

CITY OF ALBUQUERQUE
PLANNING DEPARTMENT
ZONING HEARING EXAMINER
NOTIFICATION OF DECISION

LAURA MANIRE request(s) a special exception to Section 14-16-2-9(B) and 14-16-2-6(B)(7): a CONDITIONAL USE for a proposed acupuncture site in a residential zone for all or a portion of Lot(s) 13, Block(s) 5, LA MESA zoned R-T, located on 246 MESILLA ST NE (K19)

Special Exception No:..... **12ZHE-80328**
Project No: **Project# 1009477**
Hearing Date: 11-19-12
Closing of Public Record: 11-19-12
Date of Decision: 12-06-12

On the 19th day of November, 2012 (hereinafter “**Hearing**”) Ms. Laura Manire (hereinafter “**Applicant**”) appeared before the Zoning Hearing Examiner (hereinafter “**ZHE**”) requesting a CONDITIONAL USE for a proposed acupuncture site in a residential zone (hereinafter “**Application**”) upon the real property located at 246 MESILLA ST NE (“**Subject Property**”). Below are the findings of facts:

FINDINGS:

1. Applicant is requesting a CONDITIONAL USE for a proposed acupuncture site in a residential zone.
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 facility will provide much needed acupuncture services to the surrounding community and there will not be extensive parking or traffic generated by the acupuncture use.
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 because the adjacent church will provide parking for her acupuncture use.
6. Mr. Jesus Ramirez spoke in opposition to the Conditional Use. He indicated that he lives 6 houses away and has been in the neighborhood for 23 years. He indicated that the lot is poorly maintained and that there is no parking on the lot to accommodate the acupuncture use. He also mentioned that the sidewalk would be

- potentially compromised so that kids would have a dangerous time biking on the sidewalks.
7. Mr. Charlie Bennett spoke in support of the Application. He is the treasurer of the La Mesa Neighborhood Association. He believes that this would be an enhancement to the neighborhood.
 8. The Reverend of the La Mesa Presbyterian Church stated in a letter that “we are happy to offer the church parking lot as a place for her clients to park for their sessions.”
 9. 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.
 10. 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** for a proposed acupuncture site in a residential zone upon the real property located at 246 MESILLA ST NE.

CONDITIONS OF APPROVAL:

1. The Applicant shall at all time ensure that vehicles parked on the Subject Property do not block the sidewalk.
2. The Applicant shall secure a parking agreement with the La Mesa Presbyterian Church ensuring that in the event the acupuncture business parking burdens the adjacent right of way, that the Applicant is allowed to park customers within the La Mesa Presbyterian Church parking lot to alleviate any parking congestion.

If you wish to appeal this decision, you may do so by 5:00 p.m., on December 21, 2012 in the manner described below:

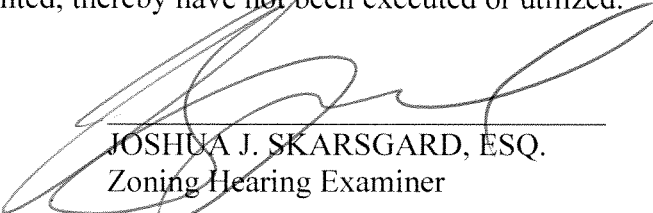
Appeal is to the Board of Appeals within 15 days of the decision. A filing fee of \$50.00 shall accompany each appeal application, as well as a written explanation outlining the reason for appeal and a copy of the ZHE decision. Appeals are taken at 600 2nd Street, Plaza Del Sol Building, Ground Level, 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
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