

AG E N D A
CITY OF AZTEC
CITY COMMISSION MEETING
February 25, 2020
201 W. Chaco, City Hall
6:00 p.m.

I. CALL TO ORDER

II. INVOCATION AND PLEDGE OF ALLEGIANCE

United States Pledge of Allegiance

New Mexico Pledge of Allegiance

I Salute the Flag of the State of New Mexico and the Zia Symbol of Perfect Friendship among United Cultures

III. ROLL CALL

IV. APPROVAL OF AGENDA ITEMS

V. CONSENT AGENDA

- A. Commission Workshop Meeting Minutes February 11, 2020
- B. Commission Meeting Minutes February 11, 2020
- C. Resolution 2020-1174 Authorizing Opening and Closing of Time Certificate of Deposit for City of Aztec
- D. ITB 2020-733 Llano Lift Station Upgrades
- E. NMALTS Project A19D2049 Funding Agreement

Items placed on the Consent Agenda will be voted on with one motion. If any item proposed does not meet the approval of all Commissioners, a Commissioner may request that the item be heard under "items from Consent Agenda"

VI. ITEMS REMOVED FROM CONSENT AGENDA

VII. PRESENTATIONS

Four Corners Economic Development (4CED)

VIII. CITIZENS INPUT (3 Minutes Maximum)

ATTENTION PERSONS WITH DISABILITIES: The meeting room and facilities are fully accessible to persons with mobility disabilities. If you plan to attend the meeting and will need an auxiliary aid or service, please contact the City Clerk's Office at 334-7600 prior to the meeting so that arrangements can be made.

Note: A final agenda will be posted 72 hours prior to the meeting. Copies of the agenda may be obtained from City Hall, 201 W. Chaco, Aztec, NM 87410.

IX. BUSINESS ITEMS

None

X. QUASI JUDICIAL HEARINGS (LAND USE)

- A. Conditional Use Permit 19-02 to Allow a Church in a C-1 District
- B. Conditional Use Permit 20-01 to Allow a Tanning Salon in a 0-1 District

XI. COMMISSIONER, CITY MANAGER, DEPARTMENT REPORTS

XII. ADJOURNMENT

ATTENTION PERSONS WITH DISABILITIES: The meeting room and facilities are fully accessible to persons with mobility disabilities. If you plan to attend the meeting and will need an auxiliary aid or service, please contact the City Clerk's Office at 334-7600 prior to the meeting so that arrangements can be made.

Note: A final agenda will be posted 72 hours prior to the meeting. Copies of the agenda may be obtained from City Hall, 201 W. Chaco, Aztec, NM 87410.

1 CITY OF AZTEC
2 WORKSHOP MEETING MINUTES
3 February 11, 2020
4

5 **I. CALL TO ORDER**

6 Mayor Snover called the Workshop to order at 5:21 pm at the Aztec City
7 Commission Room, City Hall, 201 W. Chaco, Aztec, NM.
8

9 MEMBERS PRESENT: Mayor Victor Snover; Mayor Pro-Tem Fry;
10 Commissioner Sherri Sipe; Commissioner,
11 Mark Lewis; Commissioner Randall
12

13 MEMBERS ABSENT: NONE
14

15 OTHERS PRESENT: City Manager Steve Mueller; Finance Director
16 Kathy Lamb; Project Manager Ed Kotyk; City
17 Clerk Karla Sayler
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20

21 **A. Revised Purchase Power Agreement with Guzman Energy**
22

23 City Manager Steve Mueller opened the workshop then turned it over to
24 Electric Director Ken George. Ken George mentioned that they have finally
25 gotten the updated contract with Guzman Energy. Ken George introduced Jeffrey
26 Heit and Mustafa Ostrander. Ken explained that with this revised amended
27 contract we will be buying energy for the next 10 years at a cheaper rate. Jeff
28 mentioned that Aztec was their first Energy Agreement. He mentioned that they
29 wanted to extend the contract because they would be able to extend it at a lower
30 price from \$44.50 to \$42.25 because they are procuring for less and they are
31 passing savings along to consumers. Mayor Snover mentioned that this seems to
32 have been a good partnership from the beginning and is getting better. In the last
33 agreement with PNM we were paying 8 cents a kilowatt hour and with Guzman
34 we are paying 2.5 cents a kilowatt hours.
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36
37

38 **II. ADJOURMENT**
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40 Moved by Mayor Snover to adjourn the meeting at 5:50 p.m.
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Mayor, Victor C. Snover

1 ATTEST:

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4 _____
5 Karla Sayler, City Clerk

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7 MINUTES PREPARED BY:

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9 _____

10 Sherlynn Morgan, Administrative Assistant

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1
2 CITY OF AZTEC
3 COMMISSION MEETING MINUTES
4 February 11, 2020
5

6 **I. CALL TO ORDER**
7

8 Mayor Pro-Tem Fry called the Meeting to order at 6:01 pm at the Aztec City
9 Commission Room, City Hall, 201 W. Chaco, Aztec, NM.
10

11 **II. INVOCATION AND PLEDGE OF ALLEGIANCE**
12

- 13 A. Invocation (led by Judge Gray)
14 B. United States Pledge of Allegiance (led by Mayor Snover)
15 C. New Mexico pledge of Allegiance (led by Mayor Snover)
16

17 **III. ROLL CALL**

18 Members Present: Mayor Victor Snover; Mayor Pro-Tem Fry;
19 Commissioner Sipe; Commissioner Austin Randall;
20 Commissioner Mark Lewis
21

22 Members Absent: None
23

24 Others Present: City Manager Steve Mueller; City Attorney Tyson Gobble;
25 Project Manager Ed Kotyk; City Clerk Karla Sayler (see
26 attendance sheet)
27

