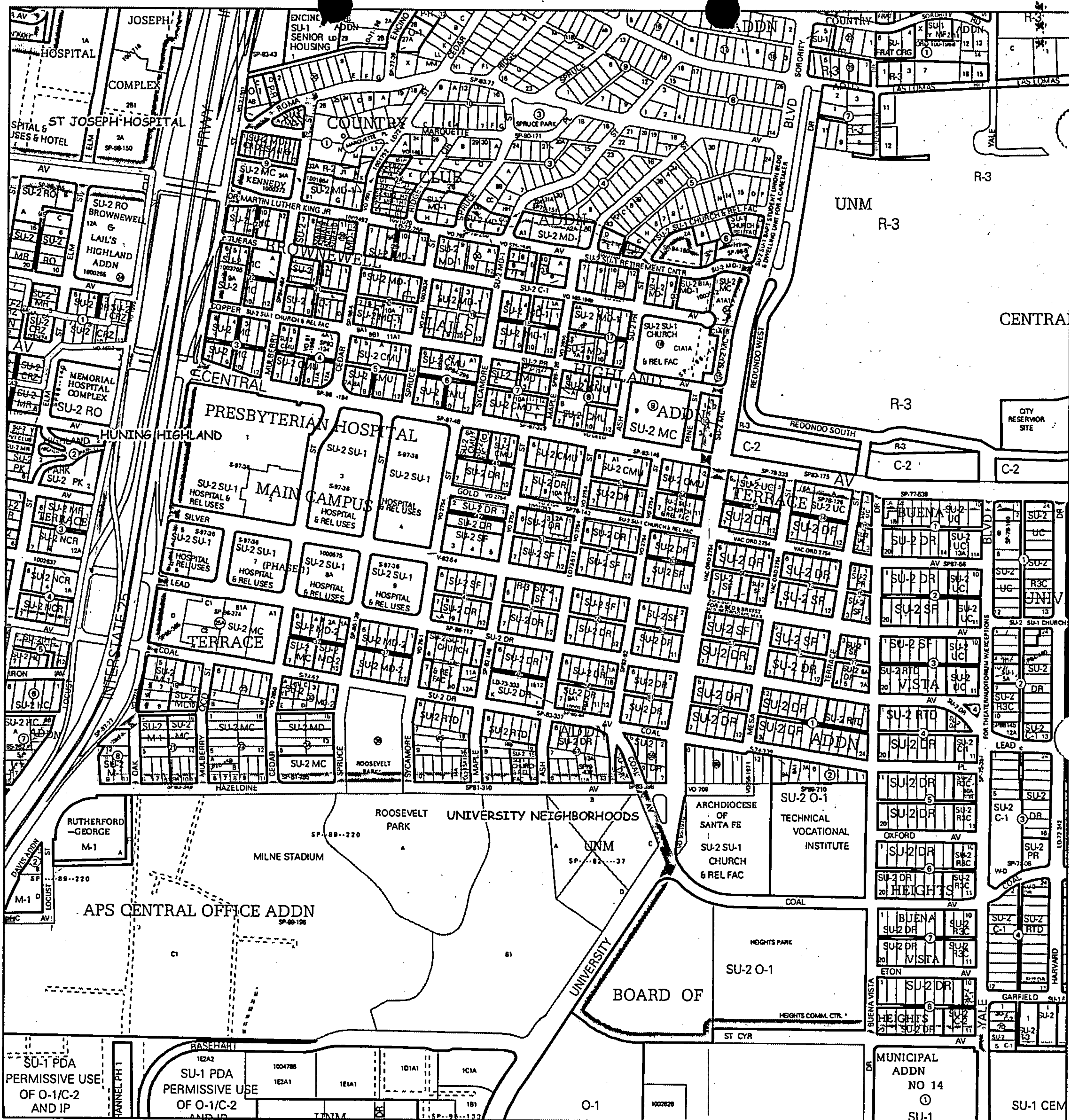
 Applicant signature / date _____



Form revised October 2007

- Checklists complete
 - Fees collected
 - Case #s assigned
 - Related #s listed
- | | |
|--------------------------|---------|
| Application case numbers | _____ |
| 07 DRB - | - 70346 |
| _____ | _____ |
| _____ | _____ |


