



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

CRYSTAL MEDINA requests a special exception to Section 14-16-2-9(B) and 14-16-2-6(B)(12) : a CONDITIONAL USE to allow a proposed patio cover in the rear yard setback area for all or a portion of Lot 49A-P1, Block 1, DESERT GARDENS zoned R-T, located on 7901 SCOTTISH BROOM RD SW (L-10)

Special Exception No: *IR* 15ZHE-80004
Project No: Project# 1010337
Hearing Date: February 20, 2015
Closing of Public Record: February 20, 2015
Date of Decision: 03-05-15

On the 20th day of February, 2015 (hereinafter “**Hearing**”) CRYSTAL MEDINA, (hereinafter “**Applicant**”) appeared before the Zoning Hearing Examiner (hereinafter “**ZHE**”) requesting a Conditional Use to allow a proposed patio cover in the rear yard setback area (hereinafter “**Application**”) upon the real property located at 7901 SCOTTISH BROOM RD SW (“**Subject Property**”). Below are the findings of facts:

FINDINGS:

1. Applicant is requesting a Conditional Use to allow a proposed patio cover in the rear yard setback area.
2. The City of Albuquerque Code of Ordinances Section § 14-16-4-2 (C) (1) (a) “SPECIAL EXCEPTIONS” reads in part: “*A conditional use shall be approved if and only if, in the circumstances of the particular case and under conditions imposed, the use proposed will not be injurious to the adjacent property, the neighborhood, or the community.*”
3. Applicant testified at the Hearing that the Conditional Use, if approved, will not be injurious to the adjacent property, neighborhood, or the community because the proposed patio cover in the rear yard setback complies with the zoning code requirements of Section 14-16-2-6 (B) (12): (i) no part is within three feet of a property line; (ii) no building wall is built in the required setback; (iii) no more than 50% of the required rear yard setback area is covered by a roof; (iv) the structure does not exceed 12 feet in height; (v) second floor deck will not be located on top of the patio structure (vi) the structure is designed to be in harmony with the building site (stucco color matches the home). Additionally, the Applicant provided testimony that they are not aware of any opposition to the application and believe that it will not be injurious to the community. In fact, the Applicant stated there are some other patio covers in the neighborhood within the rear yard (establishing some precedent).
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, in the circumstances of the particular case and under conditions imposed, the use proposed will not be significantly damaged by surrounding structures or activities.*”

5. Applicant testified at the Hearing that the proposed conditional use, will not be significantly damaged by the surrounding structures or activities.
6. 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.
7. The Applicant has adequately justified the Conditional Use request pursuant to City of Albuquerque Code of Ordinances § 14-16-4-2 SPECIAL EXCEPTIONS.

DECISION:

APPROVAL WITH CONDITIONS of a CONDITIONAL USE to allow a proposed patio cover in the rear yard setback area.

CONDITIONS OF APPROVAL:

- A. The Applicant shall comply with the zoning code requirements of Section 14-16-2-6 (B) (12):
 - a. no part is within three feet of a property line;
 - b. no building wall is built in the required setback;
 - c. no more than 50% of the required rear yard setback area is covered by a roof;
 - d. the structure does not exceed 12 feet in height;
 - e. second floor deck will not be located on top of the patio structure
 - f. the structure is designed to be in harmony with the building site (stucco color matches the home).

If you wish to appeal this decision, you may do so 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.



Joshua J. Skarsgard, Esq.
Zoning Hearing Examiner

cc: Zoning Enforcement
ZHE File
Crystal Medina; 7901 Scottish Broom Rd SW Albuquerque, NM 87121