28 **IV. APPROVAL OF AGENDA ITEMS**
29

30 MOVED by Commissioner Randall to approve the agenda as given;
31 SECONDED by Commissioner Lewis
32

33 All voted Aye: Motion passed five to zero
34

35 **V. CONSENT AGENDA**
36

- 37 A. Commission Meeting Minutes January 28, 2020
38 B. Commission Special Workshop Meeting Minutes January 29, 2020
39 C. Commission Special Meeting Minutes January 29, 2020
40 D. 2019 Volunteer Firefighters Annual Report
41 E. Resolution 2020-1173 Authorizing Opening and Closing of Time Certificate of
42 Deposit for City
43 F. Approval of Revised Purchase Power Agreement with Guzman Energy
44 G. Letter of Support for San Juan County Senior Programs to Governor Lujan
45 Grisham
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MOVED by Commissioner Randall to Approve the Consent Agenda as given
SECONDED by Commissioner Sipe

All voted Aye: Motion passed five to zero

VI. ITEMS REMOVED FROM CONSENT AGENDA

NONE

VII. PRESENTATIONS

Employee Recognition

City Manager Steve Mueller mentioned that he wanted to take the time to recognize the Volunteer Fire Department. He mentioned that they put in a lot of volunteer time. He recognized Officer of the Year Randy Martinez and David Barnett who has been with the fire department for 15 years, and Firefighter of the Year Andrew Ekhoﬀ. The Mayor and Commission thanked them for all they do and congratulated everyone.

VIII. CITIZENS INPUT (3 Minutes Maximum)

Joshua Large with the Chamber of Commerce reminded everyone about the candidate forum on February 18th at the Civic Center from 6-8 pm.

Ryan Lane thanked Commissioner Sipe for her many years of service on the Commission.

IX. BUSINESS ITEMS

A. Aztec Motocross Presentation and Funding Request

Andrew Gallegos with the Aztec Motocross presented information and a power point with photos of last year at the Motocross during events. He mentioned that Motocross is a family sport. They had a total of 739 racers and a total of 1240 of race entries throughout the year. They had a total 3329 gate signatures throughout the year. He mentioned that the track benefits the outdoor recreation industry. He mentioned that they had a lot of overhead costs the first year which resulted in a loss. They received \$2000 from LTAB for advertising. Presidential Inn had 529 rooms that were rented during the 2019 season for Motocross events only. Josh Large with the hotel mentioned that they were up 47% over last year. Andrew mentioned that the goal is to be committed to the track and improvements for the next 3 years.

91 General Services Director Jeff Blackburn mentioned they are working with the
92 Motocross to help them with some improvements. He mentioned that they would like to
93 eventually put restrooms facilities out there. Jeff mentioned that he has worked with
94 Andrew closely over the past year and is really happy with the interest they have taken
95 in the track.

96
97 Andrew mentioned that he has submitted a new funding request for this year for
98 \$5,000 to commission to help with updates and maintenance or possible equipment for
99 Motocross.

100
101 MOVED by Commissioner Sipe to Approve Funding to Aztec Motocross, LLC in
102 the amount of \$5,000 SECONDED by Commissioner Lewis

103
104 A Roll Call was taken; All voted Aye: Motion passed five to zero

105
106 B. Intent to Adopt Ordinance 2020-500 Amending Chapter 16, Division 3, Section
107 16-211 Solid Waste Rates

108
109 City Manager Steve Mueller explained that this was discussed at a workshop a
110 couple of weeks ago. Waste Management submitted the CPI and the increased
111 disposal fee in December. There were a number of scenarios discussed at the
112 workshop.

113
114 Commission talked about the different options at length which were presented in
115 the staff summary and supporting documents. The 25% participation in a new recycle
116 program is good and it will increase as time goes on. Commission felt that we have
117 been providing recycling and trash dumping with the convenience center in place.

118
119 MOVED by Commissioner Randall to Approve the Intent to Adopt Ordinance
120 2020-500 Amending Chapter 16, Division 3, Section 16-211 Solid Waste and Recycling
121 Rates with the following adjustments: Close the convenience center effective February
122 29, 2020 and add at your door hazardous waste service to all residential customers and
123 eliminate the two time per year E-waste event SECONDED by Commissioner Sipe

124
125 A Roll Call was taken; All voted Aye: Motion passed five to zero

126
127 C. Intent to Adopt Ordinance 2020-501 Amending Chapter 2-Administration,
128 Division 6 Municipal Judge

129
130 City Manager Steve Mueller mentioned that we are trying to clear up the language
131 from when we originally changed the pay structure of the judge it was not clear as to
132 when the change would happen, so it has been clarified to read that the salary
133 adjustment would occur during the election cycle for the Municipal Judge. Which means
134 that it is not every year it is every 4 years when the election cycle come around.

135

136 MOVED by Commissioner Lewis to Approve Intent to Adopt Ordinance 2020-501
137 Amending Chapter 2, Administration, Division 6. Municipal Judge SECONDED by
138 Mayor Pro-Tem Fry

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140 A Roll Call was taken; All voted Aye: Motion passed five to zero

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143 **X. QUASI JUDICIAL HEARINGS (Land Use)**

144
145 NONE

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149 **XI. COMMISSIONER, CITY MANAGER, DEPARTMENT REPORTS**

150
151 City Manager Steve Mueller mentioned he attended NM Municipal Day last week
152 with most of the Commission..

153
154 City Attorney Tyson Gobble mentioned that he received notice of NM Municipal
155 League District meeting in March and he hopes to attend.

156
157 Commissioner Lewis also attended NM Municipal Day and he was able to also
158 speak with Lt. Governor Morales.

159
160 Commissioner Sipe also attended NM Municipal Day it was good, they talked with
161 Representative Bandy and Senator Neville. She has NWNM Seniors tomorrow. She
162 also has EDAB and MPO meetings next week.

163
164 Commissioner Randall mentioned Tiger Park was stocked with a bunch of trout
165 and fishing is hot. He attended a meeting last night at Feat of Clay with small business
166 owners.

167
168 Mayor Pro-Tem Fry also attended NM Municipal Day and met with Representative
169 Bandy and Senator Neville. She attended SJC Partnership Board meeting.

