



OFFICIAL NOTICE OF DECISION

CITY OF ALBUQUERQUE
PLANNING DEPARTMENT
DEVELOPMENT REVIEW BOARD

May 5, 2010

Project# 1008281

10DRB-70119 VACATION OF PUBLIC RIGHT-OF-WAY

TIERRA WEST LLC agent(s) for BROGDON, LLC request(s) the referenced/ above action(s) for the east-west alley adjacent to Lot(s) 1, 2, 3A, 6, & 23, Block(s) 10, **FAIR GROUNDS ADDITION** located south of ACOMA RD SE between CALIFORNIA ST SE and ARIZONA ST SE containing approximately 1.37 acre(s). (K-18)

At the May 5, 2010 Development Review Board meeting, the vacation was approved as shown on Exhibit B in the Planning file per section 14-14-7-2(A)(1) and (B) (1), (2) and (3) of the Subdivision Ordinance.

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 proposed re-subdivision.

(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; the removal of the existing public right of way will provide a net benefit to the public welfare by decreasing potential public maintenance responsibilities.

(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 no objection regarding access or the abridgement of a substantial property right was raised.

CONDITIONS:

1. Final disposition shall be through the City Real Estate Office.

2. The vacated property shall be shown on the 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 20, 2010 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: Tierra West LLC – 5571 Midway Park Place NE – Albuquerque, NM 87109

Cc: Brogdon, LLC – 6409 Acoma SE – Albuquerque, M 87108

Marilyn Madonado

File



OFFICIAL NOTICE OF DECISION

CITY OF ALBUQUERQUE
PLANNING DEPARTMENT
DEVELOPMENT REVIEW BOARD

July 27, 2011

Project# 1008281

11DRB-70181 VACATION OF PUBLIC RIGHT-OF-WAY

TIERRA WEST LLC agent(s) for BROGDON, LLC request(s) the referenced/ above action(s) for the east-west alley adjacent to Lot(s) 1, 2, 3A, 6, & 23, Block(s) 10, **FAIR GROUNDS ADDITION** located south of ACOMA RD SE between CALIFORNIA ST SE and ARIZONA ST SE containing approximately 1.37 acre(s). (K-18)

On July 27, 2011, the Development Review Board held an advertised public hearing on the proposed vacation 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 proposed vacation as shown on Exhibit "B" 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 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 public right of way. The City of Albuquerque does not need to utilize the platted alley for roadway or other purposes based on the surrounding ownership by the applicant, subject to provision of adequate utility easements.

(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 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 disposition shall be through the City Real Estate Office.
2. The vacated property shall be shown on the 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; franchised utility companies shall acknowledge the vacation and adequate easements by their signature on the replat.

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 August 11, 2011.

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 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 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

Cc: Tierra West LLC – 5571 Midway Park Place NE – Albuquerque, NM 87109
Cc: Brogdon, LLC – Albuquerque, NM 87108
Marilyn Maldonado
file