



## OFFICIAL NOTICE OF DECISION

CITY OF ALBUQUERQUE  
PLANNING DEPARTMENT  
DEVELOPMENT REVIEW BOARD

April 17, 2015

### **Project# 1004472**

13DRB-70679 VACATION OF PUBLIC RIGHT-OF-WAY

ISAACSON AND ARFMAN PA agents for DOUBLE EAGLE REAL ESTATE & INVESTMENTS ET AL request the referenced/ above action for MODESTO AVENUE NE adjacent to Lots 23-29, Block 25, plus Lots 8-10 and 29-A, Block 26, **NORTH ALBUQUERQUE ACRES Tact A Unit B**, located on MODESTO AVE NE between SAN PEDRO BLVD NE and LOUISIANA BLVD NE. (B-18/ C-18)

At its April 15, 2015 meeting, the Development Review Board concluded an advertised public hearing on the proposed vacations per section 14-14-7-2(F) of the Subdivision Ordinance. After concluding its public hearing, the Board recommends APPROVAL to the City Council of the vacation requests as shown on *the attached* Exhibit "C" and in the Planning file, based on the following recommended Findings per sections 14-14-7-2(A)(1), (B)(1), and (B)(3) of the Subdivision Ordinance, and subject to the following recommended Conditions of Approval per sections 14-14-7-2(F)(3)(c) and 14-14-7-2(F)(4) of the Subdivision Ordinance.

(A)(1) The vacation of public right-of-way request was amended and ultimately filed by the owners of a majority of the footage of land abutting the proposed vacation.

(B)(1) Based on the required replat, the public welfare is in no way served by retaining the public way. The City of Albuquerque does not need to utilize the platted streets for roadway purposes based on the surrounding and proposed development.

(B)(3) There is no convincing evidence that any substantial property right is being abridged against the will of the owner of the right. Property owners of record abutting the proposed vacation were notified by first class mail at least six days prior to the Development Review Board hearing, *notice was published in a newspaper of general circulation 15 days before the date of the hearing*, and signs were posted on the site 15 days prior to the hearing; no objection regarding access or the abridgement of a substantial property right was raised.

### CONDITIONS:

1. Final vacated right of way disposition shall be through the City Real Estate Office.
2. The vacations 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.

3. Adequate easements shall be retained/ provided for public utilities and infrastructure and access to abutting properties; franchised utility companies shall acknowledge the vacation and adequate easements by their signature on the replat.
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**PROTEST: IT IS NOT POSSIBLE TO APPEAL DRB RECOMMENDATIONS TO CITY COUNCIL; RATHER, A FORMAL PROTEST OF THE DRB'S RECOMMENDATION CAN BE FILED WITHIN THE 15 DAY PERIOD FOLLOWING THE DRB'S DECISION, WHICH IS BY April 30, 2015.**

Protest is to the City Council. Any person aggrieved with this determination of the Development Review Board may file a protest 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 a protest. 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 protest. You will receive notice if any other person files a protest.

Successful applicants are reminded that other requirements of the City must be complied with, even after approval of the referenced application(s).

Jack Cloud, DRB Chair  
ISAACSON AND ARFMAN PA  
Cc: