



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

PETE DASKALOS (DAC ZONING & LAND USE SERVICES, AGENT) requests a special exception to Section 14-16-2-16(B)(6): a CONDITIONAL USE to allow a drive-up service window for all or a portion of Tract(s) H91, RIVERVIEW zoned C-1(SC), located on 8201 GOLF COURSE RD NW (C-12)

Special Exception No:..... **15ZHE-80016**  
Project No:..... **Project# 1010358**  
Hearing Date:..... 03-17-15  
Closing of Public Record:..... 03-17-15  
Date of Decision: ..... 04-01-15

On the 17th day of March, 2015 (hereinafter “**Hearing**”) DAC ZONING & LAND USE SERVICES, (hereinafter “**Agent**”) acting as agent on behalf of the property owner PETE DASKALOS (hereinafter “**Applicant**”) appeared before the Zoning Hearing Examiner (hereinafter “**ZHE**”) requesting a Conditional Use to allow a drive-up service window (hereinafter “**Application**”) upon the real property located at 8201 GOLF COURSE RD NW (“**Subject Property**”). Below are the findings of facts:

**FINDINGS:**

27. Applicant is requesting a Conditional Use to allow a drive-up service window.
28. 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.*”
29. Applicant testified at the Hearing that the Conditional Use, if approved, will not be injurious to the adjacent property, neighborhood, or the community because the proposed Starbucks drive thru building had a site plan that included a “vehicle movement plan” that was reviewed and approved by the City of Albuquerque Transportation engineer (Ms. Jeanne Wolfenbarger). Section 14-16-2-16 B 6 requires the drive up service window be reviewed in conjunction with a site plan that includes a vehicle movement plan. That plan was submitted to the City of Albuquerque and reviewed and approved. Additionally, Section 14-16-2-16 B 6, requires that the “order board” be located at least 75 feet from any residential zone, and this Subject Property complies with that requirement as well. For these two reasons above, the ZHE believes that this drive up service window will not be injurious to the surrounding community. The Starbucks facility is current within the shopping center and is proposing to “relocate” to this pad in front of the shopping center. It was originally 2,200 sq. ft. and it will now be closer to 1,900 Sq. Ft. The Agent indicated that Mr. Tony Loyd reviewed this project and indicated that a full Traffic Impact Analysis/Study was not required.

30. Ms. Rene Horvath attended the Hearing and provided some valuable insight and concerns regarding the proposed Starbucks location. She indicated concern that the north entrance at Golf Course is busy and that the entry way leads directly to the Smith's parking lot. She expressed concern that if this Starbucks had substantial levels of vehicles stacked within the drive thru lane that it "could" spill out into the entrance driveway and create congestion. The ZHE counted the cars proposed in the Drive Thru stack and it indicated that this scenario would not take place unless 12 or more vehicles were idling in the drive thru lane (which is a longer queue length than is expected at this site). The ZHE also relies on the City of Albuquerque Transportation Engineer to review the "vehicle movement plan". The City reviewed and approved the Vehicle Movement Plan and the ZHE chooses to rely on their expertise in reviewing the drive thru lane design and therefore reaches the conclusion that this drive thru lane will not be injurious to the surrounding community.
31. 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.*"
32. Applicant testified at the Hearing that the proposed conditional use, will not be significantly damaged by the surrounding structures or activities.
33. 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.
34. 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 a drive-up service window.

**CONDITIONS OF APPROVAL:**

- E. The Applicant shall ensure that their "vehicle movement plan" is reviewed and approved by the City of Albuquerque transportation engineers.
- F. The Applicant shall ensure that the menu order board is located at least 75 feet from any residential zone.

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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Joshua J. Skarsgard, Esq.  
Zoning Hearing Examiner

cc: Zoning Enforcement  
ZHE File  
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