



OFFICIAL NOTICE OF DECISION

CITY OF ALBUQUERQUE
PLANNING DEPARTMENT
DEVELOPMENT REVIEW BOARD

August 31, 2011

Project# 1008792

11DRB-70202 VACATION OF PUBLIC EASEMENT

11DRB-70204 BULK LAND VARIANCE

11DRB-70205 MINOR - PRELIMINARY/ FINAL PLAT APPROVAL

BOHANNAN HUSTON INC agent(s) for APS/WESTERN ALBUQUERQUE LAND HOLDINGS request(s) the referenced/ above action(s) for all or a portion of Tract N, **WATERSHED SUBDIVISION**, zoned SU-2 FOR RESIDENTIAL RESORT, located on the north side of TIERRA PINTADA NW between ARROYO VISTA BLVD NW and WEST CREEK PLACE NW containing approximately 347.7947 acre(s). (H-8 & H-9, J-7 & J-8) *[Deferred from 8/17/11]*

On August 17 and August 31, 2011, the Development Review Board held an advertised public hearing on the proposed vacations per section 14-14-7-2(F) of the Subdivision Ordinance. After concluding its public hearing, the Board APPROVED the proposed vacation as shown on Exhibit "B" in the Planning file, based on the following Findings per sections 14-14-7-2(A)(1), (B)(1), and (B)(3) of the Subdivision Ordinance, and subject to the following 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 easement vacation requests were filed by the owners of all the land sited for the proposed vacations.

(B)(2) There is a net benefit to the public welfare because the development of significant community facilities made possible by the vacation is clearly more beneficial to the public welfare than any minor detriment resulting from the vacation. The Albuquerque Metropolitan Flood Control Authority (AMAFCA) will review and approve alternative easements on the proposed replat.

(B)(3) There is no convincing evidence that any substantial property right is being abridged against the will of the owner of the right, as the vacation is being requested by the owner of all the property which is encumbered by the easements.

CONDITIONS:

1. 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.

2. 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.

A Bulk Land Variance from the requirements of Part 3 and Part 5 of the Subdivision Ordinance was approved for the portion of Tract N of this subdivision not owned by Albuquerque Public Schools (APS), based on the following Findings:

BULK LAND VARIANCE FINDINGS:

- (1) APS is a contract purchaser of a portion of this plat – for the other parcels, the variance will not be injurious to the public safety, health or welfare, or to adjacent property, the neighborhood or the community, because the proposed parcels cannot be developed without being reviewed for required infrastructure based on the existing zoning, and the Memorandum of Understanding between the City of Albuquerque and the Albuquerque Public School District will ensure the construction of infrastructure adjacent to its property; and
- (2) The variance will not conflict significantly with the goals and provisions of any city, county, or AMAFCA adopted plan or policy, the applicable zoning ordinance, or any other city code or ordinance, because the proposed parcels cannot be developed without being reviewed for required infrastructure based on the existing zoning, and the Memorandum of Understanding between the City of Albuquerque and the Albuquerque Public School District which will ensure the construction of infrastructure adjacent to its property; and
- (3) The variance will not permit, encourage or make possible undesired development in the 100-year Floodplain, because the resulting plat will note any existing 100-year Floodplains; and
- (4) The variance will not hinder future planning, public right-of-way acquisition, or the financing or building of public infrastructure improvements and in fact will facilitate the development of a future public park; and
- (5) The parcels being granted the variance are considered bulk land subdivision parcels where the use of the land for building purposes is not expected by the Development Review Board prior to further subdivision or zoning site development plan approval, which will require additional public agency review.

With the approval of the Bulk Land Variance, the preliminary plat was approved with the conditions that AMAFCA and franchised utilities must sign the plat, and based on the following Findings:

PRELIMINARY PLAT FINDINGS:

1. It is acknowledged that the Albuquerque Public School District (APS) is a political subdivision of the State of New Mexico, and it is a matter of law that as a state entity, APS is not subject to the City's land use and development regulations.
2. The City and APS have executed a Memorandum of Understanding (MOU) to accomplish the Purpose and Intent of the City's Subdivision Ordinance for its property.
3. Per § 14-14-2-1 of the Subdivision Ordinance, the DRB finds that this land is suitable for subdivision for the purposes proposed, that the subdivision complies with this article, and that the subdivision is not contrary to the best interests of the public health, safety, and general welfare, as noted in the Findings for approval of the Bulk Land Variance.
4. Per § 14-14-2-2 of the Subdivision Ordinance, the DRB finds that the arrangement, location and general nature of the other lots surrounding the APS property is consistent with and does conform to the adopted Westland Sector Plan, which also serves as the current, approved site development plan.
5. Per § 14-14-2-3 of the Subdivision Ordinance, the DRB finds that the MOU with APS provides a demonstrated agreement to provide adequate infrastructure improvements for its property.

The final plat was deferred.

If you wish to appeal the actions within this decision, you must do so by September 15, 2011 in the manner described below.

Appeal of the DRB actions are 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, DRB Chair

Cc:

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File