

**ACTION SHEET
ITEM FROM THE
PUBLIC WORKS/CIP AND LAND USE COMMITTEE MEETING
OF
MONDAY, APRIL 7, 2014**

ITEM 8

SIERRA VISTA ADDITION – ALLEYWAY VACATION

- REQUEST FOR APPROVAL OF VACATION OF AN EXISTING CITY ALLEY WITHIN THE BOUNDS OF SIERRA VISTA ADDITION ADJOINING THE BOUNDARIES OF LOTS 10 (A PORTION), 11, 12, 13, 14, 25 (A PORTION), 26, 27, 28, AND TRACT A, OF THE SIERRA VISTA ADDITION, A.K.A. 816, 818, 830, 832 CAMINO SIERRA VISTA AND 901 AND 903 MERCER ST. (**EDWARD VIGIL**)

PUBLIC WORKS COMMITTEE ACTION: Approved

SPECIAL CONDITIONS OR AMENDMENTS:

STAFF FOLLOW UP:

VOTE	FOR	AGAINST	RECUSED
CHAIRPERSON TRUJILLO	Excused		
COUNCILOR BUSHEE	X		
COUNCILOR DIMAS			X
COUNCILOR DOMINGUEZ	X		
COUNCILOR RIVERA, Acting Chair	X		

City of Santa Fe, New Mexico

memo

DATE: March 5, 2014 for the March 13, 2014 Planning Commission Meeting

TO: Planning Commission
Public Works, C.I.P., and Land Use Committee
Governing Body

VIA: Matthew S. O'Reilly, Land Use Department Director *MSO*

FROM: Edward J. Vigil, Property Manager *EV*

Case #2014-16. Sierra Vista Addition – Alleyway Vacation. David Schutz, agent for Two Doc Properties LLC, per Section 23-1.2 SFCC 1987, requests vacation of an existing city alley within the bounds of Sierra Vista Addition adjoining the boundaries of Lots 10 (a portion), 11, 12, 13, 14, 25 (a portion), 26, 27, 28, and Tract A, of the Sierra Vista Addition, a.k.a. 816, 818, 830, 832 Camino Sierra Vista and 901 and 903 Mercer Street. (Edward Vigil, Property Manager)

I. RECOMMENDATION

Staff recommends APPROVAL of the request to vacate the alley with the conditions listed in Section III of this memorandum.

II. OVERVIEW

This vacation of right-of-way is brought before the Planning Commission, Public Works Committee, and the Governing Body pursuant to Section 23-1.2 of the Municipal Code.

The property in question is a portion of a City alley (see Exhibit A) which was established within the bounds of the Sierra Vista Addition subdivision by plat filed for record in Plat Book 3, page 423, subsequently amended and recorded in 1954 in plat book 6, page 5 of the records of Santa Fe County, NM (see Exhibit B). Originally, the alley connected Alarid Street and Oñate Street (now Oñate Place). The construction of St. Francis Drive in the 1960s split the alley resulting in vestigial sections east and west of St. Francis Drive (see Exhibits C & D), the eastern remnant now having no connection to Alarid Street. The surface of the alley is undeveloped and the alley is blocked at both ends and along its length by fence lines (see Exhibit E). The City maintains a locked gate at the west end of 830 Camino Sierra Vista to prevent unwanted access to the alley and illegal dumping and trash accumulation.

As was common practice at the time it was created, the alley was not deeded in fee or dedicated by plat statement to the City but was identified as a public alley on the subdivision plat. The City of Santa Fe

considers the alley a public right-of-way subject to §23-1.2 SFCC 1987 (See Exhibit H) and would claim a right-of-way for access and utility purposes if contested. The City also owns a subsurface water main within the alley and the Water Division would request that any vacation of alley right-of-way be subject to a 15-foot wide utility easement to benefit the City for future use and maintenance of the water line.