170
171 Mayor Snover mentioned that he attended NM Municipal Day and mentioned that it
172 is interesting to see the activity around the Round House. He reminded everyone about
173 the Candidate forum next week on the February 18th. He thanked Commissioner Sipe
174 for advocating for the senior population.

175
176 General Service Director Jeff Blackburn mentioned that he and Ed Kotyk are
177 working in conjunction with San Juan Basin Frisbee to design a Frisbee golf course out
178 near Tiger Pond. They are working on designing a pro style course. ATOS is donating
179 the baskets and the Frisbee club is donating labor.

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XII. ADJOURNMENT

Mayor Snover moved to adjourn the meeting at 7:20 pm SECONDED by
Commissioner Sipe

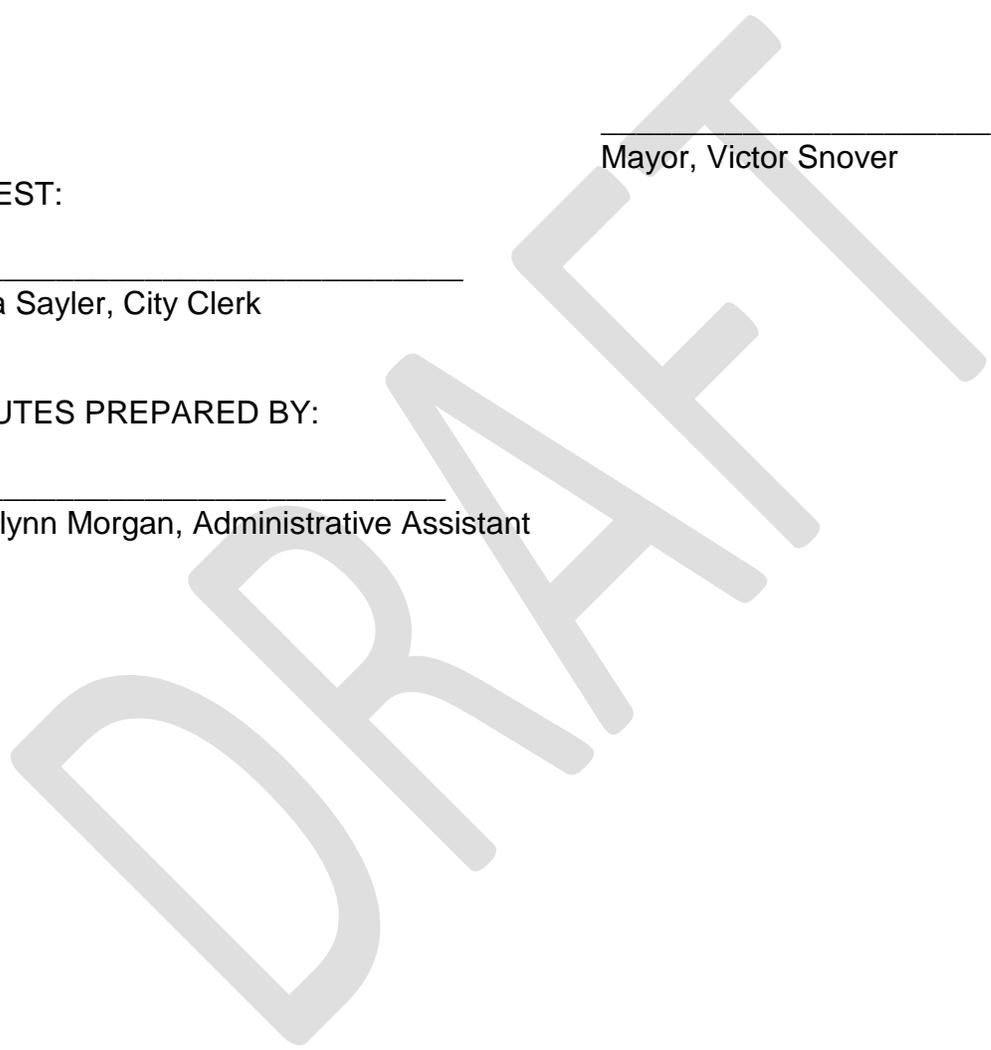
Mayor, Victor Snover

ATTEST:

Karla Saylor, City Clerk

MINUTES PREPARED BY:

Sherlynn Morgan, Administrative Assistant



Staff Summary Report

MEETING DATE: February 25, 2020
AGENDA ITEM: V. CONSENT AGENDA (C)
AGENDA TITLE: Resolution 2020-1174 Authorizing Opening and Closing of Time Certificate of Deposit for City

ACTION REQUESTED BY: Finance Department
ACTION REQUESTED: Approve Resolution 2020-1174 Authorizing Opening and Closing of Time Certificates of Deposit for City
SUMMARY BY: Kris Farmer

PROJECT DESCRIPTION / FACTS

- The banks and independent auditors have asked that formal action be taken to open and close investments.
- The Finance Department solicited all approved depositories (Resolution 2018-1095) for interest rates on Tuesday, February 18, 2020, for 12 month certificate of deposit in the amount of \$1,000,000.00.
- Rate quotes received

Financial Institution	Term	Rate	Earnings Projection
Citizens Bank	months	1.60%	\$16,000.00
Vectra Bank	months	1.25%	\$12,500.00
Four Corners Community Bank	months	1.80%	\$18,000.00
Bank of Southwest	No response		
Wells Fargo	No response		
High Desert Credit Union	**		
LGIP	30 day net yield	1.621%**	\$16,210.00

** State Local Government Investment Pool (LGIP) 30 day net yield is based on today's (2/18/2020) earnings.

**High Desert Credit Union does not have the ability to meet pledging requirements beyond NCUA insurance which is \$250,000.

- The Finance Department recommends retaining the funds locally for a 12 month period at Four Corners Community bank. Funds are collateralized at 50% of the certificate (LGIP is not collateralized).

PROCUREMENT

- None

FISCAL IMPACTS

- Estimated interest earned at 1.80% for 12 months on \$1,000,000.00 is \$18,000.00.

