



# Agenda

CITY CLERK'S OFFICE

DATE 10-13-16 TIME 4:23pm

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## BOARD OF ADJUSTMENT

Tuesday, November 1, 2016 at 12:00 P.M.

200 Lincoln Ave. Santa Fe NM

City Council Conference Room

- A. ROLL CALL
- B. PLEDGE OF ALLEGIANCE
- C. APPROVAL OF AGENDA
- D. APPROVAL OF MINUTES: Minutes of October 4, 2016
- E. FINDINGS/CONCLUSIONS: Case #2016-93. 1601 S. St. Francis Drive Special Use Permit.
- F. NEW BUSINESS
- G. STAFF COMMUNICATIONS
- H. MATTERS FROM THE COMMISSION
- I. ADJOURNMENT

### NOTES:

New Mexico law requires the following administrative procedures be followed by zoning boards conducting "quasi-judicial" hearings. In "quasi-judicial" hearing before zoning boards, all witnesses must be sworn in, under oath, prior to testimony and will be subject to cross-examination. Witnesses have the right to have an attorney present at the hearing. The zoning board will, in its discretion, grant or deny requests to postpone hearings. Persons with disabilities in need of accommodations, contact the City Clerk's office at 955-6520, five (5) working days prior to meeting date.

**SUMMARY INDEX  
CITY OF SANTA FÉ  
BOARD OF ADJUSTMENT  
November 1, 2016**

<b>ITEM</b>	<b>ACTION</b>	<b>PAGES</b>
A. ROLL CALL	Quorum	1
B. PLEDGE OF ALLEGIANCE	Recited	1
C. APPROVAL OF AGENDA	Approved as presented	1
D. APPROVAL OF MINUTES - October 4, 2016	Approved as amended	1-2
E. FINDINGS/CONCLUSIONS		
1. Case #2016-93, 1601 S. St. Francis Drive Special Use Permit	Approved as corrected	2
F. NEW BUSINESS	None	2
G. STAFF COMMUNICATIONS	Announcements	2
H. MATTERS FROM THE COMMISSION	None	2
I. ADJOURNMENT	Adjourned at 12:08 p.m.	3

**BOARD OF ADJUSTMENT**  
**Tuesday, November 1, 2016 at 12:00 P.M.**  
**200 Lincoln Ave. Santa Fe, NM**  
**City Council Conference Room**

**CALL TO ORDER**

A regular meeting of the City of Santa Fe Board of Adjustment was called to order by Gary Friedman, Chair, at approximately 12:00 p.m., on Tuesday, November 1, 2016, in the City Council Conference Room, 200 Lincoln Avenue, Santa Fe, New Mexico.

**A. ROLL CALL**

**Members Present**

Gary Friedman, Chair  
Rachel L. Winston, Vice-Chair  
Coleen Dearing  
Patricia Hawkins  
Douglas Maahs  
Donna Reynolds  
Daniel H. Werwath

**Members Excused**

**Others Present**

Dan Esquibel, Staff Liaison  
Zachary Shandler, Assistant City Attorney  
Carl Boaz, Stenographer for Melessia Helberg  
Victor Johnson, Architect

**B. PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was recited.

**C. APPROVAL OF AGENDA**

Member Reynolds moved to approve the agenda as published. Member Maahs seconded the motion and it passed by unanimous voice vote.

**D. APPROVAL OF MINUTES: Minutes of October 4, 2016**

Member Dearing moved to approve the minutes of October 4, 2016 as presented. Member Reynolds seconded the motion and it passed by unanimous voice vote.

Member Werwath asked if the vote could be reconsidered. He thought the action in the second case was incorrect on page 17 and asked if Member Dearing had required the applicant to finish the berm.

Member Dearing said it was clarification the roof have a nonreflective finish; not to finish the berm.

**Member Reynolds moved to reconsider and to approve the minutes of October 4, 2016 as amended with the change as noted to strike "finish the berm" and insert "that the roof have a nonreflective finish." Member Hawkins seconded the motion and it passed by unanimous voice vote.**

**E. FINDINGS/CONCLUSIONS: Case #2016-93, 1601 S. St. Francis Drive Special Use Permit.**

[A copy of the Findings/Conclusions for Case #2016-93 are attached to these minutes as Exhibit 1.]

Mr. Shandler said the findings will be amended to reflect the change in the minutes.

**Member Werwath moved to approve the Findings of Fact and Conclusions of Law for Case #2016-93 as corrected. Member Reynolds seconded the motion and it passed by unanimous voice vote.**

**F. NEW BUSINESS**

There was no new business.

