



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

KEVIN DAVIS (DAN HERR, AGENT) request(s) a special exception to Section 14-16-2-16(B)(5): a CONDITIONAL USE for a proposed drive-up service window for all or a portion of Lot(s) 6A, BOSQUE PLAZA zoned C-1 (SC), located on 6370 COORS BLVD NW (E-12)

Special Exception No:..... **12ZHE-80149**
Project No: **Project# 1009254**
Hearing Date: June 19, 2012
Closing of Public Record: June 19, 2012
Date of Decision: July 5, 2012

On June 19, 2012, the Interim Zoning Hearing Examiner, Stanley D. Harada heard Project # 1009254, 12ZHE-80149, a conditional for a proposed drive-up service window at 6370 Coors Blvd NW.

SUMMARY:

1. Kevin Davis is requesting a conditional use to allow a proposed drive-up service window for Dairy Queen Restaurant.
2. Mr. Davis testified that this request has already been through that ZHE process and was approved back in 2005. The project also went through EPC and DRB and was also approved in 2005.
3. Mr. Davis testified that the project has not been constructed as of yet. The EPC site plan approval is good for 7 years and it is getting very close to expiring at the end of the year of 2012.
4. Mr. Davis testified that the approved site plan by EPC has not changed since 2005, and the project will be built by the end of 2012.
5. Mr. Davis is seeking to obtain approval from ZHE due to the ZHE approval has expiring after the initial approval in 2005. Mr. Davis acknowledges this and needs approval.
6. Mr. Davis met with through a facilitated meeting on June 15, 2012 to address any concerns and comments with the neighborhood. The Taylor Ranch Neighborhood Association and the Alban Hills Neighborhood Association is in support of the request.
7. The yellow signs were posted.

FINDINGS:

1. The request will not be injurious to the surrounding neighboring properties or community.
2. The approval is subject to the submitted site plan, as required. Any substantial changes to the site plan, as determined by the Zoning Enforcement Division, shall require the scheduling of an additional Public Hearing.

CONCLUSION AND DECISION: There is substantial evidence to support the application submitted, and it is therefore approved.

If you wish to appeal this decision, you may do so by 5:00 p.m., on July 20, 2012 in the manner described below:

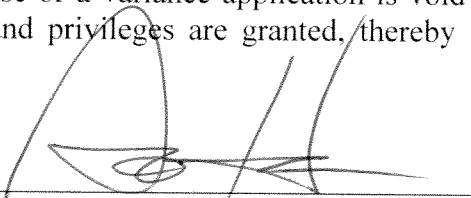
Appeal is to the Board of Appeals within 15 days of the decision. A filing fee of \$105.00 shall accompany each appeal application, as well as a written explanation outlining the reason for appeal and a copy of the ZHE decision. Appeals are taken at 600 2nd Street, Plaza Del Sol Building, Ground Level,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

cc: Zoning Enforcement
ZHE File
Dan Herr, PO Box 57106, 87187
Kevin Davis, 12110 Santa Monica NE, 87122
Taylor Ranch Neighborhood Association, aboard10@juno.com
Alban Hills Neighborhood Association, 3301 La Rambla St NW. 87120