The applicant initiating the vacation request has gathered signed petitions of six of the seven adjacent property owners who are in favor of the vacation (see Exhibit F). The owner of 818 Camino Sierra Vista (and their tenant, La Familia Medical Center) is not in favor of the vacation (see Exhibit G). The six petitioning adjacent property owners do not constitute 100% of the adjacent owners but do constitute at least 75% (6 of 7 = 85.7%) of the total adjoining property owners and therefore pursuant to §23-1.2 SFCC 1987 the final decision to vacate the alley rests with the Governing Body. Should the vacation be approved, a Vacation Plat will be prepared by the applicant that will return a portion of the alley to each adjacent property owner in proportion to their respective frontages along the alley.

III. CONCLUSIONS AND CONDITIONS

Land Use staff has consulted with various city departments none of which have expressed a need for the alley except for the reservation of a utility easement for the existing water line mentioned above. The vacation of the alley would benefit the city by removing the city's liability for the alley and placing the property back on the tax rolls. The vacation of the alley would benefit the adjacent owners by giving them ownership of more property at no cost, allowing them increased lot coverage, and lessening any existing setback or lot coverage non-conformities. Staff therefore recommends approval of the vacation of the alley with the following conditions:

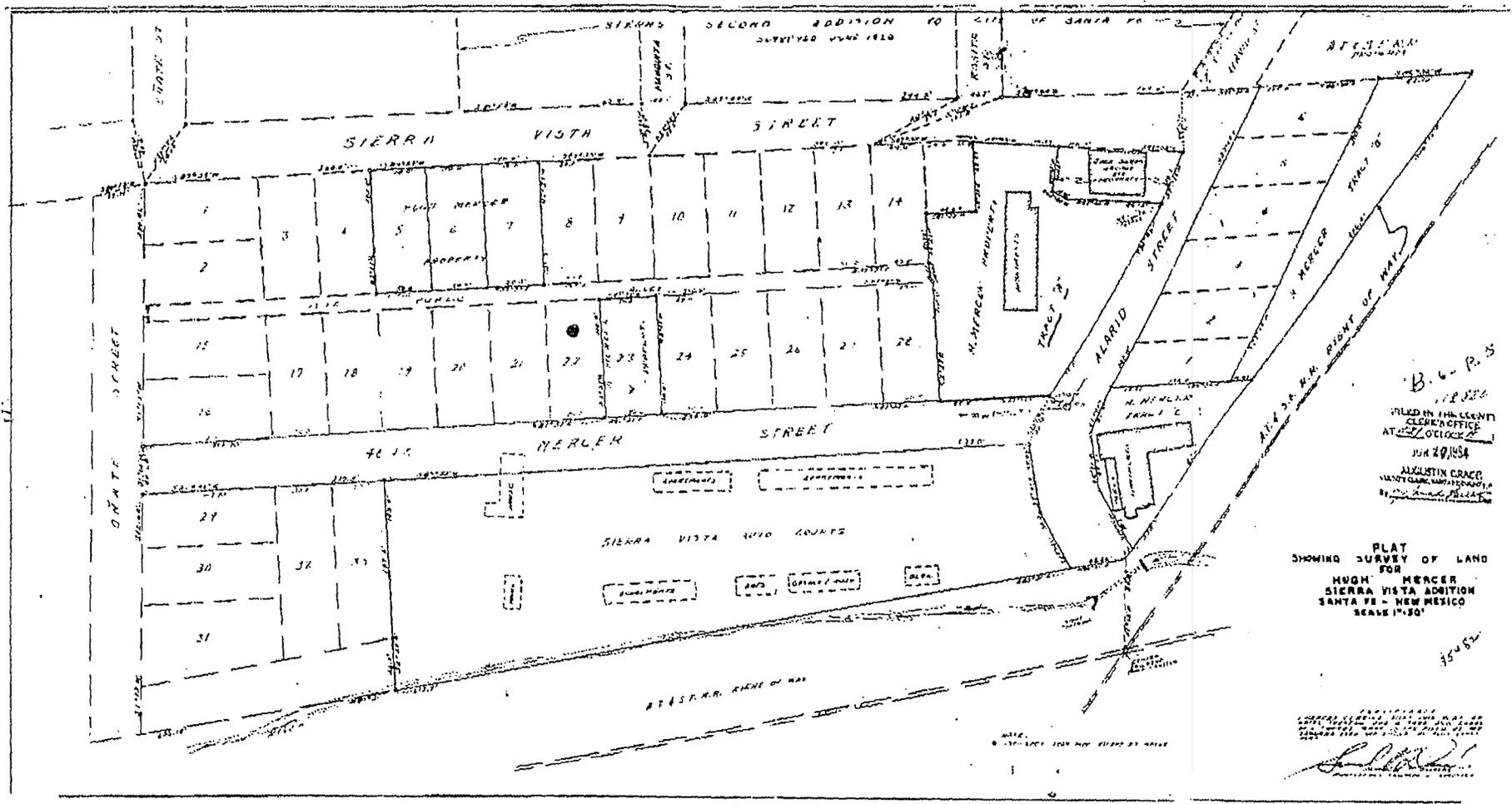
1. The applicant shall prepare a Vacation Plat for the alley for the city's review and recordation; and
2. The Vacation Plat shall include a 15-foot wide public utility easement for the city's existing water line; and
3. The Vacation Plat shall include a 15-foot wide ingress and egress easement for the purpose of repair and maintenance of structures for the benefit of all adjacent property owners; and
4. The applicant shall provide a recorded copy of the Vacation Plat to all adjacent property owners.

