



OFFICIAL NOTICE OF DECISION

CITY OF ALBUQUERQUE
PLANNING DEPARTMENT
DEVELOPMENT REVIEW BOARD

September 2, 2010

Project# 1008451
10DRB-70215 VACATION OF PUBLIC RIGHT-OF-WAY

THE CITY OF ALBUQUERQUE request(s) Vacation of Public Right of Way for a portion of **ESPANOLA STREET NE** located north of **INDIAN SCHOOL RD NE** near **EUCLID AVE NE**. (H-19)

Decision

At the September 1, 2010, Development Review Board (DRB) meeting, The Board did find that the vacation request had been filed by the Planning Director, in accordance with Section 14-14-7-2(A)(2) of the Subdivision Ordinance; however, the vacation request was denied based on the following Findings per Sections 14-14-7-2(B) (1) and (3) of the Subdivision Ordinance. The Subdivision Ordinance specifies that a vacation of public right of way may be approved only if the following minimum items are determined:

- (B)(1) The public welfare is in no way served by retaining the right of way; or
- (B)(2) There is a net benefit to the public welfare because the development made possible by the vacation is clearly more beneficial than the detriment resulting from the vacation; and in addition to (B)(1) or (B)(2):
- (B)(3) There is no convincing evidence that any substantial property right is being abridged against the will of the owner of the right.

Findings

1. The public hearing at the referenced Development Review Board meeting provided substantial testimony as to how the public welfare could be served by retaining the right of way for Espanola Street NE, specifically: to provide beneficial access for emergency vehicles; to provide beneficial access to residents and visitors of the Zuni Addition by eliminating the reliance for vehicular access from a single major street on the east side of the subdivision (Pennsylvania Street NE); to provide relief to the intersection of Pennsylvania Street NE and Indian School NE, which is a school zone and the location of an APS school (Zuni Elementary); to provide significant reduction in out-of-direction travel, and thus reduce the associated fuel, maintenance and depreciation costs. The Board unanimously concurred that the required determination of Section 14-14-7-2(B) (1) could not be made.

2. Because there was no development proposed with this vacation, there was no determination to be made regarding the benefit or detriment from such development; therefore the Board makes no Finding regarding Section 14-14-7-2(B) (2) of the Subdivision Ordinance.

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Findings (continued)

3. Additionally, 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 recognized Neighborhood Associations in the area were notified by certified mail prior to the filing of the application for vacation; numerous objections regarding abridgement of access rights which would result from the vacation were presented by nearby property owners at the referenced public hearing, and via email. The property owners immediately adjacent to the proposed vacation provided data and photographic evidence that the current, temporary closure of the right of way was impacting and impairing the use and enjoyment of their property. The Board unanimously concurred that the permanent closure which would result from the proposed vacation would result in the abridgement of substantial property rights, particularly the street access as provided at the time of original platting, and thus the required determination of Section 14-14-7-2(B) (3) could not be made.

Appeal

Any person aggrieved with any determination of the Development Review Board may file an appeal on the appropriate Planning Department form accompanied by the associated appeal fee, 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 you wish to appeal this decision, you must do so by September 16, 2010 in the manner described above. Such appeal shall be heard within 60 days of its filing. Appeal is to the Land Use Hearing Officer, who will hold an appeal hearing and make a recommendation to the City Council.

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).



Jack Cloud, AICP, DRB Chair

Cc:

Ron and Sharon Berlint – 7516 Euclid NE – Albuquerque, NM 87110

Susan Baca – 7465 Sky Court NE - Albuquerque, NM 87110

Conrad Romero – 7521 Cutler NE - Albuquerque, NM 87110

Mark Dow and Chris Bauman – 7309 Indian School NE - Albuquerque, NM 87110

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Cc (continued):

Hank Fucci – 2333 Espanola - Albuquerque, NM 87110
Corina Gutman – 7505 Euclid NE - Albuquerque, NM 87110
Ron Zuziak – 7408 Morrow NE - Albuquerque, NM 87110
Isabelle Martinez – 7456 Sky Court NE - Albuquerque, NM 87110
Sarah and Roderick Smith – 7424 Arvada NE - Albuquerque, NM 87110
Donna Yetter – 2111 Hoffman Dr NE - Albuquerque, NM 87110
Larry Patton – 7416 Euclid NE - Albuquerque, NM 87110
Carla Garcia – 7510 Arvada NE - Albuquerque, NM 87110
Parry Silcox – 7621 Euclid Ave NE - Albuquerque, NM 87110
Ralph Kleinstein – 7612 Leah Ave NE - Albuquerque, NM 87110
David Schaffer – 2703 Broadbent Parkway NE # G - Albuquerque, NM 87110
Roger & Linda Allbritten – 7409 Arvada NE - Albuquerque, NM 87110
Alex Morgan – 7414 Leah Dr NE – Albuquerque, NM 87110
Martha Padilla – 7429 Sky Court NE – Albuquerque, NM 87110
Allen J. Smith – 7522 Euclid NE – Albuquerque, NM 87110
Pat Dalla – 7416 Cutler NE - Albuquerque, NM 87110
Felipe Ruibal – 7517 Cutler NE - Albuquerque, NM 87110
Sandra Jamison – 7615 Leah Dr NE - Albuquerque, NM 87110
Carolyn Carson – 7421 Sky Court NE - Albuquerque, NM 87110
Laura Romero – 7521 Cutler NE - Albuquerque, NM 87110
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