

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

JOTHAM MICHNOVICZ request(s) a special exception to Section 14-16-2-20(B)(5): a CONDITIONAL USE to allow the sale of beer, manufactured onsite, for offsite consumption for all or a portion of Lot(s) 32A, Block(s) 10, Tract(s) A, NORTH ALBUQUERQUE ACRES zoned SU-2, M-1 or SU-2 C, located on 8900 SAN MATEO BLVD NE (C-18)

Special Exception No:..... **12ZHE-80174**  
Project No:..... **Project# 1009283**  
Hearing Date:..... 08-07-12  
Closing of Public Record:..... 08-07-12  
Date of Decision: ..... 08-20-12

On August 7, 2012, Jotham Michnovicz of Bosque Brewing Company appeared in front of Interim Zoning Hearing Examiner, Stanley D. Harada requesting a conditional use to allow proposed retail sale of beer for off-premise consumption at 8900 San Mateo Blvd NE.

**SUMMARY:**

1. Mr. Michnovicz owner for Bosque Brewing Company requests a conditional use to allow a proposed retail sale of beer for off premise consumption at 8900 San Mateo Blvd NE.
2. Mr. Michnovicz testified the conditional use request is for the Bosque Brewing Company, where it will manufacture and sell beer for on premise consumption to the public at a retail level.
3. Mr. Michnovicz testified that the majority of the sale of its beer products will be consumed on the licensed premises by customers who purchase the product.
4. Mr. Michnovicz testified that Bosque Brewing Company Sate license is pending to do this type of business.
5. Mr. Michnovicz testified that if this request is approved, it will increase the business volume for the business. Business hours will be 3:00 p.m. – 10:00 p.m. Monday through Thursday, 3:00 p.m. – 11:00 p.m. Friday and Saturday, and closed on Sunday.
6. Mr. Michnovicz testified that the requested use will not be injurious to the adjacent property, the neighborhood or the community.
7. Ms. Michnovicz testified that the beer will be sold at a premium price, which would be for a different demographic than a bar or tavern, and seating is limited.
8. Mr. Michnovicz testified that he does not expect a significant traffic change for the area because of the business. He believes that this is a low impact request.

9. Mr. Michnovicz also testified this use will not damage any surrounding structures or activities.
10. Mr. Michnovicz testified that the retail activities proposed by Bosque Brewing Company will only take place on the premises licensed by the Alcohol and Gaming Division.
11. There was a facilitated meeting offered by Contract Facilitator Jessie Lawrence on July 12, 2012. Mr. Michnovics and the neighborhood at the facilitated meeting came to an agreement to limit the sale of growlers to one per customer.
12. The parties included Jotham Michnovicz and Kevin Jameson from Bosque Brewing Company with the Wildflower Neighborhood Association.
13. Larry Caudill, President for the Wildflower Neighborhood Association since 1991, was present and expressed his opposition on behalf of the Neighborhood Association.
14. Mr. Caudill testified that he is concerned with the type of clientele this business will attract.
15. Mr. Caudill testified that there was a previous special exception for at Phillips 66 gas station that was applied for a few years back for package liquor sales.
16. The yellow signs were posted for the time required.

**FINDINGS:** Mr. Michnovicz of Bosque Brewing Company has met the burden of a conditional use request to allow the proposed retail sale of beer for off premise consumption. The property does not appear to show any evidence of being injurious to the surrounding community, nor will it damage any adjacent properties in the area.

**DECISION:** Approved with a conditions.

**CONDITIONS:**

1. The applicant must abide by the brewery license by the state. Any deviation of the license and any other city and state laws that may apply will be grounds for rescinding this approval.
2. The applicant shall limit the sale of growlers to one per customer.

**If you wish to appeal this decision, you may do so by 5:00 p.m., on September 3, 2012, in the manner described below:**

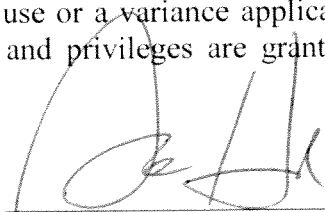
Appeal is to the Board of Appeals within 15 days of the decision. A filing fee of \$105.00 shall accompany each appeal application, as well as a written explanation outlining the reason for appeal and a copy of the ZHE decision. Appeals are taken at 600 2nd Street, Plaza Del Sol Building, Ground Level, 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.



Stanley D. Harada, Esq.  
Zoning Hearing Examiner

cc: Zoning Enforcement  
ZHE File  
Jotham Michnovicz, P.O. Box 10924, 87184