This request will be forwarded to the Public Works Committee and the Governing Body following the Planning Commission's consideration.

IV. ATTACHMENTS

- EXHIBIT A: Map of area showing alleyway in question
- EXHIBIT B: Subdivision plat of Sierra Vista Addition (Book 6, Page 5)
- EXHIBIT C: Right-of-Way Map of St. Francis Drive (circa 1968)
- EXHIBIT D: 2011 Aerial Photo (showing sections of Alley east and west of St. Francis Dr.)
- EXHIBIT E: Photos of Alley (ground-level)
- EXHIBIT F: Signed petitions of adjacent property owners requesting vacation
- EXHIBIT G: Letter from tenant at 818 Camino Sierra Vista
- EXHIBIT H: Municipal Code Section 23-1.2
- EXHIBIT I: Agent's letter of requesting vacation of City alley

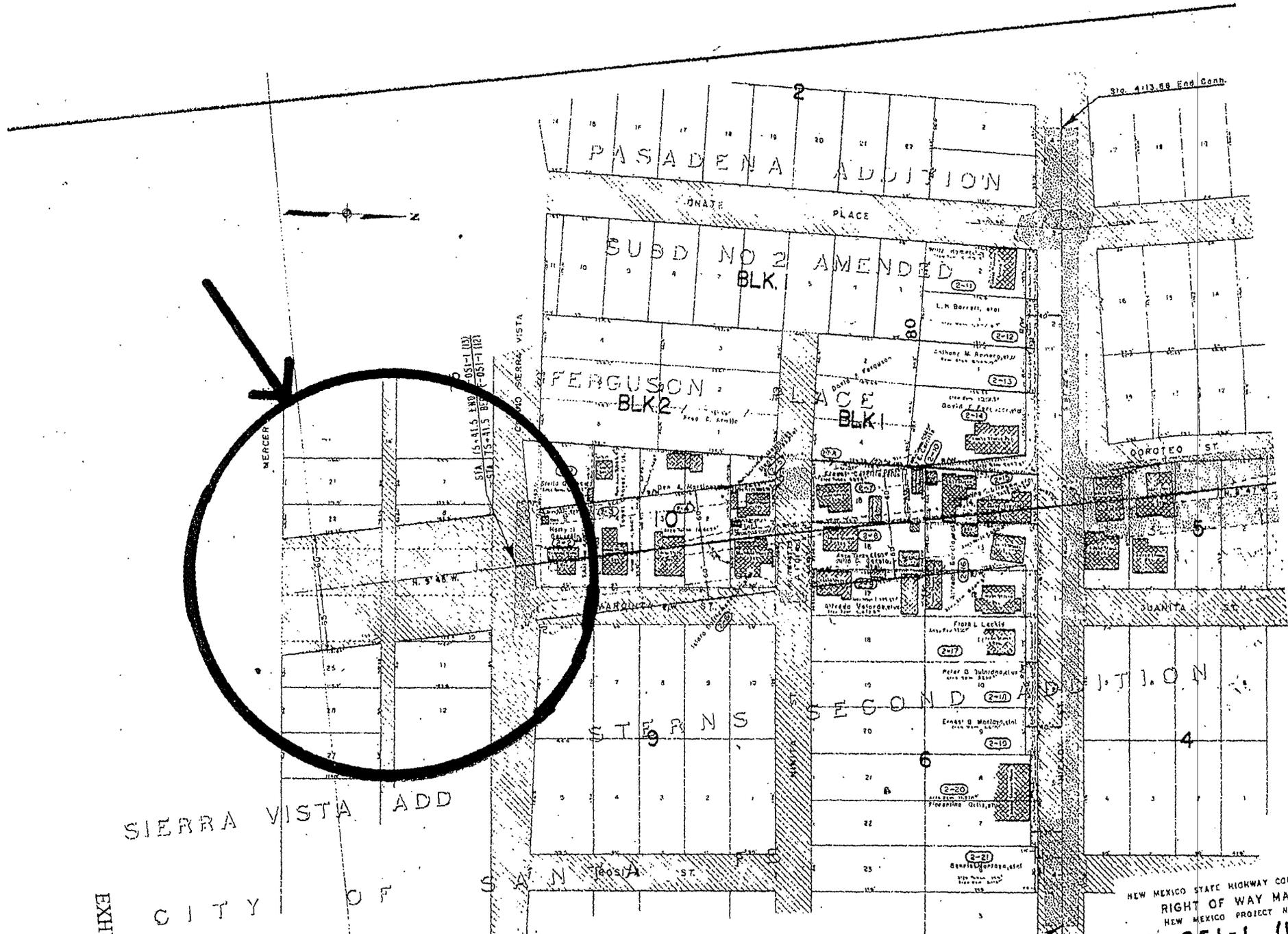
6/5



B.C. - P. 3
 112524
 FILED IN THE COUNTY
 CLERK'S OFFICE
 AT SANTA FE, NEW MEXICO
 JUN 29, 1954
 AUGUSTIN CRAIG
 COUNTY CLERK, SANTA FE COUNTY, N.M.

PLAT
 SHOWING SURVEY OF LAND
 FOR
 HUGH MERCER
 SIERRA VISTA ADDITION
 SANTA FE - NEW MEXICO
 SCALE 1"=50'

EXHIBIT B



SIERRA VISTA ADD
 CITY OF SANTA FE GRANT

EXHIBIT C

NOTE
 XXXX DESIGNATES LIMITS OF CUT
 OR FILL SLOPES AS PER PLANS

NEW MEXICO STATE HIGHWAY COMMISS
 RIGHT OF WAY MAP
 NEW MEXICO PROJECT NO.
F-051-1 (12)
 SANTA FE COUNTY
 SCALE 1"=50'
 SHEET 2 OF

