



## OFFICIAL NOTICE OF DECISION

CITY OF ALBUQUERQUE  
PLANNING DEPARTMENT  
DEVELOPMENT REVIEW BOARD

September 9, 2009

**Project# 1007918**

09DRB-70259 VACATION OF PUBLIC RIGHT-OF-WAY

WILSON AND COMPANY INC agent(s) for ALBUQUERQUE PUBLIC SCHOOLS request(s) the referenced/ above action(s) for WALTER STREET NE adjacent to Longfellow Elementary School located on the north side of DR MARTIN LUTHER KING AVE between EDITH BLVD NE and ELM ST NE. (J-14 & K-14)

At the September 9, 2009, Development Review Board meeting, the subject vacation request was approved as shown on Exhibit B in the Planning file per section 14-14-7-2(A)(1) and (B) (1), (2), (3) of the Subdivision Ordinance, based on the following Findings and subject to the following Conditions:

FINDINGS:

(A)(1) The vacation request was filed by the owners of a majority of the footage of land abutting the proposed vacation.

(B)(1) The public welfare is in no way served by retaining the right of way; the City of Albuquerque does not anticipate any need to utilize the existing right of way for public roadway purposes, based on the subject right of way being a cul de sac with only two adjoining institutional uses on both sides of the entire length of the vacated right of way.

(B)(2) There is a net benefit to the public welfare because the development made possible by the vacation is clearly more beneficial to the public welfare than the minor detriment resulting from the vacation based on the anticipated relief from vehicular congestion in this area, and based on the adjacent parcels having existing alternate access to public right of way.

(B)(3) Both adjoining property owners were present or represented at this hearing; after public testimony and clarification from the Development Review Board regarding maintaining of access through easements, there is no convincing evidence that any substantial property right is being abridged against the will of the owner of the right. Conditions that will be enforced at replat will provide appropriate and comparable access for all properties and shall be noted on the required replat. As such, this vacation abridges no substantial property right.

**Project# 1007918**

09DRB-70259 VACATION OF PUBLIC RIGHT-OF-WAY

PAGE 2 OF 2

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. Prior to approval of the replat, a Memorandum of Understanding or an agreement acceptable to the City Engineer must be completed and approved by the City Attorney, specifying the improvements, use and maintenance obligations of the parties for the vacated right of way, the terms of which shall be recited on and made a condition of the replat.

If you wish to appeal this decision, you must do so by September 24, 2009 in the manner described below.

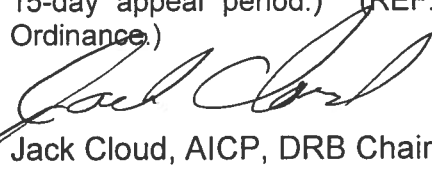
Appeal is to the Land Use Hearing Officer. Any person aggrieved with any determination of the Development Review Board may file an appeal on the Planning Department form, to the Planning Department, within 15 days of the Development Review Board's decision.

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: Albuquerque Public Schools – P.O. Box 25704 – Albuquerque NM 87110

Cc: Wilson & Company – 4900 Lang Ave NE – Albuquerque, NM 87109

Cc: Frank Martinez – 501 Edith NE – Albuquerque, NM 87102

Cc: Robert Lucero – 201 3<sup>rd</sup> St NW – Albuquerque, NM 87102

Marilyn Maldonado

Scott Howell

File