



OFFICIAL NOTICE OF DECISION

CITY OF ALBUQUERQUE
PLANNING DEPARTMENT
DEVELOPMENT REVIEW BOARD

May 6, 2009

Project# 1007735
09DRB-70136 VACATION OF PUBLIC EASEMENT

JOSEPH P. STARKE request(s) the refererced/ above action(s) for all or a portion a 30 FOOT ACCESS EASEMENT on Lot(s) 36 P-1, **PARADISE GREENS Unit(s) 1**, zoned R-2, located east of ALTA MESA NW and west of SUMMERLIN RD NW, south of IRVING BLVD NW. (B-12)

At the May 6, 2009 Development Review Board meeting, the vacation of the vehicular component of the access easement on Lot 36 P1, 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.

FINDINGS:

1. (A)(1) The public easment vacation request was filed by the majority owner of the land which is encumbered by/ has frontage of the easement which is proposed for vacation.
2. (B)(1) Based on retention of pedestrian access and the testimony and evidence that this portion of the easement was not used for vehicular access, the public welfare is in no way served by retaining that component of the public easement.
3. (B)(3) There is no convincing evidence that any substantial property right is being abridged against the will of the owner of the right; after Notice to property owners there was no opposition or objection to the vacation action, provided that public pedestrian access is maintained.

CONDITIONS:

1. The subject easement area shall be retained for PUBLIC PEDESTRIAN ACCESS and WATERLINE EASEMENT (in favor of the ABCWUA) only.
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 May 21, 2009 in the manner described below.

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

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

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

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

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

Jack Cloud, AICP, DRB Chair

Cc: Joseph P. Starke – 4900 Alta Mesa NW – Albuquerque, NM 87114

Cc: Kathleen Singer – 4944 Alta Mesa NW – Albuquerque, NM 87114

Marilyn Maldonado

Scott Howell

file