

URBAN SOLUTIONS (LEE GAMELSKY, AGENT) request(s) a special exception to Section (1) Pg. 16 HDA Downtown Neighborhood Sector Plan: a VARIANCE of 1 parking space to the 2 parking space requirement for a proposed townhouse on future Lot B on all or a portion of Lot(s) B1A, Block(s) 7, ARMIJO-PERFECTO MARIANO AND JESUS ADDN zoned SU-2 HDA, located at 510 8TH ST NW (J-14)

Special Exception No:	10ZHE-80372
Project No:	. Project# 1008581
Hearing Date:	. 01-18-11
Closing of Public Record:	. 01-18-11
Date of Decision:	. 02-07-11

I have reviewed the entire file as well as the recordings, I make the following:

STATEMENT OF FACTS: The applicant, Urban Solutions, requests a variance of 1 parking space to the 2 parking space requirement for a proposed townhouse on future lot B. Lee Gamelsky, agent for the applicant, argues that this lot is exceptional because the property is located immediately west of the Downtown Central Business District. Also, the zoning of this property is SU-2 HDA – High Density Apartments, which corresponds to the R-4 Residential zone; Mr. Gamelsky stated that there is no such zoning anywhere else in the city of Albuquerque.

Mr. Gamelsky testified that there are other properties in the area that are non-compliant. He feels that a denial of these requests would be unfair and would create an unjustified limitation of the use of the property. He further argues that the proposed project comports with the spirit of the proposed Neighborhood Area Sector Development Plan Update. Mr. Gamelsky finally argues that a violation of the Open Meetings Act occurred during the meeting with the Downtown Neighborhood Association and asked that their opposition be excluded. This office received the letter of opposition from the Downtown Neighborhood Association prior to this matter being closed; therefore this record will include their opposition. Mr. Gamelsky can file his objection regarding the Open Meetings Act in the appropriate forum.

There is a letter of opposition from the Downtown Neighborhood Association noted in the file. They feel that this proposed project would significantly interfere with the enjoyment of the neighbor's property. There were also several neighbors who testified in opposition to this request. Their concerns include parking, lack of exceptionality and over development of the property. Also noted in the file are signatures from four neighbors who support this request.

It appears that the properties Mr. Gamelsky are referring to are non-conforming due to the fact that the properties existed prior to the adoption of the Downtown Neighborhood

The Zoning Ordinance provides that a variance is to be granted only under unusual circumstances. An applicant is required to demonstrate that he/she is unable to comply with the Zoning requirement as a result of some physical exceptional parcel conditions which cause unnecessary hardship. This applicant has not shown that this request meets the exceptionality standard. The lot is not exceptional in size or shape. There are other properties in close proximity that have the same characteristics and zoning as this parcel. Having been unable to meet this standard, it is therefore unnecessary to inquire any further.

Based on all of the testimony and a review of the entire file, it is determined that there is substantial evidence to make the following findings and conclusions:

FINDINGS AND CONCLUSIONS: I find that this parcel is not exceptional as compared to other parcels in the vicinity and, therefore, it does not meet the test for the granting of a variance as provided for by Section 14. 16. 4. 2. I further find that the regulations do not produce an unnecessary hardship in that it will not limit the owner's reasonable use of the property and/or deprive the owner of a reasonable return on the property. Finally, the variance will significantly interfere with the enjoyment of other land in the vicinity and is inconsistent with the spirit of the Zoning Ordinance, substantial justice and the general public interest.

DECISION: Denied.

If you wish to appeal this decision, you may do so by 5:00 p.m., on February 22, 2011 in the manner described below:

Appeal is to the Board of Appeals within 15 days of the decision. A filing fee of \$105.00 shall accompany each appeal application, as well as a written explanation outlining the reason for appeal and a copy of the ZHE decision. Appeals are taken at 600 2nd Street, Plaza Del Sol Building, Ground Level, Planning Application Counter located on the west side of the lobby. Please present this letter of notification when filing an appeal. When an application is withdrawn, the fee shall not be refunded.