SUPPORT DOCUMENTS: Resolution 2020-1174

DEPARTMENT'S RECOMMENDED MOTION: Move to Approve Resolution 2020-1174
Authorizing Opening and Closing of Time Certificates of Deposit for City

**CITY OF AZTEC
RESOLUTION 2020-1174**

**AUTHORIZING OPENING AND CLOSING OF TIME CERTIFICATES OF DEPOSIT
FOR CITY**

WHEREAS, the City Commission of the City of Aztec, New Mexico, is the authorized Board of Finance of said City of Aztec, and as such has control of the manner and method that monies belonging to the City shall be handled; and

WHEREAS, the City Commission of the City of Aztec, New Mexico, passed, approved and adopted Resolution 2018-1095 Authorizing signatures for city accounts on August 14, 2018 and identified approved depositories for city funds, or as superseded; and

WHEREAS, time certificate of deposit 0235815825, in the amount of \$1,000,000.00, interest rate of 2.30% for 12 months is expiring February 27, 2020, at Citizens Bank, Aztec NM; and

WHEREAS, City of Aztec, New Mexico, Finance department solicited all banks authorized as designated depositories of said City per Resolution 2018-1095, or as superseded, for the term of 12 months and Four Corners Community Bank, Aztec, New Mexico offered an interest rate of 1.80% for 12 months

NOW THEREFORE BE IT RESOLVED BY THE GOVERNING BODY of the City of Aztec, New Mexico, to close time certificate of deposit 0235815825 in the amount of \$1,000,000.00 at Citizens Bank, Aztec, New Mexico, on February 27, 2020, AND to open one time certificate of deposit 3003298 at Four Corners Community Bank, Aztec, New Mexico, in the amount of \$1,000,000.00 interest rate of 1.80% for a 12 month period, beginning February 27, 2020, and to close this time certificate of deposit on its maturity date, February 27, 2021, at Four Corners Community Bank, Aztec, New Mexico.

PASSED, APPROVED, SIGNED AND ADOPTED this 25th day of February 2020, by the Aztec City Commission, City of Aztec, New Mexico

Mayor Victor C. Snover

ATTEST:

Karla Sayler, City Clerk CMC

Staff Summary Report

MEETING DATE:	February 25, 2020
AGENDA ITEM:	V. Consent Agenda (Item D)
AGENDA TITLE:	ITB 2020-733 Llano Lift Station Upgrades

ACTION REQUESTED BY:	Public Works Department
ACTION REQUESTED:	Award of ITB 2020-733 to Pillar Innovations LLC
SUMMARY BY:	Kathy Lamb

PROJECT DESCRIPTION / FACTS

- The Llano Lift Station (located in Hartman Park, adjacent to Animas River) pumps all wastewater on the east side of the Animas River across the river to the collection system on the west side of town. Continued operation of the pump station is critical to the collection system operation and protection of the environment.
- The facility has experienced overflows of varying severity in past years. The most recent was the result of a tripped circuit breaker which caused overflow but also prevented the alarm system from notifying operators.
- The proposed project is a design/build to complete the selection, design, installation and start up of the systems at the lift station. Project includes:
 - Remove, relocate and replacing the existing control panel to the adjacent existing shed;
 - Install a new power distribution panel in the adjacent existing shed;
 - Install variable frequency drives on all three existing lift station pumps and connect all pump control and monitoring to the existing SCADA system;
 - Upgrade all existing electrical system components to meet current NFPA standards;
 - Modify and upgrade existing SCADA system components
- The original bid issued required Allen Bradley control systems. During the pre-bid conference, an alternative system was identified. The deragger system is designed to monitor a motor's power signature – detecting when a rag does not pass through a pump. It then passes the rags by modifying the pump behavior; it slows the pump, reverses it which dislodges the rag, and puts the pump back into forward motion to pass the rag through. The deragger pro system includes the diagnostics and controls eliminating the requirement for the Allen Bradley control systems.

PROCUREMENT

- Invitation to Bid (ITB) was published on the city website, vendor registry (including 4 plan rooms and 4 contractors) and advertised in the Daily Times on Sunday, December 29, 2019. A mandatory pre-bid meeting was held on January 7, 2020. Two addendums were issued on the bid (extending bid due date and adding alternate for deragger pro system). The bid was publically opened on Tuesday, February 4, 2020.

- As identified in the bid document, contractor is required to maintain pumping of wastewater at the pump station during construction. Short term shut downs will require coordination with plant operators to ensure continuing operations and prevent overflows.
- Substantial completion is required by August 1, 2020.
- One responsive bid was received from Pillar Innovations LLC for both alternates.

Alternate #1: Allen Bradley System	\$109,274
Alternate #2: Deragger Pro System	\$107,811
- Department estimate of probable cost was \$200,000.
- Steve Morse, PW Director/City Engineer and Andrew Galloway, Chief Operator In Charge, have reviewed the proposed alternates and have spoken with wastewater utilities which are currently using the deragger system. Their recommendation is to award alternate #2 deragger pro system.

FISCAL IMPACTS

- The FY20 Adopted Budget, Joint Utility, Wastewater Utility included \$500,000 for capital purchases/projects at the Public Works Director discretion. Of this amount, \$493,100 is available.
- Award of this project to Pillar Innovations LLC will commit \$116,706 of this amount. \$376,394 will be available for the remainder of the fiscal year.

SUPPORT DOCUMENTS: ITB 2020-733 Bid Tabulation

STAFF RECOMMENDATION: Approve Award of ITB 2020-733

MOTION: Move to approve Award of ITB 2020-733 to Pillar Innovations LLC for Alternate #2 Llano Lift Station Deragger Pro Upgrade in the amount of \$107,811 plus applicable taxes, and authorize City Manager to execute the construction agreement.



