# APPLICATION FOR SPECIAL EXCEPTION
## CITY OF ALBUQUERQUE, PLANNING DEPARTMENT

*Office of the Zoning Hearing Examiner*
*600 2nd Street, NW, Suite 300, 87102*
*505.924.3918*

**APPLICATION INFORMATION–PLEASE PRINT**

PROFESSIONAL / AGENT NAME (FIRST, LAST): DON DUDLEY
MAILING ADDRESS: 400 GOLD AVE, SW / STUDIO 850
CITY: ALBUQUERQUE, NM STATE: NM ZIP CODE: 87102

TELEPHONE (INCLUDE AREA CODE)
(H) ___-___-____
(W) 505-243-8100
(C) 505-280-6820

OWNER NAME (FIRST, LAST–IF ANY): TRACY AND SAM HERRERA
MAILING ADDRESS: 4610 QUAKER HEIGHTS PL., NW
CITY: ALBUQUERQUE, NM STATE: NM ZIP CODE: 87120

(H) 505-836-1464
(W) ___-___-____
(C) 505-980-3150

**LEGAL DESCRIPTION OF PROPOSED SPECIAL EXCEPTION–PLEASE PRINT**

STREET ADDRESS OF SPECIAL EXCEPTION: 4610 QUAKER HEIGHTS PL., NW ALBUQUERQUE, NM ZIP CODE: 87120
LOT(S): 38 TRACT(S): BLOCK(s): 0000
SUBDIVISION / ADDITION / MRGCD MAP NO: QUAKER HEIGHTS ADDITION
UNIFORM PROPERTY CODE: 101·106·118·718·520·334

**CRITERIA FOR DECISION–** I have been given the Criteria for Decision requirements. ✓ Initial Here

**EXPLANATION OF REQUEST–** On additional sheet(s) of paper, please state why you want this Special Exception, based on the Criteria for Decision Requirements. ✓

**DRAWINGS OF REQUEST–** **ATTACH THREE (3) COPIES.** Please follow instructions on the back of this form and attach the appropriate drawings. ✓

**ACKNOWLEDGEMENT–** I hereby acknowledge that, to the best of my knowledge, this application is correct and complete and that I have received one or more signs that I have agreed to post and maintain as provided and where instructed. I understand that failure to properly post sign(s) is grounds for deferral of my case ✓

SIGNATURE: DATE: 4/12/2010

20100080130

**----------ZONING ENFORCEMENT OFFICE INTERNAL USE ONLY----------**

**PROJECT #:** 1008295 **APPLICATION #:** 10ZHE80130

**APPLICATION FOR:** (CHECK AS APPROPRIATE)
- ☒ **(ZHE01)** Conditional Use
- ☐ **(ZHE02)** Expansion of a NonConforming Use
- ☐ **(ZHE03)** NonConforming Use / Status Established Building
- ☒ **(ZHE04)** Variance: ☐ Distance ☐ Setback ☒ Height ☐ Parking ☐ Size ☐ Other

SECTION NO. 14-16-2-6(B)(1) REFERENCE SECTION NO: 14-16-2-5(B)(1)

(LEGAL AD) ACTION DESCRIPTION: Conditional Use Approval To Allow A Proposed Accessory Living Quarter in the Rear yard.

SECTOR DEVELOPMENT AREA: N/A

ZONED: RA-2 ZONE MAP PAGE: E-11 NO. OF SIGNS ISSUED: 1

POST SIGN(S) / STREET ADDRESS OF PROPOSED SPECIAL EXCEPTION: 4610 Quaker Heights Pl NW

**FEE:** $ 145.00

APPLICATION RECEIVED BY Z.E.O. (PRINT FULL NAME): K Bohlikai DATE: 4/12/10

DATE OF PUBLIC HEARING: 05-18-10

(APN) 441018 / 4971000 $ 35.00
(CMP) 441032 / 3424000 $ 10.00
(ZHE) 441006 / 3451000 $ 100.00

City of Albuquerque
Treasury Division
4/12/2010 8:56AM
WSN 007 TRANSN 0006
RECEIPT# 00129517-00129517
PERMIT# 20100080130 TRSASR
Trans Amt $145.00
APN Fee $35.00
Conflict Manag. Fee $10.00
ZHE Actions $100.00
CK $145.00
CR $0.00

# SUPPLEMENTAL SHEET FOR SPECIAL EXCEPTION APPLICATION

2010080131

**PROJECT #:** 1008295 **APPLICATION #:** 10 ZHE 80131

**APPLICATION FOR:** (CHECK AS APPROPRIATE)
- ☐ **(ZHE01)** Conditional Use
- ☐ **(ZHE02)** Expansion of a NonConforming Use
- ☐ **(ZHE03)** NonConforming Use / Status Established Building