An appeal shall be heard by the Board of Appeals within 45 days of the appeal period and concluded within 75 days of the appeal period. The Planning Division shall give written notice of an appeal, together with a notice of the date, time and place of the hearing to the applicant, a representative of the opponents, if any are known, and the appellant.

You will receive notice if any other person files an appeal. If there is no appeal, you can receive building permits any time after the appeal deadline quoted above, provided all conditions imposed at the time of approval have been met. However, the Zoning Hearing Examiner may allow issuance of building permits if the public hearing produces no objection of any kind to the approval of an application. To receive this approval, the applicant agrees in writing to return the building permit or occupation tax number.

Successful applicants are reminded that other regulations of the City must be complied with, even after approval of a special exception is secured. This decision does not constitute approval of plans for a building permit. If your application is approved, bring this decision with you when you apply for any related building permit or occupation tax number. Approval of a conditional use or a variance application is void after one year from date of approval if the rights and privileges are granted, thereby have not been executed or utilized.

Roberto Albertorio, Esq. Zoning Hearing Examiner

cc: Zoning Enforcement

ZHE File

Urban Solutions, 2412 Miles Road SE, 87106
Lee Gamelsky, 2412 Miles Road SE, 87106
Sarah Stewart, 714 Roma Avenue NW, 87102
Laura Daby, 412 Luna Boulevard NW, 87102
Charles Benzaquen, 1223 Tijeras Avenue NW, 87102
Jon Anderson, 416 Luna Boulevard NW, 87102
Gil Padilla, 515 8th Street NW, 87102
Jennifer DeGarmo, DNA, 1021 Forrester Avenue NW, 87102
Deborah Larson, 723 Marquette NW, 87102
Nathan Cook, 511 8th Street NW, 87102
Laurie Hicks, P.O. Box 1594, Taos, 87571



SOLUTIONS (LEE GAMELSKY. AGENT) request(s) a special exception to Section (1) Pg. 16 HDA Downtown Neighborhood Sector Plan: a VARIANCE of 1 parking space to the 2 parking space requirement for a proposed townhouse on future Lot C on all or a portion of Lot(s) B1A. Block(s) 7, ARMIJO-PERFECTO MARIANO AND JESUS zoned SU2-HDA, located at 510 8TH ST NW (J-14)

Special Exception No:	10ZHE-80373
Project No:	Project# 1008581
Hearing Date:	01-18-11
Closing of Public Record:	01-18-11
Date of Decision:	02-07-11

STATEMENT OF FACTS: The applicant, Urban Solutions, requests a variance of 1 parking space to the 2 parking space requirement for a proposed townhouse on future lot C. Lee Gamelsky, agent for the applicant, argues that this lot is exceptional because the property is located immediately west of the Downtown Central Business District. Also, the zoning of this property is SU-2 HDA – High Density Apartments, which corresponds to the R-4 Residential zone; Mr. Gamelsky stated that there is no such zoning anywhere else in the city of Albuquerque.

Mr. Gamelsky testified that there are other properties in the area that are non-compliant. He feels that a denial of these requests would be unfair and would create an unjustified limitation of the use of the property. He further argues that the proposed project comports with the spirit of the proposed Neighborhood Area Sector Development Plan Update. Mr. Gamelsky finally argues that a violation of the Open Meetings Act occurred during the meeting with the Downtown Neighborhood Association and asked that their opposition be excluded. This office received the letter of opposition from the Downtown Neighborhood Association prior to this matter being closed; therefore this record will include their opposition. Mr. Gamelsky can file his objection regarding the Open Meetings Act in the appropriate forum.

There is a letter of opposition from the Downtown Neighborhood Association noted in the file. They feel that this proposed project would significantly interfere with the enjoyment of the neighbor's property. There were also several neighbors who testified in opposition to this request. Their concerns include parking, lack of exceptionality and over development of the property. Also noted in the file are signatures from four neighbors who support this request.

