

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

JOSEPH B. MECKLER (NATHAN THORTON) request(s) a special exception to Section 14-16-2-14(E)(2), 14-16-2-12(B)(1) and 14-16-2-11(B)(1), 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) 9P, INVERNESS AT TANOAN PHASE 3 zoned R-D, located on 11509 PAGANICA WY NE (E-22)

Special Exception No:..... **12ZHE-80221**
Project No: **Project# 1009361**
Hearing Date: 09-18-12
Closing of Public Record: 09-18-12
Date of Decision: 09-20-12

On September 18, 2012 Joseph B. Meckler appeared in front of Interim Zoning Hearing Examiner, Stanley D. Harada, for a conditional use for a proposed shade structure in the rear yard setback area at 11509 Paganica Way NE.

SUMMARY:

1. Joseph B. Meckler requests a conditional use for a proposed shade structure in the rear yard setback area at 11509 Paganica Way NE.
2. Mr. Meckler testified that he has owned the property for more than 10 years.
3. Mr. Meckler testified that this request will not be injurious to the surrounding community because his property backs up onto a golf course.
4. The proposed shade structure will not damage surrounding structures or activities because it will have significant drainage in the roof columns.
5. The structure will not be built within 3' from the property line and will not be enclosed.
6. The Tanoan Community East Association, Inc., has approved the patio cover.
7. There was no letters of opposition nor was there any opposition at the hearing.
8. The yellow signs were posted for there required time.

CONCLUSION: Joseph B. Meckler has met the burden for a conditional use for a proposed shade structure in the rear yard setback area at 11509 Paganica Way NE.

DECISION: Approved with conditions.

CONDITIONS:

1. No part is within 3' 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 October 5, 2012 in the manner described below:

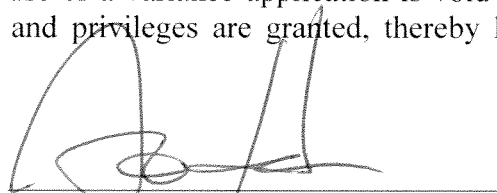
Appeal is to the Board of Appeals within 15 days of the decision. A filing fee of \$105.00 shall accompany each appeal application, as well as a written explanation outlining the reason for appeal and a copy of the ZHE decision. Appeals are taken at 600 2nd Street, Plaza Del Sol Building, Ground Level, 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
Nathan Thorton, 8921 Pony Express TR NE, 87109
Joseph B. Meckler, 11509 Paganica Way NE, 87111