LLANO LIFT STATION UPGRADE

ITB #2020-733

BID DATE: FEBRUARY 4, 2020 3:00PM

SCHEDULED AWARD DATE: FEBRUARY 25, 2020

RECOMMEND AWARD TO PILLAR INNOVATIONS, ALTERNATE #2 (ONE BID RECEIVED)

PILLAR INNOVATIONS INC

ITEM	DESCRIPTION	UNIT	DESIGN LUMP SUM	INSTALL LUMP SUM	TOTAL BID
ALT #1	DESIGN & INSTALLATION OF UPGRADES (ALLEN BRADLEY CONTROLS)	LS	\$ 17,017.00	\$ 92,257.00	\$ 109,274.00

Total Bid Comparison Including 5% NM State Preference \$ 103,810.30

Total Bid Comparison Including 10% (Maximum) Resident Veteran Preference N/A

ALT #2	DESIGN & INSTALLATION OF UPGRADES (DERAGGER PRO CONTROLS)	LS	\$ 16,287.00	\$ 91,524.00	\$ 107,811.00
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Total Bid Comparison Including 5% NM State Preference \$ 102,420.45

Total Bid Comparison Including 10% (Maximum) Resident Veteran Preference N/A

Staff Summary Report

MEETING DATE:	February 25, 2020
AGENDA ITEM:	V. Consent Agenda (Item E)
AGENDA TITLE:	NMALTSD Project A19D2049 Funding Agreement

ACTION REQUESTED BY:	Senior Center
ACTION REQUESTED:	Approval of NMALTSD Project A19D2049 Funding Agreement
SUMMARY BY:	Kathy Lamb

PROJECT DESCRIPTION / FACTS

- The New Mexico Laws of 2019 included legislative funding through the sale of general obligations bonds to the New Mexico Aging and Long-Term Services Department (NMALTSD) for various improvements to senior centers throughout the state including the Aztec Senior Center.
- Agreement A19D2049 is specific to the purchase and installation of equipment and building systems to address code compliance issues, specifically fire alarm system upgrade, in the amount of \$53,800. Funding must be expended in full by June 30, 2023. There is no required match on the funding. Any costs for the system upgrade which exceed the grant funding will be the responsibility of the City.

PROCUREMENT

- After specifications are developed for the system upgrade, the Purchasing Office will seek quotes for the purchase of equipment in compliance with NMSA 1978 Procurement Code, City of Aztec Purchasing Policy and Procedures and NMALTSD Grant Agreements.

FISCAL IMPACTS

- The FY20 Adopted Budget, Intergovernmental Grant Fund, includes this funding and project costs.

SUPPORT DOCUMENTS: NMALTSD Agreement A19D2049

STAFF RECOMMENDATION: Approve NMALTSD Agreement A19D2049

MOTION: Move to approve NMALTSD Project A19D2049 Funding Agreement



Michelle Lujan Grisham, Governor
Katrina Holtrum- Lopez, Cabinet Secretary
Sam Ojinaga, Deputy Cabinet Secretary

February 6, 2020

Victor Snover, Mayor
City of Aztec
201 W Chaco St.
Aztec, New Mexico, 87410

Re: Laws of 2019 Chapter 277, A19D2049 – Aztec Senior Center – code comply - \$53,800

Mr. Snover

Enclosed please find the unexecuted Grant Agreement for the above referenced project. Please obtain the appropriate signature by the public official with authority to bind the grantee. Return two (2) original signed agreements for this project including the attachments. We will then route the agreements internally for the appropriate signatures here at ALTSD and return a fully executed grant agreement back to you, at which time you may commence with the project.

Please contact me if you have any questions, ernest.saavedra@state.nm.us or 505-476-4879. Thank you.

Sincerely,

Ernest "Adam" Saavedra
Capital Projects Financial Coordinator

cc. Jeff Blackburn, General Services Director
Kathy Lamb, Finance Director

STATE OF NEW MEXICO
DEPARTMENT OF AGING AND LONG TERM SERVICES
FUND 93100 CAPITAL APPROPRIATION PROJECT

THIS AGREEMENT is made and entered into as of this _____ day of _____, 20____, by and between the Department of Aging and Long Term Services, hereinafter called the “Department” or abbreviation such as “ALTSD”, and City of Aztec, hereinafter called the “Grantee”. This Agreement shall be effective as of the date it is executed by the Department.

RECITALS

WHEREAS, in the Laws of 2019, Chapter 277, Section 4, Paragraph 41, the Legislature made an appropriation to the Department, funds from which the Department is making available to the Grantee pursuant to this Agreement; and

WHEREAS, the Department is granting to Grantee, and the Grantee is accepting the grant of, funds from this appropriation, in accordance with the terms and conditions of this Agreement; and

WHEREAS, State Agency on Aging (28-4-1 to 28-4-9 NMSA 1978: successor agency, Aging and Long-Term Services Department (9-23-1 to 9-23-12 NMSA 1978) may enter into grants and contracts as appropriated by law.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and obligations contained herein, the parties hereby mutually agree as follows:

ARTICLE I. PROJECT DESCRIPTION, AMOUNT OF GRANT AND REVERSION DATE

A. The project that is the subject of this Agreement is described as follows:

A19D2049 \$53,800 APPROPRIATION REVERSION DATE: 30-JUN-2023
Laws of 2019, Chapter 277, Section 4, Paragraph 41, fifty three thousand eight hundred dollars \$53,800, for improvements to the facility to address code compliance issues and for the purchase and installation of equipment and building systems at the Aztec senior center in Aztec in San Juan county.

The Grantee’s total reimbursements shall not exceed fifty three thousand eight hundred dollars \$53,800, (the “Appropriation Amount”) minus the allocation for Art in Public Places (“AIPP amount”¹), if applicable, zero dollars \$0.00, which equals fifty three thousand eight hundred dollars \$53,800, (the “Adjusted Appropriation Amount”).

In the event of a conflict among the Appropriation Amount, the Reversion Date, as defined herein and/or the purpose of the Project, as set forth in this Agreement, and the corresponding appropriation language in the laws cited above in this Article I(A), the language of the laws cited herein shall control.