It appears that the properties Mr. Gamelsky are referring to are non-conforming due to the fact that the properties existed prior to the adoption of the Downtown Neighborhood Sector Development Plan which was adopted in 1999 and is the current regulatory document. This does not make the parcels exceptional.

The Zoning Ordinance provides that a variance is to be granted only under unusual circumstances. An applicant is required to demonstrate that he/she is unable to comply with the Zoning requirement as a result of some physical exceptional parcel conditions which cause unnecessary hardship. This applicant has not shown that this request meets the exceptionality standard. The lot is not exceptional in size or shape. There are other properties in close proximity that have the same characteristics and zoning as this parcel. Having been unable to meet this standard, it is therefore unnecessary to inquire any further.

Based on all of the testimony and a review of the entire file, it is determined that there is substantial evidence to make the following findings and conclusions:

FINDINGS AND CONCLUSIONS: I find that this parcel is not exceptional as compared to other parcels in the vicinity and, therefore, it does not meet the test for the granting of a variance as provided for by Section 14. 16. 4. 2. I further find that the regulations do not produce an unnecessary hardship in that it will not limit the owner's reasonable use of the property and/or deprive the owner of a reasonable return on the property. Finally, the variance will significantly interfere with the enjoyment of other land in the vicinity and is inconsistent with the spirit of the Zoning Ordinance, substantial justice and the general public interest.

DECISION: Denied.

If you wish to appeal this decision, you may do so by 5:00 p.m., on February 22, 2011 in the manner described below:

Appeal is to the Board of Appeals within 15 days of the decision. A filing fee of \$105.00 shall accompany each appeal application, as well as a written explanation outlining the reason for appeal and a copy of the ZHE decision. Appeals are taken at 600 2nd Street, Plaza Del Sol Building, Ground Level, Planning Application Counter located on the west side of the lobby. **Please present this letter of notification when filing an appeal.** When an application is withdrawn, the fee shall not be refunded.

An appeal shall be heard by the Board of Appeals within 45 days of the appeal period and concluded within 75 days of the appeal period. The Planning Division shall give written notice of an appeal, together with a notice of the date, time and place of the hearing to the applicant, a representative of the opponents, if any are known, and the appellant.

Please note that pursuant to Section 14. 16. 4. 4. (B)., of the City of Albuquerque Comprehensive Zoning Code, you must demonstrate that you have legal standing to file an appeal as defined.

You will receive notice if any other person files an appeal. If there is no appeal, you can receive building permits any time after the appeal deadline quoted above, provided all conditions imposed at the time of approval have been met. However, the Zoning Hearing

Examiner may allow issuance of building permits if the public hearing produces no objection of any kind to the approval of an application. To receive this approval, the applicant agrees in writing to return the building permit or occupation tax number.

Successful applicants are reminded that other regulations of the City must be complied with, even after approval of a special exception is secured. This decision does not constitute approval of plans for a building permit. If your application is approved, bring this decision with you when you apply for any related building permit or occupation tax number. Approval of a conditional use or a variance application is void after one year from date of approval if the rights and privileges are granted, thereby have not been executed or utilized.

