



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

MARIA RODRIGUEZ request(s) a special exception to Section 14-16-2-5(B) 14-16-2-4(B)(1) and 14-16-2-6(B)(1): a CONDITIONAL USE to allow an existing building to be used as an accessory living quarters on all or a portion of Lot(s) 16, BOULEVARD GARDENS zoned RA-2, located at 2508 ORO VISTA RD NW (G-12)

Special Exception No:..... **11ZHE-80186**  
Project No:..... **Project# 1008905**  
Hearing Date: ..... 10-18-11  
Closing of Public Record: ..... 10-18-11  
Date of Decision: ..... 11-02-11

**STATEMENT OF FACTS:** The applicant, Maria Rodriguez, requests a conditional use to allow an existing building to be used as an accessory living quarters. Maria Bentacourt, daughter to the applicant, testified at the hearing that her mother has owned this property since 1972. She stated that the existing accessory living quarters was built by a contractor who did not obtain the proper building permits. The accessory structure has two bedrooms, 1 bathroom, a sink, refrigerator, and no stove. There is not a separate meter for this structure. The applicant testified they would make any required modifications. There is a letter of opposition noted in the file.

By definition, the accessory building is a building detached from and smaller than the main building on the same lot. It appears from the dimensions presented in the applicant's site plan and a site visit, the accessory living quarter's structure is close in size to the main house. The footprint of the accessory living quarters structure exceeds 25% of the side plus rear yards.

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 this request does not comply with Section 14. 16. 4. 2. (C). 1., for the granting of a conditional use upon a finding that the proposed use will cause injury to the neighborhood, adjacent property or the community, and will be damaged by surrounding structures. For reasons stated above, this request is denied.

**DECISION:** Denied.

If the modifications are made to comply with the building code and size requirements, the applicant may re-file the request for conditional use for accessory living quarters and the filing fee will be waived.

**If you wish to appeal this decision, you may do so by 5:00 p.m., on November 17, 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.



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Anita Reina, Esq.  
Deputy Zoning Hearing Examiner

cc: Zoning Enforcement  
ZHE File  
Maria Rodriguez, 2508 Oro Vista NW, 87107