 Planner signature / date _____
 Project # 1002637



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

Map amended through: 5/17/2007

Note: Grey Shading Represents Area Outside of the City Limits

Zone Atlas Page:
K-15-Z

Selected Symbols

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

0 750 1,500 Feet

Logan Hall
Brad Hall & Associates Inc.
2107 Corte Del Caballo NW
Albuquerque, NM 87120
October 29, 2007

City Of Albuquerque
Development Review Board
Minor Cases
600 2nd Street NW
Albuquerque, NM

Dear: Development Review Board

This letter is a request for vacating a 16' public alley at the property located at the corner of Locust Avenue S.E. and Lead Avenue S.E.. We are currently under contract to purchase this property and are in negotiations to purchase the property next to it which currently houses a Chevron gas station owned by Rio Grande Oil. It would seem that the 16' public alley is not in use and has already been vacated in the west direction, as there are buildings that have built over the public alley way. Our request is to see the remainder of the alley vacated, allowing us to build a convenient store and gas station which will stretch across both property lots. The newly built location will offer a fully up-to-date gas station, grocery mart, and potential fast-food eatery. We are fully aware that this property is located in the historic district and welcome the opportunity to build an aesthetically pleasing location which will meet the goals of the district and enhance the current locations offerings.

If you have questions about my request or would like to speak with me, please call me at (505) 507-0280. I look forward to hearing your position on this issue. Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Logan Hall". The signature is written in black ink and is positioned below the word "Sincerely,".

Logan Hall

ORIGINAL

SIA Sequence #	COA DRC Project #
<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>

Size	Type of Improvement	Location	From	To
<hr/>	<hr/>	<hr/>	<hr/>	<hr/>
<hr/>	<hr/>	<hr/>	<hr/>	<hr/>
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Private Inspector	City Inspector	City Cnst Engineer
<hr/>	<hr/>	<hr/>
<hr/>	<hr/>	<hr/>
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<hr/>	<hr/>	<hr/>

NOTES

1 _____

2 _____

3 _____

AGENT/OWNER

DAN GRANEY
NAME (print)

SURVEYS SOUTHWEST, LTD
FIRM

Dan Graney 6-4-03
SIGNATURE - date

MAXIMUM TIME ALLOWED TO CONSTRUCT
THE IMPROVEMENTS WITHOUT A DRB
EXTENSION: 6-04-03

DEVELOPMENT REVIEW BOARD MEMBER APPROVALS

Sheran Matson 6/4/03 DRB CHAIR - date
Christina Sandoval 6/4/03 PARKS & GENERAL SERVICES - date
Recreation

R. Dan 6-04-03
TRANSPORTATION DEVELOPMENT - date

Roger Green 6/4/03
UTILITY DEVELOPMENT - date

Brady L. Bijm 6/4/03
CITY ENGINEER - date

AMAFCA - date _____

_____ - date _____

_____ - date _____

DESIGN REVIEW COMMITTEE REVISIONS

REVISION	DATE	DRC CHAIR	USER DEPARTMENT	AGENT /OWNER

A City of Albuquerque



DEVELOPMENT REVIEW APPLICATION

SUBDIVISION Supplemental form S
 Major Subdivision action
 Minor Subdivision action
 Vacation V
 Variance (Non-Zoning)

ZONING Supplemental form Z
 Annexation & Zone Establishment
 Sector Plan
 Zone Change
 Text Amendment

SITE DEVELOPMENT PLAN P
 for Subdivision Purposes
 for Building Permit
 IP Master Development Plan
 Cert. of Appropriateness (LUCC) L

APPEAL / PROTEST of... A
 Decision by: DRB, EPC, LUCC, Planning Director or Staff, ZHE, Zoning Board of Appeals

PRINT OR TYPE IN BLACK INK ONLY. The applicant or agent must submit the completed application in person to the Planning Department Development Services Center, 600 2nd Street NW, Albuquerque, NM 87102. Fees must be paid at the time of application. Refer to supplemental forms for submittal requirements.