Roberto Albertorio, Esq. Zoning Hearing Examiner

cc: Zoning Enforcement

ZHE File

Urban Solutions, 2412 Miles Road SE, 87106

Lee Gamelsky, 2412 Miles Road SE, 87106

Sarah Stewart, 714 Roma Avenue NW, 87102

Laura Daby, 412 Luna Boulevard NW, 87102

Charles Benzaquen, 1223 Tijeras Avenue NW, 87102

Jon Anderson, 416 Luna Boulevard NW, 87102

Gil Padilla, 515 8th Street NW, 87102

Jennifer DeGarmo, DNA, 1021 Forrester Avenue NW, 87102

Deborah Larson, 723 Marquette NW, 87102

Nathan Cook, 511 8th Street NW, 87102

Laurie Hicks, P.O. Box 1594, Taos, 87571



URBAN SOLUTIONS (LEE GAMELSKY, AGENT) request(s) a special exception to Section HDA Reference Section 1 MDA Downtown Neighborhood Sector Plan Pg. 16 Reference Appendix G of the Zoning Code: a VARIANCE of 4' to the 10' front yard setback area requirement for a proposed townhouse on future Lot A on all or a portion of Lot(s) B1A, Block(s) 7, ARMIJO-PERFECTO MARIANO AND JESUS ADDN zoned SU-2 HDA, located at 510 8TH ST NW (J-14)

Special Exception No:	. 10ZHE-80374
Project No:	
Hearing Date:	.01-18-11
Closing of Public Record:	
Date of Decision:	02-07-11

STATEMENT OF FACTS: The applicant, Urban Solutions, requests a variance of 4' to the 10' front yard setback area requirement for a proposed townhouse on future lot A. Lee Gamelsky, agent for the applicant, argues that this lot is exceptional because the property is located immediately west of the Downtown Central Business District. Also, the zoning of this property is SU-2 HDA – High Density Apartments, which corresponds to the R-4 Residential zone; Mr. Gamelsky stated that there is no such zoning anywhere else in the city of Albuquerque.

Mr. Gamelsky testified that there are other properties in the area that are non-compliant. He feels that a denial of these requests would be unfair and would create an unjustified limitation of the use of the property. He further argues that the proposed project comports with the spirit of the proposed Neighborhood Area Sector Development Plan Update. Mr. Gamelsky finally argues that a violation of the Open Meetings Act occurred during the meeting with the Downtown Neighborhood Association and asked that their opposition be excluded. This office received the letter of opposition from the Downtown Neighborhood Association prior to this matter being closed; therefore this record will include their opposition. Mr. Gamelsky can file his objection regarding the Open Meetings Act in the appropriate forum.

There is a letter of opposition from the Downtown Neighborhood Association noted in the file. They feel that this proposed project would significantly interfere with the enjoyment of the neighbor's property. There were also several neighbors who testified in opposition to this request. Their concerns include parking, lack of exceptionality and over development of the property. Also noted in the file are signatures from four neighbors who support this request.

It appears that the properties Mr. Gamelsky are referring to are non-conforming due to the fact that the properties existed prior to the adoption of the Downtown Neighborhood

The Zoning Ordinance provides that a variance is to be granted only under unusual circumstances. An applicant is required to demonstrate that he/she is unable to comply with the Zoning requirement as a result of some physical exceptional parcel conditions which cause unnecessary hardship. This applicant has not shown that this request meets the exceptionality standard. The lot is not exceptional in size or shape. There are other properties in close proximity that have the same characteristics and zoning as this parcel. Having been unable to meet this standard, it is therefore unnecessary to inquire any further.

Based on all of the testimony and a review of the entire file, it is determined that there is substantial evidence to make the following findings and conclusions:

FINDINGS AND CONCLUSIONS: I find that this parcel is not exceptional as compared to other parcels in the vicinity and, therefore, it does not meet the test for the granting of a variance as provided for by Section 14. 16. 4. 2. I further find that the regulations do not produce an unnecessary hardship in that it will not limit the owner's reasonable use of the property and/or deprive the owner of a reasonable return on the property. Finally, the variance will significantly interfere with the enjoyment of other land in the vicinity and is inconsistent with the spirit of the Zoning Ordinance, substantial justice and the general public interest.

DECISION: Denied.

If you wish to appeal this decision, you may do so by 5:00 p.m., on February 22, 2011 in the manner described below:

Appeal is to the Board of Appeals within 15 days of the decision. A filing fee of \$105.00 shall accompany each appeal application, as well as a written explanation outlining the reason for appeal and a copy of the ZHE decision. Appeals are taken at 600 2nd Street, Plaza Del Sol Building, Ground Level, Planning Application Counter located on the west side of the lobby. Please present this letter of notification when filing an appeal. When an application is withdrawn, the fee shall not be refunded.

