



## OFFICIAL NOTICE OF DECISION

CITY OF ALBUQUERQUE  
PLANNING DEPARTMENT  
DEVELOPMENT REVIEW BOARD

June 10, 2009

**Project# 1007766**

09DRB-70147 VACATION OF PUBLIC EASEMENT

09DRB-70148 VACATION OF PUBLIC RIGHT-OF-WAY

ISAACSON AND ARFMAN PA agent(s) for SOUTHERN WINE & SPIRITS OF NEW MEXICO, INC request(s) Vacation (closing) of BACA LANE NE between COMMERCIAL ST NE and the AT & SF Railroad Right-of-Way, plus Vacation of the adjacent PNM and MST & T Co. 7 foot Easement on adjacent Tract A-1, **LANDS OF PETE MATTEUCCI** zoned SU-2/ HM, located on the north sde of BACA LN NE and the west side of COMMERCIAL ST NE. (J-14) [*Deferred from 5/13/09, 5/20/09, 6/3/09*]

At the June 10, 2009 Development Review Board meeting, the vacations were approved as shown on Exhibit B in the Planning file based on the following Findings per section 14-14-7-2(A)(1) and (B) (1), (3) of the Subdivision Ordinance:

**FINDINGS:**

(A)(1) The public easment vacation and the vacation of public right-of-way requests wwere filed by the owners of a majority of the footage of land abutting the proposed vacations.

(B)(1) The public welfare is in no way served by retaining either the public easement or the public right-of-way respectively; the City of Albuquerque does anticipate any need to utilize the existing right of way for roadway purposes, however a drainage easement will need to be retained.

(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 approving the vacation, and the other abutting property on the south side of the right of way indicated concurrence with the vacation.

**CONDITIONS:**

1. A storm drain easement shall be retained over the southern 25 feet of the vacated right of way for the Mid-Valley Drainage Improvement Project(s).

2. Final disposition of the vacated right of way shall be through the City Real Estate Office; if the property owner to the south of the vacated right of way elects to acquire the southern half, the Development Review Board request a replat be submitted within 6 months of this decision.

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 June 25, 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: Isaacson & Arfman, P.A. – 128 Monroe Street NE – Albuquerque 87108  
Cc: Southern Wine & Spirits of New Mexico, Inc. – 1600 NW 163<sup>rd</sup> Street –  
Miami, FL, 33169  
Roger Cox Equity Corp. – 1717 Louisiana Blvd NE Suite 111 – 87110  
Scott Howell  
Marilyn Maldonado  
File