

CITY OF ALBUQUERQUE  
OFFICE OF THE ZONING HEARING EXAMINER  
NOTIFICATION OF DECISION

Dan Brubaker requests a special exception to Section 14. 16. 2. 19. (B). Reference Section 14. 16. 2. 20. (B). (6) : a CONDITIONAL USE to allow retailing which is not permissive, specifically to allow sales of food and drink for off premise consumption and sales of alcoholic drink for off premise consumption on Lot A, One Presidential Plaza, zoned I-P and located at 4300 Osuna NE (E-17)

Special Exception No: .....	ZA-99-330
Hearing Date: .....	11-17-99
Closing of Public Record: ...	11-17-99
Date of Decision: .....	11-30-99

STATEMENT OF FACTS: The applicant requests a conditional use to allow retailing which is not permissive, specifically to allow sales of food and drink for off premise consumption and sales of alcoholic drink for off premise consumption. The applicant was represented by Bill Kraemer of Garcia/Kraemer & Associates. The applicant indicated that this will be a McDonald's restaurant with a drive-thru, gas station, convenience store, and car wash. The hours of operation will be 24 hours with the exception of the sale of liquor, which will be consistent with what is required by state law. All of the employees of the establishment will be required to be trained by the State of New Mexico with regard to the conditions for the sale of alcohol for off premise consumption. The drive-thru window will be solely for the sale of McDonald's products and will not include alcoholic beverages. The agent indicated that there are no residential zones within close proximity. It is noted that there was no opposition to this request at the hearing nor is there any noted in the file.

Based on all of the testimony, as well as an on-site inspection and a review of the entire file, it is determined there is substantial evidence to make the following findings and conclusions:

FINDINGS AND CONCLUSIONS: I find that this request complies with Section 14. 16. 4. 2. (C). 1., for the granting of a conditional use upon a finding that the proposed use will not cause injury to the neighborhood, adjacent property or the community, nor will it be damaged by surrounding structures. For reasons stated above, this request is approved.

DECISION: Approved with conditions.

CONDITIONS:

1. All of the employees of the establishment will be required to be trained by the State of New Mexico with regard to the conditions for the sale of alcohol for off premise consumption.
2. The drive-thru window will be solely for the sale of McDonald's products and will not include alcoholic beverages.

ZHE Decision

ZA-99-330

Page 2

If you wish to appeal this decision, you may do so by 5:00 p.m., on December 15, 1999 in the manner described below:

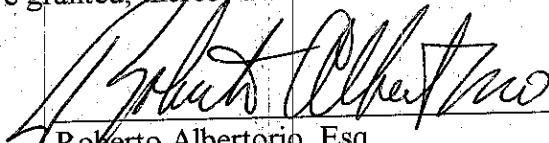
Appeal is to the Board of Appeals within 15 days of the decision. A filing fee of \$50.00 shall accompany each appeal application, as well as a written explanation outlining the reason for appeal and a copy of the ZHE decision. Appeals are taken at 600 2nd Street, Plaza Del Sol Building, Ground Level, Planning Application Counter located on the west side of the lobby. 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.



Roberto Albertorio, Esq.  
Zoning Hearing Examiner

cc: Zoning Enforcement (2)

ZHE File (1)

Dan Brubaker-McDonald's Corp., 5251 DTC Parkway-Suite 300, Englewood, CO 80111

Fred Robinson-JLS Architects, 1600 Rio Grande NW, 87104

Bill Kraemer, 200 Lomas NW-Suite 1111, 87102

Jim Dobbie, 6121 Indian School-#200, 87110

CITY OF ALBUQUERQUE  
OFFICE OF THE ZONING HEARING EXAMINER  
NOTIFICATION OF DECISION - AMENDED

Dan Brubaker requests a special exception to Section 14.16.2.19.(B). Reference Section 14.16.2.20.(B).(6). : a **CONDITIONAL USE** to allow for retailing which is not permissible in the I/P zone, McDonald's restaurant with a drive-through and gas station with convenience store and car wash on Lot A, One Presidential Plaza, zoned I-P and located at 4300 Osuna NE (E-17).

Special Exception No: .....	ZA-99-330
Hearing Date: .....	10-20-99
Closing of Public Record: ...	<b>None</b>
Date of Decision: .....	None

STATEMENT OF FACTS: This matter was deferred to November 17, 1999 per applicant's clarification of legal ad.



Roberto Albertorio, Esq.  
Zoning Hearing Examiner

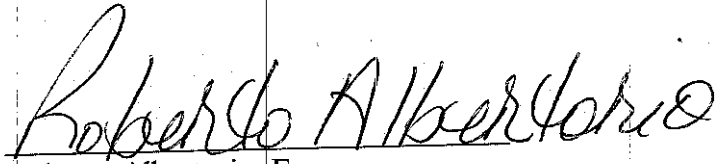
cc: Zoning Enforcement (2)  
ZHE/File (1)

CITY OF ALBUQUERQUE  
OFFICE OF THE ZONING HEARING EXAMINER  
NOTIFICATION OF DECISION

Dan Brubaker requests a special exception to Section 14.16.2.19.(B). Reference Section 14.16.2.20.(B).(6). : a CONDITIONAL USE to allow for retailing which is not permissive in the I/P zone, McDonald's restaurant with a drive-through and gas station with convenience store and car wash on Lot A, One Presidential Plaza, zoned I-P and located at 4300 Osuna NE (E-17)

Special Exception No: .....	ZA-99-330
Hearing Date: .....	10-20-99
Closing of Public Record: ...	10-20-99
Date of Decision: .....	None

STATEMENT OF FACTS: This matter was deferred to November 17, 1999 per applicant's clarification of legal ad.



Roberto Albertorio, Esq.  
Zoning Hearing Examiner

cc: Zoning Enforcement (2)  
ZHE/File (1)