An appeal shall be heard by the Board of Appeals within 45 days of the appeal period and concluded within 75 days of the appeal period. The Planning Division shall give written notice of an appeal, together with a notice of the date, time and place of the hearing to the applicant, a representative of the opponents, if any are known, and the appellant.

You will receive notice if any other person files an appeal. If there is no appeal, you can receive building permits any time after the appeal deadline quoted above, provided all conditions imposed at the time of approval have been met. However, the Zoning Hearing Examiner may allow issuance of building permits if the public hearing produces no objection of any kind to the approval of an application. To receive this approval, the applicant agrees in writing to return the building permit or occupation tax number.

Successful applicants are reminded that other regulations of the City must be complied with, even after approval of a special exception is secured. This decision does not constitute approval of plans for a building permit. If your application is approved, bring this decision with you when you apply for any related building permit or occupation tax number. Approval of a conditional use or a variance application is void after one year from date of approval if the rights and privileges are granted, thereby have not been executed or utilized.

> Roberto Albertorio, Esq. Zoning Hearing Examiner

Zoning Enforcement cc:

ZHE File

Urban Solutions, 2412 Miles Road SE, 87106 Lee Gamelsky, 2412 Miles Road SE, 87106 Sarah Stewart, 714 Roma Avenue NW, 87102 Laura Daby, 412 Luna Boulevard NW, 87102 Charles Benzaquen, 1223 Tijeras Avenue NW, 87102 Jon Anderson, 416 Luna Boulevard NW, 87102 Gil Padilla, 515 8th Street NW, 87102 Jennifer DeGarmo, DNA, 1021 Forrester Avenue NW, 87102 Deborah Larson, 723 Marquette NW, 87102 Nathan Cook, 511 8th Street NW, 87102 Laurie Hicks, P.O. Box 1594, Taos, 87571



URBAN SOLUTIONS (LEE GAMELSKY, AGENT) request(s) a special exception to Section HDA Pg. 16 Downtown Neighborhood Sector Plan Reference Appendix G of the Zoning code Reference 14-16-2-12(E)(2)(A): a VARIANCE of 5' to the 10' street side yard setback area requirement for a proposed townhouse on future Lot A on all or a portion of Lot(s) B1A, Block(s) 7, ARMIJO-PERFECTO MARIANO & JESSUS ADDN zoned SU-2 HDA, located at 510 8TH ST NW (J-14)

Special Exception No:	10ZHE-80375	
Project No:	Project# 1008581	
Hearing Date:	01-18-11	
Closing of Public Record:	01-18-11	
Date of Decision:	02-07-11	

STATEMENT OF FACTS: The applicant, Urban Solutions, requests a variance of 5' to the 10' street side yard setback area requirement for a proposed townhouse on future lot A. Lee Gamelsky, agent for the applicant, argues that this lot is exceptional because the property is located immediately west of the Downtown Central Business District. Also, the zoning of this property is SU-2 HDA – High Density Apartments, which corresponds to the R-4 Residential zone; Mr. Gamelsky stated that there is no such zoning anywhere else in the city of Albuquerque.

Mr. Gamelsky testified that there are other properties in the area that are non-compliant. He feels that a denial of these requests would be unfair and would create an unjustified limitation of the use of the property. He further argues that the proposed project comports with the spirit of the proposed Neighborhood Area Sector Development Plan Update. Mr. Gamelsky finally argues that a violation of the Open Meetings Act occurred during the meeting with the Downtown Neighborhood Association and asked that their opposition be excluded. This office received the letter of opposition from the Downtown Neighborhood Association prior to this matter being closed; therefore this record will include their opposition. Mr. Gamelsky can file his objection regarding the Open Meetings Act in the appropriate forum.

