



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

TOFEL CONSTRUCTION (KEVIN COBOS, AGENT) requests a special exception to Section 14-16-2-6(B)(4): a CONDITIONAL USE to allow a construction office in conjunction with the project at 1301 4th St. NW for all or a portion of Lot 19, Block 4, ROMERO ADDITION zoned S-R, located on 410 KINLEY AVE NW (J-14)

Special Exception No: ..... **15ZHE-80009**  
Project No:..... **Project# 1010341**  
Hearing Date:..... February 20, 2015  
Closing of Public Record:..... February 20, 2015  
Date of Decision: ..... 03-06-15

On the 20th day of February, 2015 (hereinafter “**Hearing**”) KEVIN COBOS, (hereinafter “**Agent**”) acting as agent on behalf of the property owner TOFEL CONSTRUCTION (hereinafter “**Applicant**”) appeared before the Zoning Hearing Examiner (hereinafter “**ZHE**”) requesting a Conditional Use to allow a construction office in conjunction with the project at 1301 4th St. NW (hereinafter “**Application**”) upon the real property located at 410 KINLEY AVE NW (“**Subject Property**”). Below are the findings of facts:

**FINDINGS:**

23. Applicant is requesting a Conditional Use to allow a construction office in conjunction with the project at 1301 4th St. NW.
24. The City of Albuquerque Code of Ordinances Section § 14-16-4-2 (C) (1) (a) “SPECIAL EXCEPTIONS” reads in part: “*A conditional use shall be approved if and only if, in the circumstances of the particular case and under conditions imposed, the use proposed will not be injurious to the adjacent property, the neighborhood, or the community.*”
25. Applicant testified at the Hearing that the Conditional Use, if approved, will not be injurious to the adjacent property, neighborhood, or the community because the Applicant was hired by the Greater Albuquerque Housing Partnership to construct a low income senior apartment facility on 4<sup>th</sup> and Kinley, near downtown. In order to construct this project, the Applicant testified that they need some additional space for staging of material, and temporary construction facilities for use during construction. The uses planned for the Subject Property include: construction office trailer, temporary toilets, trash containers, parking for staff, staging for materials. The Applicant leased the Subject Property from its owner and has insured the lot and will have a Fugitive Dust Control Permit in place on the property. When they are done with construction it will be reverted back to the Owner in a clean and orderly condition. The Applicant received a letter of “NO OBJECTION” from the Wells Park Neighborhood Association from their February Hearing. For these reasons, the ZHE believes that this Conditional Use Application will not be injurious to the community.

26. The City of Albuquerque Code of Ordinances Section § 14-16-4-2 (C) (1) (b) “SPECIAL EXCEPTIONS” reads in part: “A conditional use shall be approved if and only if, in the circumstances of the particular case and under conditions imposed, the use proposed will not be significantly damaged by surrounding structures or activities.”
27. Applicant testified at the Hearing that the proposed conditional use, will not be significantly damaged by the surrounding structures or activities.
28. The yellow “Notice of Hearing” signs were posted for the required time period as articulated within City of Albuquerque Code of Ordinances § 14-16-4-2 SPECIAL EXCEPTIONS.
29. The Applicant has adequately justified the Conditional Use request pursuant to City of Albuquerque Code of Ordinances § 14-16-4-2 SPECIAL EXCEPTIONS.

**DECISION:**

**APPROVAL WITH CONDITIONS** of a CONDITIONAL USE to allow a construction office in conjunction with the project at 1301 4th St. NW.

**CONDITIONS OF APPROVAL:**

- E. The Applicant shall ensure to comply with all safety and code requirements for the temporary use of a lot for construction purposes.
- F. The Applicant shall secure adequate insurance on the property.

If you wish to appeal this decision, you may do so 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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Joshua J. Skarsgard, Esq.  
Zoning Hearing Examiner

cc: Zoning Enforcement  
ZHE File  
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