**G. STAFF COMMUNICATIONS**

Mr. Esquibel announced receipt of an appeal on the overlay issue.

He also mentioned that a school is moving into St. John's Methodist Church that helps students with dyslexia and other learning disabilities. No opposition was expressed.

Chair Friedman asked who filed the appeal.

Mr. Esquibel said Joseph Karnes filed it.

There were no other Staff communications.

**H. MATTERS FROM THE COMMISSION**

There were no matters from the Board.

**I. ADJOURNMENT**

Having completed the agenda and with no further business to come before the Board, the meeting was adjourned at approximately 12:08 p.m.

Approved by:



For Gary Friedman

Gary Friedman, Chair

Submitted by:

  
Carl Boaz for Melessia Helberg

Board of Adjustment  
November 1, 2016

## **EXHIBIT 1**

**City of Santa Fe  
Board of Adjustment  
Findings of Fact and Conclusions of Law**

Case # 2016-93—1601 S. St. Francis Drive Special Use Permit  
Owner/Applicant's Name—St. Bede's Episcopal Church  
Agent's Name- Victor Johnson

THIS MATTER came before the Board of Adjustment (Board) for hearing on October 4, 2016 (Hearing) upon the application (Application) of Victor Johnson, agent, for St. Bede's Episcopal Church (Applicant). The Applicant seeks a special use permit to construct a 4,000 square foot addition for use as an auditorium/sanctuary and social hall on 4.41+/- acres at 1601 S. St. Francis Drive. The property is zoned R-21 (Residential-21 dwelling units per acre).

After conducting a public hearing and having heard from staff and all interested persons, the Board hereby FINDS, as follows:

**FINDINGS OF FACT**

1. The Board heard reports from staff and received testimony and evidence from the Applicant. Five members of the public interested in the matter spoke at the hearing.
2. On September 27, 2016, Mr. Karl Sommer, Esq., on behalf of Cha Foxhill Mabry and Hampton Mabry, submitted a letter: (a) raising issue with the South Central Highway Corridor overlay zoning map and overlay requirements; (b) requesting a neutral color for the roof color; (c) requesting alterations to the Applicant's Landscape Screening plan and (d) requesting alterations to the Applicant's parking lot lighting plan, including requesting the lights be set on a timing mechanism.
3. Pursuant to Code §14-2.4(C)(2) the Board has the authority to hear and decide applications for special use permits as provided in Code §§14-3.6 (Special Use Permits) and 14-6 (Permitted Uses).
4. Pursuant to Code §14-3.6(B) the Board has the authority to hear and decide applications for special use permits in accordance with applicable provisions of Chapter 14; to decide questions that are involved in determining whether special use permits should be granted; and to grant special use permits with such conditions and safeguards as appropriate under Chapter 14; or to deny special use permits when not in harmony with the intent and purpose of Code Chapter 14.
5. Pursuant to Code Table 14-6-1.1, an applicant constructing a religious assembly must apply for a special use permit.
6. Code Section 14-3.1(F)(2)(a)(viii) requires an ENN for special use permits and Code Section 14-3.1(F)(4)-(6) establishes procedures for the ENN, including:
  - (a) Compliance with the notice requirements of Code Section 14-3.1(H) [Section 14-3.1(F)(4)];
  - (b) Timing for the ENN meeting and the principles underlying its conduct [Section 14-3.1(F)(5)]; and
  - (c) Guidelines for the conduct of the ENN meeting [Section 14-3.1(F)(6)].

