

CITY OF ALBUQUERQUE

Albuquerque, New Mexico

Mayor Timothy M. Keller

INTER-OFFICE MEMORANDUM

December 12, 2017

EC-17-7

TO:

Ken Sanchez, President, City Council

FROM:

Timothy M. Keller, Mayor

SUBJECT: Panorama Boulevard Vacation

Project# 1008435

17DRB-70180 VACATION OF PUBLIC RIGHT-OF-WAY

ISAACSON AND ARFMAN PA and SURV-TEK INC agents for MECHENBIER CONSTRUCTION INC/ AMERICUS LLC request the referenced/ above actions for Old PANORAMA BOULEVARD with Tracts N-2, N-3-A, **TANOAN PROPERTIES** and Tract 18, **HIGH DESERT** zoned R-D, located on the west side of TRAMWAY BLVD NE between ACADEMY RD NE and SAN ANTONIO DR NE containing approximately 24 acres. (E-22)

Request: This is a request for vacation of undeveloped public right of way for what was at one time planned to be a County Road (1969). Subsequent development has led to the construction of Tramway Boulevard and Tennyson Streets, which has rendered this proposed vacated right of way obsolete. There is a joint agreement between the County and the City whereby right of way deemed suitable for vacation would be disbursed through the jurisdiction having the subject property within their governing limits, in this case the City.

After an advertised public hearing, the Development Review Board concurred to recommend APPROVAL to the City Council of the proposed vacation as shown on the Exhibit "B" in the Planning file, based on the recommended Findings per sections 14-14-7-2(A)(1), (B)(1), and (B)(3) of the Subdivision Ordinance, and subject to the recommended Conditions of Approval per sections 14-14-7-2(F)(3)(c) and 14-14-7-2(F)(4) of the Subdivision Ordinance.

Per section 14-14-7-2(F)(3)(b) of the Subdivision Ordinance, this matter is being forwarded to the City Council to be placed on the consent agenda to determine if the vacation shall occur.

Title/ Subject of Legislation: <u>Panorama Boulevard Vacation</u>: <u>Project# 1008435</u> 17DRB-70180 VACATION OF PUBLIC RIGHT-OF-WAY, <u>DRB RECOMMENDATION FOR APPROVAL</u>

Approved:

Approved as to Legal Form:

Sarita Nair

Date

Chief Administrative Officer

Samantha Hults

Date

Acting City Attorney

Recommended:

Suzanne Lubar

Date

Acting Planning Director



OFFICIAL NOTICE OF DECISION

CITY OF ALBUQUERQUE PLANNING DEPARTMENT DEVELOPMENT REVIEW BOARD

August 17, 2017

Project# 1008435

17DRB-70180 VACATION OF PUBLIC RIGHT-OF-WAY 17DRB-70194 PRELIM/ FINAL PLAT 17DRB-70195 BULK LAND VARIANCE

ISAACSON AND ARFMAN PA and SURV-TEK INC agents for MECHENBIER CONSTRUCTION INC/ AMERICUS LLC request the referenced/ above actions for Old PANORAMA BOULEVARD with Tracts N-2, N-3-A, **TANOAN PROPERTIES** and Tract 18, **HIGH DESERT** zoned R-D, located on the west side of TRAMWAY BLVD NE between ACADEMY RD NE and SAN ANTONIO DR NE containing approximately 24 acres. (E-22)

On August 16, 2017, the Development Review Board held advertised public hearing(s) 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 of the referenced alley 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.

Findings

- (A)(1) The public right of way 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 public right of way. The City of Albuquerque does not need to utilize the antiquated right of way for vehicular purposes based on the abutting ownership and circulation pattern.
- (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.

This site is located in the Academy/ Tramway/ Eubank Sector Development Plan which does not contain any restrictions or recommendations against vacations.

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. All abutting property owners shall concur with the required replatting as a single plat or the simultaneous recording of multiple plats.
- 4. Adequate easements shall be retained/ provided for public utilities and infrastructure, including a drainage easement if needed; franchised utility companies shall acknowledge the vacation and adequate easements by their signature on the replat.

