

PLANNING DEPARTMENT  
DEVELOPMENT SERVICES DIVISION  
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## AMENDED OFFICIAL NOTIFICATION OF DECISION

May 3, 2019; AMENDED May 20, 2019

Willow Wood HOA  
4121 Eubank Boulevard NE  
ABQ, NM 87111

**Project# PR-2019-002296**  
**Application# SD-2019 -00072**  
VACATION OF PUBLIC RIGHT OF WAY

### LEGAL DESCRIPTION:

For all or a portion of TONY SANCHEZ DRIVE SE located south of JEWEL CAVE RD SE and north of GIBSON BLVD, containing approximately .154 acre(s). (M-21)

On May 1, 2019 the Development Review Board (DRB) held a public hearing concerning the above referenced application and is sending a recommendation of denial to the City Council, based on the following Findings:

1. This is a request to vacate the portion of Tony Sanchez Drive between Jewel Cave Road and Gibson Boulevard, which is a total of 6,708 square feet.
2. Pursuant to section 14-16-6-6(K)(2)(e), the DRB will make a recommendation to City Council on the request because the vacation contains more than 5,000 square feet.
3. The applicant proposes a gate across the vacated right of way to allow restricted access into the Willow Wood development, if approved.
4. The Willow Wood Homeowners Association is the applicant for the request. They state that the vacation is needed to prevent traffic from cutting through the neighborhood.
5. The application letter dated April 4, 2019, states that the Willow Wood Homeowners Association circulated a petition regarding support of the vacation during 2017 and 2018 and gathered 230 signatures, approximately 50% of the Willow Wood residents.
6. Vacation requests must meet the criteria in IDO Section 14-16-6-6-(K)(3)(a): *The public welfare does not require that the public right of way or easement be retained:*  
Applicant's Justification:

- A. Through traffic can use alternate routes that does not require cut through the Willow Wood Neighborhood and are safer for high traffic volumes. They include: North/South: Eubank Boulevard and Juan Tabo Boulevard both Urban Minor Collector streets; East/West: Gibson Boulevard and Innovation Parkway both Local Urban Streets; and Southern Street an Urban Minor Collector.
- B. Residents of the Willow Wood HOA will have access through the gate using a card key or keypad. The gate will be equipped with a Knox box for emergency service access.
- C. A video recorded by a Willow Wood Neighborhood resident, shows the traffic at Tony Sanchez Drive and Jewel Cave Road during the morning peak hours of 7:30-8:30 a.m. The video shows substantial traffic at this corner as well as vehicles neglecting full stops at the Stop Sign and speeding around the corner. This video provides evidence of the threat to the public welfare that high traffic at this intersection poses and is provided for the Development Review Board's consideration
- D. This neighborhood includes an elementary school and community park. The high volume of cut through traffic and associated speeding presents a significant threat to public safety and public welfare as it relates to these neighborhood functions. Through this vacation, the public welfare of the area will be enhanced by reducing the volume and speeding traffic cutting through the neighborhood and this intersection, especially at peak hours.

Staff response:

- A. While vacating a portion of Tony Sanchez Drive would eventually remove the through traffic into the Willow Wood development, it would place a burden on the surrounding areas, specifically South Pointe Village development which is located directly south, by removing access to the north in an area where access is limited.
  - B. Although there are alternate routes, it is a critical link in the transportation network in the area.
  - C. The residents to the south should have access to the school and community center to the north; the route through Willow Wood should be available to those residents.
  - D. The DRB did not receive or review the video so it was not considered in their recommendation.
  - E. Other traffic calming measures could be used to improve safety for all residents of the area.
7. Vacation requests must meet the criteria in 14-16-6-6(K)(3)(b): *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 , and there is no convincing evidence that any substantial property right is being abridged against the will of the owner of that right.*

Applicant's Justification:

