



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

SECURED DEBT INVESTMENTS -  
(GARCIA/KRAMER & ASSOC., AGENT)  
requests a special exception to Section 14-16-  
3-1(A)(21): a VARIANCE of 27 parking spaces  
to the minimum required 145 parking spaces  
for a proposed lot (B) for all or a portion of Lot  
A, Block 85D, PRINCESS JEANNE PARK  
ADDN zoned O-1, located on 10601 LOMAS  
BLVD NE (J-21)

Special Exception No:.....14ZHE-80405  
Project No: .....Project# 1010306  
Hearing Date: .....January 23, 2015  
Closing of Public Record: .....January 23, 2015  
Date of Decision: .....02-06-15

On the 23rd day of January, 2015 (hereinafter "**Hearing**") GARCIA/KRAMER & ASSOC., (hereinafter "**Agent**") acting as agent on behalf of the property owner SECURED DEBT INVESTMENTS (hereinafter "**Applicant**") appeared before the Zoning Hearing Examiner (hereinafter "**ZHE**") requesting a Variance of 27 parking spaces to the minimum required 145 parking spaces for a proposed lot (B) (hereinafter "**Application**") upon the real property located at 10601 LOMAS BLVD NE ("**Subject Property**"). Below are the findings of facts:

**FINDINGS:**

1. Applicant is requesting a Variance of of 27 parking spaces to the minimum required 145 parking spaces for a proposed lot (B).
2. The City of Albuquerque Zoning Code of Ordinances Section § 14-16-4-2 (C) (2) "SPECIAL EXCEPTIONS – VARIANCE" reads in part: "*A variance application shall be approved by the Zoning Hearing Examiner, if and only if, the Zoning Hearing Examiner finds all of the following:*
  - a. *The application is not contrary to the public interest or injurious to the community, or to property or improvements in the vicinity;*
  - b. *There are special circumstances applicable to the subject property which do not apply generally to other property in the same zone and vicinity such as size, shape, topography, location, surroundings, or physical characteristics created by natural forces or government action for which no compensation was paid;*
  - c. *Such special circumstances were not self-imposed and create an unnecessary hardship in the form of a substantial and unjustified limitation on the reasonable use or return on the property that need not be endured to achieve the intent and purpose of the Zoning Code (§14-16-1-3) and the applicable zoning district; and*
  - d. *Substantial justice is done.*

3. The ZHE finds that the Applicant has met its burden of providing evidence (both oral testimony and written material) that establishes that the Application is not going to be: (i) contrary to the public interest, (ii) injurious to the community; or (iii) injurious to the property/improvements located in the nearby vicinity of the Subject Property. Specifically, the Applicant provided testimony that the variance to the parking requirements will not be injurious because the long history of this site demonstrates that the existing parking is sufficient to meet the needs of the two office buildings (please see Exhibit A – chronology of aerial photographs demonstrating that there is rarely a “parking problem” at this site) [as required pursuant to Section § 14-16-4-2 (C) (2) (a)]. Additionally, the Applicant stated that this request is a result of a DRB request to re-plat the property, and if denied it would continue to operate as a two building office complex. The Applicant stated that there are no public complaints, notices of violation or any history of parking deficits located on the Subject Property. Further, the Application and testimony of the Applicant at the Hearing suggest that there is no neighborhood opposition to the Application.
4. The ZHE finds that the Applicant has met its burden of providing evidence (both oral testimony and written material) that establishes that there are “special circumstances” applicable to the Subject Property which do not apply generally to other property in the same zone and vicinity. Specifically, the Applicant provided testimony that the Subject Property was clearly authorized/entitled to park this volume of cars for years without any regulatory challenges by neighbors or City officials. In fact, the special circumstance of this office complex is that it was built in 1979 as a medical complex and there has been a decrease in demand for medical tenants and visitors to this office complex [as required pursuant to Section § 14-16-4-2 (C) (2) (b)]
5. The ZHE finds that the Applicant has met its burden of providing evidence (both oral testimony and written material) that establishes that the special circumstances presented hereinabove were not “self-imposed”, and that those special circumstances create an unnecessary hardship upon the Applicant. Specifically, the Applicant provided testimony that if they were denied the application and were not allowed to subdivide the office complex property that would complicate the Applicant’s ability to sell a portion (or all) of the subject property which constitutes an “*unjustified limitation on the reasonable use of the Subject Property*” [as required pursuant to Section § 14-16-4-2 (C) (2) (c)]
6. The ZHE finds that the Applicant has met its burden of providing evidence (both oral testimony and written material) that establishes that substantial justice will be done if this Application is approved. [as required pursuant to Section § 14-16-4-2 (C) (2) (d)]
7. Applicant testified at the Hearing that 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 (B) (4).

**CONCLUSIONS OF LAW:**

The Applicant has met their burden of submitting an Application that provides evidence that satisfies the elements required within §14-16-4-2 (C) (2) of the Albuquerque Zoning Code.

**DECISION:**

**APPROVAL WITH CONDITIONS** of a **VARIANCE** of 27 parking spaces to the minimum required 145 parking spaces for a proposed lot (B).