☒ **(ZHE04)** Variance:
- ☒ Distance
- ☒ Height
- ☐ Size
- ☐ Setback
- ☐ Parking
- ☐ Other

SECTION NO. 14-16-3-3(B)(2)(a) REFERENCE NO: _____

(LEGAL AD) ACTION DESCRIPTION Variance of 4'5" To the 18' Height limit ~~Required~~ Requirement For a Proposed Two Story Accessory Living ~~Quarters~~ Quarters

**PROJECT #:** _____ **APPLICATION #:** ___ ZHE _____

**APPLICATION FOR:** (CHECK AS APPROPRIATE)
- ☐ **(ZHE01)** Conditional Use
- ☐ **(ZHE02)** Expansion of a NonConforming Use
- ☐ **(ZHE03)** NonConforming Use / Status Established Building

☐ **(ZHE04)** Variance:
- ☐ Distance
- ☐ Height
- ☐ Size
- ☐ Setback
- ☐ Parking
- ☐ Other

SECTION NO. _____ REFERENCE NO: _____

(LEGAL AD) ACTION DESCRIPTION _____

**PROJECT #:** _____ **APPLICATION #:** ___ ZHE _____

**APPLICATION FOR:** (CHECK AS APPROPRIATE)
- ☐ **(ZHE01)** Conditional Use
- ☐ **(ZHE02)** Expansion of a NonConforming Use
- ☐ **(ZHE03)** NonConforming Use / Status Established Building

☐ **(ZHE04)** Variance:
- ☐ Distance
- ☐ Height
- ☐ Size
- ☐ Setback
- ☐ Parking
- ☐ Other

SECTION NO. _____ REFERENCE NO: _____

(LEGAL AD) ACTION DESCRIPTION _____

**PROJECT #:** _____ **APPLICATION #:** ___ ZHE _____

**APPLICATION FOR:** (CHECK AS APPROPRIATE)
- ☐ **(ZHE01)** Conditional Use
- ☐ **(ZHE02)** Expansion of a NonConforming Use
- ☐ **(ZHE03)** NonConforming Use / Status Established Building

☐ **(ZHE04)** Variance:
- ☐ Distance
- ☐ Height
- ☐ Size
- ☐ Setback
- ☐ Parking
- ☐ Other

SECTION NO. _____ REFERENCE NO: _____

(LEGAL AD) ACTION DESCRIPTION _____

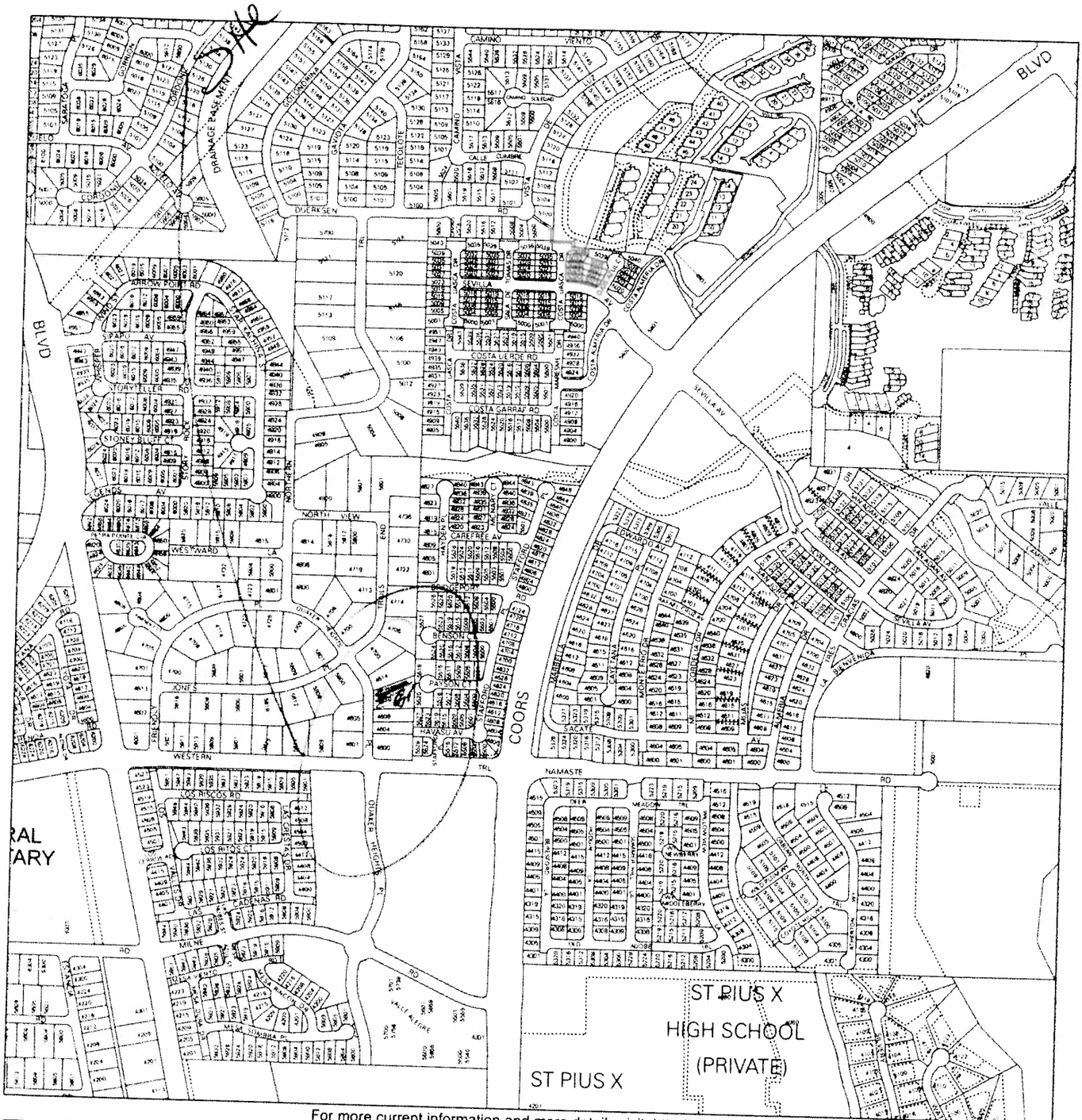
**PROJECT #:** _____ **APPLICATION #:** ___ ZHE _____

