



## OFFICIAL NOTICE OF DECISION

CITY OF ALBUQUERQUE  
PLANNING DEPARTMENT  
DEVELOPMENT REVIEW BOARD

April 19, 2006

**6. Project # 1003096**  
04DRB-01344 Minor-Prelim&Final Plat Approval

SURVEYS SOUTHWEST LTD agent(s) for EILEEN DEVEREUX AND STEFAN WATSON request(s) the above action(s) for all or a portion of Lot(s) 53-58, **J. M. MOORE REALTY COMPANY, UNIT 1**, zoned S-R, SAWMILL RESIDENTIAL, located between 8<sup>TH</sup> ST NW and MOUNTAIN RD NW containing approximately 1 acre(s). [REF: 03DRB-01901, 05CC01786] **REMANDED BACK TO DRB FROM CITY COUNCIL (J-14)**

At the April 19, 2006, Development Review Board meeting, the Development Review Board found no evidence of adverse effect on Lot 59 at the time of the original application for the replat of Lots 53 through 58, J.M. Moore Realty Company No. 1. The DRB determination that this platting action is a minor subdivision is affirmed. The recorded plat stands as approved.

### FINDINGS:

1. The 1905 plat did not dedicate a public or private driveway access for Lot 59.
  - a. In New Mexico, dedication of public rights of way must be clear and unequivocal. There should be express granting language in the 1905 plat. There is no express granting language in the 1905 document.
  - b. Even assuming the 1905 document dedicated a public right of way, in New Mexico, acceptance of the right of way by a public entity is necessary. There is no persuasive evidence of such acceptance in this case.
    - (1) There is no evidence of public use or improvements to the purported right of way.
    - (2) There is no evidence that the right of way was exempted from property taxes.
2. Lot 59 has public access via the public alley to the south of this lot.
3. Lot 59 is served by water, sewer and gas via this alley. There are overhead power and phone lines serving the property.
4. The property address of Lot 59 is 811 Mountain Road where the alley entrance is. Lot 59 does not have an 8<sup>th</sup> Street address.



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If you wish to appeal this decision, you must do so by May 4, 2006, 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).

A handwritten signature in black ink, appearing to read "S. Matson".

Sheran Matson, AICP, DRB Chair

Cc: Eileen Devereux & Stefan Watson, 1719 5<sup>th</sup> St NW, 87102  
Surveys Southwest Ltd., 333 Lomas Blvd NE, 87102  
Earl Holmes, 2708 Monk Ct NW, 87107  
Michelle Garcia, 2708 Monk Ct NW, 87107  
Marilyn Maldonado, Planning Department, 4th Floor, Plaza del Sol Bldg.  
File