

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

ALBUQUERQUE BREWING COMPANY (MICHAEL MARSH) request(s) a special exception to Section 14-16-2-17(B)(15): a CONDITIONAL USE to allow the proposed manufacturing and retailing of beer for off premises consumption under a small brewers license for all or a portion of Lot(s) Y, Block(s) 10, VALLEY VIEW ADDN zoned CCR-3, located on 400 WASHINGTON ST SE (K-17)

Special Exception No:..... **12ZHE-80248**
Project No: **Project# 1009390**
Hearing Date: 09-18-12
Closing of Public Record: 09-18-12
Date of Decision: 10-03-12

On September 18, 2012, Michael Marsh appeared in front of Interim Hearing Officer, Stanley D. Harada for a conditional use to allow the proposed manufacturing and retailing of beer for off premises consumption under a small brewer's license at 400 Washington St SE.

SUMMARY:

1. Mr. Marsh does not expect any significant change in traffic patters due to this request.
2. Mr. Marsh testified that this request will not be injurious so the surrounding community and will not damage any surrounding structures
3. Mr. Marsh testified that he does not currently hold a liquor license, but this is a step he needs to take to apply for the liquor and small brewer's license.
4. Mr. Marsh testified that they are in negotiations to leases the building at 400 Washington St NE for three years.
5. There was a facilitated meeting conducted on September 6, 2012 between the applicants and the Nob Hill and Highland Business Neighborhood Association.
6. Mr. Marsh testified that at the facilitated meeting that is on file that his partners met with Nob Hill and HBNA to discuss the plan for the business. During this meeting, the neighborhood associations came up with some potential problematic issues. One of the main issues was the time that the business was going to open. The applicants had not set an opening time yet and were willing to work with the neighborhoods to come up with a time that best suits everyone. The other issue was the proximity to Highland High School. Mr. Marsh and his partners are willing to work out any issues pertaining to the school.
7. Mr. Marsh testified the Nob Hill Neighborhood Association voted 4 to 0 in favor of the proposed request.
8. Mr. Marsh testified that members of the Highland High School staff were invited to the facilitated meeting, and no one showed up. Mr. Marsh stated

the principal of High School was sent a letter, and they have not heard any adverse comments to date.

9. Mr. Marsh testified that the business will have a tap room for approximately 25 people, as well as sale off premise products.
10. Mr. Marsh testified they will be brewing a high-end product, which will attract corresponding customers. There will be a 3 beer limit which will be strictly enforced.
11. Mr. Marsh testified there will be food trucks placed in the parking lot from time to time. Neighborhood Associations would not like big noisy generators to be running all the time that the trucks are out there.
12. Mr. Marsh testified that he will not have big generators out there, but would use electricity from the business to minimize the noise issue.
13. Mr. Marsh testified that his partners and he are looking to pull in the pedestrian traffic and cyclists.
14. Mr. Marsh testified that he lives in this neighborhood, and he does not want to see a business that causes a detriment to the neighborhood. He would actually like to see the neighborhood grow.
15. There was no opposition at the hearing nor was there any letters of opposition in the file.
16. The yellow signs were posted for the prescribed time.

CONCLUSION: Mr. Marsh has proved the burden for a conditional for a conditional use to allow the proposed manufacturing and retailing of beer for off premises consumption under a small brewer's license at 400 Washington St SE. . The property does not appear to show any evidence of being injurious to the surrounding community, nor will it damage any adjacent properties in the area.

DECISION: Approved with conditions.

CONDITIONS:

1. The applicant must abide by the small brewery license. Any deviation of the license or any other city and state laws that may apply will be grounds for rescinding this approval.
2. Applicant shall secure the section of business and do not allow patrons to trespass onto adjacent storage building.
3. Applicant shall not use generators to run the food trucks that are proposed at the business.

If you wish to appeal this decision, you may do so by 5:00 p.m., on October 18, 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

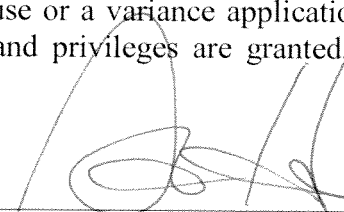
reason for appeal and a copy of the ZHE decision. Appeals are taken at 600 2nd Street, Plaza Del Sol Building, Ground Level, Planning Application Counter located on the west side of the lobby. **Please present this letter of notification when filing an appeal.** When an application is withdrawn, the 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

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ZHE File