**APPLICATION FOR:** (CHECK AS APPROPRIATE)
- ☐ **(ZHE01)** Conditional Use
- ☐ **(ZHE02)** Expansion of a NonConforming Use
- ☐ **(ZHE03)** NonConforming Use / Status Established Building

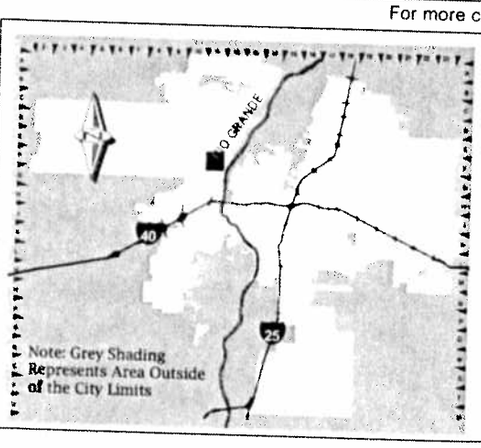
☐ **(ZHE04)** Variance:
- ☐ Distance
- ☐ Height
- ☐ Size
- ☐ Setback
- ☐ Parking
- ☐ Other

SECTION NO. _____ REFERENCE NO: _____

(LEGAL AD) ACTION DESCRIPTION _____




For more current information and more details visit: http://www.cabq.gov/gis




**Address Map Page:**

# F-11-Z

Map amended through: 4/7/2008

These addresses are for information purposes only and are not intended for address verification.

Albuquerque Geographic Information System

0 750 1,500 Feet

g donald dudley architect ltd

April 12, 2010

Roberto Albertorio, Esq., Zoning Hearing Examiner
Planning Department
600 Second Street NW, Third Floor
Albuquerque, NM 87102

RE: **1)** Tracy and Sam Herrera request a special exception to Section § 14-16-3 (B) (2) (a): a **VARIANCE of 4.5'** to the 18' height limit requirement for a proposed two story accessory structure on all or a portion of Lot 38, Block 0000, Quaker Heights Addition, zoned RA-2 and located at 4610 Quaker Heights Place, NW (F-11)
**and**
**2)** Tracy and Sam Herrera request a special exception to Section § 14-16-2-6 (B) (1): a **CONDITIONAL USE to allow for a proposed accessory living quarters** in the side and rear yard setback areas on all or a portion of Lot 38, Block 0000, Quaker Heights Addition, zoned RA-2 and located at 4610 Quaker Heights Place, NW (F-11)

Dear Mr. Albertorio:

This is a letter to accompany the variance applications for the property referenced above. The property is occupied by an attractive neo Pueblo/Ranch style house that was constructed in the 1970's. The neighborhood is a pleasant, established residential area. The site is zoned RA-2, as are the adjacent properties on Quaker Heights Place, Western and Jones Trail's End. To the east, there is a very newly built housing development below a new 20 foot high retaining wall on the edge of the property. This section is zoned SU-1.

