



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

EDIK MANUKYAN requests a special exception to Section 14-16-2-6(B)(14)(a)(2): a **CONDITIONAL USE** for a proposed 4' wall with gates in the required front setback for all or a portion of Lot 3, Block 11, BEL-AIR zoned R-1, located on 2437 PALOMAS DR NE (H-18)

Special Exception No:.....**14ZHE-80221**  
Project No: .....**Project# 1010219**  
Hearing Date: .....January 23, 2015  
Closing of Public Record: .....January 23, 2015  
Date of Decision:.....02-06-15

On the 23rd day of January, 2015 (hereinafter "**Hearing**") EDIK MANUKYAN (hereinafter "**Applicant**") appeared before the Zoning Hearing Examiner (hereinafter "**ZHE**") requesting a Conditional Use for a proposed 4' wall with gates in the required front setback (hereinafter "**Application**") upon the real property located at 2437 PALOMAS DR NE ("**Subject Property**"). Below are the findings of facts:

**FINDINGS:**

1. Applicant is requesting a Conditional Use for a proposed 4' wall with gates in the required front setback.
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 this wall will have a 4 foot wrought iron fence along the property line with 4 x 4 steel pylons for support spaced adequately to allow people to see through the wrought iron portions of the fence. The DMD engineer Mr. Paul Sanchez approved the design of this wall and stated that it will not hinder any of the clear sight triangle requirements. For these reasons, the ZHE believes that this wall will not be injurious to the community.
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 ZHE received a letter from Mary Watman (2441 Palomas Dr). The letter stated that she opposed the Application because it "blocked the view of my driveway and that of Mr. Manukyan's other neighbor." The ZHE respects the opinion expressed by the neighbor in this letter dated November 4, 2014. However, the design of this fence is comprised of wrought iron and has adequate spacing in between the poles to allow for visibility (according to the DMD Engineer Mr. Paul Sanchez). The ZHE believes that the material used in this wall will not materially damage the view of the neighboring driveway.
8. 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 for a proposed 4' wall with gates in the required front setback.

**CONDITIONS OF APPROVAL:**

- A. The Applicant shall adhere to the *design guidelines* for walls and fences as set forth in the City of Albuquerque Zoning Code.
- B. The Applicant shall abide by the City of Albuquerque Traffic Engineer approval to keep the wall's clear sight triangle free of obstructions.
- C. The Applicant shall ensure that no portion of the fence exceeds four feet in height.
- D. The four foot fence shall be composed of wrought iron fencing with 4 x 4 steel pylons for support spaced adequately to allow people to see through the wrought iron portions of the fence.

If you wish to appeal this decision, you may do so by 5:00 p.m., on February 23, 2015 in the manner described below:

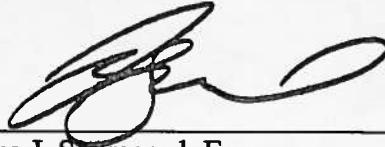
Appeal is to the Board of Appeals within 15 days of the decision. A filing fee of \$105.00 shall accompany each appeal application, as well as a written explanation outlining the reason for appeal and a copy of the ZHE decision. Appeals are taken at 600 2nd Street, Plaza Del Sol Building, Ground Level,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

cc: Zoning Enforcement  
ZHE File  
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