



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

EDWARD & KARLENE SPIVAK (YOLANDA MONTOYA, AGENT) request(s) a special exception to Section 14-16-2-5(D): a VARIANCE of 7' 5 1/2" to the 75' lot width requirement for a proposed lot on all or a portion of Lot(s) 1, GRIEGO zoned RA-2, located at 4612 SAN ISIDRO ST NW (F-13)

Special Exception No:..... **11ZHE-80200**  
Project No:..... **Project# 1008929**  
Hearing Date: ..... 10-18-11  
Closing of Public Record: ..... 10-18-11  
Date of Decision: ..... 11-01-11

**STATEMENT OF FACTS:** The applicants, Edward & Karlene Spivak, request a variance of 7' 5 1/2" to the 75' lot width requirement for a proposed lot. The applicants testified, at the hearing that they purchased this property approximately seven years ago. They stated that this lot is exceptional because of its trapezoidal shape. The lot is 1/3 acre in size. If approved, they would like to subdivide this lot into two lots and construct two dwelling units. The applicants testified each lot size is consistent with other lots in the vicinity.

There were several people who testified in opposition to this request. Theresa Chavez stated that the proposed structures would take away from the historical aspect of the neighborhood. Candace Knight, President of the Los Griegos Neighborhood Association, testified that they would welcome a single dwelling unit on this parcel that is a single story hacienda style home. Traffic and noise are also a concern for the Neighborhood Association. Jenna Gurley also spoke in opposition to this request. She stated that a two-story dwelling will impede views in the neighborhood; she is also concerned about overbuilding on this lot. There is a letter of opposition from Donald Kozlowski noted in the file.

Mr. Spivak stated that it was their intention to build one of the dwellings using Pueblo style and the other in Territorial style. The accessory unit will be set back and will be within the envelope of the house to the south.

**FINDINGS AND CONCLUSIONS:**

I find that this parcel is exceptional as compared to other parcels in the vicinity because of its irregular shape. Having found that the parcel is exceptional, the analysis must continue. A similar parcel was found to be exceptional in the ZHE Special Exception Numbers: 09ZHE-80248 and 09ZHE-80249. In these cases, the applicant was allowed two variances for a proposed addition consisting of a family room and a bedroom. There was no opposition to the request and there was a letter of support from the Los Griegos Neighborhood Association. The approval of the variances was based on an unnecessary hardship in that it would limit the owner's reasonable use of the property and/or deprive

the owner of a reasonable return on the property. The decision of approval further found that the variances would differ from development which would be permitted under the existing zoning regulations no more than what was necessary to overcome the unnecessary hardship. Finally, the variance would not significantly interfere with the enjoyment of other land in the vicinity and was consistent with the spirit of the Zoning Ordinance, substantial justice and the general public interest.

The applicants in the current case would like to build two residences on the parcel. Without approval of the request, the owners would not be deprived of reasonable return on the property. The requested variances would in all likelihood not be necessary if the applicants were building one residence on the property. I find that the requested variances would interfere with the enjoyment of other land in the vicinity and is inconsistent with the spirit of the Zoning Ordinance, substantial justice and the general public interest.

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:

**DECISION:** Denied.

**If you wish to appeal this decision, you may do so by 5:00 p.m., on November 16, 2011 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.

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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.

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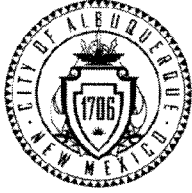
Successful applicants are reminded that other regulations of the City must be complied with, even after approval of a special exception is secured. This decision does not constitute approval of plans for a building permit. If your application is approved, bring this decision with you when you apply for 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.



