



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

KIN LAW (CARL SHAININ, AGENT) requests a special exception to Section 14-16-2-16(B)(13) : a CONDITIONAL USE to allow outdoor storage and display of stone for all or a portion of Lot C, Block 7, Boyds Addn zoned C-1, located on 6221 MONTGOMERY BLVD NE (F-18)

Special Exception No: **15ZHE-80236**
Project No:..... **Project# 1010592**
Hearing Date:..... 10-20-15
Closing of Public Record:..... 10-20-15
Date of Decision: 10-30-15

On the 20th day of October, 2015(hereinafter “**Hearing**”) CARL SHAININ (hereinafter “**Agent**”) acting as agent on behalf of the property owner KIN LAW (hereinafter “**Applicant**”) appeared before the Zoning Hearing Examiner (hereinafter “**ZHE**”) requesting a Conditional Use to allow outdoor storage and display of stone (hereinafter “**Application**”) upon the real property located at 6221 MONTGOMERY BLVD NE (“**Subject Property**”). Below are the findings of facts:

FINDINGS:

1. Applicant is requesting a Conditional Use to allow outdoor storage and display of stone.
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 provided evidence that the Conditional Use, if approved, will not be injurious to the adjacent property, neighborhood, or the community because:
 - a. The granite in A-frames will occupy only 12’ of the existing 50.1’ yard.
 - b. The location will lessen the view of the slabs from Montgomery Blvd.
 - c. The location will lessen the conversational noise of customers to the adjoining residential uses.
 - d. The alley will remain clear for delivery.
 - e. No fabrication will occur on site.
 - f. The existing business has a long presence in and relationship with the community and denial of the Application would result in inability to use the premises for this purpose, as the ceilings in the building are not tall enough to store the materials indoors.
4. The ZHE took testimony from Sharon Gross, owner of a nearby property, expressing a number of concerns related to the current use and the Application.

5. The ZHE has the authority to approve, deny, or approve with conditions the Application.
6. Upon close review of the concerns expressed, the ZHE determines that the concerns can be substantially addressed by conditioning the approval and denial of an otherwise conforming application is not necessary. The conditions of approval are as listed below.
7. 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.*”
8. Applicant testified at the Hearing that the proposed conditional use, will not be significantly damaged by the surrounding structures or activities due to the commercial nature of surrounding uses, the nature of the proposed use and its location.
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** to allow outdoor storage and display of stone.

CONDITIONS OF APPROVAL:

- A. Outside storage shall be for stone slabs on A-frames at ground level only. All debris, pallets and trash shall be removed and shall not be allowed to accumulate. Pallets, broken stone and other materials may be placed outside for pickup to occur within 24 hours.
- B. Outside storage shall be limited to the area shown as “proposed new storage of granite slabs” on the partial “Portion of Lot C, Block 7 Boyd’s Addition” plat submitted with the application and made a part of this order.
- C. No fabrication shall occur outdoors on the site.

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.



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