

CITY OF ALBUQUERQUE  
OFFICE OF ADMINISTRATIVE HEARINGS  
ZONING HEARING EXAMINER  
NOTIFICATION OF DECISION

DAVID DAWN request(s) a special exception to Section 14-16-2-18(B)(8): a CONDITIONAL USE to allow outdoor vehicle storage for more than 1 week in a SU-2 C-3 zone for all or a portion of Lot(s) 19, Block(s) 11, EAST CENTRAL BUSINESS ADDN zoned SU-2 C-3, located on 10923 ACOMA RD SE (L-21)

Special Exception No:..... **12ZHE-80126**  
Project No: ..... **Project# 1009222**  
Hearing Date: ..... 05-15-12  
Closing of Public Record: ..... 05-15-12  
Date of Decision: ..... 05-31-12

**STATEMENT OF FACTS:** The applicant, David Dawn requests a conditional use to allow outdoor vehicle storage for more than 1 week in a SU-2 C-3 zone located at 10923 Acoma Rd SE. David Grauerholz, agent for the applicant testified that he stores classic vehicles and sells them off or disposes them. He testified that he also advertises to get rid of the vehicles. The vehicles are older than 1970 and are considered to be classic. He has 10 vehicles on site and only two are in running condition (street legal). Mr. Grauerholz and his partner David Dawn have owned the property for less than a year. He stated that he would place vinyl strips on the chain link fence to block the view from the public right away. Mr. Grauerholz admitted and acknowledged that the property looks like a junk yard and that most of the vehicles do not have engines in them. Tracy Parks from the Maria Bella Neighborhood Association testified that allowing this request would be significantly detrimental to this area. She testified that this type of development in the area contradicts the East Gateway Sector Plan definition of infill development. Ms. Parks stated that the applicants have more than 10 vehicles that Mr. Grauerholz claimed. There is a 5<sup>th</sup> wheel, c-van, and a forklift as well as other dismantled auto parts such as a bed of a truck stored on site. Photos in the file support this testimony. She feels that this type of development will also bring trouble to an already blighted area of the city. She feels that placing vinyl slats on the chain link fence will not help, because you will still see the activity going on. Ms. Parks sees this as a junkyard business and that the request should not be approved. Upon rebuttal, Mr. Grauerholz admitted that he probably had more than 16 vehicles and he should not have moved into the area. He stated that he would clean up the property by removing many of the vehicles. When asked by the Interim Zoning Hearing Examiner if this request would be injurious to the surrounding area, Mr. Grauerholz did not have an answer. There are four letters of opposition in the file. The yellow signs were posted.

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 request does not comply with Section 14.16.4.2.(C).1., for the granting of a conditional use upon a finding that the

proposed use will cause injury to the neighborhood, adjacent property or the community, and will be damaged by surrounding structures.

**DECISION:** Denied.

**If you wish to appeal this decision, you may do so by 5:00 p.m., on June 15, 2012 in the manner described below:**

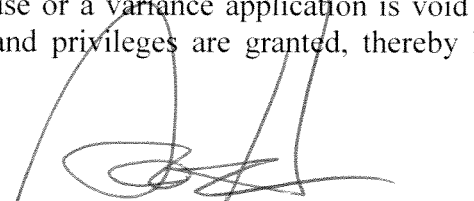
Appeal is to the Board of Appeals within 15 days of the decision. A filing fee of \$105.00 shall accompany each appeal application, as well as a written explanation outlining the reason for appeal and a copy of the ZHE decision. Appeals are taken at 600 2nd Street, Plaza Del Sol Building, Ground Level, 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.



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Stanley D. Harada, Esq.  
Interim Zoning Hearing Examiner

cc: Zoning Enforcement  
ZHE File

David Dawn, 201 Elizabeth SE, 87123

David Grauerhoz, 1023 Acoma Rd SE, 87123

Kelda Clough, 343 Cascabel Trail SE, 87123

Catherine and David Lawrie, 10909 Acoma Rd SE, 87123

Brian Myers and Marysue Smith, 10916 Acoma Rd SE, 87123