<u>PROTEST:</u> IT IS NOT POSSIBLE TO APPEAL DRB RECOMMENDATIONS TO CITY COUNCIL; RATHER, A FORMAL PROTEST OF THE DRB'S RECOMMENDATION CAN BE FILED WITH THE CITY COUNCIL

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

file

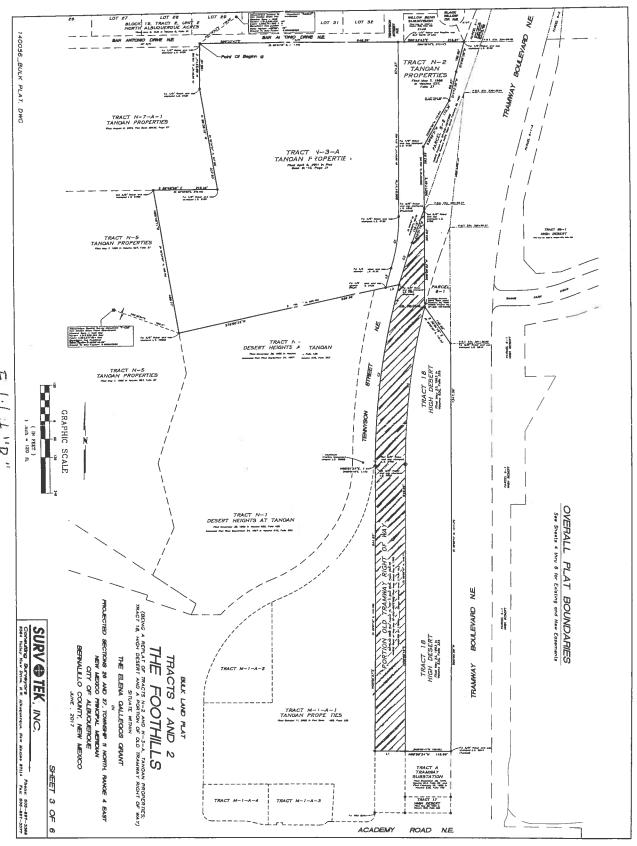
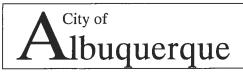


Exhibit "B"





DEVELOPMENT/ PLAN REVIEW APPLICATION

Updated 4/16/15

		Supplem	ental F	Form (SF)			
	SUBDIVISION					3 & PLANNING	i	
	Major subdivision action					Annexation		
	Minor subdivision action X Vacation		v			Zono Man Amon	dment (Establish or	Chango
	Vacation Variance (Non-Zoning)		V		—	Zoning, includes	Zoning within Sector	
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;	SITE DEVELOPMENT PLAN for Subdivision		Р				t to Adopted Rank 1,	
-	for Building Permit						Code, or Subd. Regu	
	Administrative Amendment	(AA)						
	Administrative Approval (DF IP Master Development Pla	RT, URT, etc.) n	D			Street Name Cha	ange (Local & Collec	tor)
	Cert. of Appropriateness (LI		L	Δ	APPEA	L / PROTEST o	•	
	STORM DRAINAGE (Form D) Storm Drainage Cost Alloca	tion Plan	-			Decision by: DRI	3, EPC, LUCC, Plans HE, Board of Appeals	
Planning	OR TYPE IN BLACK INK ONLY. Department Development Servi	ces Center, 600	2 nd S1	reet N	IW, Albu	guerque, NM 8	7102.	rson to th
	st be paid at the time of applicati	on. Hefer to sup	piem	entai i	forms for	r submittai requi	rements.	
	TION INFORMATION:	A					PURIT (FOE) 26	0 0000
	essional/Agent (if any): Isaacson &							
	RESS: 128 Monroe Street NE							
	Albuquerque							
APPL	ICANT: Mechenbier Construct	ion, Inc.				PHO	NE: <u>(505) 314-77</u>	00
ADDI	RESS: 8500 Washington NE, S	uite A-5				FAX		
CITY	Albuquerque	STATE	NM	ZIP	87113	E-MAIL:		
Pront	ietary interest in site:		List a	all own	ers:			
	TION OF REQUEST: Approval							
DESCRIP	TION OF REQUEST. TAPPIOTES	or rasalist of						
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	ny current or prior case number that ma							
100)RB-70334; 11DRB-70314; 12	DRB-70053; 1	3DRE	3-705	68; 17D	RB-70180		
	ORMATION:							
Withi		thin 1000FT of a lan						
No. o	f existing lots: No	. of proposed lots:	2		Total site	e area (acres):	10.3972	
LOCA	ATION OF PROPERTY BY STREETS:	On or Near:	Tram	way !	Blvd. N			
Betw	Can Antania Driva NC		and _	Aca	ademy E	Blvd. NE		
Chec	k if project was previously reviewed by:	Sketch Plat/Plan	or Pre	-applica	ation Revie	ew Team(PRT) 🗆.	Review Date: 11/0	9/2011
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SIGNATU		- ROW					JAIE 4 27	
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		<u> </u>		Pro	ject#	1008435		