We respectfully request variance of 4.5' to the 18' height limit requirement for a proposed two story accessory structure and a conditional use to allow for a proposed accessory living quarters.

The criteria for approval of a variance are that the property is exceptional, that the regulations produce unnecessary hardship, and that a particular variance is appropriate to prevent the unnecessary hardship. It is our feeling the living quarters will not be injurious to the adjacent property, the neighborhood, or the community; nor will it damage or be damaged by surrounding structures or activities. We believe these criteria are met by the property and proposed project in question.

We propose to build a new ground level garage and living quarters without a kitchen for Mr. Herrera's aging mother. A portion inside the garage is devoted to a baseball pitching area for year round training for one of the Herrera's children who has exhibited exceptional talent in the sport. Above this will be an area for storage and a playroom for the Herrera's children.

simms tower studio 850
400 gold avenue s w
albuquerque new mexico 87102
u s a
t 505 243 8100
f 505 243 8101
e studio@dondudleydesign.com
DONDUDLEYDESIGN.COM

Part A: (The property is exceptional)

We believe the property in question is exceptional due to the fact that:

- The property is larger than adjacent lots
- The property is oddly shaped and substantially different than the surrounding lots
- The existing house was built well before a new housing subdivision was constructed immediately to the east. This subdivision excavated at the owner's rear property line and built a 20 foot high retaining wall. This disruption of the natural lay of the land contributes to the irregularity of the subject lot.

Part B: (Unnecessary hardship)

We believe that, due to the exceptional aspects listed above, enforcement of the 18 foot height limitation [§ 14-16-3 (B) (2) (a)] and the prohibition of the detached garage and in-laws quarters [§ 14-16-2-6 (B) (1)] will cause an unnecessary hardship to the property owner. If the owner were to build the roof height at 18', there would be no way to place the storage and playroom on the second level. This would create a design lower in height, but with a sprawling footprint that is inconsistent with the pattern of the neighborhood.

Because the property is larger than others, it was originally purchased with the intention of being able to provide care for one of the parents of the owners. It is our perspective that limiting the owner the ability to enhance their property deprives the owner of a reasonable return on the property as well as incurring additional economic hardship by the possibility of assisted living for the parent.

Part C: (Does not harm others)

We believe the variances we seek are appropriate for this property. There are several instances in this neighborhood of tall detached accessory structures. The proposed design of this building is, in our opinion, appropriate, subordinate, and incidental to the main use of the lot. The design is smaller and contains less square footage than the main house. The footprint of the proposed design is 1,984 sf and takes up 9% of the side-plus-rear-yards; far less than the 25% maximum permitted under § 14-16-3-3 (B) (2) (a).

The new construction will be sympathetic to the character of the existing house and sits far back from the street, in fact, the new construction we propose will be 116' back from the property line and over 145' feet from the edge of the road. In other words, it will be far enough from the curb as to be nearly unnoticeable from the street.

As can be seen in the attached aerial photograph, the proposed design is about 130' from the neighbor's house to the north. There is a roofed structure to cover hay and agricultural hardware across the property line to the north. Given that this is not an inhabited structure, we feel there is no solar disadvantage with the introduction of this new project. We are also about 80 feet from the neighbor's house to the east. It is our feeling the impact of this project would be minimal given these distances. In addition, there are no windows in the eastern house that face the new project and they are 20' lower in grade. Because there is a 6' high privacy wall on the owners' rear yard line, this makes the new construction practically impossible to see from the east as well.

Tracy and Sam Herrera have discussed the project with the adjacent neighbors and have signed letters from them stating there is no objection with the proposed building (see attached). In conclusion, we believe the granting of our proposed variances will be an appropriate action to address the exceptional nature of the property and to prevent the unnecessary hardship imposed by the enforcement of the 18' height limitation or a denial of the conditional use for accessory living quarters.

Thank you for your consideration of this application.