APPLICANT INFORMATION:

NAME EDDY GALLINGER PHONE: 281-9000
 ADDRESS P.O. BOX 5775 CITY ALBU STATE NM ZIP 87059
 Proprietary interest in site OWNER
 AGENT (if any) SURVEYS SOUTHWEST, LTD PHONE: 998-0303
 ADDRESS 333 LOMAS BLVD NE CITY ALBU STATE NM ZIP 87102
 E-MAIL: _____

DESCRIPTION OF REQUEST: ELIMINATE LOT LINES OF THREE EXISTING LOTS & CREATE ONE NEW LOT & TO MEDICATE ADDITIONAL ROW. (PRELIM/FINAL)

Is the applicant seeking incentives pursuant to the Family Housing Development Program? Yes No

SITE INFORMATION: ACCURACY OF THE LEGAL DESCRIPTION IS CRUCIAL! ATTACH A SEPARATE SHEET IF NECESSARY.

Lot or Tract No LOTS 1 & 2 & THE EASTERN 40' OF LOT 3 Block: 4 Unit: 1
 Subdiv. Acron TERRACE ADDITION
 Current Zoning SU-2 / NCR Proposed zoning: _____
 Zone Alias page(s) 1C-15-2 No. of existing lots: 3 No. of proposed lots: 1
 Total area of site (acres) 0.4559 Density if applicable: dwellings per gross acre: _____ dwellings per net acre: _____
 Within city limits? Yes No, but site is within 5 miles of the city limits (DRB jurisdiction.) Within 1000FT of a landfill? NO
 UPC No 1-015-057-037-232-31203 MRGCD Map No. _____
 LOCATION OF PROPERTY BY STREETS: On or Near: LEAD AVE SE
 Between LOCUST AVE SE and ELM ST. SE

CASE HISTORY:

List any current or prior case number that may be relevant to your application (Proj., App., DRB, AX, Z, V, S, etc.): BA-76-36
LUC-93-24, LUCC-99-24

Check-off if project was previously reviewed by Sketch Plat/Plan or Pre-application Review Team . Date of review: _____
 SIGNATURE Dan Bracey DATE 5-2-03

(Print) Dan Bracey _____ Applicant Agent

FOR OFFICIAL USE ONLY

Form revised September 2001

INTERNAL ROUTING	Application case numbers	Action	S.F.	Fees
<input checked="" type="checkbox"/> All checklists are complete	<u>03DRB</u>	<u>PRF P.</u>	<u>5(3)</u>	<u>\$ 215⁰⁰</u>
<input checked="" type="checkbox"/> All fees have been collected				\$
<input checked="" type="checkbox"/> All case #s are assigned				\$
<input checked="" type="checkbox"/> AGIS copy has been sent				\$
<input checked="" type="checkbox"/> Case history #s are listed				\$
<input checked="" type="checkbox"/> Site is within 1000ft of a landfill				\$
<input type="checkbox"/> F.H.D.P. density bonus				Total
<input checked="" type="checkbox"/> F.H.D.P. fee rebate				<u>\$ 215⁰⁰</u>

Hearing date MAY 14th 03

Barbara 5/02/03
 Planner signature / date

Project # 1002637

FORM S(3): SUBDIVISION - D.R.B. MEETING (UNADVERTISED) OR INTERNAL ROUTING

SKETCH PLAT REVIEW AND COMMENT

- Scale drawing of the proposed subdivision plat (folded to fit into an 8.5" by 14" pocket) 6 copies for unadvertised meetings. Sketches are not reviewed through internal routing.
 - Site sketch with measurements showing structures, parking, Bldg. setbacks, adjacent rights-of-way and street improvements, etcetera, if there is any existing land use (folded to fit into an 8.5" by 14" pocket) 6 copies.
 - Zone Atlas map with the entire property(ies) precisely and clearly outlined and crosshatched (to be photocopied)
 - Letter briefly describing, explaining, and justifying the request
 - Any original and/or related file numbers are listed on the cover application
- DRB meetings are approximately 8 DAYS after the Tuesday noon filing deadline. **Your attendance is required.**