FO	RM V: SUBDIVISION VAHIANCES & VACATIONS
0	BULK LAND VARIANCE (DRB04) (PUBLIC HEARING CASE) Application for Minor Plat on FORM S-3, including those submittal requirements. 24 copies Letter briefly describing and explaining: the request, compliance with the Development Process Manual, and all improvements to be waived. Notice on the proposed Plat that there are conditions to subsequent subdivision (refer to DPM) Office of Community & Neighborhood Coordination inquiry response, notifying letter, certified mail receipts Sign Posting Agreement Fee (see schedule) List any original and/or related file numbers on the cover application DRB Public hearings are approximately 30 DAYS after the filing deadline. Your attendance is required.
	VACATION OF PUBLIC EASEMENT (DRB27) VACATION OF PUBLIC RIGHT-OF-WAY (DRB28) NA The complete document which created the public easement (folded to fit into an 8.5" by 14" pocket) 24 copies. (Not required for City owned public right-of-way.) X Drawing showing the easement or right-of-way to be vacated, etc. (not to exceed 8.5" by 11") 24 copies X Zone Atlas map with the entire property(ies) clearly outlined Letter briefly describing, explaining, and justifying the request Office of Community & Neighborhood Coordination inquiry response, notifying letter, certified mail receipts Sign Posting Agreement Fee (see schedule) List any original and/or related file numbers on the cover application Unless the vacation is shown on a DRB approved plat recorded by the County Clerk within one year, it will expire. DRB Public hearings are approximately 30 DAYS after the filing deadline. Your attendance is required.
	SIDEWALK VARIANCE (DRB20) SIDEWALK WAIVER (DRB21) Scale drawing showing the proposed variance or waiver (not to exceed 8.5" by 14") Zone Atlas map with the entire property(ies) clearly outlined Letter briefly describing, explaining, and justifying the variance or waiver List any original and/or related file numbers on the cover application DRB meetings are approximately 8 DAYS after the Tuesday noon filing deadline. Your attendance is required.
	SUBDIVISION DESIGN VARIANCE FROM MINIMUM DPM STANDARDS (DRB25) Scale drawing showing the location of the proposed variance or waiver (not to exceed 8.5" by 14") 24 copies Zone Atlas map with the entire property(ies) clearly outlined Letter briefly describing, explaining, and justifying the variance Office of Community & Neighborhood Coordination inquiry response, notifying letter, certified mail receipts Sign Posting Agreement Fee (see schedule) List any original and/or related file numbers on the cover application DRB meetings are approximately 30 DAYS after the filing deadline. Your attendance is required.
	TEMPORARY DEFERRAL OF SIDEWALK CONSTRUCTION (DRB19) EXTENSION OF THE SIA FOR TEMPORARY DEFERRAL OF SIDEWALK CONSTRUCTION (DRB07) Drawing showing the sidewalks subject to the proposed deferral or extension (not to exceed 8.5" by 14") 6 copies Zone Atlas map with the entire property(ies) clearly outlined Letter briefly describing, explaining, and justifying the deferral or extension List any original and/or related file numbers on the cover application DRB meetings are approximately 8 DAYS after the Tuesday noon filing deadline. Your attendance is required.
	VACATION OF PRIVATE EASEMENT (DRB26) VACATION OF RECORDED PLAT (DRB29) The complete document which created the private easement/recorded plat (not to exceed 8.5" by 14") 6 copies Scale drawing showing the easement to be vacated (8.5" by 11") 6 copies Zone Atlas map with the entire property(ies) clearly outlined Letter/documents briefly describing, explaining, and justifying the vacation 6 copies Letter of authorization from the grantors and the beneficiaries (private easement only) Fee (see schedule) List any original and/or related file numbers on the cover application Unless the vacation is shown on a DRB approved plat recorded by the County Clerk within one year, it will expire. DRB meetings are approximately 8 DAYS after the Tuesday noon filing deadline. Your attendance is required.
info with	the applicant, acknowledge that any permation required but not submitted in this application will likely result in erral of actions. Applicant signature //date
	Checklists complete Fees collected Case #s assigned Related #s listed Application case numbers 17 - 078 - 70180 Planner signature / date Project # 1008435

