

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

AARON AND VANESSA KING (RUDY R. ZAMORA, AGENT) request(s) a special exception to Section 14-16-2-11(B)(1) and 14-16-2-6(B)(12): a CONDITIONAL USE for a proposed shade structure in the rear yard setback area for all or a portion of Lot(s) 18, Block(s) 4, THE MESA AT ANDERSON HILLS UNIT 2 zoned R-2, located on 3231 MATA ORTIZ DR SW (P-9)

Special Exception No:..... **12ZHE-80211**
Project No: **Project# 1009345**
Hearing Date: 08-21-12
Closing of Public Record: 08-21-12
Date of Decision: 08-27-12

On August 21, 2012, Rudy R. Zamora, agent for Aaron and Vanessa King came before Interim Hearing Officer, Stanley D. Harada, for a conditional use for a proposed shade structure in the rear yard setback area at 3231 Mata Ortiz Dr SW.

SUMMARY OF FACTS:

1. Aaron and Vanessa King request a conditional use for a proposed shade structure in the rear yard setback area at 3231 Mata Ortiz Dr SW.
2. Mr. Zamora testified that his clients have owned the property since May 2011.
3. Mr. Zamora testified that the shade structure will not be injurious to the surrounding community or adjacent property.
4. The porch will be 35' long by 10' wide and will be supported by 8"x 8" support beams.
5. It will be placed on a 4" concrete pad and will follow the design of the main home.
6. It will have a 1' overhand and the roof will be finished with 3-tab shingles.
7. Mr. Zamora testified that it will not be enclosed and no walls will be built to surround the porch. No part of the structure will be built within 3' of the back property line.
8. Mr. Zamora also testified that there are other shade structures in the neighborhood.
9. There are no letters of opposition in the file nor was there any opposition at the hearing.
10. Mr. Zamora provided a petition from nine neighbors Josh Cordova, Maria Elena Mendoza, Santiago Sisneros, Patricia Lopez, Santiago Romero, Antonio Macias, Bonifacio Hernandez and Marie Koons who are in support of the shades structure.
11. Gilbert Austin testified at the hearing in support to the request. He believes a shade structure would benefit the family because they have children that play in the back yard.
12. The yellow signs were posted for the prescribed time.

CONCLUSIONS: Mr. and Mrs. King have met the burden for a conditional use for a proposed shade structure in the rear yard setback area at 3231 Mata Ortiz Dr SW.

DECISION: Approved with conditions.

CONDITIONS:

1. No part is within three feet of the property line.
2. No building wall is ever built within the required setback area.
3. No more than 50% of the required rear yard setback area is covered by a roof.
4. The structure shall not exceed 12 feet in height nor shall it exceed the height of the principal building on the site.
5. A second floor deck is prohibited.

If you wish to appeal this decision, you may do so by 5:00 p.m., on September 12, 2012 in the manner described below:

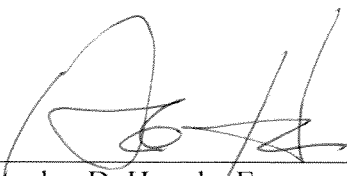
Appeal is to the Board of Appeals within 15 days of the decision. A filing fee of \$105.00 shall accompany each appeal application, as well as a written explanation outlining the reason for appeal and a copy of the ZHE decision. Appeals are taken at 600 2nd Street, Plaza Del Sol Building, Ground Level,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



Stanley D. Harada, Esq.
Interim Zoning Hearing Examiner

cc: Zoning Enforcement
ZHE File
Aaron and Vanessa King, 3231 Mata Ortiz Dr SW, 87121
Rudy R. Zamora, 2217 Raven Lane SW, 87105
Josh Cordova, 3227 Mata Ortiz Dr SW, 87121
Maria Elena Mendoza, 3223 Mata Ortiz Dr SW, 87121
Santiago Sisneros, 3236 Mata Ortiz Dr SW, 87121
Patricia Lopez, 3219 Mata Ortiz Dr SW, 87121
Santiago Romero, 3301 Mata Ortiz Dr SW, 87121
Antonio Macias, 3305 Mata Ortiz Dr SW, 87121
Bonifacio Hernandez, 8412 Vista Penasco Ave SW, 87121
Marie Koons, 8419 Vista Penasco Ave SW, 87121
Gilbert Austin, 528 2nd St SW, 87102