



OFFICIAL NOTICE OF DECISION

CITY OF ALBUQUERQUE
PLANNING DEPARTMENT
DEVELOPMENT REVIEW BOARD

August 2, 2012

Project# 1007099

12DRB-70189 VACATION OF PUBLIC ROADWAY EASEMENT

12DRB-70190 VACATION OF PUBLIC WATERLINE EASEMENT

ISAACSON AND ARFMAN PA agent(s) for SANDIA FOUNDATION request(s) the referenced/ above action(s) to eliminate public access through Tract A, Block(s) 16 & 17, ZUNI ADDITION zoned SU-1 FOR C-2 PERMISSIVE USES W/ RESTRICTIONS, located on MENAUL BLVD NE at PROSPECT AVE NE containing approximately 4.183 acre(s). (H-19)

At the August 1, 2012 Development Review Board (DRB) advertised public hearing, the vacations were approved as shown on Exhibit B in the Planning file per section 14-14-7-2(A)(1) and (B) (2), (3) of the Subdivision Ordinance.

Findings

1. The DRB finds that the application request was submitted by the owner of the majority of the footage of land abutting the proposed vacations in accordance with Section 14-14-7-2(A)(1) of the Subdivision Ordinance,
2. Based on the submission by the applicant, testimony at the hearing, as well as the Findings and Conditions of the Environmental Planning Commission (EPC) for this project under Application No. 12EPC-40005, the DRB finds that there is a net benefit to the public welfare because the development made possible by the vacation and as approved by the EPC is clearly more beneficial to the public welfare than the minor detriment resulting from the vacations, in accordance with Section 14-14-7-2(B)(2) of the *Subdivision Ordinance*. *It was not demonstrated that the creation of a cul de sac for Proppect Avenue is a major detriment to access or public safety as there is still reasonable access for residents and emergency vehicles via Pennsylvania Street.*
3. A sign was posted on the subject property advertising the public hearing, property owners of record abutting the proposed vacation were notified of the hearing by first class mail, and recognized Neighborhood Associations in the area were notified by certified mail prior to the filing of the application for vacations in accordance with Section 14-14-7-2(F)(2) of the Subdivision Ordinance. Objections regarding abridgement of property rights which would result from the vacation were presented by some nearby property owners or their representatives at the referenced hearing; however, the applicant presented New Mexico case law (Mauney, 76 NM 36, 411 and Mandell, 44 NM 109, 99) as evidence that the closure of this section would not be an abridgement of substantial property rights, and the DRB so finds in accordance with Section 14-14-7-2(B) (3) of the Subdivision Ordinance.

CONDITIONS:

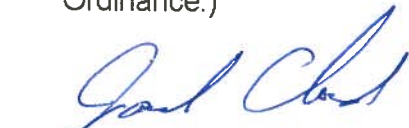
1. Final disposition shall be through the City Real Estate Office.
2. The vacated property shall be shown on a replat approved by the Development Review Board and the approved replat shall be filed for record with the Bernalillo County Clerk's Office within one year.
3. An acceptable Public Drainage Easement shall be provided on the replat.
4. An acceptable Right of Entry shall be provided to ABCWUA for maintenance of existing public water and sewer until new lines are constructed and accepted in the new easement(s).

The request for Site Development Plan for Subdivision sign-off for EPC was Indefinitely Deferred pending application for Preliminary and Final Plat. If you wish to appeal this decision, you must do so by August 16, 2012 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 A, submitted with a fee of \$190.00 to the Planning Department, within 15 days of the Development Review Board's decision.

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, DRB Chair

Cc: Isaacson & Afrman PA
Ray A. Padilla, 7500 Montgomery Blvd NE, Albuquerque NM 87109
Rick Salas, 7416 Prospect Ave NE, Albuquerque NM 87110
Harold McCutcheon, 7420 Prospect Ave NE, Albuquerque NM 87110
James Sundsmo, 7501 Prospect Ave NE, Albuquerque NM 87110
Alex Morgan, 7414 Leah Dr NE, Albuquerque NM 87110
Marilyn Maldonado
File