

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

RICARDO ALVARADO request(s) a special exception to Section 14-16-2-6(B)(14): a CONDITIONAL USE to allow an existing 5' fence in the front yard setback area for all or a portion of Lot(s) 11, Block(s) 11, HOFFMANTOWN ADDN zoned R-1, located on 2701 GARCIA ST NE (H-20)

Special Exception No:..... **12ZHE-80249**
Project No:..... **Project# 1009391**
Hearing Date:..... 09-18-12
Closing of Public Record:..... 09-18-12
Date of Decision: 12-17-12

On the 18th day of September, 2012 (hereinafter "**Hearing**") Mr. Ricardo Alvarado, (hereinafter "**Applicant**") appeared before the Zoning Hearing Examiner (hereinafter "**ZHE**") requesting a conditional use to allow an existing 5' fence in the front yard setback area (hereinafter "**Application**") upon the real property located at 2701 Garcia St. NE ("**Subject Property**"). Below are the findings of facts:

FINDINGS:

1. Applicant is requesting a conditional use to allow a 5' fence in the front yard setback area.
2. The City of Albuquerque Code of Ordinances Section § 14-16-4-2 (C)(1) "SPECIAL EXCEPTIONS" reads in part: "Conditional Use. *A conditional use shall be approved if and only if the following tests are met: (a) the use proposed will not be injurious to the adjacent property, the neighborhood or the community.*"
3. Applicant testified at the Hearing that the proposed use will not be injurious to the adjacent property, the neighborhood or the community.
4. 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 the following tests are met: (b) the use proposed will not be significantly damaged by surrounding structures or activities.*"
5. Applicant testified at the Hearing that the proposed use will not be significantly damaged by surrounding structures or activities.
6. Applicant testified at the Hearing that the proposed use (wall) is attractive and in harmony with its site, the style of the wall blends architecturally with the adjacent residences and with the general streetscape and is consistent with the requirements of Section 14-16-3-19.
7. The Application, File and testimony of the Applicant at the Hearing suggest that there is no neighborhood opposition and there are no letters of opposition in the ZHE file.
8. Traffic Engineering previously rejected the request due to clear sight triangle problems. Mr. Alvarado has corrected the problem and traffic engineering has

sent written approval and expressed no objections and no clear sight triangle problems with the wall.

9. Applicant/Agent 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 SPECIAL EXCEPTIONS.
10. The Applicant/Agent has adequately justified the variance Application upon the Subject Property pursuant to City of Albuquerque Code of Ordinances Section § 14-16-4-2 SPECIAL EXCEPTIONS: a conditional use to allow an existing 5' fence in the front yard setback area located on 2701 Garcia St. NE.

DECISION:

APPROVAL of a conditional use to allow an existing 5' fence in the front yard setback area located on 2701 Garcia St. NE.

If you wish to appeal this decision, you may do so by 5:00 p.m., on January 2, 2013 in the manner described below:

Appeal is to the Board of Appeals within 15 days of the decision. A filing fee of \$50.00 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.

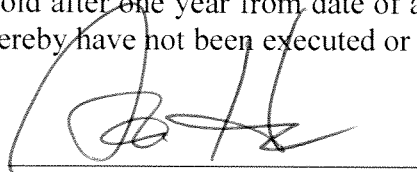
An appeal shall be heard by the Board of Appeals within 45 days of the appeal period and concluded within 75 days of the appeal period. The Planning Division shall give written notice of an appeal, together with a notice of the date, time and place of the hearing to the applicant, a representative of 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.
Zoning Hearing Examiner

cc: Zoning Enforcement
ZHE File
Ricardo Alvarado, 2701 Garcia St NE, 87112