There is a letter of opposition from the Downtown Neighborhood Association noted in the file. They feel that this proposed project would significantly interfere with the enjoyment of the neighbor's property. There were also several neighbors who testified in opposition to this request. Their concerns include parking, lack of exceptionality and over development of the property. Also noted in the file are signatures from four neighbors who support this request.

It appears that the properties Mr. Gamelsky are referring to are non-conforming due to the fact that the properties existed prior to the adoption of the Downtown Neighborhood

The Zoning Ordinance provides that a variance is to be granted only under unusual circumstances. An applicant is required to demonstrate that he/she is unable to comply with the Zoning requirement as a result of some physical exceptional parcel conditions which cause unnecessary hardship. This applicant has not shown that this request meets the exceptionality standard. The lot is not exceptional in size or shape. There are other properties in close proximity that have the same characteristics and zoning as this parcel. Having been unable to meet this standard, it is therefore unnecessary to inquire any further.

Based on all of the testimony and a review of the entire file, it is determined that there is substantial evidence to make the following findings and conclusions:

FINDINGS AND CONCLUSIONS: I find that this parcel is not exceptional as compared to other parcels in the vicinity and, therefore, it does not meet the test for the granting of a variance as provided for by Section 14. 16. 4. 2. I further find that the regulations do not produce an unnecessary hardship in that it will not limit the owner's reasonable use of the property and/or deprive the owner of a reasonable return on the property. Finally, the variance will significantly interfere with the enjoyment of other land in the vicinity and is inconsistent with the spirit of the Zoning Ordinance, substantial justice and the general public interest.

DECISION: Denied.

If you wish to appeal this decision, you may do so by 5:00 p.m., on February 22, 2011 in the manner described below:

Appeal is to the Board of Appeals within 15 days of the decision. A filing fee of \$105.00 shall accompany each appeal application, as well as a written explanation outlining the reason for appeal and a copy of the ZHE decision. Appeals are taken at 600 2nd Street, Plaza Del Sol Building, Ground Level, Planning Application Counter located on the west side of the lobby. Please present this letter of notification when filing an appeal. When an application is withdrawn, the fee shall not be refunded.

An appeal shall be heard by the Board of Appeals within 45 days of the appeal period and concluded within 75 days of the appeal period. The Planning Division shall give written notice of an appeal, together with a notice of the date, time and place of the hearing to the applicant, a representative of the opponents, if any are known, and the appellant.

You will receive notice if any other person files an appeal. If there is no appeal, you can receive building permits any time after the appeal deadline quoted above, provided all conditions imposed at the time of approval have been met. However, the Zoning Hearing Examiner may allow issuance of building permits if the public hearing produces no objection of any kind to the approval of an application. To receive this approval, the applicant agrees in writing to return the building permit or occupation tax number.

Successful applicants are reminded that other regulations of the City must be complied with, even after approval of a special exception is secured. This decision does not constitute approval of plans for a building permit. If your application is approved, bring this decision with you when you apply for any related building permit or occupation tax number. Approval of a conditional use or a variance application is void after one year from date of approval if the rights and privileges are granted, thereby have not been executed or utilized.

Roberto Albertorio, Esq. Zoning Hearing Examiner

cc: Zoning Enforcement

ZHE File

Urban Solutions, 2412 Miles Road SE, 87106 Lee Gamelsky, 2412 Miles Road SE, 87106 Sarah Stewart, 714 Roma Avenue NW, 87102 Laura Daby, 412 Luna Boulevard NW, 87102 Charles Benzaquen, 1223 Tijeras Avenue NW, 87102 Jon Anderson, 416 Luna Boulevard NW, 87102 Gil Padilla, 515 8th Street NW, 87102 Jennifer DeGarmo, DNA, 1021 Forrester Avenue NW, 87102 Deborah Larson, 723 Marquette NW, 87102 Nathan Cook, 511 8th Street NW, 87102 Laurie Hicks, P.O. Box 1594, Taos, 87571



