

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

MARCOS DIAS RAMIRES request(s) a special exception to Section Pg. 45 of the SOUTH BROADWAY SDP and 14-16-2-6(B)(14)(a)2: a CONDITIONAL USE to allow a fence over 3' in height in the front yard setback area for a proposed 5' high fence for all or a portion of Lot(s) 2, SANCHEZ-UBALDO ADDN zoned SU-2 MR, located on 1911 HINKLE ST SE (L 14)

Special Exception No:..... \*IR\* 12ZHE-80076  
Project No:..... Project# 1009176  
Hearing Date:..... 05-15-12  
Closing of Public Record:..... 05-15-12  
Date of Decision:..... 05-29-12

**STATEMENT OF FACTS:** The applicant, Marcos Dias Ramires, requests a conditional use to allow a fence over 3' in height in the front yard setback area for a proposed 5' high fence. Mr. Ramires testified that he has a lease agreement at the property at 1911 Hinkle Se and has lived there for 4 years. He testified that he feels that a 3' high fence is too low and would not secure his property, as well as provide protection for his family. The fence will meet design guidelines for walls and fences set forth in the City of Albuquerque Zoning Code. The fence will be 2' high concrete masonry unit with 3' high wrought iron on top. Mr. Ramires testified that there are other fences similar in the immediate surrounding neighborhood. He feels that this request would not be injurious to the surrounding neighborhood or community because the fence is built with safety in mind. He feels that the fence would enhance the area and bring a positive feel to the neighborhood. There is a letter from the Traffic Engineer's Office that indicates that there is no obstruction to the clear sight triangle requirements. Mr. Ramires was advised that if the request was approved, the clear sight triangle area must be maintained and vehicles, trash receptacles, or any landscaping that may mature and cause any obstruction to clear sight may not be placed next to the fence. The yellow signs were 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 there is substantial evidence to make the following findings and conclusions:

**FINDINGS AND CONCLUSIONS:** I find that this request complies with Section 14.16.4.2.(C).1., for the granting of a conditional use upon a finding that the proposed use will not cause injury to the neighborhood, adjacent property or the community, nor will it be damaged by surrounding structures.

**DECISION:** Approved with conditions.

**CONDITIONS:** The applicant must comply with any and all requirements made by the City Traffic Engineer in that clear sight must be maintained. Vehicles, dumpsters, or

landscaping that may mature and cause an obstruction to clear sight may not be placed next to this wall.

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.

A Building Permit must be applied for at the Building Permit Desk which is located at the Plaza del Sol Building, Ground Level on the east side of the lobby.

**If you wish to appeal this decision, you may do so by 5:00 p.m., on June 13, 2012 in the manner described below:**

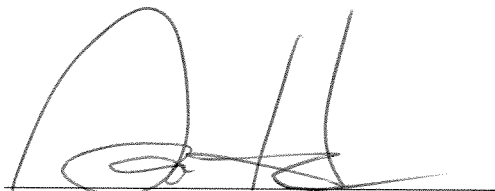
Appeal is to the Board of Appeals within 15 days of the decision. A filing fee of \$105.00 shall accompany each appeal application, as well as a written explanation outlining the reason for appeal and a copy of the ZHE decision. Appeals are taken at 600 2nd Street, Plaza Del Sol Building, Ground Level, 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.



Stanley D. Harada, Esq.  
Interim Zoning Hearing Examiner

cc: Zoning Enforcement  
ZHE File  
Marcos Dias Ramires, 1911 Hinkle St SE, 87102