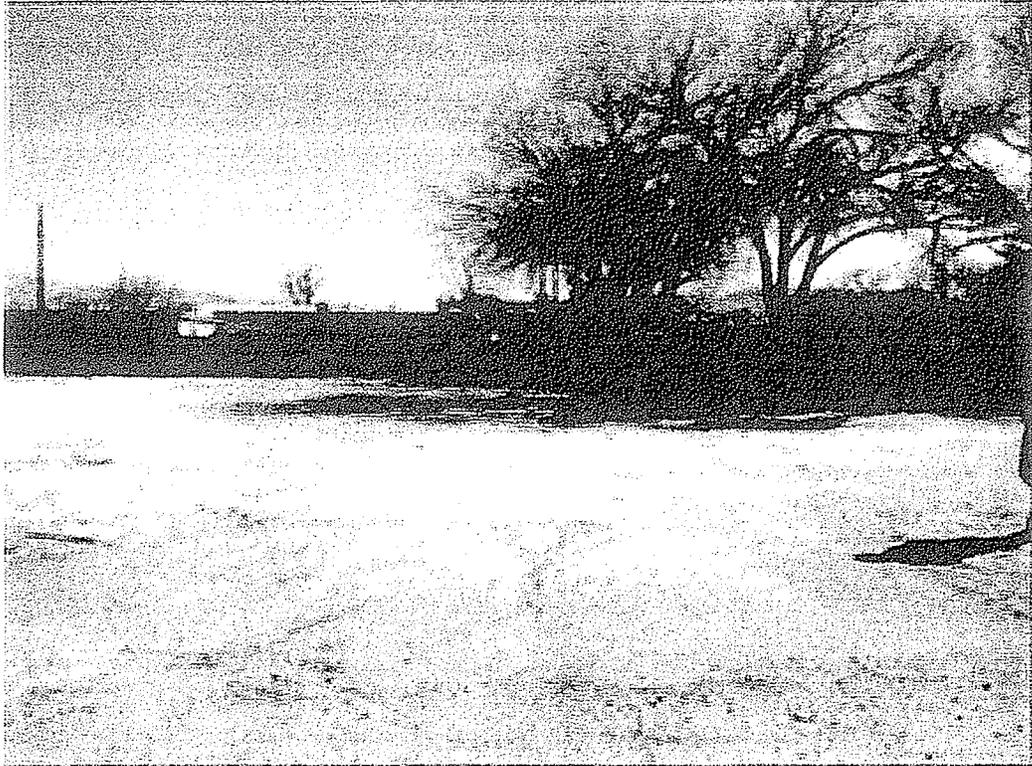


PHOTO 1: VIEW OF ALLEY FROM ST. FRANCIS R/W (LOOKING EAST)



PHOTO 2: VIEW OF ALLEY FROM FENCE AT 830 CAMINO SIERRA VISTA (LOOKING EAST)

EXHIBIT E

PETITION FOR VACATION OF RIGHT-OF-WAY

Per City of Santa Fe Municipal Code Section 23-1.2 SFCC 1987

We, the undersigned owner(s) of the land adjacent to the fifteen (15') wide right-of-way (the "Alley") shown on the attached Exhibit "A", as grantors or successors in interest, approve of the vacation of the Alley and hereby request that the City of Santa Fe vacate the Alley.

We understand and agree that upon approval of the vacation of the Alley by the City of Santa Fe that:

- 1) At no cost to us, a Vacation Plat will be prepared and recorded that we as adjacent owners will be required to sign;
- 2) At no cost to us, our respective property lines will be extended approximately 7.5 feet to the centerline of the vacated Alley, resulting in an increase in the size of our respective properties in proportion to our current frontage on the Alley;
- 3) A City of Santa Fe water line exists within the Alley and that we will grant a fifteen (15') foot water line easement to the City of Santa Fe in place of the vacated Alley.

TWO DOC PROPERTIES, LLC (N/F FDX, LLC & Valdes BP, LLC)

Owner(s) of "Parcel A" - A portion Lot 10, Lot 11 & Lot 12, Sierra Vista Addition Subdivision (832 Camino Sierra Vista) and "Parcel B" - A portion of Lot 25, Sierra Vista Addition Subdivision (No assigned City address)

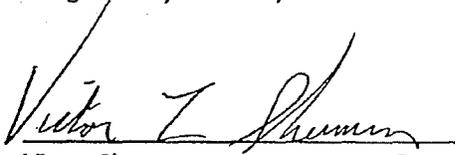
 1-3-14
Victor Sherman Date
Managing Member

EXHIBIT F

PETITION FOR VACATION OF RIGHT-OF-WAY
Per City of Santa Fe Municipal Code Section 23-1.2 SFCC 1987

We, the undersigned owner(s) of the land adjacent to the fifteen (15') wide right-of-way (the "Alley") shown on the attached Exhibit "A", as grantors or successors in interest, approve of the vacation of the Alley and hereby request that the City of Santa Fe vacate the Alley.

We understand and agree that upon approval of the vacation of the Alley by the City of Santa Fe that:

- 1) At no cost to us, a Vacation Plat will be prepared and recorded that we as adjacent owners will be required to sign;
- 2) At no cost to us, our respective property lines will be extended approximately 7.5 feet to the centerline of the vacated Alley, resulting in an increase in the size of our respective properties in proportion to our current frontage on the Alley;
- 3) A City of Santa Fe water line exists within the Alley and that we will grant a fifteen (15') foot water line easement to the City of Santa Fe in place of the vacated Alley.