MAJOR SUBDIVISION EXTENSION OF PRELIMINARY PLAT

- Preliminary Plat reduced to 8.5" x 11"
 - Zone Atlas map with the entire property(ies) precisely and clearly outlined and crosshatched (to be photocopied)
 - Letter briefly describing, explaining, and justifying the request
 - Copy of previous D.R.B. approved infrastructure list
 - Copy of the Official D.R.B. Notice of approval
 - Any original and/or related file numbers are listed on the cover application
- Extensions are not reviewed through internal routing.
Extension of preliminary plat approval expires after one year.
DRB meetings are approximately 8 DAYS after the Tuesday noon filing deadline. **Your attendance is required.**

MAJOR SUBDIVISION FINAL PLAT APPROVAL

- Proposed Final Plat (folded to fit into an 8.5" by 14" pocket) 6 copies for unadvertised meetings, 4 copies for internal routing.
 - Zone Atlas map with the entire property(ies) precisely and clearly outlined and crosshatched (to be photocopied)
 - Original Mylar drawing of the proposed plat for internal routing only. Otherwise, bring Mylar to meeting.
 - Property owner's and City Surveyor's signatures on the Mylar drawing
 - SIA financial guaranty verification
 - Landfill disclosure and EHD signature line on the Mylar drawing if property is within a landfill buffer
 - Any original and/or related file numbers are listed on the cover application
- DRB meetings are approximately 8 DAYS after the Tuesday noon filing deadline. **Your attendance is required.**

MINOR SUBDIVISION PRELIMINARY / FINAL PLAT APPROVAL

- Proposed Preliminary / Final Plat (folded to fit into an 8.5" by 14" pocket) 6 copies for unadvertised meetings, 4 copies for internal routing.
 - Site sketch with measurements showing structures, parking, Bldg. setbacks, adjacent rights-of-way and street improvements, etcetera, if there is any existing land use (folded to fit into an 8.5" by 14" pocket) 6 copies.
 - Zone Atlas map with the entire property(ies) precisely and clearly outlined and crosshatched (to be photocopied)
 - Letter briefly describing, explaining, and justifying the request
 - Original Mylar drawing of the proposed plat for internal routing only. Otherwise, bring Mylar to meeting.
 - Property owner's and City Surveyor's signatures on the Mylar drawing
 - Landfill disclosure and EHD signature line on the Mylar drawing if property is within a landfill buffer
 - Fee (see schedule) 21500
 - Any original and/or related file numbers are listed on the cover application
- DRB meetings are approximately 8 DAYS after the Tuesday noon filing deadline. **Your attendance is required.**

AMENDMENT TO PRELIMINARY PLAT (with minor changes)

AMENDMENT TO INFRASTRUCTURE LIST (with minor changes)

AMENDMENT TO GRADING PLAN (with minor changes)

PLEASE NOTE There are no clear distinctions between significant and minor changes with regard to subdivision amendments. Significant changes are those deemed by the DRB to require public notice and public hearing.

- Proposed Amended Preliminary Plat, Infrastructure List, and/or Grading Plan (folded to fit into an 8.5" by 14" pocket) 6 copies for unadvertised meetings, 4 copies for internal routing.
 - Original Preliminary Plat, Infrastructure List, and/or Grading Plan (folded to fit into an 8.5" by 14" pocket) 6 copies for unadvertised meetings, 4 copies for internal routing.
 - Zone Atlas map with the entire property(ies) precisely and clearly outlined and crosshatched (to be photocopied)
 - Letter briefly describing, explaining, and justifying the request
 - Original Mylar drawing of the proposed amended plat for internal routing only. Otherwise, bring Mylar to meeting.
 - Property owner's and City Surveyor's signatures on the Mylar drawing, if the plat is being amended
 - Any original and/or related file numbers are listed on the cover application
- Amended preliminary plat approval expires after one year.
DRB meetings are approximately 8 DAYS after the Tuesday noon filing deadline. **Your attendance is required.**

I, the applicant, acknowledge that any information required but not submitted with this application will likely result in deferral of actions.