SIGN POSTING AGREEMENT

REQUIREMENTS

POSTING SIGNS ANNOUNCING PUBLIC HEARINGS

All persons making application to the City under the requirements and procedures established by the City Zoning Code or Subdivision Ordinance are responsible for the posting and maintaining of one or more signs on the property which the application describes. Vacations of public rights-of-way (if the way has been in use) also require signs. Waterproof signs are provided at the time of application. If the application is mailed, you must still stop at the Development Services Front Counter to pick up the sign.

The applicant is responsible for ensuring that the signs remain posted throughout the 15-day period prior to public hearing. Failure to maintain the signs during this entire period may be cause for deferral or denial of the application. Replacement signs for those lost or damaged are available from the Development Services Front Counter at a charge of \$3.75 each.

LOCATION

- A. The sign shall be conspicuously located. It shall be located within twenty feet of the public sidewalk (or edge of public street). Staff may indicate a specific location.
- B. The face of the sign shall be parallel to the street, and the bottom of the sign shall be at least two feet from the ground.
- C. No barrier shall prevent a person from coming within five feet of the sign to read it.

2. NUMBER

- One sign shall be posted on each paved street frontage. Signs may be required on unpaved street frontages.
- B. If the land does not abut a public street, then, in addition to a sign placed on the property, a sign shall be placed on and at the edge of the public right-of-way of the nearest paved City street. Such a sign must direct readers toward the subject property by an arrow and an indication of distance.

3. PHYSICAL POSTING

TIME

Signs must be posted from

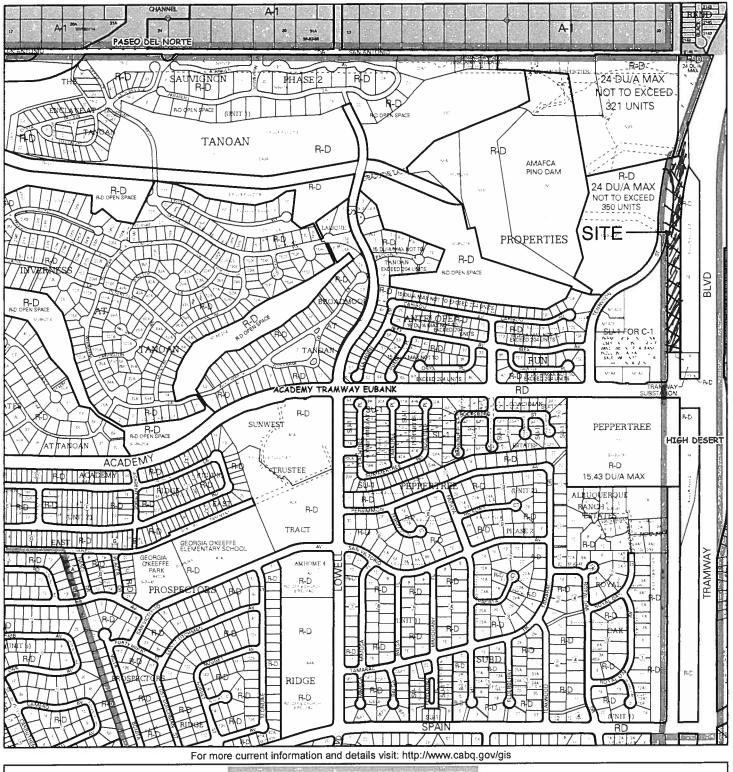
4.

