



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

CALVARY ALBUQUERQUE INC (DEVIN CANNADY, AGENT) requests a special exception to Section 14-16-2-17(B)(3): CONDITIONAL USE to allow a church in a C-2 zone for all or a portion of Lot 5-A-1-A, Lands of Joel P Taylor zoned C-2 (SC), located on 6051 WINTER HAVEN RD NW (E 12)

Special Exception No: .....17ZHE-80283  
Project No: .....Project# 1011472  
Hearing Date: .....02-20-18  
Closing of Public Record: .....02-20-18  
Date of Decision: .....03-07-18

On the 20th day of February, 2018, DEVIN CANNADY ("Agent") acting as agent on behalf of the property owner CALVARY ALBUQUERQUE INC ("Applicant") appeared before the Zoning Hearing Examiner ("ZHE") requesting a conditional use to a church in a C-2 zone ("Application") upon the real property located at 6051 Winter Haven Road NW ("Subject Property"). Below are the ZHE's findings of fact and decision:

FINDINGS:

1. Applicant is requesting a conditional use to allow a church in a C-2 zone.
2. The City of Albuquerque Code of Ordinances Section 14-16-4-2(C)(1) (Special Exceptions – Conditional Use) reads: *"A conditional use shall be approved if and only if, in the circumstances of the particular case and under conditions imposed, the use proposed:*
  - (a) *Will not be injurious to the adjacent property, the neighborhood, or the community;*
  - (b) *Will not be significantly damaged by surrounding structures or activities.*
3. The Applicant bears the burden of ensuring there is evidence in the record supporting a finding that the above criteria are met under Section 14-16-4-2(C).
4. The ZHE conducted a hearing on the Application January 16, 2018.
5. The Applicant presented evidence in support of the Application and individuals in opposition to the Application also presented evidence.
6. Neighbors to the project voiced objections to the Application addressing four areas of concern:

A. Traffic: a generalized concerns about increased traffic as a result of the approval of the Application and overflow traffic would further cause congestion on Winter Haven Drive NW; a street to the immediate east of the proposed site. Heavier traffic could cause additional hazards to pedestrians and bicyclists and increased traffic as a result of the project could cause additional traffic problems in exiting the area, either onto Coors or Montano Blvd.

B. Parking: concerns were expressed about the lack of sufficient parking to accommodate the number of persons estimated to attend services at the church.

C. Noise: a fear that the outdoor speakers in the Applicant's patio/open area would disturb the quiet enjoyment of the nearby neighborhood.

D. Future liquor license transfers might be adversely impacted by the church's location.

7. Taylor Ranch Neighborhood Association received written notification of the application and the scheduled hearing.
8. Several neighbors stated that their neighborhood associations or homeowners associations were not notified of the Application or scheduled hearing.
9. Pursuant to §§14-16-4-2 (B)(2)(d) ROA, 1999, and as amended requires written notification of the Application and scheduled hearings to neighborhood associations and homeowners associations registered with the CABQ Office of Neighborhood Coordination.
10. Taylor Ranch NA is the only neighborhood association or homeowners association currently listed with the City of Albuquerque Office of Neighborhood Coordination.
11. The ZHE requested a facilitated meeting with the Applicant and opposition to the Application under the City of Albuquerque Land Use Facilitation Program to specifically attempt to resolve the primary issues brought forth during the hearing on the Petition.
12. CABQ Traffic Engineering submitted an update dated January 29, 2018. The transportation section stated no objection to the exception and found a Traffic Impact Study ("TIS") is not required if the square footage of the building is staying the same and the request is only for a change of use.
13. The Facilitation Meeting was conducted by Jessie Lawrence, CABQ Contract Meeting Facilitator and Co-Facilitator Kathleen Oweegon on February 1, 2018 at the Taylor Ranch Community Center.
14. Over 50 individuals signed into the meeting and participated.
15. Applicant's agent and several individuals supporting the Application also participated.
16. Bosque Montano HOA, Taylor Ranch NA, Bosque Meadows NA, Casitas del Rio II HOA, Oxbow Village, Milne and Ladera NA each had representatives who appeared, signed in and participated in the Facilitated Meeting.
17. A Project Meeting Report dated February 3, 2018 and an Amended Report dated February 12, 2018 were submitted by the Facilitators to the ZHE.
18. Four main areas of concern by neighbors were addressed and discussed during the meeting.
19. These areas were: traffic, parking, noise and future liquor license transfer obstruction by the applicant.
20. A project meeting report dated February 3, 2018 was submitted by the facilitators to the ZHE.
21. A response from the Applicant to that report was submitted to the ZHE February 9, 2018.
22. A Facilitated Meeting Report Amendment prepared by Jessie Lawrence dated February 12, 2018 was submitted to the ZHE.
23. The final hearing on the Application was conducted February 20, 2018.

24. Additional evidence in opposition was presented by individuals at the February 20, 2018 ZHE hearing on the Application.
25. Objection was made that Applicant failed to post signage for the February 20, 2018 ZHE Hearing.
26. Pursuant to §§14-16-4-2 ROA, 1999, and as amended does not require posted signs for a deferred hearing.
27. David Cannady, Agent for Application presented final evidence in support of the Application and in response to remaining questions in the Facilitation Meeting Report.
28. The ZHE finds that the parking requirements for project are controlled by the Montano Plaza Plan for Subdivision & Site Plan.
29. The ZHE finds that noise issues are controlled by The Noise Control Ordinance.
30. The ZHE finds that parking on Winter Haven is controlled by the Traffic Code.
31. The ZHE finds that parking and traffic issues are not within the purview of the ZHE and the Board of Appeals supports this finding.
32. The ZHE finds liquor license and transfer issues are controlled by the New Mexico Liquor Control Act and is outside the purview of the ZHE as well.
33. The ZHE finds that in the proposed use will not be significantly damaged by surrounding structures or activities as required by Section 14-16-4-2(C)(1)(b).
34. The ZHE finds that the proper "Notice of Hearing" signage was posted for the required time period as required by Section 14-16-4-2(B)(4).
35. The ZHE finds that the Applicant has authority to pursue this application.
36. If the conditions below are met, the ZHE finds the proposed use will not be injurious to the adjacent property, the neighborhood or the community as required by Section 14-16-4-2(C)(1)(a).

#### APPROVAL WITH CONDITIONS:

The Applicant shall comply with the approved Montano Plaza Site Plan.

The Applicant shall comply the City of Albuquerque Noise Control Ordinance.

The Applicant shall comply with the City of Albuquerque Traffic Code.

#### DECISION:

APPROVAL of a conditional use to allow a church in a C-2 zone.

If you wish to appeal this decision, you must do so by March 22, 2018, in the manner described below. A non-refundable filing fee will be calculated at the Planning Department's Land Development Coordination counter and is required at the time the Appeal is filed.

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

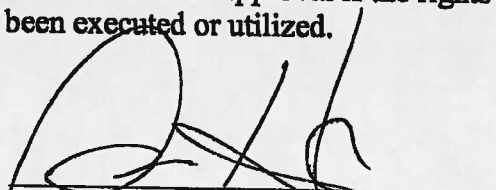
outlining the reason for appeal and a copy of the ZHE decision. Appeals are taken at 600 2nd Street, Plaza Del Sol Building, Ground Level, Planning Application Counter located on the west side of the lobby. **Please present this letter of notification when filing an appeal.** When an application is withdrawn, 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.



Stan Harada  
Zoning Hearing Examiner

cc: Zoning Enforcement  
ZHE File  
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