Fidel & Tina Otero

Owner(s) of Lot 13, Sierra Vista Addition Subdivision (830 Camino Sierra Vista)

	
<u>12-14-83</u>	<u>12-14-13</u>
Fidel Otero	Tina Otero
Date	Date

PETITION FOR VACATION OF RIGHT-OF-WAY

Per City of Santa Fe Municipal Code Section 23-1.2 SFCC 1987

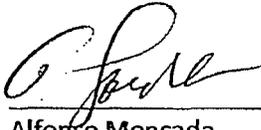
We, the undersigned owner(s) of the land adjacent to the fifteen (15') wide right-of-way (the "Alley") shown on the attached Exhibit "A", as grantors or successors in interest, approve of the vacation of the Alley and hereby request that the City of Santa Fe vacate the Alley.

We understand and agree that upon approval of the vacation of the Alley by the City of Santa Fe that:

- 1) At no cost to us, a Vacation Plat will be prepared and recorded that we as adjacent owners will be required to sign;
- 2) At no cost to us, our respective property lines will be extended approximately 7.5 feet to the centerline of the vacated Alley, resulting in an increase in the size of our respective properties in proportion to our current frontage on the Alley;
- 3) A City of Santa Fe water line exists within the Alley and that we will grant a fifteen (15') foot water line easement to the City of Santa Fe in place of the vacated Alley.

Alfonso Moncada

Owner(s) of Tract A, Sierra Vista Addition Subdivision (816 Camino Sierra Vista)



Alfonso Moncada

01-8-14

Date

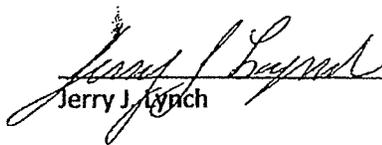
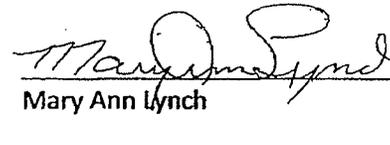
PETITION FOR VACATION OF RIGHT-OF-WAY
Per City of Santa Fe Municipal Code Section 23-1.2 SFCC 1987

We, the undersigned owner(s) of the land adjacent to the fifteen (15') wide right-of-way (the "Alley") shown on the attached Exhibit "A", as grantors or successors in interest, approve of the vacation of the Alley and hereby request that the City of Santa Fe vacate the Alley.

We understand and agree that upon approval of the vacation of the Alley by the City of Santa Fe that:

- 1) At no cost to us, a Vacation Plat will be prepared and recorded that we as adjacent owners will be required to sign;
- 2) At no cost to us, our respective property lines will be extended approximately 7.5 feet to the centerline of the vacated Alley, resulting in an increase in the size of our respective properties in proportion to our current frontage on the Alley;
- 3) A City of Santa Fe water line exists within the Alley and that we will grant a fifteen (15') foot water line easement to the City of Santa Fe in place of the vacated Alley.

Jerry J. & Mary Ann Lynch
Owner(s) of Lot 28, Sierra Vista Addition Subdivision (901 Mercer Street)

	<u>10-9-13</u>		<u>10-9-2013</u>
Jerry J. Lynch	Date	Mary Ann Lynch	Date

PETITION FOR VACATION OF RIGHT-OF-WAY

Per City of Santa Fe Municipal Code Section 23-1.2 SFCC 1987

We, the undersigned owner(s) of the land adjacent to the fifteen (15') wide right-of-way (the "Alley") shown on the attached Exhibit "A", as grantors or successors in interest, approve of the vacation of the Alley and hereby request that the City of Santa Fe vacate the Alley.

We understand and agree that upon approval of the vacation of the Alley by the City of Santa Fe that:

- 1) At no cost to us, a Vacation Plat will be prepared and recorded that we as adjacent owners will be required to sign;
- 2) At no cost to us, our respective property lines will be extended approximately 7.5 feet to the centerline of the vacated Alley, resulting in an increase in the size of our respective properties in proportion to our current frontage on the Alley;
- 3) A City of Santa Fe water line exists within the Alley and that we will grant 7.5 feet from the extended property line to the City of Santa Fe for a water line easement, meaning that fifteen (15') feet of the prior vacated Alley, of which 7.5 feet is our property, will contain a water line easement in place of the vacated Alley.