URBAN SOLUTIONS (LEE GAMELSKY, AGENT) request(s) a special exception to Section **HDA** Pg. 16 Downtown Neighborhoods Sector Plan Reference Appendix G of the Zoning Code Reference 14-16-2-12(E)(3): a VARIANCE of 7' to the 15' rear yard setback area requirement for a proposed townhouse on future Lot A on all or a portion of Lot(s) B1A, Block(s) 7, ARMIJO-PERFECTO MARIANO & JESUS ADDN zoned SU-2 HDA, located at 510 8TH ST NW (J-14)

Special Exception No:	. 10ZHE-80376	
Project No:	. Project#	1008581
Hearing Date:		
Closing of Public Record:		
Date of Decision:	.02-07-11	

STATEMENT OF FACTS: The applicant, Urban Solutions, requests a variance of 7' to the 15' rear yard setback area requirement for a proposed townhouse on future lot A. Lee Gamelsky, agent for the applicant, argues that this lot is exceptional because the property is located immediately west of the Downtown Central Business District. Also, the zoning of this property is SU-2 HDA – High Density Apartments, which corresponds to the R-4 Residential zone; Mr. Gamelsky stated that there is no such zoning anywhere else in the city of Albuquerque.

Mr. Gamelsky testified that there are other properties in the area that are non-compliant. He feels that a denial of these requests would be unfair and would create an unjustified limitation of the use of the property. He further argues that the proposed project comports with the spirit of the proposed Neighborhood Area Sector Development Plan Update. Mr. Gamelsky finally argues that a violation of the Open Meetings Act occurred during the meeting with the Downtown Neighborhood Association and asked that their opposition be excluded. This office received the letter of opposition from the Downtown Neighborhood Association prior to this matter being closed; therefore this record will include their opposition. Mr. Gamelsky can file his objection regarding the Open Meetings Act in the appropriate forum.

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It appears that the properties Mr. Gamelsky are referring to are non-conforming due to the fact that the properties existed prior to the adoption of the Downtown Neighborhood

The Zoning Ordinance provides that a variance is to be granted only under unusual circumstances. An applicant is required to demonstrate that he/she is unable to comply with the Zoning requirement as a result of some physical exceptional parcel conditions which cause unnecessary hardship. This applicant has not shown that this request meets the exceptionality standard. The lot is not exceptional in size or shape. There are other properties in close proximity that have the same characteristics and zoning as this parcel. Having been unable to meet this standard, it is therefore unnecessary to inquire any further.

Based on all of the testimony and a review of the entire file, it is determined that there is substantial evidence to make the following findings and conclusions:

FINDINGS AND CONCLUSIONS: I find that this parcel is not exceptional as compared to other parcels in the vicinity and, therefore, it does not meet the test for the granting of a variance as provided for by Section 14. 16. 4. 2. I further find that the regulations do not produce an unnecessary hardship in that it will not limit the owner's reasonable use of the property and/or deprive the owner of a reasonable return on the property. Finally, the variance will significantly interfere with the enjoyment of other land in the vicinity and is inconsistent with the spirit of the Zoning Ordinance, substantial justice and the general public interest.

DECISION: Denied.

If you wish to appeal this decision, you may do so by 5:00 p.m., on February 22, 2011 in the manner described below:

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Successful applicants are reminded that other regulations of the City must be complied with, even after approval of a special exception is secured. This decision does not constitute approval of plans for a building permit. If your application is approved, bring this decision with you when you apply for any related building permit or occupation tax number. Approval of a conditional use or a variance application is void after one year from date of approval if the rights and privileges are granted, thereby have not been executed or utilized.

Roberto Albertorio, Esq. Zoning Hearing Examiner

cc: Zoning Enforcement

ZHE File

Urban Solutions, 2412 Miles Road SE, 87106
Lee Gamelsky, 2412 Miles Road SE, 87106
Sarah Stewart, 714 Roma Avenue NW, 87102
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Nathan Cook, 511 8th Street NW, 87102 Laurie Hicks, P.O. Box 1594, Taos, 87571