¹ The AIPP amount is “an amount of money equal to one percent or two hundred thousand dollars (\$200,000), whichever is less, of the amount of money appropriated for new construction or any major renovation exceeding one hundred thousand dollars (\$100,000).” Section 13-4A-4 NMSA 1978.

This project is referred to throughout the remainder of this Agreement as the “Project”; the information contained in Article I(A) is referred to collectively throughout the remainder of this Agreement as the “Project Description.” Attachment A sets forth additional or more stringent requirements and conditions, which are incorporated by this reference as if set forth fully herein. If Attachment A imposes more stringent requirements than any requirement set forth in this Agreement, the more stringent requirements of Attachment A shall prevail, in the event of irreconcilable conflict.] The Grantee shall reference the Project's number in all correspondence with and submissions to the Department concerning the Project, including, but not limited to, Requests for Payment and reports.

ARTICLE II. LIMITATION ON DEPARTMENT'S OBLIGATION TO MAKE GRANT DISBURSEMENT TO GRANTEE

A. Upon the Effective Date of this Agreement, for permissible purposes within the scope of the Project Description, the Grantee shall only be reimbursed monies for which the Department has issued and the Grantee has received a Notice of Department's Obligation to Reimburse² Grantee (hereinafter referred to as “Notice of Obligation”). This Grant Agreement and the disbursement of any and all amounts of the above referenced Adjusted Appropriation Amount are expressly conditioned upon the following:

- (i) Irrespective of any Notice of Obligation, the Grantee's expenditures shall be made on or before the Reversion Date and, if applicable, an Early Termination Date (i.e., the goods have been delivered and accepted or the title to the goods has been transferred to the Grantee and/or the services have been rendered for the Grantee); and
- (ii) The total amount received by the Grantee shall not exceed the lesser of: (a) the Adjusted Appropriation Amount identified in Article I(A) herein or (b) the total of all amounts stated in the Notice(s) of Obligation evidencing that the Department has received and accepted the Grantee's Third Party Obligation(s), as defined in subparagraph iii of this Article II(A); and
- (iii) The Grantee's expenditures were made pursuant to the State Procurement Code and execution of binding written obligations or purchase orders with third party contractors or vendors for the provision of services, including professional services, or the purchase of tangible personal property and real property for the Project, hereinafter referred to as “Third Party Obligations”; and
- (iv) The Grantee's submittal of timely Requests for Payment in accordance with the procedures set forth in Article IX of this Agreement; and
- (v) In the event that capital assets acquired with Project funds are to be sold, leased, or licensed to or operated by a private entity, the sale, lease, license, or operating agreement:
 - a. must be approved by the applicable oversight entity (if any) in accordance with law; or
 - b. if no oversight entity is required to approve the transaction, the Department must approve the transaction as complying with law.

Prior to the sale, lease, license, or operating agreement being approved pursuant to Articles II(A)(v)(a) and II(A)(v)(b) herein, the Department may, in its sole and absolute discretion and unless inconsistent with State Board of Finance imposed conditions, reimburse the Grantee for necessary expenditures

incurred to develop the Project sufficiently to make the sale, lease, license, or operating agreement commercially feasible, such as plan and design expenditures; and

(vi) The Grantee's submission of documentation of all Third Party Obligations and amendments thereto (including terminations) to the Department and the Department's issuance and the Grantee's receiving of

² “Reimburse” as used throughout this Agreement includes Department payments to the Grantee for invoices received, but not yet paid, by the Grantee from a third party contractor or vendor, if the invoices comply with the provisions of this Agreement and are a valid liability of the Grantee.

a Notice of Obligation for a particular amount in accordance with the terms of this Agreement shall be governed by the following:

- a. The Grantee shall submit to the Department one copy of all Third Party Obligations and amendments thereto (including terminations) as soon as possible after execution by the Third Party **but prior to execution by the Grantee.**
- b. Grantee acknowledges and agrees that if it chooses to enter into a Third Party Obligation prior to receiving a Notice of Obligation that covers the expenditure, it is solely responsible for such obligations.
- c. The Department may, in its sole and absolute discretion, issue to Grantee a Notice of Obligation for the particular amount of that Third Party Obligation that only obligates the Department to reimburse Grantee's expenditures made on or before the Reversion Date or an Early Termination Date. The current Notice of Obligation form is attached to this Agreement as Exhibit 2.
- d. The date the Department signs the Notice of Obligation is the date that the Department's Notice of Obligation is effective. After that date, the Grantee is authorized to budget the particular amount set forth in the Notice of Obligation, execute the Third Party Obligation and request the Third Party to begin work. Payment for any work performed or goods received prior to the effective date of the Notice of Obligation is wholly and solely the obligation of the Grantee.

B. The Grantee shall implement, in all respects, the Project. The Grantee shall provide all necessary qualified personnel, material, and facilities to implement the Project. The Grantee shall finance its share (if any) of the costs of the Project, including all Project overruns.

C. Project funds shall not be used for purposes other than those specified in the Project Description.

D. Unless specifically allowed by law, Project funds cannot be used to reimburse Grantee for indirect Project costs.

ARTICLE III. NOTICE PROVISIONS AND GRANTEE AND DEPARTMENT DESIGNATED REPRESENTATIVES

Whenever written notices, including written decisions, are to be given or received, related to this Agreement, the following provisions shall apply.

The Grantee designates the person(s) listed below, or their successor, as their official representative(s) concerning all matters related to this Agreement:

Grantee: City of Aztec
Name: Jeff Blackburn
Title: General Services Director
Address: 201 W Chaco, Aztec NM 87410
Email: jblackburn@aztecnm.gov
Phone: 505-334-7664

The Grantee designates the person(s) listed below, or their successor, as their Fiscal Officer or Fiscal Agent concerning all matters related to this Agreement:

Grantee: City of Aztec
Name: Kathy Lamb
Title: Finance Director
Address: 201 W Chaco, Aztec NM 87410
Email: klamb@aztecnm.gov
Phone: 505-334-7653

The Department designates the persons listed below, or their successors, as the Points of Contact for matters related to this Agreement.