Don Graney Applicant name (print)
Don Graney Applicant signature / date
5-2-03

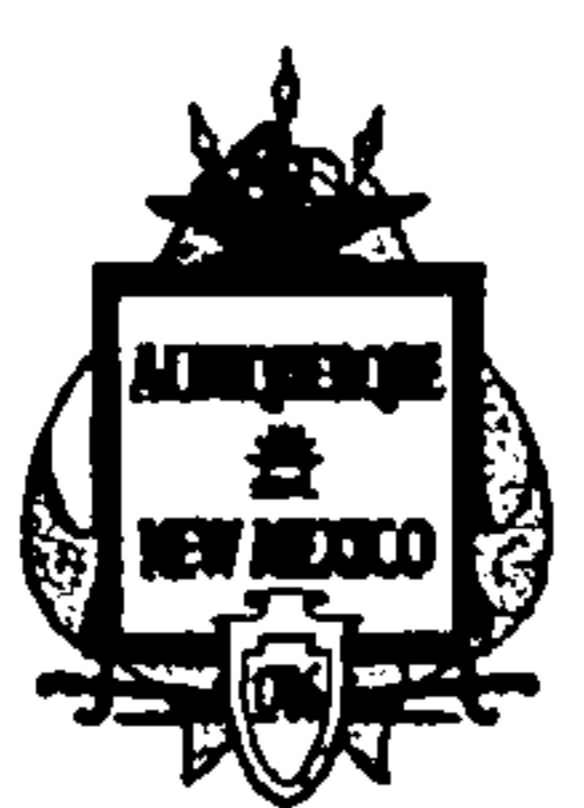