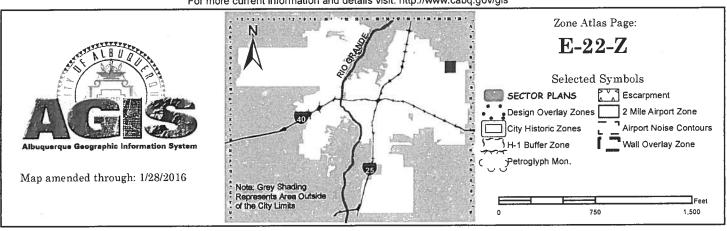
- A. A heavy stake with two crossbars or a full plywood backing works best to keep the sign in place, especially during high winds.
- Large headed nails or staples are best for attaching signs to a post or backing; the sign tears
 out less easily.

5,	KEIVIC	DVAL		1.4	
	A. B.	The sign is not to be rea			
obligation	to keep	o the sign(s) posted for (1	th the Development S 15) days and (B) whe	Services Front Counter are the sign(s) are to be	Staff. I understand (A) m located. I am being give
a copy of	this she	eet. Pu	th Lo	ano	7/21/17
		(App	licant or Agent)		(Date)
l issued _.	s	igns for this application,	7-21-17 (Date)		(Staff Member)

PROJECT NUMBER: 1008435

Rev. 1/11/05







ISAACSON & ARFMAN, P.A.

Consulting Engineering Associates

Thomas O. Isaacson, PE(RET.) & LS(RET.) Fred C. Arfman, PE . Asa Nilsson-Weber, PE

VACATION OF PUBLIC RIGHT-OF-WAY REQUEST

I&A Project No.1883

July 13, 2017

Project: Old Tennyson Street

Zone Atlas Page: E-22

Legal: Tract N-2, Tanoan Properties together with Tract 18, High Desert

Background:

- 1. Mechenbier Construction Inc., (MCI) as the owner of the adjacent property located along the westerly boundary of said Tract 18 and to the east of said Tracts N-2 in Albuquerque, NM (the property) hereby requests the vacation of the City of Albuquerque right-of-way (the "Vacation"). The property was previously heard as part of a Sketch Plat by the Development Review Board as Project No 1008435. MCI desires to develop their properties which are divided by the vacant right-of-way.
- 2. The subject vacant right-of-way was originally deeded to Bernalillo County for the construction of Panorama Boulevard on August 16, 1969 (Document No. 60821-921). In the past forty-eight (48) years, the City of Albuquerque Municipal Limits have expanded in the immediate vicinity, more particularly, to the north right-of-way line of San Antonio DR., being north and non-contiguous to the said vacant right-of-way. This request for the vacation is based on the following reasons.

Reasons:

