



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

ANDY SCHULTZ (FRANK THOMAS, AGENT) request(s) a special exception to Section 14-16-2-6(B)(1) and 14-16-2-5(B)(1): a **CONDITIONAL USE** to allow a proposed accessory living quarters in an RA-2 zone on all or a portion of Lot(s) 3, ELFEGO zoned RA-2, located at 2489 ELFEGO NW (F-13)

Special Exception No:..... **10ZHE-80112**
Project No: **Project# 1008278**
Hearing Date: 05-18-10
Closing of Public Record: 05-18-10
Date of Decision: 06-02-10

STATEMENT OF FACTS: The applicant, Andy Schultz, requests a conditional use to allow for a proposed accessory living quarters in an RA-2 zone. Andrew Thomas, agent for the applicant, testified that the primary residence is 3,000 sq ft. The proposed accessory structure is intended to be 1,286 sq ft. This is too large to be considered as an accessory structure. The intent of the accessory structure is that it is incidental and complimentary to the main structure. This proposal would result with two large homes on a single RA-2 zone and would compromise the zoning category. These facts do not comply with the goals for accessory structures. Accordingly this request is denied upon a finding that this proposed conditional use will cause injury to the neighborhood, adjacent property and the community.

The alleged exceptionality does not create unusual hardship and would not deny reasonable use of the property nor deny a reasonable return on his investment.

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. For reasons stated above, this request is denied.

DECISION: Denied.

If you wish to appeal this decision, you may do so by 5:00 p.m., on June 17, 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

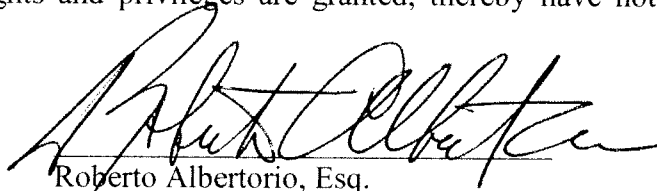
side of the lobby. **Please present this letter of notification when filing an appeal.** When an application is withdrawn, the fee shall not be refunded.

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
Andy Schultz, 2489 Elfego NW, 87107
Frank Thomas, 7 Pine Road, Placitas, NM 87043