Sincerely,
G. Donald Dudley Architect, Ltd.

by:
Don Dudley, AIA
President

Enclosures

g donald dudley architect ltd

April 6, 2010

Sam and Tracy Herrera
4610 Quaker Heights Pl, NW
ALBUQUERQUE, NM 87120

The City of Albuquerque
600 Second Street, NW
Albuquerque, NM 87103

Re: Authorization of agency to pursue Variance and Conditional Use Approval

To Whom It May Concern:

As the owners, we hereby authorize G. Donald Dudley Architect to act as our agent in all matters related to any issues or actions for the following property:

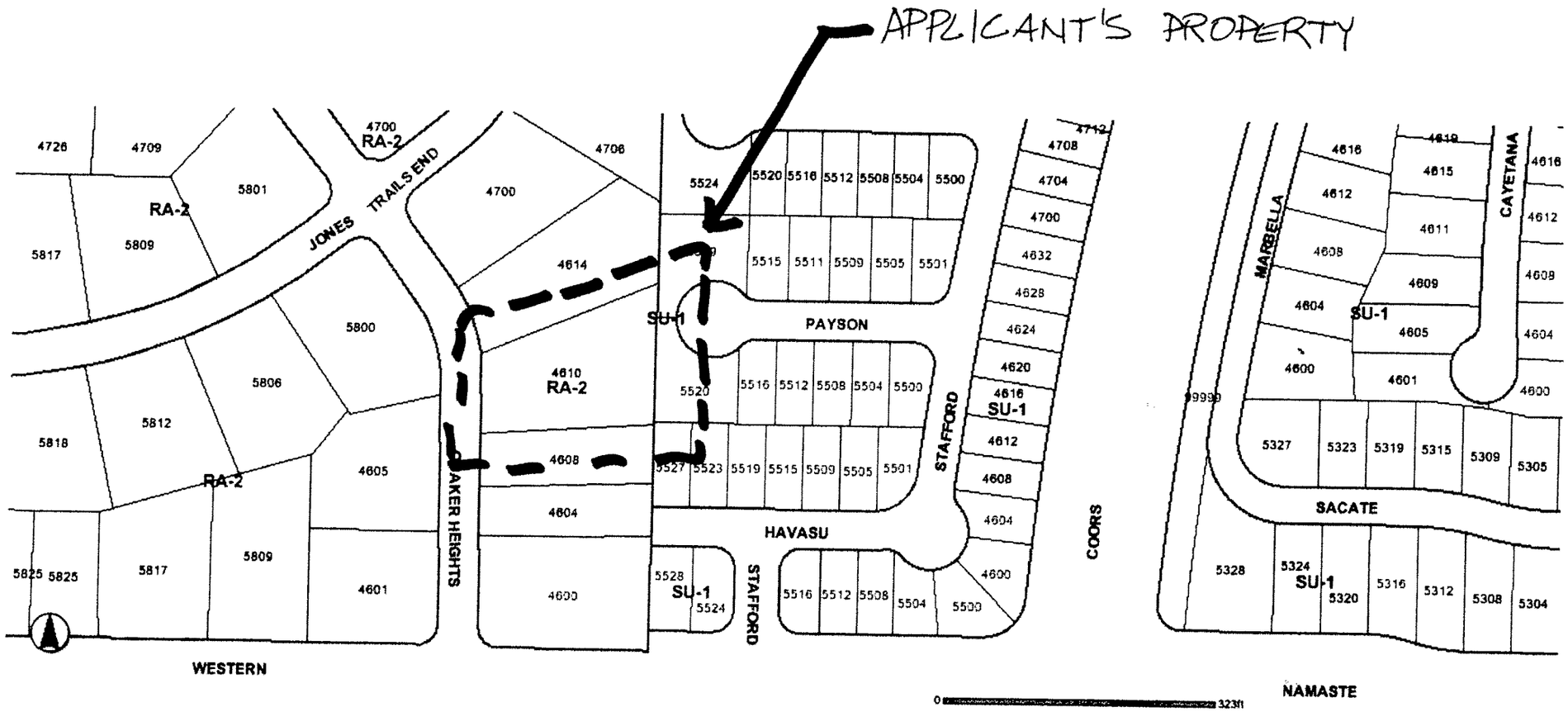
4610 Quaker Heights Pl, NW
Lot 38, Block 0000, Quaker Heights Addition

Sincerely,

Sam or Tracy Herrera

simms lower studio 850
400 gold avenue s w
albuquerque new mexico 87102
u s a
t 505 243 8100
f 505 243 8101
e studio@dondudleydesign.com
DONDUDLEYDESIGN.COM

Figure 1 – Aerial Photo of project area, looking east


APPLICANT'S PROPERTY
WESTERN
JONES TRAILS END
BAKER HEIGHTS
PAYSON
HAVASU
STAFFORD
COORS
MARBELLA
CAYETANA
SACATE
NAMASTE
RA-2
SU-1
0
323ft

April 6, 2010

The City of Albuquerque
600 Second Street, NW
Albuquerque, NM 87103

To whom it may concern:

I am the owner of the adjacent property located to the NORTH of 4610 Quaker Heights Pl, NW in Albuquerque, NM. I have been contacted regarding the construction of a proposed accessory structure on the property owned by Tracy and Sam Herrera. I am aware of their application for a variance of 4.5' above the 18 foot height restriction and the application for Conditional Use for the building to serve as a garage and an in-law's quarters without a kitchen.