Department: Aging and Long Term Services Department
Name: Barbara J. Romero
Title: Bureau Chief
Address: P.O. Box 27118, Santa Fe, New Mexico 87502
Email: barbara.romero@state.nm.us
Telephone: (505)476-4704 or (505)365-3660

The Grantee and the Department agree that either party shall send all notices, including written decisions, related to this Agreement to the above named persons by email or regular mail. In the case of mailings, notices shall be deemed to have been given and received upon the date of the receiving party's actual receipt or five calendar days after mailing, whichever shall first occur. In the case of email transmissions, the notice shall be deemed to have been given and received on the date reflected on the delivery receipt of email.

ARTICLE IV. REVERSION DATE, TERM, DEADLINE TO EXPEND FUNDS

A. As referenced in Article I(A), the applicable law establishes a date by which Project funds must be expended by Grantee, which is referred to throughout the remainder of this Agreement as the "Reversion Date." Upon being duly executed by both parties, this Agreement shall be effective as of the date of execution by the Department. It shall terminate on June 30, 2023 the Reversion Date unless Terminated Before Reversion Date ("Early Termination") pursuant to Article V herein.

B. The Project's funds must be expended on or before the Reversion Date and, if applicable, Early Termination Date of this Agreement. For purposes of this Agreement, it is not sufficient for the Grantee to encumber the Project funds on its books on or before the Project's Reversion Date or Early Termination Date. Funds are expended and an expenditure has occurred as of the date that a particular quantity of goods are delivered to and received by the Grantee or title to the goods is transferred to the Grantee and/or as of the date particular services are rendered for the Grantee. Funds are *not* expended and an expenditure has *not* occurred as of the date they are encumbered by the Grantee pursuant to a contract or purchase order with a third party.

ARTICLE V. EARLY TERMINATION

A. Early Termination Before Reversion Date Due to Completion of the Project or Complete Expenditure of the Adjusted Appropriation or Violation of this Agreement

Early Termination includes:

- (i) Termination due to completion of the Project before the Reversion Date; or
- (ii) Termination due to complete expenditure of the Adjusted Appropriation Amount before the Reversion Date; or
- (iii) Termination for violation of the terms of this Agreement; or
- (iv) Termination for suspected mishandling of public funds, including but not limited to, fraud, waste, abuse, and conflicts of interest.

Either the Department or the Grantee may early terminate this Agreement prior to the Reversion Date by providing the other party with a minimum of fifteen (15) days' advance, written notice of early termination. Grantee hereby waives any rights to assert an impairment of contract claim against the Department or the State of New Mexico in the event of Early Termination of this Agreement by the Department pursuant to Article V(A).

B. Early Termination Before Reversion Date Due to Non-appropriation

The terms of this Agreement are expressly made contingent upon sufficient appropriations and authorization being made by the Legislature of New Mexico for the performance of this Agreement. Throughout this Agreement the term "non-appropriate" or "non-appropriation" includes the following actions by the New Mexico Legislature: de-authorization, reauthorization or revocation of a prior authorization. The Legislature may choose to non-appropriate the Appropriation referred to in Article I and, if that occurs, the Department shall early terminate this Agreement for non-appropriation by giving the Grantee written notice of such termination, and such termination shall be effective as of the effective date of the law making the non-appropriation. The Department's decision as to whether sufficient appropriations or authorizations are available shall be accepted by the Grantee and shall be final. Grantee hereby waives any rights to assert an impairment of contract claim against the Department or the State of New Mexico in the event of Early Termination of this Agreement by the Department pursuant to Article V(B).

C. Limitation on Department's Obligation to Make Grant Disbursements to Grantee in the Event of Early Termination

In the event of Early Termination of this Agreement by either party, the Department's sole and absolute obligation to reimburse the Grantee is expressly conditioned upon the limitations set forth Article II.

ARTICLE VI. SUSPENSION OF NEW OR FURTHER OBLIGATIONS

A. The Department may choose, in its sole and absolute discretion, to provide written notice to the Grantee to suspend entering into new and further obligations. Upon the receipt of such written notice by the Grantee:

- (i) The Grantee shall immediately suspend entering into new or further written obligations with third parties; and
- (ii) The Department will suspend the issuance of any new or further Notice of Obligation under this Agreement; and
- (iii) The Department may direct the Grantee to implement a corrective action plan in accordance with Article VI(D) herein.

B. In the event of Suspension of this Agreement, the Department's sole and absolute obligation to reimburse the Grantee is expressly conditioned upon the limitations set forth in Article II herein.

C. A suspension of new or further obligations under this Agreement shall remain in effect unless or until the date the Grantee receives written notice given by the Department informing the Grantee that the Suspension has been lifted or that the Agreement has been Early Terminated in accordance with Article V herein. If the Suspension is lifted, the Department will consider further requests for Notice of Obligation.

D. Corrective Action Plan in the Event of Suspension

In the event that the Department chooses, in its sole and absolute discretion to direct the Grantee to suspend entering into new or further written obligations with third parties pursuant to Article VI(A), the Department may, but is not obligated to, require the Grantee to develop and implement a written corrective action plan to remedy the grounds for the Suspension. Such corrective action plan must be approved by the Department and be signed by the Grantee. Failure to sign a corrective action plan or meet the terms and deadlines set forth in the signed corrective action plan, is hereby deemed a violation of the terms of this Agreement for purposes of Early Termination, Article V(A)(iii). The corrective action plan is in addition to, and not in lieu of, any other equitable or legal remedy, including but not limited to Early Termination.

ARTICLE VII. AMENDMENT

This Agreement shall not be altered, changed, or amended except by instrument in writing duly executed by both the parties hereto.