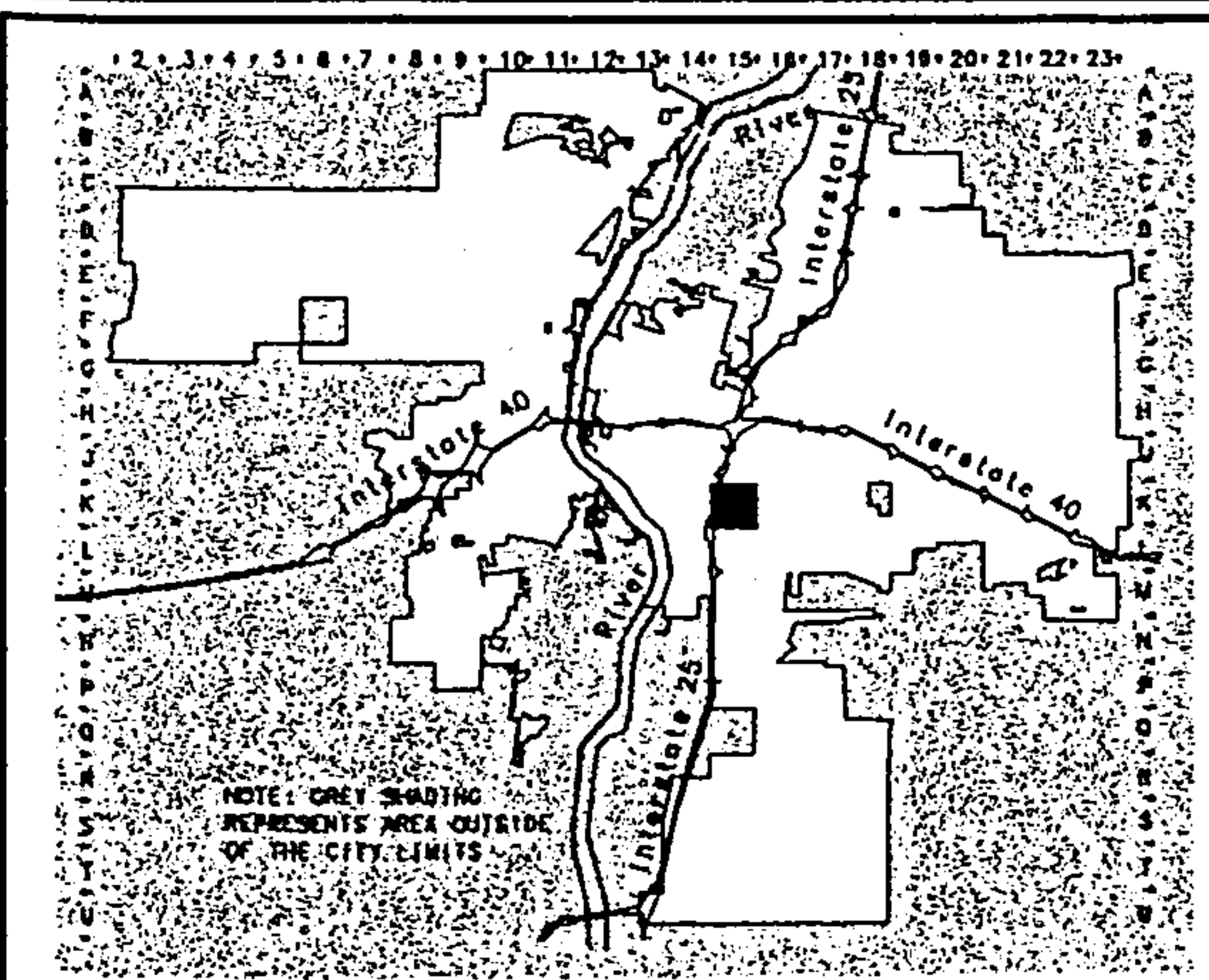
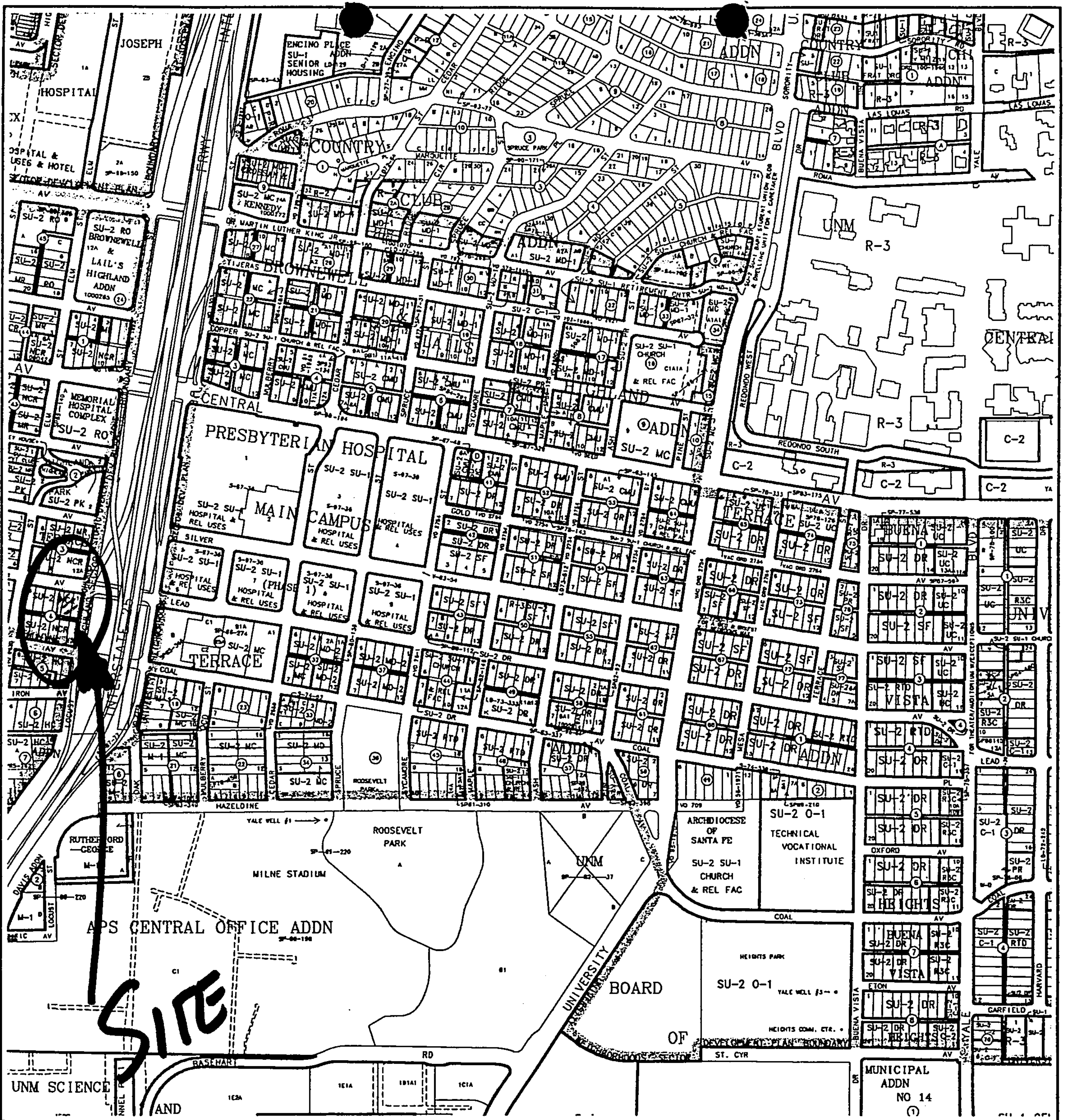