I have reviewed the attached drawings and have no objection to the construction of the proposed project as indicated.

Signed,

Albert R. Teupell — Albert R. Teupell — 4/7/2010
Authorized Signatory — Printed Name — Date

4620 Quarter Heights Pl. N.W. Albuq. N.M. 87120
My Address

Albert owns both lots direct adjacent to proposed structure.

April 6, 2010

The City of Albuquerque
600 Second Street, NW
Albuquerque, NM 87103

To whom it may concern:

I am the owner of the adjacent property located to the SOUTH of 4610 Quaker Heights Pl, NW in Albuquerque, NM. I have been contacted regarding the construction of a proposed accessory structure on the property owned by Tracy and Sam Herrera. I am aware of their application for a variance of 4.5' above the 18 foot height restriction and the application for Conditional Use for the building to serve as a garage and an in-law's quarters without a kitchen.

I have reviewed the attached drawings and have no objection to the construction of the proposed project as indicated.

Signed,

Georgia Allen — Georgia Allen

Authorized Signatory — Printed Name — Date

4608 Quaker Heights, ABQ NM 87120

My Address

April 6, 2010

The City of Albuquerque
600 Second Street, NW
Albuquerque, NM 87103

To whom it may concern:

I am the owner of the adjacent property located to the WEST of 4610 Quaker Heights Pl, NW in Albuquerque, NM. I have been contacted regarding the construction of a proposed accessory structure on the property owned by Tracy and Sam Herrera. I am aware of their application for a variance of 4.5' above the 18 foot height restriction and the application for Conditional Use for the building to serve as a garage and an in-law's quarters without a kitchen.

I have reviewed the attached drawings and have no objection to the construction of the proposed project as indicated.

Signed,

Tony Groom — Authorized Signatory

TONY GROOM — Printed Name

4-8-10 — Date

5800 Jones Pl NW — My Address

City 87120

## § 14-16-2-5 RA-2 RESIDENTIAL AND AGRICULTURAL ZONE.

This zone provides sites for low density houses and uses incidental thereto, including agriculture. Clustering of houses is permitted.

***(A)*** ***Permissive Uses.***

(1) Uses permissive in the RA-1 zone.

(2) Private Commons Development, not less than two acres in area.

***(B)*** ***Conditional Uses.***

(1) Uses conditional in the RA-1 zone.

***(C)*** ***Height.*** Structures shall not exceed 26 feet in height, except as provided in § 14-16-3-3 of this Zoning Code.

***(D)*** ***Lot Size.*** Minimum lot shall be 10,890 square feet and minimum lot width shall be 75 feet, except:

(1) Cluster housing lot size shall be as provided in division (B)(2) of this section;

(2) In a Family Housing Development minimum lot size shall be 8,712 square feet and minimum lot width shall be 60 feet.

***(E)*** ***Setback.*** The same regulations apply as in the R-1 zone, except the rear-yard setback shall be at least 25 feet. Cluster housing setbacks shall be as provided in (B)(2) of this section.

***(F)*** ***Off-Street Parking.*** Off-street parking shall be as provided in § 14-16-3-1 of this Zoning Code. ('74 Code, § 7-14-9A) (Ord. 80-1975; Am. Ord. 47-1990; Am. Ord. 10-1995; Am. Ord. 15-1999)

(4) Growing plants, noncommercial.

(5) Private Commons Development, not less than two acres in area, if allowed in a Sector Development Plan or area plan governing the site.

(6) Public park.

(7) Public school, including caretaker's mobile home.

(8) Public utility structure, provided its location is in accord with an adopted facility plan and a site development plan for building permit purposes has been approved by the Planning Commission.

(9) Real estate office and an incidental sign in connection with a specific development, provided it is not used as living quarters during the time it is used as an office, and further provided that it is limited to a period of one year unless the time is extended through approval by the Zoning Enforcement Officer. A site plan and floor plan approved by the Zoning Enforcement Officer is required prior to establishment of this activity.

(10) Wireless Telecommunications Facility which is concealed or located on a public utility structure, provided the requirements of § 14-16-3-17 of this Zoning Code are met.

(11) Family Housing Development, as defined by the Family Housing Development Ordinance, Section 4.