- A. This vacation of Tony Sanchez Drive is clearly more beneficial to the public welfare than the minor detriment resulting from the vacation because it will reduce high volumes of through traffic on residential streets and route them onto streets and corridors suitable for high volume traffic such as; Gibson Boulevard, Innovation Parkway, Eubank Boulevard, Southern Street, and Juan Tabo Boulevard.
- B. Residents of the Willow Wood neighborhood may experience the minor detriment of stopping at the proposed gate before entering the neighborhood, but they have expressed that they are willing to endure this to reduce traffic on their residential streets.
- C. For cut-through non-resident traffic, the minor detriment will be altering routes to surrounding streets and corridors. For this the Applicant will provide ample notice of the vacation, with City approved notification signage, to allow drivers time to modify their routes prior to the vacation and gate installation.
- D. There is no convincing evidence that any substantial property right is being abridged against the will of the owner of as Tony Sanchez Drive is a public right of way. The property owners adjacent to the proposed vacation site to the east and west, are in support of the vacation and gate installation as shown by the letter of support included in this application.

Staff response:

- A. Public streets are open to all members of the public; gating Tony Sanchez Drive abridges the right of the area residents outside of Willow Wood to use existing public streets. This portion of the public right of way is actively being used by the public.
- B. Staff received five letters and two phone calls opposing the vacation. Concerns included safety, loss of use of public roads, loss of access to Kirtland AFB emergency vehicle access, and locations of bus stop
- C. As stated above, there are other traffic calming measures that could be used to slow down traffic and improve safety.
- D. Comments from Transportation state that in order to satisfy this vacation criteria, a traffic study showing the function of the surrounding transportation network in a build and no-build scenario is required due to the importance of this link.
- E. Comments from Transportation state that additional documentation is required for recommendation of approval of this vacation. Approval from the fire

marshal, solid waste, traffic operations and all properties with access from this right of way is required. It appears additional neighborhoods utilize this connection so additional neighborhood support is required.

8. The Department of Municipal Development opposes this vacation of public right of way, stating that closure of this section of Tony Sanchez Dr. is not warranted and would decrease the already limited access for the South Point Village subdivision and would further adversely impact traffic circulation.
9. Long Range Planning submitted extensive comments stating that the request will have substantial impacts on the South Pointe Village and would limit the ingress and egress for this neighborhood. Additionally between 1996 and 2006, the access to Eubank Blvd and Juan Tabo Blvd was limited by development to the north.
10. The Long Range Planning section also states that the request is inconsistent with many Comprehensive Plan Goals and Policies to improve the transportation system connectivity and enhance access to employment and services. The request does not provide a net benefit to the public welfare, as demonstrated in the earlier comments and policy analysis. By limiting the access to South Pointe Village residents, it is possible that a "substantial property right is being abridged against the will of the owner of the right." The historic transportation access (the property right of access) between South Pointe Village and Juan Tabo Blvd would be eliminated by the request. This could lower property values of South Pointe Village while increasing property values in Willow Wood by privatizing this access point. Finally, the request would diminish the public welfare of South Pointe Village residents by limiting access to the neighborhood for the purposes of accessing jobs and services as well as ~~being~~ limiting access ~~ed by~~ for emergency services.

The requested vacation is unnecessary and would exacerbate an already inequitable situation related to access and connectivity. The requested vacation would create a non-conformance to IDO subdivision and transportation system regulations

11. APS comments indicate that the vacation would create traffic problems by removing an access point that is used for both the Willow Wood and South Pointe Village neighborhoods. The vacation would require relocation of bus stops for elementary, middle school and high school and increase bus ride times by 15 minutes for these students and special needs students using their buses. This change would cause an additional financial impact to APS because of the need to provide additional buses. APS buses do not enter gated communities unless gates remain open for buses during busing times. Bus stops are generally located outside of the neighborhood entrance gate. APS states that the request could potentially impact 148 students.

Official Notice of Decision

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Sincerely,



Kym Dicome  
DRB Chair

KD/mg

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