7. Notice was properly given in accordance with the notice requirements of Code Section 14-3.1(H)(1)(a)-(d).
8. An ENN meeting was held on August 11, 2016 at the Medical/Dental Building (2<sup>nd</sup> Floor Auditorium) at 465 St. Michaels Drive, Santa Fe.
9. The ENN meeting was attended by the Applicant, City staff, and approximately fifteen other interested parties, and the discussion followed the guidelines set out in Code Section 14-3.1(F)(6).
10. Code Section 14-3.6(C) sets out the procedures to be followed prior to the grant by the Board of a special use permit, including:
  - (a) Approval of a site plan and other site development drawings necessary to demonstrate that the Project can be accomplished in conformance with applicable Code standards [Section 14-3.6(C)(1)];
  - (b) Submittal of an application indicating the Code section under which the special use permit is sought and stating the grounds on which it is requested [Section 14-3.6(C)(2)]; and
  - (c) That a special use permit is limited to the specific use and intensity granted, requiring a new or amended special use permit if the use is changed or intensified [Section 14-3.6(C)(3)].
11. Code Section 14-3.6(D)(1) sets out certain findings that the Board must make to grant a special use permit, including:
  - (a) That the Board has the authority to grant a special use permit for the Project [Section 14-3.6(D)(1)(a)]; *Section 14-2.4(C) grants the Board the authority under the section of Chapter 14 described to grant a special use permit.*
  - (b) That granting a special use permit for the Project does not adversely affect the public interest [Section 14-3.6(D)(1)(b)]; *The proposed special use permit application complies with minimum standards for Chapter 14.*
  - (c) That the Project is compatible with and adaptable to adjacent properties and other properties in the vicinity of the Project [Section 14-3.6(D)(1)(c)].
    - i. *The church has already been operating in this location since 1963.*
    - ii. *A religious assembly is a permitted use in a R-21 district with a special use permit.*
    - iii. *The proposed construction will maintain the existing architectural characteristics that have existed for many years (with exception of minor variations).*
    - iv. *The Applicant at the hearing agreed to mitigate roof color, lighting and landscaping issues to make the project more compatible with adjacent properties.*
12. Code Section 14-3.6(D)(2) authorizes the Board to specify conditions of approval for a special use permit to accomplish the proper development of the area and to implement the policies of the general plan.
13. The Applicant submitted a site plan and an application indicating the Code section under which the special use permit was being sought and stating the grounds for the request.
14. Board staff provided the Board with a report (Staff Report) evaluating the factors relevant to the proposed special use permit and recommending approval by the Board of such special use permit, subject to the conditions set out in the Staff Report (the Conditions).
15. The Applicant stated the parking lot lights will be on a timing system.



- (a) They will not be on all night.
  - (b) They are safety lights; not security lights.
  - (c) The Applicant did a computer photometric study of the parking lot and it showed no spillover of light.
16. The Applicant stated the roof color will not be a red, black or silver color.
  17. The Applicant stated the parking lot will have a three foot high berm above the parking lot.
  18. The Applicant stated that it is open to tree planting patterns along the eastern boundary as part of its landscape screening plan.
  19. Staff submitted a memorandum providing Non-Substantive Changes to Official Zoning Map per section 14-4.1(C)(4) SFCC 1987- Parcel at 1601 South St. Francis Drive. The Official Zoning map shows that the Applicant's property is outside the South Central Highway Corridor overlay zoning map. The memorandum explained the rationale for this change.

### CONCLUSIONS OF LAW


Under the circumstances and given the evidence and testimony submitted during the Hearing, the Board CONCLUDES as follows:

1. The Board has the power and authority under Code §§14-2.4(C)(2) and 14-3.6(B) and Code §14-7.2(F) to grant the special use permit applied for in this request.
2. The special use permit was properly and sufficiently noticed via mail, publication, and posting of signs in accordance with Code requirements.
3. The ENN meeting complied with the requirements established under the Code.
4. The granting of the special use permit will not adversely affect the public interest.
5. The Project is compatible with and adaptable to adjacent properties and to other properties in the vicinity of the Project.
6. The special use permit granted herewith is granted for the specific use of the Property and intensity applied for and no change of use or more intense use shall be allowed unless approved by the Board under a new or amended special use permit or as otherwise permitted by applicable Code.

**WHEREFORE, IT IS ORDERED ON THE 1st DAY OF NOVEMBER 2016 BY THE BOARD OF ADJUSTMENT OF THE CITY OF SANTA FE:**

1. That the special use permit is approved as applied for, subject to the Conditions presented in Staff's report and the additional Board conditions:
  - a. The roof shall not be red, silver or black color.
  - b. The parking lot lights shall only be lighted during times of active use of the facility.
  - c. The Applicant shall incorporate the alterations submitted by Mr. Sommer for the Landscape Screening plan, with the inclusion of the use of evergreen trees.
  - d. The finish on the roof shall be non-reflective.

2. The special use permit granted herewith shall expire if (a) it is not exercised within three (3) years of the date these Findings of Fact and Conclusions of Law are adopted by vote of the Board, subject to any right of the Applicant under applicable Code to request an extension of such time or (b) it ceases for any reason for a period of three hundred and sixty five (365) days.



Gary Friedman  
Chair

FOR GARY FRIEDMAN

12/6/16

Date:

FILED WITH THE CITY CLERK:

\_\_\_\_\_  
Yolanda Y. Vigil  
City Clerk

\_\_\_\_\_  
Date:

APPROVED AS TO FORM:

\_\_\_\_\_  
Zachary Shandler  
Assistant City Attorney

\_\_\_\_\_  
Date: