



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

GEORGE CASE (TAFAZZUL HUSSAIN, AGENT) request(s) a special exception to Section Pg. 76 P 2.: a CONDITIONAL USE to allow outdoor seating for a proposed cafe on all or a portion of Lot(s) 6, Block(s) 53, TERRACE ADDN zoned SU-2, located at 1600 CENTRAL AVE SE (K15)

Special Exception No:..... **10ZHE-80170**
Project No:..... **Project# 1008331**
Hearing Date:..... 06-15-10
Closing of Public Record:..... 06-15-10
Date of Decision:..... 06-22-10

STATEMENT OF FACTS: The applicant, George Case, requests a conditional use to allow outdoor seating for a proposed café. Tafazzul Hussain, agent for the applicant indicated that the proposed use will be for a 992 sq ft outdoor patio with four four-top tables. There will also be indoor seating available at this restaurant. The proposed use will not interfere with pedestrian traffic or parking. The hours of operation will be 11:00 a.m. to 9:00 p.m. seven days a week. Mardon Gardello who was representing the Silver Hill and Sycamore Neighborhood Associations testified in opposition to this request stating that the traffic, noise and fumes would negatively impact this restaurant's customers. As stated above, there will also be indoor seating available for those patrons who do not wish to sit outdoors. There is a letter of support from the Spruce Park Neighborhood Association noted in the file. The yellow sign was 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. For reasons stated above, this request is approved.

DECISION: Approved.

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.

If you wish to appeal this decision, you may do so by 5:00 p.m., on July 7, 2010 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,

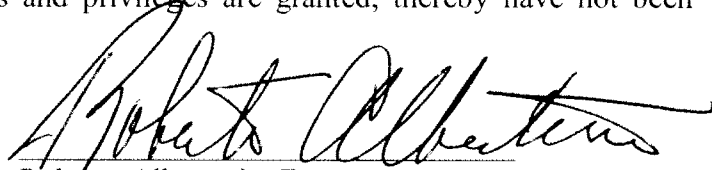
Plaza Del Sol Building, Ground Level, Planning Application Counter located on the west side of the lobby. **Please present this letter of notification when filing an appeal.** When an application is withdrawn, the fee shall not be refunded.

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
George Case, 1600 Central Avenue SE, 87106
Tafazzul Hussain, 2501 Yale Blvd., SE, #102, 87106
Joan March, jmarch@thinkwellassociates.com
Valerie St. John, Spruce Park NA, 441 Ash Street NE, 87106
Mardon Gardella, 411 Maple Street NE, 87106



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GEORGE CASE (TAFAZZUL HUSSAIN, AGENT) request(s) a special exception to Section 14-16-3-19(A)(3)(a): a VARIANCE of 4' to the 3' wall height allowance for a proposed 7' high fence in the front yard setback area on all or a portion of Lot(s) 6, Block(s) 53, TERRACE ADDN zoned SU-2, located at 1600 CENTRAL AVE SE (K-15)

Special Exception No:..... **10ZHE-80171**
Project No: **Project# 1008331**
Hearing Date: 06-15-10
Closing of Public Record: None
Date of Decision: None

STATEMENT OF FACTS: The applicant, George Case, requests a variance of 4' to the 3' wall height allowance for a proposed 7' high fence in the front yard setback area.

This matter has been withdrawn at the request of the Agent, Tafuzzul Hussain.

Roberto Albertorio, Esq.
Zoning Hearing Examiner

cc: Zoning Enforcement
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