

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

MICHAEL A. OMLOR request(s) a special exception to Section 14-16-2-20(B)(5) and Page 47(V): a CONDITIONAL USE for a proposed retail sale of manufactured homes for all or a portion of Lot(s) 1A-2, BROADWAY INDUSTRIAL CENTER zoned SU-2 HM, located on 600 SAN JOSE AV SE (M-14)

Special Exception No:..... **12ZHE-80124**
Project No: **Project# 1009220**
Hearing Date: 05-15-12
Closing of Public Record: 05-15-12
Date of Decision: 05-31-12

STATEMENT OF FACTS: The applicant, Michael A. Omlor requests a conditional use to allow for a proposed retail sale of manufactured homes at 600 San Jose Ave SE. Mr. Omlor testified that he has owned the property since March 2012. He testified that before he applied for the conditional use request, he met with City officials to check if the sale of manufactured homes was allowed in the area. After meeting with various City staff members, it was determined that he had to apply for a special exception conditional use request. Mr. Omlor testified that he would be placing a 2,000 square foot business office on site. In the submitted site plan, he proposed 12 parking spaces for his business. Based on the square footage, the City of Albuquerque Comprehensive City Zoning Code parking requirements are; one parking space per 200 square feet of office space. A 2,000 square foot office would require 10 parking spaces, one of which shall be a disabled parking space. Mr. Omlor feels that he has more than adequate parking on site to provide for his potential customers. The City of Albuquerque Code Enforcement Inspector, David Kilpatrick, testified that this requirement meets the City Zoning Code requirements for parking standards. Mr. Omlor testified that he met with code enforcement officials, and that his property will meet all of the development requirements. Mr. Omlor feels that the request would not be injurious to the adjacent property, the neighborhood, or the community. He feels that the request would enhance the area, by attracting more business to an area that is in need of non-industrial based commercial businesses. Similar types of business are already operating in the area.

He met with the San Jose Neighborhood Association to inform them of his intentions to place a business in the area. The San Jose Neighborhood Association is in support of his request. Then, Mr. Omlor visited the surrounding business community to inform them of his intentions. At the hearing, Mr. Omlor provided a petition from 28 individuals in the San Jose Business Community who support the conditional use request. Esther Abetya, President and Steven Abeyta, Vice President testified in support at the hearing.

Jim Strozier with Consensus Planning, agent for Karsten Homes, expressed opposition to the request raising issues of traffic safety. Mr. Strozier alleges that at various times the possibility of over flow parking created by Mr. Omlor's business on San Jose SE could

create a potentially hazardous traffic safety issue. There is another business in the neighborhood with a high volume of semi truck traffic (Old Dominion), which would contribute to the hazardous traffic safety issues. Mr. Strozier feels that the lot Mr. Omlor is proposing to operate the business from is too small for the scale of the business proposed. A representative for Karsten Homes testified in opposition, raising the same issues previously stated by Mr. Strozier.

In rebuttal, Mr. Omlor addressed the traffic safety issues by testifying that any potential overflow parking would be eliminated by an already arranged agreement to allow overflow parking with the adjacent property owner. Mr. Omlor addressed the semi-truck traffic volume by pointing out that Old Dominion trucking company operates early in the mornings, late at night and never on weekends. In addition, Old Dominion trucking is going to be relocating in early fall.

In addition, the yellow signs were posted.

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

FINDINGS AND CONCLUSIONS: I find that this request complies with Section 14.16.4.2.(C).1., for the granting of a conditional use upon a finding that the proposed use will not cause injury to the neighborhood, adjacent property or the community, nor will it be damaged by surrounding structures.

DECISION: Approved with conditions.

CONDITIONS: Any retail use, other than the sale of manufactured homes will void this conditional use approval.

The approval is subject to the submitted site plan, as required. Any substantial changes to the site plan, as determined by the Zoning Enforcement Division, shall require the scheduling of an additional Public Hearing.

A Building Permit must be applied for at the Building Permit Desk which is located at the Plaza del Sol Building, Ground Level on the east side of the lobby.

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:

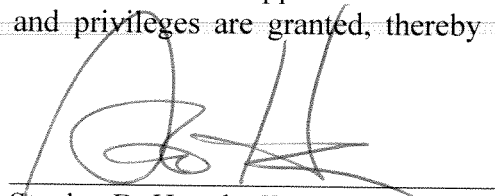
Appeal is to the Board of Appeals within 15 days of the decision. A filing fee of \$105.00 shall accompany each appeal application, as well as a written explanation outlining the reason for appeal and a copy of the ZHE decision. Appeals are taken at 600 2nd Street, Plaza Del Sol Building, Ground Level,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



Stanley D. Harada, Esq.
Interim Zoning Hearing Examiner

cc: Zoning Enforcement
ZHE File
Michael Omlor, PO Box 93651, 87199
James Strozier, 302 Eighth St NW, 87102
Esther and Steven Abeyta, 2419 Williams St SE, 87102
TJ Maloy, 2711 Karsten Ct, 87102
Carlos Estrada, 2600 Broadway Blvd, 87102
Jamie Munoz, 2217 Broadway SE, 87102
William Karn, 2525 Broadway SE, 87102
Julie Rogers, 2500 Broadway SE, 87102
Mike Maloy, 610 San Jose SE, 87106
Kenny Hinkle, 2611 Karsten Ct SE, 87102
Mathew Keith, 2611 Karsten Ct #A, 87102
Alfred Martinez, 2611 Karsten Ct #C, 87102
Larry Archuleta, 2701 Karsten Ct, 87102
Javier Orozco, 2428 Broadway, 87102
David Alderete, 2223 Broadway, 87102

W.T. Hoskins, 2801 Broadway, 87102
S.D. Takach, 2815 Broadway, 87102
Rachel Nofer, 3005 Broadway Blvd Suite B, 87102
Trevor Green, 3005 Broadway Blvd Suite E, 87102
Steve McMillan, 2920 Broadway Blvd SE, 87102
Matt Nicholas, 2800 Broadway Blvd SE, 87102
Jose Morales, 2816 Broadway Blvd SE, 87102
Sergio Marquez, 2816 Broadway, Suite C, 87102
Luis Barbara, 2504 Broadway SE, 87102
Emigdio Bustillos, 2945 Broadway SE, 87102
Bill Hoderg, 808 Gibson SE, 87102
Amie Kelm, 833 Gibson Blvd SE, 87102
Porfie Maldonado, 813 Gibson SE, 87102
Pablo Escobedo, 705 Gibson SE, 87102
Marty Lopez, 617 Gibson SE, 87102
Ray Montoya, 611 Gibson SE, 87102