Form revised September 2001

- Checklists complete
- Fees collected
- Case #s assigned
- Related #s listed

Application case numbers
03DRB - 00712

Brandon 5/02/03
Planner signature / date
Project # 1002637



CITY OF
Albuquerque
Albuquerque Geographic Information System
PLANNING DEPARTMENT
© Copyright 2001



Zone Atlas Page

K-15-Z

Map Amended through July 18, 2001

Surveys Southwest, LTD

*333 Lomas Blvd., NE * Albuquerque, New Mexico 87102 * 998-0303 * Fax 998-0306*

May 2, 2003

DEVELOPMENT REVIEW BOARD MEMBERS
PLAZA DEL SOL
600 SECOND STREET NW
ALBUQUERQUE, NM 87102

REF: LOT 1-A, BLOCK 4, TERRACE ADDITION

Dear Board Members:

Surveys Southwest, LTD is requesting to eliminate lot lines of Three (3) existing lots to create One (1) new lot and to dedicate additional right-of-way for the above referenced property.

If you have any questions please feel free to contact me.

Sincerely,



Dan Graney
President

ONE STOP SHOP ••• FRONT COUNTER
City of Albuquerque • Planning Department

DEVELOPMENT & BUILDING SERVICES (D&B Svcs)
LAND DEVELOPMENT COORDINATION SECTION (LDC)
Plaza Del Sol -2nd & 4TH Floor West - 600 2nd St NW 87102
Front Counter Main Number (505) 924-3858 or 924-3895
Main Fax (505) 924-3864

DUPLICATE
City Of Albuquerque
Treasury Division

05/02/2003 9:32AM LOC: ANNX
RECEIPT# 00006691 WSH 006 TRANSH# 0003
Account 441006 Fund 0110 TRSKDM
Activity 4983000 \$215.00
Trans Amt \$215.00
J24 Misc \$0.00
CK
CHANGE

PAID RECEIPT

APPLICANT NAME EDDY GALLINGER
AGENT SURVEYS SW LTD.
ADDRESS 333 LOMAS BLVD NE 87102
PROJECT NO. 1002637
APPLICATION NO. 03DRB-00712

\$ 215⁰⁰ 441006 / 4983000 (DRB Cases)
\$ _____ 441006 / 4971000 (EPC & AA / LUCC / Appeals)
\$ _____ 441018 / 4971000 (Notification)

\$ 215⁰⁰ **Total amount due**

EDWARD L. GALLINGER 8-97
SHARON GALLINGER
P. O. BOX 575 281-9000
TIJERAS, NM 87059

Date 2-17-03

3481
95-8369/3070
02

Pay to the Order of City of Albuquerque \$ 215⁰⁰
Two Hundred Fifteen / 100 Dollars

FirstFinancial CREDIT UNION
PO. Box 25587
Albuquerque, NM 87125-0587
Merchant Ph. 505-924-1522
Gallup 505-722-4286

Premier Checking

[Signature]

For _____
⑆307083694⑆ 0103670055⑆ 3481

©2002 American Express

Thank You