---

Anita Reina, Esq.  
Deputy Zoning Hearing Examiner

cc: Zoning Enforcement  
ZHE File  
Edward & Karlene Spivak, 820 Solano Drive NE, 87110  
Yolando Montoya, 8724 Alameda Park Drive NE, 87113  
Candice Knight, 1858 Griegos Road Nw, 87107  
Theresa Chavez, 1713 Patrick Place NW, 87107  
Jeana Gurley, P.O. Box 10361, 87184



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

EDWARD & KARLENE SPIVAK (YOLANDA MONTROYA, AGENT) request(s) a special exception to Section 14-16-2-5(D): a VARIANCE of 18' 5" to the 75' minimum lot width requirement for a proposed lot on all or a portion of Lot(s) 1, GRIEGO zoned RA-2, located at 4612 SAN ISIDRO ST NW (F-13)

Special Exception No:..... **11ZHE-80201**  
Project No: ..... **Project# 1008929**  
Hearing Date: ..... 10-18-11  
Closing of Public Record: ..... 10-18-11  
Date of Decision: ..... 11-01-11

**STATEMENT OF FACTS:** The applicants, Edward & Karlene Zpivak, request a variance of 18' 5" to the 75' minimum lot width requirement for a proposed lot. The applicants testified, at the hearing that they purchased this property approximately seven years ago. They stated that this lot is exceptional because of its trapezoidal shape. The lot is 1/3 acre in size. If approved, they would like to subdivide this lot into two lots and construct two dwelling units. The applicants testified each lot size is consistent with other lots in the vicinity.

There were several people who testified in opposition to this request. Theresa Chavez stated that the proposed structures would take away from the historical aspect of the neighborhood. Candace Knight, President of the Los Griegos Neighborhood Association, testified that they would welcome a single dwelling unit on this parcel that is a single story hacienda style home. Traffic and noise are also a concern for the Neighborhood Association. Jenna Gurley also spoke in opposition to this request. She stated that a two-story dwelling will impede views in the neighborhood; she is also concerned about overbuilding on this lot. There is a letter of opposition from Donald Kozlowski noted in the file.

Mr. Spivak stated that it was their intention to build one of the dwellings using Pueblo style and the other in Territorial style. The accessory unit will be set back and will be within the envelope of the house to the south.

**FINDINGS AND CONCLUSIONS:**

I find that this parcel is exceptional as compared to other parcels in the vicinity because of its irregular shape. Having found that the parcel is exceptional, the analysis must continue. A similar parcel was found to be exceptional in the ZHE Special Exception Numbers: 09ZHE-80248 and 09ZHE-80249. In these cases, the applicant was allowed two variances for a proposed addition consisting of a family room and a bedroom. There was no opposition to the request and there was a letter of support from the Los Griegos Neighborhood Association. The approval of the variances was based on an unnecessary hardship in that it would limit the owner's reasonable use of the property and/or deprive the owner of a reasonable return on the property. The decision of approval further found

that the variances would differ from development which would be permitted under the existing zoning regulations no more than what was necessary to overcome the unnecessary hardship. Finally, the variance would not significantly interfere with the enjoyment of other land in the vicinity and was consistent with the spirit of the Zoning Ordinance, substantial justice and the general public interest.

The applicants in the current case would like to build two residences on the parcel. Without approval of the request, the owners would not be deprived of reasonable return on the property. The requested variances would in all likelihood not be necessary if the applicants were building one residence on the property. I find that the requested variances would interfere with the enjoyment of other land in the vicinity and is inconsistent with the spirit of the Zoning Ordinance, substantial justice and the general public interest.

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:

**DECISION:** Denied.

**If you wish to appeal this decision, you may do so by 5:00 p.m., on November 16, 2011 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.

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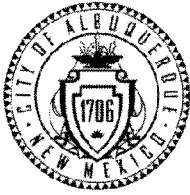
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CITY OF ALBUQUERQUE  
OFFICE OF ADMINISTRATIVE HEARINGS  
ZONING HEARING EXAMINER  
NOTIFICATION OF DECISION

EDWARD & KARLENE SPIVAK (YOLANDA MONTROYA, AGENT) request(s) a special exception to Section 14-16-2-5(D): a VARIANCE of 4384 sq ft to the minimum lot size of 10890 sq ft for a proposed lot on all or a portion of Lot(s) 1, GRIEGO zoned RA-2, located at 4612 SAN ISIDRO ST NW (F-13)

Special Exception No:..... **11ZHE-80202**  
Project No:..... **Project# 1008929**  
Hearing Date:..... 10-18-11  
Closing of Public Record:..... 10-18-11  
Date of Decision: ..... 11-01-11

**STATEMENT OF FACTS:** The applicants, Edward & Karlene Spivak, request a variance of 4384 sq ft to the minimum lot size of 10890 sq ft for a proposed lot. The applicants testified, at the hearing that they purchased this property approximately seven years ago. They stated that this lot is exceptional because of its trapezoidal shape. The lot is 1/3 acre in size. If approved, they would like to subdivide this lot into two lots and construct two dwelling units. The applicants testified each lot size is consistent with other lots in the vicinity.

