



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

IVAN BENAVIDEZ (JOSHUA SIMMS, Special Exception No:..... **10ZHE-80189**  
AGENT) request(s) a special exception to Project No: ..... **Project# 1008347**  
Section 14-16-2-6(B)(2): a CONDITIONAL Hearing Date: ..... 07-20-10  
USE to allow existing animal keeping Closing of Public Record: ..... 07-20-10  
(alpacas) in an R-1 zone on all or a portion of Date of Decision: ..... 08-04-10  
Lot(s) 128C2A1B2, MRGCD MAP 39 zoned  
R-1, located at 3711 LOMBARDY RD NW (K-  
11)

**STATEMENT OF FACTS:** The applicant, Ivan Benavidez, requests a conditional use to allow existing animal keeping (alpacas) in an R-1 zone. Mr. Benavidez testified, at the hearing, that he has owned and resided on this property for 71 years. He stated that there are currently three alpacas, which weigh approximately 180 pounds each, on this property. Mr. Benavidez testified that he was cited for having many large weeds on his property. He obtained the alpacas in order to address this problem. This is an R-1 zone for single family. The introduction of farm animals into a residential community is inconsistent with the character of the community. When the applicant was asked what measures he undertakes to clean up after the animals' feces, odor, etc. his response was that he doesn't. He submits that there is no impact on the neighbors. It is difficult to conclude that animal waste/odor would not impact adjacent properties. Accordingly given the applicant's failure to demonstrate that this conditional use will not cause injury to the immediate environment as well as not causing a negative impact with the enjoyment of other land, I am **COMPELLED** to deny this request. The applicant will be required to find other means for the handling of his weed problems.

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 August 19, 2010 in the manner described below:**

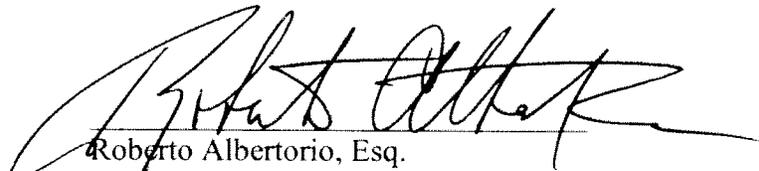
Appeal is to the Board of Appeals within 15 days of the decision. A filing fee of \$105.00 shall accompany each appeal application, as well as a written explanation outlining the reason for appeal and a copy of the ZHE decision. Appeals are taken at 600 2nd Street, Plaza Del Sol Building, Ground Level,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