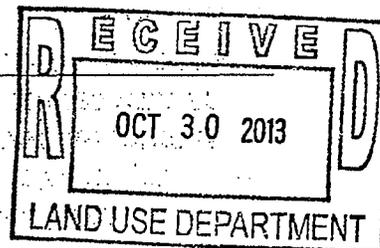
Thomas Garcia

Owner(s) of Lots 26 & 27, Sierra Vista Addition Subdivision (903 Mercer Street)



Thomas Garcia

Date: December 14, 2013



October 16, 2013

To Whom It May Concern:

La Familia Medical Center leases the property at 818 Camino Sierra Vista. We operate our Health Care for the Homeless Program in this building.

It has come to our attention that there is an attempt to place the ownership of the alley behind this building in the hands of someone other than the City of Santa Fe.

The alley benefits the building in so far as it provides an alternate route for our staff and/or patients to vacate the premises in case of an emergency. Having this alternate vacate route is required by OSHA. We have already had some issues with an OSHA inspector because the neighbor to the immediate East will not allow La Familia staff or patients access to a vacate route. We have attempted, over a long period of time, to have this neighbor unlock the access gate, but he is unwilling to do so.

This alley is our only option to keep within OSHA requirements. As a result, La Familia Medical Center does not support a change in ownership of this alley.

Sincerely,


John Cassidy
Chief Executive Officer

Alto Clinic
1035 Alto Street
Santa Fe, NM 87501
[505] 982-4425
[505] 982-8440 Fax

Southside Clinic
2145 Caja del Oro Grant Road
Santa Fe, NM 87507
[505] 438-3195
[505] 424-5699 Fax

Dental Clinic
6401 Richards Avenue
Santa Fe, NM 87508
[505] 984-5048
[505] 983-4751 Fax

Health Care for the Homeless
818 Camino Sierra Vista
Santa Fe, NM 87505
[505] 988-1742
[505] 988-2184 Fax

La Familia Medical Center
P.O. Box 5395

EXHIBIT G

23-1.2 Vacation or Partial Vacation of Plat; Approval of Governing Body; Duties of City Clerk.

Short Title. This subsection shall be known as the "Vacation of Plat Ordinance."

A. *Purpose.* The purpose of this subsection is to provide for the vacation or partial vacation of plats when vacation and reversion of such affected land is based on proper dedication of the subject property to the city of Santa Fe for public purposes, there are reversionary rights in the grantor(s) and it is deemed in the public interest to do so. It is intended by this subsection that important factors to be considered in vacation or partial vacation of a plat shall first be whether the public right of way continues to be a necessary part of the city's utility easements which should not be disturbed, whether the public right-of-way is a necessary and integral part of the city's traffic and neighborhood scheme for travel, balanced against other interests such as whether the public right-of-way is no longer needed or used as a public right-of-way or has become a public nuisance and no other reasonable remedy is available to abate the nuisance. It shall also be a considered factor whether at least seventy-five percent (75%) of the grantors or their successors in interest approve of the vacation when the city believes it is in the city's best interests to vacate or partially vacate the plat. In no circumstance shall any property be landlocked as a result or interpretation of this subsection.

B. *Definitions.*

(1) *Owners of the land* means all of the owners of adjacent properties to the affected right-of-way, unless the governing body determines that there is good cause relating to the public welfare to vacate or partially vacate the plat with at least seventy-five percent (75%) of the owners complying with paragraph C(1)(a) hereinbelow. A calculation of seventy-five percent (75%) of a total of owners of the affected adjacent right-of-way shall be rounded to the nearest whole number.

(2) *Plat* means the map, chart, survey, plan or replat certified by a licensed or registered surveyor which contains a description of subdivided land with ties to permanent monuments. In regard to vacation or partial vacation of a plat relating to a public right-of-way, a plat may not be vacated in whole or in part unless the grantor(s) dedicated the subject land for the right-of-way with reversionary rights to the grantor(s). Evidence of such reversionary rights must be clearly shown on the certified plat or in any deed of conveyance or incorporated in a properly adopted ordinance.