There were several people who testified in opposition to this request. Theresa Chavez stated that the proposed structures would take away from the historical aspect of the neighborhood. Candace Knight, President of the Los Griegos Neighborhood Association, testified that they would welcome a single dwelling unit on this parcel that is a single story hacienda style home. Traffic and noise are also a concern for the Neighborhood Association. Jenna Gurley also spoke in opposition to this request. She stated that a two-story dwelling will impede views in the neighborhood; she is also concerned about overbuilding on this lot. There is a letter of opposition from Donald Kozlowski noted in the file.

Mr. Spivak stated that it was their intention to build one of the dwellings using Pueblo style and the other in Territorial style. The accessory unit will be set back and will be within the envelope of the house to the south.

**FINDINGS AND CONCLUSIONS:**

I find that this parcel is exceptional as compared to other parcels in the vicinity because of its irregular shape. Having found that the parcel is exceptional, the analysis must continue. A similar parcel was found to be exceptional in the ZHE Special Exception Numbers: 09ZHE-80248 and 09ZHE-80249. In these cases, the applicant was allowed two variances for a proposed addition consisting of a family room and a bedroom. There was no opposition to the request and there was a letter of support from the Los Griegos Neighborhood Association. The approval of the variances was based on an unnecessary hardship in that it would limit the owner's reasonable use of the property and/or deprive

the owner of a reasonable return on the property. The decision of approval further found that the variances would differ from development which would be permitted under the existing zoning regulations no more than what was necessary to overcome the unnecessary hardship. Finally, the variance would not significantly interfere with the enjoyment of other land in the vicinity and was consistent with the spirit of the Zoning Ordinance, substantial justice and the general public interest.

The applicants in the current case would like to build two residences on the parcel. Without approval of the request, the owners would not be deprived of reasonable return on the property. The requested variances would in all likelihood not be necessary if the applicants were building one residence on the property. I find that the requested variances would interfere with the enjoyment of other land in the vicinity and is inconsistent with the spirit of the Zoning Ordinance, substantial justice and the general public interest.

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:

**DECISION:** Denied.

**If you wish to appeal this decision, you may do so by 5:00 p.m., on November 16, 2011 in the manner described below:**

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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.

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\_\_\_\_\_  
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Deputy Zoning Hearing Examiner

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CITY OF ALBUQUERQUE  
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NOTIFICATION OF DECISION

EDWARD & KARLENE SPIVAK (YOLANDA MONTOYA, AGENT) request(s) a special exception to Section 14-16-2-5(D): a VARIANCE of 2954 sq ft to the minimum lot size of 10890 sq ft for a proposed lot on all or a portion of Lot(s) 1, GRIEGO zoned RA-2, located at 4612 SAN ISIDRO ST NW (F-13)

Special Exception No:..... **11ZHE-80203**  
Project No: ..... **Project# 1008929**  
Hearing Date: ..... 10-18-11  
Closing of Public Record: ..... 10-18-11  
Date of Decision: ..... 11-01-11

**STATEMENT OF FACTS:** The applicants, Edward & Karlene Spivak, request a variance of 2954 sq ft to the minimum lot size of 10890 sq ft for a proposed lot. The applicants testified, at the hearing that they purchased this property approximately seven years ago. They stated that this lot is exceptional because of its trapezoidal shape. The lot is 1/3 acre in size. If approved, they would like to subdivide this lot into two lots and construct two dwelling units. The applicants testified each lot size is consistent with other lots in the vicinity.