(B) ***Conditional Uses.***

(1) Accessory living quarters.

(2) Animal keeping, noncommercial, the species being other than those which are permissive in this section.

(3) Carport in the required front or side setback area, provided:

a. No part is within three feet of a property line, other than a right-of-way line.

b. No building wall is ever built within a required setback area.

c. The specific carport proposed is in harmony with the building site.

(4) Construction office in connection with a specific construction project provided it is limited to a period of one year unless the time is extended through a new conditional use.

(5) Family day care home, with any sign limited as for home occupations. There shall be an outdoor play area adequately enclosed with a wall or fence. At least one member of the residing family shall serve as a provider of care. The activity shall be licensed by the state as a family day care home. (See also the permissive use provisions.)

(6) Front yard setback of not less than fifteen feet if there is no front yard driveway and vehicle access is only to the rear yard from an alley or if the garage setback is not less than 25 feet and compromises no more than 50% of the width of the street-facing building façade and driveways and off-street parking areas cover no more than 60% of the area of the front yard.

(2) Accessory Structures.

(a) Unless approved under a Site Development Plan, an accessory building on a lot, the principal use of which is a house or town house, shall not be located in the required front yard setback and shall not occupy over 25% of the side-plus-rear-yards. An accessory structure in any required yard shall not exceed either 18 feet in height, or any applicable height limitations imposed by division (A)(7) of this section, except if it is in a required side-yard setback on a corner, it shall not exceed the height of the fence allowed by (A)(4) of this section.

(b) On a corner lot, the rear yard of which abuts the front yard of a residentially-zoned lot, an accessory building shall comply with the same side-yard setback on the street side as the principal building.

(c) An accessory structure which is not covered by division (b) above has no required setback from a lot line, except that an accessory structure used as a garage for off-street parking with access to an alley shall be set back a minimum of five feet from the alley.

(d) An accessory building that is 80 square feet in area or smaller and six feet in height, or smaller, must be at least five feet from another accessory building without living quarters on abutting lots and at least 10 feet from a dwelling or accessory living quarters on abutting lots.

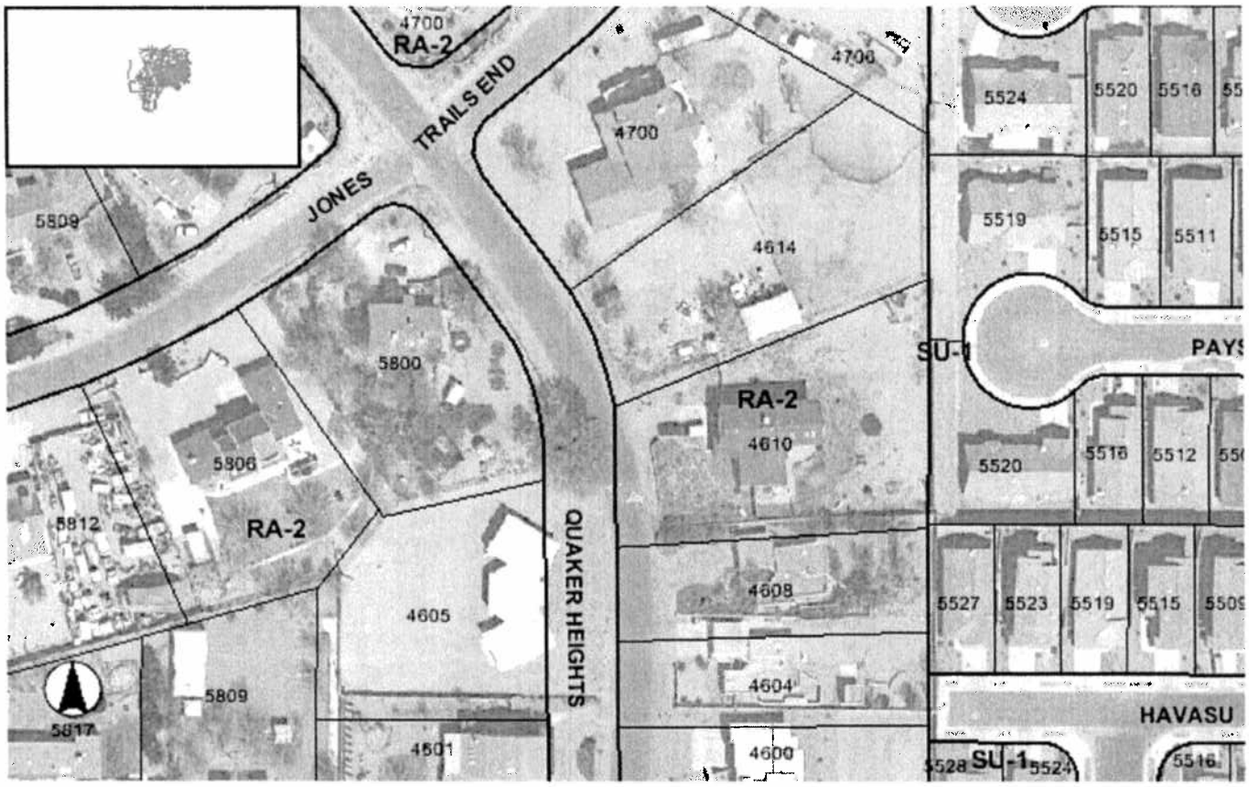
(e) An accessory building that is larger in area or height than an accessory building as described in division (d) above must be at least five feet from any other accessory building without living quarters and at least 10 feet from any dwelling or accessory living quarters.

