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

SALLY & BOBBY HARGER request(s) a special exception to Section 14-16-4-13: a STATUS ESTABLISHED BUILDING REVIEW to allow two existing dwelling units in an R-1 zone on all or a portion of Lot(s) 34, FLORAL GARDENS zoned R-1, located at 2412 FLORAL RD NW (H-13)

Special Exception No:..... **10ZHE-80366**
Project No: ..... **Project# 1008572**
Hearing Date: 01-18-11
Closing of Public Record: 01-18-11
Date of Decision: 01-24-11

STATEMENT OF FACTS: The applicants, Sally & Bobby Harger, request a status established building review to allow two existing dwelling units in an R-1 zone. Tom Garcia, agent for the applicant, testified that his clients own this property. The dwelling units have been exiting since the 1940's and the current use does not interfere with the community nor does it cause damage to the surrounding properties. The yellow sign was posted. There was no opposition to this request at the hearing, nor is there any opposition noted in the file.

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:

FINDINGS AND CONCLUSIONS: I find that as provided for in Section 14. 16. 4. 13. (C). of the Zoning Ordinance, the current use of this status established building is nonconforming. The subject property is clearly identified by a site plan and the improvements upon it are accurately depicted. Further, the continuance of the use will not be contrary to the public health, safety or welfare of the community. The use, as currently operated and/or maintained, did not, and the continuance of the use is not likely to, significantly interfere with the enjoyment of, or be injurious to, other land in the vicinity. There will be no significant public purpose served by requiring removal of the use and the use, if continued, will not be damaged by surrounding structures or activities. Finally, continuance of the use does not create a significant disparity between the existing zoning and the status established building.

DECISION: Approved.

The approval is subject to the submitted site plan, as required. Any substantial changes to the site plan, as determined by the Zoning Enforcement Division, shall require the scheduling of an additional Public Hearing.

If you wish to appeal this decision, you may do so by 5:00 p.m., on February 8, 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.

Roberto Albertorio, Esq.
Zoning Hearing Examiner

cc: Zoning Enforcement
ZHE File
Sally & Bobby Harger, 9405 Vista del Valle SW, 87121