If you wish to appeal this decision, you may do so by 5:00 p.m., on February 23, 2015 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

Secured Debt Investments 2600 Douglas Rd , Suite 901 Coral Gables FL 33134  
Garcia/Kraemer & Assoc. 600 1ST ST Suite 211 Albuquerque NM 87102

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

SECURED DEBT INVESTMENTS -  
(GARCIA/KRAMER & ASSOC., AGENT)  
requests a special exception to Section 14-16-  
3-1(A)(21): a VARIANCE of 16 parking spaces  
to the minimum required 75 parking spaces for  
a proposed lot (A) for all or a portion of Lot A,  
Block 85D, PRINCESS JEANNE PARK ADDN  
zoned O-1, located on 10601 LOMAS BLVD  
NE (J-21)

Special Exception No:.....14ZHE-80291  
Project No: .....Project# 1010306  
Hearing Date: .....January 23, 2015  
Closing of Public Record: .....January 23, 2015  
Date of Decision: .....02-06-15

On the 23rd day of January, 2015 (hereinafter "Hearing") GARCIA/KRAMER & ASSOC., (hereinafter "Agent") acting as agent on behalf of the property owner SECURED DEBT INVESTMENTS (hereinafter "Applicant") appeared before the Zoning Hearing Examiner (hereinafter "ZHE") requesting a Variance of 16 parking spaces to the minimum required 75 parking spaces for a proposed lot (hereinafter "Application") upon the real property located at 10601 LOMAS BLVD NE ("Subject Property"). Below are the findings of facts:

**FINDINGS:**

1. Applicant is requesting a Variance of 16 parking spaces to the minimum required 75 parking spaces for a proposed lot.
2. The City of Albuquerque Zoning Code of Ordinances Section § 14-16-4-2 (C) (2) "SPECIAL EXCEPTIONS – VARIANCE" reads in part: "*A variance application shall be approved by the Zoning Hearing Examiner, if and only if, the Zoning Hearing Examiner finds all of the following:*
  - a. *The application is not contrary to the public interest or injurious to the community, or to property or improvements in the vicinity;*
  - b. *There are special circumstances applicable to the subject property which do not apply generally to other property in the same zone and vicinity such as size, shape, topography, location, surroundings, or physical characteristics created by natural forces or government action for which no compensation was paid;*
  - c. *Such special circumstances were not self-imposed and create an unnecessary hardship in the form of a substantial and unjustified limitation on the reasonable use or return on the property that need not be endured to achieve the intent and purpose of the Zoning Code (§14-16-1-3) and the applicable zoning district; and*
  - d. *Substantial justice is done.*

3. The ZHE finds that the Applicant has met its burden of providing evidence (both oral testimony and written material) that establishes that the Application is not going to be: (i) contrary to the public interest, (ii) injurious to the community; or (iii) injurious to the property/improvements located in the nearby vicinity of the Subject Property. Specifically, the Applicant provided testimony that the variance to the parking requirements will not be injurious because the long history of this site demonstrates that the existing parking is sufficient to meet the needs of the two office buildings (please see Exhibit A – chronology of aerial photographs demonstrating that there is rarely a “parking problem” at this site) [as required pursuant to Section § 14-16-4-2 (C) (2) (a)]. Additionally, the Applicant stated that this request is a result of a DRB request to re-plat the property, and if denied it would continue to operate as a two building office complex. The Applicant stated that there are no public complaints, notices of violation or any history of parking deficits located on the Subject Property. Further, the Application and testimony of the Applicant at the Hearing suggest that there is no neighborhood opposition to the Application.
4. The ZHE finds that the Applicant has met its burden of providing evidence (both oral testimony and written material) that establishes that there are “special circumstances” applicable to the Subject Property which do not apply generally to other property in the same zone and vicinity. Specifically, the Applicant provided testimony that the Subject Property was clearly authorized/entitled to park this volume of cars for years without any regulatory challenges by neighbors or City officials. In fact, the special circumstance of this office complex is that it was built in 1979 as a medical complex and there has been a decrease in demand for medical tenants and visitors to this office complex [as required pursuant to Section § 14-16-4-2 (C) (2) (b)]
5. The ZHE finds that the Applicant has met its burden of providing evidence (both oral testimony and written material) that establishes that the special circumstances presented hereinabove were not “self-imposed”, and that those special circumstances create an unnecessary hardship upon the Applicant. Specifically, the Applicant provided testimony that if they were denied the application and were not allowed to subdivide the office complex property that would complicate the Applicant’s ability to sell a portion (or all) of the subject property which constitutes an “*unjustified limitation on the reasonable use of the Subject Property*” [as required pursuant to Section § 14-16-4-2 (C) (2) (c)]
6. The ZHE finds that the Applicant has met its burden of providing evidence (both oral testimony and written material) that establishes that substantial justice will be done if this Application is approved. [as required pursuant to Section § 14-16-4-2 (C) (2) (d)]
7. Applicant testified at the Hearing that 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 (B) (4).

**CONCLUSIONS OF LAW:**

The Applicant has met their burden of submitting an Application that provides evidence that satisfies the elements required within §14-16-4-2 (C) (2) of the Albuquerque Zoning Code.

**DECISION:**

**APPROVAL WITH CONDITIONS** of a **VARIANCE** of 16 parking spaces to the minimum required 75 parking spaces for a proposed lot (A).

If you wish to appeal this decision, you may do so by 5:00 p.m., on February 23, 2015 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.



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Joshua J. Skarsgard, Esq.  
Zoning Hearing Examiner

cc: **Zoning Enforcement**  
**ZHE File**

**Secured Debt Investments 2600 Douglas Rd , Suite 901 Coral Gables FL 33134**  
**Garcia/Kraemer & Assoc. 600 1ST ST Suite 211 Albuquerque NM 87102**

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