(f) No accessory building may extend across the width of the rear or side yard unless a passage of at least five feet is provided at some point along the width.

(g) An accessory building may be connected to the principal building with a roof, provided that at least two sides of the connecting structure are not enclosed with a material other than that necessary for roof supports. The roof shall be located at least as far from the side lot lines as is the principal building.

(h) Accessory swimming pools may occupy any part of the yard, provided they are not closer than five feet to a lot line or building and provided they are surrounded by a duly approved wall or fence at least six feet high. Alternatively, accessory swimming pools shall be surrounded by a barrier that complies with Section AG105 of the 2003 International Residential Code and shall be equipped with a powered safety cover that complies with ASTM F1346-91(2003), Standard Performance Standards for Safety Covers and Labeling Requirements for All Covers for Swimming Pools, Spas and Hot Tubs; each to be certified for compliance by a professional swimming pool contractor, registered architect or registered engineer in plan submittals for a swimming pool. (But note division (A)(4) of this section).

(3) A use allowed in a zone shall not be carried on in a vehicle, including a trailer, unless such vehicle's use is specifically allowed in that zone. However, this does not limit vehicles' use for transportation and temporary storage.
('74 Code, § 7-14-40C; Am. Ord. 35-1995; Am. Ord. 29-2004; Am. Ord. 29-2005; Am. Ord. 044-2005)


4700
RA-2
TRAILS END
JONES
5809
5800
5806
5812
RA-2
4605
5809
5817
4601
QUAKER HEIGHTS
4700
4706
4614
RA-2
4610
4608
4604
4600
5524
5520
5516
5519
5515
5511
SU-1
PAYS
5520
5516
5512
5527
5523
5519
5515
HAVASU
5528
SU-1
5524
5516

## ZONE GRID

No Features found.

## OWNERSHIP

| Rec | UPC CODE | OWNER | OWNER ADDRESS | OWNER CITY | OWNER STATE | OWNER ZIPCODE | PROPERTY CLASS | TAX DISTRICT | LEGAL |
|---|---|---|---|---|---|---|---|---|---|
| 1 | 101106118718320334 | HERRERA SAM D & TRACY SUE | 4610 QUAKER HEIGHTS PL NW | ALBUQUERQUE | NM | 87120 | R | A1A | * 038 QUAKER HEIGHTS ADDITION |

## ZONING

| Rec | ZONING | DESCRIPTION |
|---|---|---|
| 1 | RA-2 | |

## ZONE GRID

| Rec | ZONE ATLAS GRID |
|---|---|
| 1 | F11 |

## PARCELS

| Rec | NUMBER | NAME | DESIGNATION | QUADRANT | LOT | BLOCK | SUBDIVISION | PIN |
|---|---|---|---|---|---|---|---|---|
| 1 | 4610 | QUAKER HEIGHTS | PL | NW | 38 | 0000 | QUAKER HEIGHTS ADDN | ABQ57104 |

## ZONE GRID

No Features found.

## ZONE GRID

No Features found.

## NEIGHBORHOODS

| Rec | COASDE.AGIS.NEIGHBORHOODASSOCIATIONS.ASSOCIATIONNAME | COASDE.AGIS.NEIGHBORHOODASSOCIATIONS.ASSOCIATIONSTATUS |
|---|---|---|
| 1 | QUAKER HEIGHTS | R |
| 2 | TAYLOR RANCH | R |

## ZONE GRID

No Features found.

## COUNCIL

| Rec | COUNCILOR NAME | COUNCIL DISTRICT |
|---|---|---|
| 1 | Dan Lewis | 5 |

## ZIPCODES

| Rec | ZIPCODE |
|---|---|
| 1 | 87120 |

## ZONE GRID

No Features found.