

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

JOYCE GENTRY (NATE GENTRY, AGENT) request(s) a special exception to Section RC (5): a CONDITIONAL USE to allow 100% of the existing floor area space for offices on all or a portion of Lot(s) LOTS NUMBERED 1, 2, 3 & 4, Block(s) 57, ORIGINAL TOWNSITE OF ABQ zoned SU-2 RC, located at 1100 TIJERAS ST NW (J-13)

Special Exception No:..... **11ZHE-80307**
Project No: **Project# 1009078**
Hearing Date: 01-17-12
Closing of Public Record: 01-17-12
Date of Decision: 01-31-12

STATEMENT OF FACTS: The applicant, Joyce Gentry, requests a conditional use to allow 100% of the existing floor area space for offices. Ms. Gentry testified, at the hearing, that she has owned this property for approximately 17 years; and since that time, it has been used primarily as an office, with an occasional renter. This property has been used for office rental purposes for 15 years. Ms. Gentry feels that renting this property has been difficult and a detriment to the neighborhood. She has been unsuccessful in finding suitable tenants and her proposed remedy is to disregard the goals of the zoning category by conversion to 100% office use.

If approved, no physical changes to the structure would be made. The property will continue to be used as a law office. Ms. Gentry does not reside in the community. Most of the business is conducted Monday thru Friday from 9:00 a.m. to 5:00 p.m. The property currently has sufficient off-street parking. There would be minimal additional car traffic as a result of this conditional use. She states that there are other properties in the area that are currently being used as 100% commercial; and therefore this use would be consistent with the zoning for the surrounding properties.

There are five letters of opposition noted in the file, including one from the Downtown Neighborhoods Association. Also noted in the file, is one letter of support.

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: This property is located within the boundaries of the Downtown Neighborhood Association (DNA). The DNA guards with great interest the adopted goals of their Sector Plan. Over the many years, the ZHE has received many requests similar to this one. The intent of the Sector Plan is to allow some commercial uses primarily by residential professionals who reside in the area and desire to maintain a 50% residential use along with the conditional use of offices. There is considerable conversion of residential buildings into offices along Lomas Boulevard which borders this community. To allow this type of use to continue to encroach onto the residential community would essentially change the residential character of the downtown

neighborhood. This would negatively impact on the enjoyment of the residents in the area; negatively impact real estate values and will destroy one of the Albuquerque's treasured communities.

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 February 15, 2012 in the manner described below:

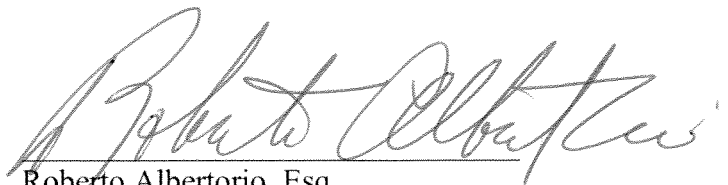
Appeal is to the Board of Appeals within 15 days of the decision. A filing fee of \$105.00 shall accompany each appeal application, as well as a written explanation outlining the reason for appeal and a copy of the ZHE decision. Appeals are taken at 600 2nd Street, Plaza Del Sol Building, Ground Level, 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
Joyce Gentry, 1100 Tijeras Street NW, 87102
Nate Gentry, 1100 Tijeras Street NW, 87102
Hess Yntema, 215 Gold SW, 87102
Dwight Auten, 1123 Tijeras Avenue NW, 87102
Thomas Decker, 1123 Tijeras Avenue NW, 87102
Robert Bello, Downtown Neighborhoods Association
Gerald Bowe and David Penella, 216 12th Street NW, 87102