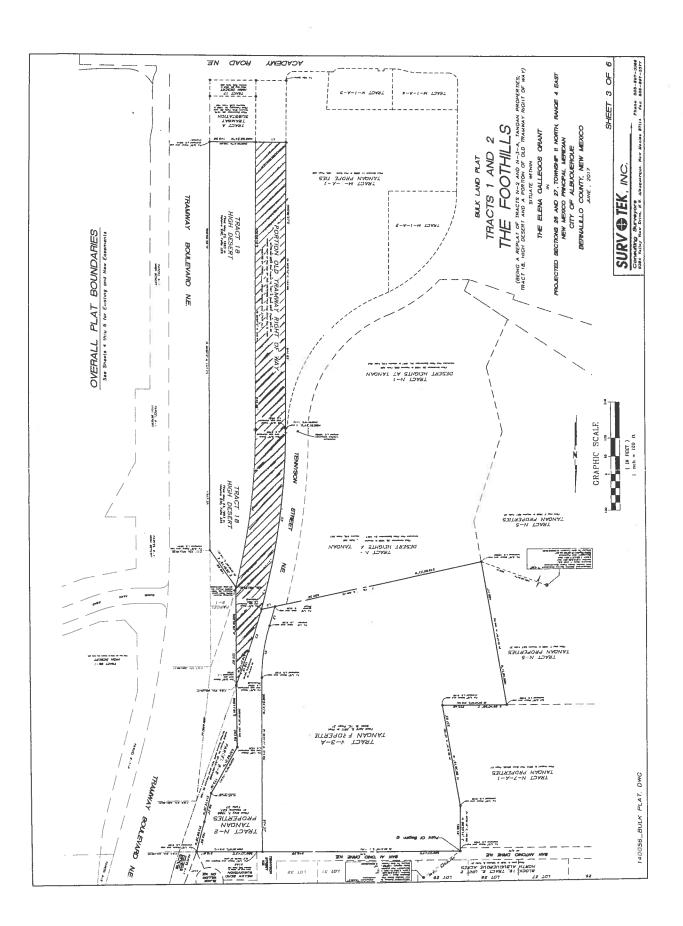
- A. A vacation is appropriate in this case as the property is vacant and would be better utilized being incorporated into the adjacent properties to provide housing and neighborhood offices and commercial services.
- B. The public improvements to Tramway Blvd. and Tennyson St. now make it practical for the vacation of the vacant right-of-way. As such, the City of Albuquerque has the right to act on this request by the joint agreement between the City of Albuquerque and Bernalillo County, whereby the disbursement of vacant right-of-way deemed suitable for third party acquisition lies with the jurisdiction having the subject property within their governing limits. Therefore, the City of Albuquerque has the right to sell the property upon vacation approval.

I&A PROJECT NO. 1883 JULY 13, 2017 PAGE 2

- C. The granting of this Vacation is appropriate to prevent the unnecessary hardship that would result if the Vacation is not allowed. In this case, if the Vacation is not allowed then MCI would not be able to develop said Tract 18 due to its exceptional configuration.
- D. The granting of the Vacation will not significantly interfere with the enjoyment of the other lands in the vicinity.
- E. The granting of the Vacation would be consistent with the spirit of the Albuquerque's development process, substantial justice and the general interest of the public. Financial gain or loss is not the sole determining factor in requesting the Vacation. MCI is a for profit corporation; but they wish to conduct business in the City of Albuquerque within the framework of their proven development methods.

Request:

Therefore, MCI respectfully request that a Vacation be allowed, whereas MCI would compensate the City for the valve of the vacant land in accordance to the value set by the City of Albuquerque, Legal Department, Real Property Division.





City of Albuquerque

*PLEASE NOTE: The NA/HOA information listed in this letter is valid for one (1) month. If you haven't filed your application within one (1) month of the date of this letter – you will need to get an updated letter from our office.

July 7, 2017

Ruth Lozano Isaacson & Arfman, PA 128 Monroe St NE Albuquerque, NM 87108 (505) 268-8828 ruthl@iacivil.com

Dear Ruth:

Thank you for your inquiry requesting the names of ALL Neighborhood and/or Homeowner Associations who would be affected under the provisions of §14-8-2-7 of the Neighborhood Association Recognition Ordinance by your proposed [DRB Submittal] project recorded as [Tracts N-2 & N-3-A, Tanoan Properties together with Tract 17] located on [Tramway Blvd between San Antonio and Academy Rd NE] zone map [E-22].

This correspondence serves as your "Notification Inquiry Letter" from the Office of Neighborhood Coordination, and must be included as part of your application. Please see "ATTACHMENT A" for a list of NA's / HOA's that must be contacted regarding this submittal.

Please note that according to Section §14-8-2-7 of the Neighborhood Association Recognition Ordinance you are required to notify **both** of these contact persons by **certified mail, return receipt requested,** before the Planning Department will accept your application. Please see Page 2 of this letter for additional requirements. If you have any questions about the information provided please contact our office at (505) 768-3334 or ONC@cabq.gov

