



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

MARBLE BREWERY INC
(GARCIA/KRAEMER&ASSOC, AGENT)
requests a special exception to Section 14-16-2-17(B)(19) : a CONDITIONAL USE to allow manufacturing of beer as an accessory use in the C-2 zone for all or a portion of Lot U.S Post Office, Coda Development zoned C-2, located on 9904 MONTGOMERY BLVD NE (G-21)

Special Exception No: **15ZHE-80252**
Project No:..... **Project# 1010607**
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**”) GARCIA/KRAEMER & ASSOC, (hereinafter “**Agent**”) acting as agent on behalf of the property owner MARBLE BREWERY INC (hereinafter “**Applicant**”) appeared before the Zoning Hearing Examiner (hereinafter “**ZHE**”) requesting a Conditional Use to allow manufacturing of beer as an accessory use in the C-2 zone (hereinafter “**Application**”) upon the real property located at 9904 MONTGOMERY BLVD NE (“**Subject Property**”). Below are the findings of facts:

FINDINGS:

1. Applicant is requesting a Conditional Use to allow manufacturing of beer as an accessory use in the C-2 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 provided evidence that the Conditional Use, if approved, will not be injurious to the adjacent property, neighborhood, or the community because:
 - a. The use will occupy a currently vacant space.
 - b. It will create an amenity for the neighborhood.
 - c. The number of drinks will be limited.
 - d. Bands will be located in the building, facing away from the residential areas.
 - e. The clientele will by the nature of the business be respectful to the neighborhood.
 - f. An indoor sound barrier/curtain wall will be erected.
 - g. Operating the business in harmony with the neighborhood will be a top priority.
 - h. All noise ordinances will be obeyed.
 - i. Deliveries will be made during business hours.

- j. No noxious fumes or vibrations will occur.
4. Several neighbors testified and, although generally supportive of the project did express concern about noise from the brewery operations, bands and deliveries.
5. The neighbors request a 'sound wall' be constructed on the property line between the subject property and their homes, which would be Lots 3 and 4 of Block 1, San Gabriel Village Unit 4.
6. The ZHE is sympathetic to the concerns about potential injury from noise from the proposed use and, although the conditional use is for manufacturing of beer, based on Applicant's testimony that the small level manufacturing is an essential part of the business plan it is reasonable to condition approval of the conditional use on addressing potential injury from the project that may not be directly attributable to the manufacturing portion of the business.
7. No specifications for a sound wall were presented. Another use for which sound screening is desired in the C-2 zone, drive-in restaurants, require a "solid wall or fence at least six feet high shall be erected" § 14-16-2-17(A)(13)(f).
8. 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.*"
9. Applicant presented evidence that the proposed conditional use will not be significantly damaged by the surrounding residential structures or activities due to its location, nature, type of construction and proposed use.
10. 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.
11. 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 manufacturing of beer as an accessory use in the C-2 zone.

CONDITIONS OF APPROVAL:

- A. Deliveries shall be limited to daytime as that term is defined in Art. 9 (Noise Control Ordinance) ROA 1994 as amended.
- B. A solid wall or fence at least six feet high shall be erected on subject property abutting the property line of Lots 3 and 4 of Block 1, San Gabriel Village Unit 4.

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

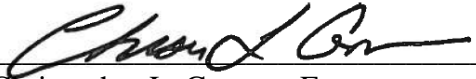
taken at 600 2nd Street, Plaza Del Sol Building, Ground Level, Planning Application Counter located on the west side of the lobby. **Please present this letter of notification when filing an appeal.** When an application is withdrawn, the fee shall not be refunded.

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.



Christopher L. Graeser, Esq.
Zoning Hearing Examiner

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CITY OF ALBUQUERQUE
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ZONING HEARING EXAMINER
NOTIFICATION OF DECISION

MARBLE BREWERY INC Special Exception No: **15ZHE-80253**
(GARCIA/KRAEMER&ASSOC, AGENT) Project No:..... **Project# 1010607**
requests a special exception to Section 14-16-2-17(B)(18) : a CONDITIONAL USE to allow
retail sale of alcoholic drink for consumption off premises for a proposed taproom and small
brewery in the C-2 zone for all or a portion of Lot U.S Post Office, Coda Development
zoned C-2, located on 9904 MONTGOMERY BLVD NE (G-21) Closing of Public Record:..... 10-20-15
Date of Decision: 10-30-15

On the 20th day of October, 2015 (hereinafter “**Hearing**”) GARCIA/KRAEMER & ASSOC, (hereinafter “**Agent**”) acting as agent on behalf of the property owner MARBLE BREWERY INC (hereinafter “**Applicant**”) requesting a Conditional Use to allow retail sale of alcoholic drink for consumption off premises for a proposed taproom and small brewery in the C-2 zone (hereinafter “**Application**”) upon the real property located at 9904 MONTGOMERY BLVD NE (“**Subject Property**”). Below are the findings of facts:

FINDINGS:

1. Applicant is requesting a Conditional Use to allow retail sale of alcoholic drink for consumption off premises for a proposed taproom and small brewery in the C-2 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 provided evidence that the Conditional Use, if approved, will not be injurious to the adjacent property, neighborhood, or the community because:
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9. Applicant presented evidence that the proposed conditional use will not be significantly damaged by the surrounding residential structures or activities due to its location, nature, type of construction and proposed use.
10. 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.
11. 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 retail sale of alcoholic drink for consumption off premises for a proposed taproom and small brewery in the C-2 zone.

CONDITIONS OF APPROVAL:

- A. Deliveries shall be limited to daytime as that term is defined in Art. 9 (Noise Control Ordinance) ROA 1994 as amended.
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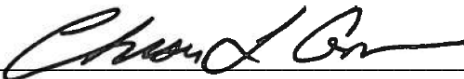
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