There were several people who testified in opposition to this request. Theresa Chavez stated that the proposed structures would take away from the historical aspect of the neighborhood. Candace Knight, President of the Los Griegos Neighborhood Association, testified that they would welcome a single dwelling unit on this parcel that is a single story hacienda style home. Traffic and noise are also a concern for the Neighborhood Association. Jenna Gurley also spoke in opposition to this request. She stated that a two-story dwelling will impede views in the neighborhood; she is also concerned about overbuilding on this lot. There is a letter of opposition from Donald Kozlowski noted in the file.

Mr. Spivak stated that it was their intention to build one of the dwellings using Pueblo style and the other in Territorial style. The accessory unit will be set back and will be within the envelope of the house to the south.

**FINDINGS AND CONCLUSIONS:**

I find that this parcel is exceptional as compared to other parcels in the vicinity because of its irregular shape. Having found that the parcel is exceptional, the analysis must continue. A similar parcel was found to be exceptional in the ZHE Special Exception Numbers: 09ZHE-80248 and 09ZHE-80249. In these cases, the applicant was allowed two variances for a proposed addition consisting of a family room and a bedroom. There was no opposition to the request and there was a letter of support from the Los Griegos Neighborhood Association. The approval of the variances was based on an unnecessary hardship in that it would limit the owner's reasonable use of the property and/or deprive the owner of a reasonable return on the property. The decision of approval further found

that the variances would differ from development which would be permitted under the existing zoning regulations no more than what was necessary to overcome the unnecessary hardship. Finally, the variance would not significantly interfere with the enjoyment of other land in the vicinity and was consistent with the spirit of the Zoning Ordinance, substantial justice and the general public interest.

The applicants in the current case would like to build two residences on the parcel. Without approval of the request, the owners would not be deprived of reasonable return on the property. The requested variances would in all likelihood not be necessary if the applicants were building one residence on the property. I find that the requested variances would interfere with the enjoyment of other land in the vicinity and is inconsistent with the spirit of the Zoning Ordinance, substantial justice and the general public interest.

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:

**DECISION:** Denied.

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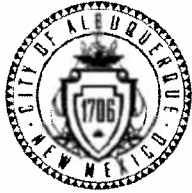
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Anita Reina, Esq.  
Deputy Zoning Hearing Examiner

cc: Zoning Enforcement  
ZHE File

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

EDWARD & KARLENE SPIVAK (YOLANDA MONTOYA, AGENT) request(s) a special exception to Section 14-16-2-5(D): a VARIANCE of 14' 10 1/2" to the 25' rear yard setback area requirement to allow a proposed dwelling on all or a portion of Lot(s) 1, GRIEGO zoned RA-2, located at 4612 SAN ISIDRO ST NW (F-13)

Special Exception No:..... **11ZHE-80204**  
Project No: ..... **Project# 1008929**  
Hearing Date: ..... 10-18-11  
Closing of Public Record: ..... 10-18-11  
Date of Decision: ..... 11-01-11

**STATEMENT OF FACTS:** The applicants, Edward & Karlene Spivak, request a variance of 14' 10 1/2" to the 25' rear yard setback area requirement to allow a proposed dwelling. The applicants testified, at the hearing that they purchased this property approximately seven years ago. They stated that this lot is exceptional because of its trapezoidal shape. The lot is 1/3 acre in size. If approved, they would like to subdivide this lot into two lots and construct two dwelling units. The applicants testified each lot size is consistent with other lots in the vicinity.

There were several people who testified in opposition to this request. Theresa Chavez stated that the proposed structures would take away from the historical aspect of the neighborhood. Candace Knight, President of the Los Griegos Neighborhood Association, testified that they would welcome a single dwelling unit on this parcel that is a single story hacienda style home. Traffic and noise are also a concern for the Neighborhood Association. Jenna Gurley also spoke in opposition to this request. She stated that a two-story dwelling will impede views in the neighborhood; she is also concerned about overbuilding on this lot. There is a letter of opposition from Donald Kozlowski noted in the file.

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**FINDINGS AND CONCLUSIONS:**

I find that this parcel is exceptional as compared to other parcels in the vicinity because of its irregular shape. Having found that the parcel is exceptional, the analysis must continue. A similar parcel was found to be exceptional in the ZHE Special Exception Numbers: 09ZHE-80248 and 09ZHE-80249. In these cases, the applicant was allowed two variances for a proposed addition consisting of a family room and a bedroom. There was no opposition to the request and there was a letter of support from the Los Griegos Neighborhood Association. The approval of the variances was based on an unnecessary

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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:

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EDWARD & KARLENE SPIVAK (YOLANDA MONTOYA, AGENT) request(s) a special exception to Section 14-16-2-5(D): a VARIANCE of 13' 5" to the 25' rear yard setback area requirement to allow a proposed dwelling on all or a portion of Lot(s) 1, GRIEGO zoned RA-2, located at 4612 SAN ISIDRO ST NW (F-13)

Special Exception No:..... **11ZHE-80205**  
Project No: ..... **Project# 1008929**  
Hearing Date: ..... 10-18-11  
Closing of Public Record: ..... 10-18-11  
Date of Decision: ..... 11-01-11

**STATEMENT OF FACTS:** The applicants, Edward & Karlene Spivak, request a variance of 13' 5" to the 25' rear yard setback area requirement to allow a proposed dwelling. The applicants testified, at the hearing that they purchased this property approximately seven years ago. They stated that this lot is exceptional because of its trapezoidal shape. The lot is 1/3 acre in size. If approved, they would like to subdivide this lot into two lots and construct two dwelling units. The applicants testified each lot size is consistent with other lots in the vicinity.

There were several people who testified in opposition to this request. Theresa Chavez stated that the proposed structures would take away from the historical aspect of the neighborhood. Candace Knight, President of the Los Griegos Neighborhood Association, testified that they would welcome a single dwelling unit on this parcel that is a single story hacienda style home. Traffic and noise are also a concern for the Neighborhood Association. Jenna Gurley also spoke in opposition to this request. She stated that a two-story dwelling will impede views in the neighborhood; she is also concerned about overbuilding on this lot. There is a letter of opposition from Donald Kozlowski noted in the file.

Mr. Spivak stated that it was their intention to build one of the dwellings using Pueblo style and the other in Territorial style. The accessory unit will be set back and will be within the envelope of the house to the south.

**FINDINGS AND CONCLUSIONS:**

I find that this parcel is exceptional as compared to other parcels in the vicinity because of its irregular shape. Having found that the parcel is exceptional, the analysis must continue. A similar parcel was found to be exceptional in the ZHE Special Exception Numbers: 09ZHE-80248 and 09ZHE-80249. In these cases, the applicant was allowed two variances for a proposed addition consisting of a family room and a bedroom. There was no opposition to the request and there was a letter of support from the Los Griegos Neighborhood Association. The approval of the variances was based on an unnecessary



hardship in that it would limit the owner's reasonable use of the property and/or deprive the owner of a reasonable return on the property. The decision of approval further found that the variances would differ from development which would be permitted under the existing zoning regulations no more than what was necessary to overcome the unnecessary hardship. Finally, the variance would not significantly interfere with the enjoyment of other land in the vicinity and was consistent with the spirit of the Zoning Ordinance, substantial justice and the general public interest.

The applicants in the current case would like to build two residences on the parcel. Without approval of the request, the owners would not be deprived of reasonable return on the property. The requested variances would in all likelihood not be necessary if the applicants were building one residence on the property. I find that the requested variances would interfere with the enjoyment of other land in the vicinity and is inconsistent with the spirit of the Zoning Ordinance, substantial justice and the general public interest.

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:

**DECISION:** Denied.

**If you wish to appeal this decision, you may do so by 5:00 p.m., on November 16, 2011 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.



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Anita Reina, Esq.  
Deputy Zoning Hearing Examiner

cc: Zoning Enforcement  
ZHE File  
Edward & Karlene Spivak, 820 Solano Drive NE, 87110  
Yolando Montoya, 8724 Alameda Park Drive NE, 87113  
Candice Knight, 1858 Griegos Road Nw, 87107  
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