(3) *Public nuisance* means any activity, function, status, or the result of such activity, function, or status whether participated in by one person or several, whether caused by machines, persons, or other devices, which affects the health, safety, and

welfare of an individual, a neighborhood or community and degrades the quality of life for such individual, neighborhood or community.

(4) *Vacation of plat* means properly effected reversion of dedicated property to the grantors or their successors in interest and recording in the county real property records that the plat is vacated, i.e. that it is set aside, and including a reference to the **vacation** statement recording.

C. *Vacation of Plat.*

(1) Any plat filed in the office of the county clerk may be vacated or a portion of the plat may be vacated provided:

(a) The owners of the land in the territory proposed to be vacated sign a statement, duly acknowledged, declaring the plat or a portion of the plat to be vacated; and

(b) The statement is endorsed "Approved" by the planning authority of the municipality within whose platting jurisdiction the subdivision lies.

(c) The public works committee review each request for a **vacation** of plat or partial **vacation** of plat and make its recommendation for approval or denial of the request at a public hearing before the request proceeds to the planning commission for its review.

(2) In approving the **vacation** or partial **vacation** of a plat, the planning authority of the municipality shall consider if the **vacation** or partial **vacation** of a plat will adversely affect the interests or rights of persons in contiguous territory or within the subdivision being vacated. In approving the **vacation** or partial **vacation** of a plat, the planning authority of the municipality may require that streets dedicated to the municipality in the original plat shall continue to be dedicated to the municipality. The owners of lots on the vacated plat or on the portion of the plat being vacated may enclose in equal proportions the adjoining streets and alleys which are authorized to be abandoned by the planning authority of the municipality.

(3) The statement declaring the **vacation** or partial **vacation** of a plat and having the proper endorsements shall be filed in the office of the county clerk wherein the original plat is filed. The county clerk shall mark the applicable words "Vacated" or "Partially Vacated" across the plat and shall refer on the plat to the volume and page on which the statement of **vacation** or partial **vacation** is recorded.

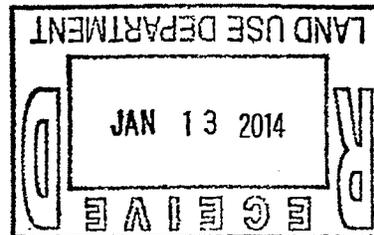
D. *Vacation Rights of Utility.* The rights of any utility already existing shall not be affected by any **vacation** or partial **vacation** of a plat.

Editor's Note: This section is based on §§ 3-20-12 and 13 NMSA 1978, §3-49-1 NMSA 1978 and a charter municipality's powers under the New Mexico State Constitution, Art. X, §6.D.

Municipalities are authorized in §3-49-1 NMSA 1978 to vacate alleys, regulate their use and use of structures under them, and to prohibit and remove encroachments or obstructions on them. Article X, §6.D, of the New Mexico State Constitution provides that a municipality which adopts a charter may exercise all legislative powers and perform all functions not expressly denied by general law or charter. There is no general law that denies municipalities the power to vacate plats, and statutes in fact expressly authorize municipalities to do so.
(Ord. #2000-19, §5)

January 13, 2014

Mr. Matt O'Reilly
Land Use Director
City of Santa Fe
200 Lincoln Avenue
Santa Fe, NM 87501



Re: Alleyway Vacation

Dear Matt:

As I mentioned to you at our last discussion, we have received signatures from 6 of the 7 adjacent property owners in the above referenced matter. The original signed petition forms are attached herewith. This represents 85.7% of the property owners who are requesting the vacation and meets the 75% threshold required under Section 23-1.2 of the City Code for the vacation of plats. Please process this request for approval by the appropriate reviewing bodies.

Please do not hesitate to contact me for any questions you may have or need additional information in this regard.

Sincerely,

David Schutz,

Agent for property owner, 2 Doc Properties, LLC
600 Cielo Grande
Santa Fe, NM 87505
505-316-6552
dave@dschutz.com

xc: Dr. Victor Sherman, Dr. Troy Watson
2 Doc Properties, LLC

EXHIBIT I