

City of Santa Fe  
Board of Adjustment  
Findings of Fact and Conclusions of Law

Case #2015-62

802 Canyon Road Special Use Permit

Owner's Name – Neema Sadeghi

THIS MATTER came before the Board of Adjustment (Board) for hearing on July 7, 2015 (Hearing) upon the application (Application) of Neema Sadeghi (Applicant).

The Application seeks a special use permit to operate a restaurant (Project) on property located at 802 Canyon Road (Property). The Property is zoned RAC (Residential Arts and Crafts – 21 dwelling units/acre).

After conducting a public hearing and having heard from staff and all interested persons, the Board hereby FINDS, as follows:

FINDINGS OF FACT

1. The Board heard reports from staff and received testimony and evidence from the Applicant and two members of the public interested in the matter.
2. Pursuant to Code §14-2.4(C)(2) the Board has the authority to hear and decide applications for special use permits as provided in Santa Fe City Code (Code).
3. Pursuant to Code §14-3.6(B) the Board has the authority to hear and decide applications for special use permits in accordance with applicable provisions of Code Chapter 14; to decide questions that are involved in determining whether special use permits should be granted; and to grant special use permits with such conditions and safeguards as appropriate under Code Chapter 14; or to deny special use permits when not in harmony with the intent and purpose of Code Chapter 14.
4. Pursuant to Code §14-6.1(C) Table 14-6.1-1, entitled “Table of Permitted Uses”, full service restaurants are permitted Food and Beverages uses in RAC districts if reviewed and approved as special use permits in accordance with the review procedures of §14-3.6.
5. The Property is located in an RAC district.
6. Code Section 14-3.6(C) sets out the procedures to be followed prior to the grant by the Board of a special use permit, including:
  - (a) Approval of a site plan for the Project and other site development drawings necessary to demonstrate that the Project can be accomplished in conformance with applicable Code standards [Section 14-3.6(C)(1)];
  - (b) Submittal of an application indicating the Code section under which the special use permit is sought and stating the grounds on which it is requested [Section 14-3.6(C)(2)];and

- (c) That a special use permit is limited to the specific use and intensity granted, requiring a new or amended special use permit if the use is changed or intensified [Section 14-3.6(C)(3)].
- 7. Code Section 14-3.6(D)(1) sets out certain findings that the Board must make to grant a special use permit, including:
  - (a) That the Board has the authority to grant a special use permit for the Project [Section 14-3.6(D)(1)(a)];
  - (b) That granting a special use permit for the Project does not adversely affect the public interest [Section 14-3.6(D)(1)(a)]; and
  - (c) That the Project is compatible with and adaptable to adjacent properties and other properties in the vicinity of the Project [Section 14-3.6(D)(1)(c)].
- 8. Code Section 14-3.6(D)(2) authorizes the Board to specify conditions of approval for a special use permit to accomplish the proper development of the area and to implement the policies of the general plan.
- 9. Code Section 14-3.1(F)(2)(a)(viii) requires an ENN for special use permits and Code Section 14-3.1(F)(4)-(6) establishes procedures for the ENN, including:
  - (a) Compliance with the notice requirements of Code Section 14-3.1(H) [Section 14-3.1(F)(4)];
  - (b) Timing for the ENN meeting and the principles underlying its conduct [Section 14-3.1(F)(5)]; and
  - (c) Guidelines for the conduct of the ENN meeting [Section 14-3.1(F)(6)].
- 10. Notice was properly given in accordance with the notice requirements of Code Section 14-3.1(H)(1)(a)-(d).
- 11. An ENN meeting was held on June 11, 2015 at the Main Library at 145 Washington Avenue.
- 12. The ENN meeting was attended by the Applicant, City staff, and other interested parties, and the discussion followed the guidelines set out in Code Section 14-3.1(F)(6).
- 13. The Applicant submitted a site plan and an application indicating the Code section under which the special use permit was being sought and stating the grounds for the request.
- 14. Board staff provided the Board with a report (Staff Report) evaluating the factors relevant to the proposed special use permit and recommending approval by the Board of such special use permit.
- 15. Granting the special use permit for the Project will not adversely affect the public interest in that the restaurant use is consistent with previously approved and established uses the Property and is permitted with a special use permit in the RAC district; parking requirements are the same for a restaurant use as for a gallery use; existing parking is maintained as a nonconforming and the Project will not intensify parking requirements; and there is a city parking lot across the street.
- 16. The Project is compatible with and adaptable to adjacent properties and to other properties in the vicinity of the Project in that there are other food service establishments in the vicinity serving patrons of the art galleries that are found on Canyon Road, as well as residents who live on Canyon Road and the immediately adjacent neighborhood; the building the Project will occupy is an existing building in a style compatible with adjacent buildings and structures.

CONCLUSIONS OF LAW

Under the circumstances and given the evidence and testimony submitted during the hearing, the Commission CONCLUDES as follows:

1. The Board has the power and authority under Code §§14-2.4(C)(2) and 14-3.6(B) and Code §14-6.1(C) Table 14-6.1-1 to grant the special use permit applied for.
2. The special use permit was properly and sufficiently noticed via mail, publication, and posting of signs in accordance with Code requirements.
3. The ENN meeting complied with the requirements established under the Code.
4. The granting of the special use permit will not adversely affect the public interest.
5. The Project is compatible with and adaptable to adjacent properties and to other properties in the vicinity of the Project.
6. The special use permit granted herewith is granted for the specific use and intensity applied for, and no change of use or more intense use shall be allowed unless approved by the Board under a new or amended special use permit or as otherwise permitted by applicable Code.
7. The special use permit granted herewith shall expire if (a) it is not exercised within three (3) years of the date these Findings of Fact and Conclusions of Law are adopted by vote of the Board, subject to any right of the Applicant under applicable Code to request an extension of such time or (b) it ceases for any reason for a period of one hundred eighty (180) days.
8. The Board approves and grants the special use permit

**IT IS SO ORDERED ON THE \_\_\_\_\_ OF AUGUST 2015 BY THE BOARD OF ADJUSTMENT OF THE CITY OF SANTA FE**

\_\_\_\_\_  
Gary Friedman  
Chairperson

\_\_\_\_\_  
Date:

FILED WITH THE CITY CLERK:

\_\_\_\_\_  
Yolanda Y Vigil  
City Clerk

\_\_\_\_\_  
Date:

APPROVED AS TO FORM:

\_\_\_\_\_  
Zachary Shandler  
Assistant City Attorney

\_\_\_\_\_  
Date: