

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

RICK GOLDMAN/PULSE VENTURES (J. STACE MCGEE/EDI, AGENT) request(s) a special exception to Section P. 95 8. B. 2: a VARIANCE of 213 parking spaces to the 229 parking space requirement to allow for 38 proposed parking spaces in a CCR-2 zone on all or a portion of Lot(s) 1-8, MESA GRANDE ADDN zoned CCR-2, located at 4100 CENTRAL AVE SE (K-17)

Special Exception No:..... **09ZHE-80437**  
Project No:..... **Project# 1008119**  
Hearing Date:..... 02-16-10  
Closing of Public Record:..... 02-16-10  
Date of Decision:..... 03-01-10

**STATEMENT OF FACTS:** The applicant, Rick Goldman Pulse Ventures requests a variance of 213 parking spaces to the 220 parking space requirement to allow for 38 proposed parking spaces in a CCR-2 zone. Mr. Goldman testified at hearing that there would be a maximum of 670 storage units on the upper floors of the building. He indicated there would be sufficient parking for the ground floor retail use and that there would be minimum need for the required 220 parking spaces for the storage use facility. Mr. Goldman testified that the unique use as a storage facility reduces the amount of parking required. He submits that the amount of parking spaces provided by other storage facilities is minimal. The testimony by Mr. Goldman focused on a use variance as being exceptional; however, no testimony was presented whether there is any physical exceptionality of the property.

There is a letter of support from the Nob Hill Neighborhood Association, Inc. This letter proffers other parking requirements which they support. However, there is no evidence offered as to the particular variance request of 213 parking spaces nor is there any statement regarding physical exceptionality of the parcel sufficient to warrant approval.

There is opposition to this request by Dean Argyres who has owned the adjacent property for 35 years and operates a business at that location. Mr. Argyres testified in opposition to this request stating that elimination of 80% of the required parking would set dangerous precedent. He also stated that the property is not exceptional; the applicant is requesting a variance based on the proposed use of the property. Mr. Argyres believes any hardship is self imposed by the applicant's development needs. The opponent indicated that with no access on Central the applicant plans to use the easement for access as a thoroughfare. Finally opponent expressed concern that the parking needs would spill over to other commercial uses and negatively impact adjacent businesses causing hardship to customers.

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. Having been unable to meet this standard, it is therefore unnecessary to inquire any further. Therefore, the Zoning Hearing Examiner is compelled to deny this request.

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 March 16, 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  
Rick Goldman Pulse Ventures, 4700 N. Ravenswood, Ste. B, Chicago, IL, 60640  
J. Stace McGee, 142 Truman Street NE, 87108  
Nob Hill NA, P.O. Box 4875, 87196  
David Kindel, Environmental Dynamics, Inc., [Kindel@edi-arch.com](mailto:Kindel@edi-arch.com)  
Dean Argyres, 2011 Los Poblanos Place NW, 87107  
Matthew Terry, 4401 Central Avenue NE, Ste. A, 87108