Sincerely,

Office of Neighborhood Coordination Council Services Department

ATTACHMENT A

HIGH DESERT RESIDENTIAL OWNERS ASSOC. (HDR)

e-mail: clopez@hoamco.com Christopher Lopez

10555 Montgomery Blvd. NE, Bldg. 1, Ste. 100/87111 314-5862 (w) Police Beat: 533/FH

Tom Murdock

e-mail: murdock@swcp.com

5601 Mariola Pl. NE/87111 822-9410 (h)

Website: www.highdesertliving.net

NA E-mail: highdesertmanager@hoamco.com

Council District: 8

County District: 5

Zone Map #: E-23,24, F-23

3



Thomas O. Isaacson, PE(RET.) & LS(RET.) . Fred C. Arfman, PE . Asa Nilsson-Weber, PE

July 13, 2017

CERTIFIED MAIL - 7012 0470 0001 9609 1782

Christopher Lopez
High Desert Residential Owners Association
10555 Montgomery Blvd. NE
Bldg. 1 – Suite 100
Albuquerque, NM 87111

RE: Tract N-2, Tanoan Properties together with Tract 18, High Desert

(DRB Project No. 1008435)

Dear Mr. Lopez:

This letter is a correction of the letter you received last week. The tracts referenced were incorrect. Tract N-3-A, Tanoan Properties was removed and Tract 18, High Desert replaces Tract 17, High Desert. The exhibits were correct. I apologize for any confusion.

As the consulting engineers for the above referenced site (see attached zone map), we are writing this letter to inform the High Desert Residential Owners Association that a request for Vacation of the Public Right-of-Way for the Old Tennyson Street alignment from a point approximately 210' north of Academy Blvd. and projecting approximately 1,470 feet north to the point of intersection with the west right-of-way line of Tramway Blvd. is being submitted to the City of Albuquerque Development Review Board. We have attached a vacation exhibit sketch for your use in understanding this action.

Affected Neighborhood Associations and Homeowner Associations may request a Facilitated Meeting regarding this project by contacting the Alternative Dispute Resolution (ADR) Program by email at striplett@cabg.gov, by phone at (505) 768-4712 or (505) 768-4660.

Please feel free to call our office at 268-8842 if additional information is desired on this action.

Sincerely,

ISAACSON & ARFMAN, P.A.

Genny L. Donart, PE

gld/rtl

Attachments

U.S. Postal Service CERTIFIED MAIL RECEIPT (Domestic Mail Only; No Insurance Coverage Provided) For delivery information visit our website at www.usps.com ALBOQUERQUE-NM 87111 0 960 0108 Postage 19 Certified Fee JUL 1 3 201 \$0.00 \$0.00 Return Receipt Fee (Endorsement Required) \$0.00 \$0.00 Restricted Delivery Fee 0450 \$0. Total Postage & Fees 07/13/2017 Sent To Christopher Lopez Street, Apt. No.; High Desert Residential Owners Assoc or PO Box No. 10555 Montgomery Blvd. NE City, State, ZIP+Building 1 - Suite 100 Albuquerque, NM 87111 tructions

128 Monroe St. N.E. * Albuquerque, N. ☐ □ □



Thomas O. Isaacson, PE(RET.) & LS(RET.) . Fred C. Arfman, PE . Asa Nilsson-Weber, PE

July 13, 2017

CERTIFIED MAIL - 7012 0470 0001 9609 1799

Tom Murdock High Desert Residential Owners Association 5601 Mariola Pl. NE Albuquerque, NM 87111

RE: Tract N-2, Tanoan Properties

together with Tract 18, High Desert

(DRB Project No. 1008435)

Dear Mr. Murdock:

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Please feel free to call our office at 268-8842 if additional information is desired on this action.

ncerely, AACSON & ARFMAN, P.A.		U.S. Postal Service CERTIFIED MAIL (Domestic Mail Only; No Insurance Coverage Provided)			
Genny L. Donart, PE gld/rtl Attachments	0470 0001 9609 17	For delivery information visit our website at wowas 3.2003 ALREGUERALE NIT 37 11 10 Postage \$ \$ \$ \$ \$ \$ \$ \$ \$ \$ \$ \$ \$ \$ \$ \$ \$ \$ \$			
	7012	Sent To Tom Murdock Street, Apt. NHigh Desert Residential Owners Assoc or PO Box N5601 Mariola Pl. NE City, State, ZAlbuquerque, NM 87111 PS Form 3800, August 2006 See Reverse for Instructions			