ARTICLE VIII. REPORTS

A. Database Reporting

The Grantee shall report monthly Project activity by entering such Project information as the Department and the Department of Finance and Administration may require, such information entered directly into a database maintained by the Department of Finance and Administration (<http://cpms.dfa.state.nm.us>). Additionally, the Grantee shall certify on the Request for Payment form (Exhibit 1) that updates have been maintained and are current in the database. The Grantee hereby acknowledges that failure to perform and/or certify updates into the database will delay or potentially jeopardize the reimbursement of funds. The Department shall give Grantee a minimum of thirty (30) days' advance written notice of any changes to the information the Grantee is required to report.

Monthly reports shall be due on the last day of each month, beginning with the first full month following execution of this Agreement by the Department and ending upon the submission of the final request for reimbursement for the Project.

B. Requests for Additional Information/Project Inspection

During the term of this Agreement and during the period of time during which the Grantee must maintain records pursuant to Article VIII, the Department may:

- (i) request such additional information regarding the Project as it deems necessary; and
- (ii) conduct, at reasonable times and upon reasonable notice, onsite inspections of the Project.

Grantee shall respond to such requests for additional information within a reasonable period of time, as established by the Department.

ARTICLE IX. REQUEST FOR PAYMENT PROCEDURES AND DEADLINES

- A. The Grantee shall request payment by submitting a Request for Payment, in the form attached hereto as Exhibit 1. Payment requests are subject to the following procedures:
- (i) The Grantee must submit a Request for Payment; and
 - (ii) Each Request for Payment must contain proof of payment by the Grantee or liabilities incurred by the Grantee showing that the expenditures are valid or are liabilities incurred by the Grantee in the form of actual unpaid invoices received by the Grantee for services rendered by a third party or items of tangible personal property received by the Grantee for the implementation of the Project; provided, however, that the Grantee may be reimbursed for unpaid liabilities only if the Department, in its sole and absolute discretion, agrees to do so and in accordance with any special conditions imposed by the Department.
 - (iii) In cases where the Grantee is submitting a Request for Payment to the Department based upon invoices received, but not yet paid, by the Grantee from a third party contractor or vendor, if the invoices comply with the provisions of this Agreement and are a valid liability of the Grantee, the Grantee shall make payment to those contractors or vendors within five (5) business days from the date of receiving reimbursement from the Department or such shorter period of time as the Department may prescribe in writing. The Grantee is required to certify to the Department proof of payment to the third party contractor or vendor within ten (10) business days from the date of receiving reimbursement from the Department.
- B. The Grantee must obligate 5% of the Adjusted Appropriation Amount within six months of acceptance of the grant agreement and must have expended no less than 85% of the Adjusted Appropriation Amount six months prior to the reversion date.
- C. **Deadlines**
Requests for Payments shall be submitted by Grantee to the Department on the earlier of:
- (i) Immediately as they are received by the Grantee but at a minimum thirty (30) days from when the expenditure was incurred or liability of the Grantee was approved as evidenced by an unpaid invoice received by the Grantee from a third party contractor or vendor; or
 - (ii) July 15 of each year for all unreimbursed expenditures incurred during the previous fiscal year; or
 - (iii) Twenty (20) days from date of Early Termination; or
 - (iv) Twenty (20) days from the Reversion Date
- D. The Grantee's failure to abide by the requirements set forth in Article II and Article IX herein will result in the denial of its Request for Payment or will delay the processing of Requests for Payment. The Department has the right to reject a payment request for the Project unless and until it is satisfied that the expenditures in the Request for Payment are for permissible purposes within the meaning of the Project Description and that the expenditures and the Grantee are otherwise in compliance with this Agreement, including but not limited to, compliance with the reporting requirements and the requirements set forth in Article II herein to provide Third Party Obligations and the Deadlines set forth in Article IX herein. The Department's ability to reject any Request for Payment is in addition to, and not in lieu of, any other legal or equitable remedy available to the Department due to Grantee's violation of this Agreement.

ARTICLE X. PROJECT CONDITIONS AND RESTRICTIONS; REPRESENTATIONS AND WARRANTIES

- A. The following general conditions and restrictions are applicable to the Project:
- (i) The Project's funds must be spent in accordance with all applicable state laws, regulations, policies, and guidelines, including, but not limited to, the State Procurement Code (or local procurement ordinance, where applicable).
 - (ii) The Project must be implemented in accordance with the New Mexico Public Works Minimum Works Act, Section 13-4-10 through 13-4-17 NMSA 1978, as applicable. Every contract or project in excess of sixty thousand dollars (\$60,000) that the Grantee is a party to for construction, alteration, demolition or repair or any combination of these, including painting and decorating, of public buildings, public works or public roads and that requires or involves the employment of mechanics, laborers or both shall contain a provision stating the minimum wages and fringe benefits to be paid to various classes of laborers and mechanics, shall be based upon the wages and benefits that will be determined by the New Mexico Department of Workforce Solutions to be prevailing for the corresponding classes of laborers and mechanics employed on contract work of a similar nature in the locality. Further, every contract or project shall contain a stipulation that the contractor, subcontractor, employer or a person acting as a contractor shall pay all mechanics and laborers employed on the site of the project, unconditionally and not less often than once a week and without subsequent unlawful deduction or rebate on any account, the full amounts accrued at time of payment computed at wage rates and fringe benefit rates not less than those determined pursuant to Section 13-4-11 (B) NMSA 1978 to be the prevailing wage rates and prevailing fringe benefit rates issued for the project.
 - (iii) The Project may only benefit private entities in accordance with applicable law, including, but not limited to, Article IX, Section 14 of the Constitution of the State of New Mexico, the "Anti-Donation Clause."
 - (iv) The Grantee shall not for a period of 10 years from the date of this agreement convert any property acquired, built, renovated, repaired, designed or developed with the Project's funds to uses other than those specified in the Project Description without the Department's and the Board of Finance's express, advance, written approval, which may include a requirement to reimburse the State for the cost of the project, transfer proceeds from the disposition of property to the State, or otherwise provide consideration to the State.
 - (v) The Grantee shall comply with all federal and state laws, rules and regulations pertaining to equal employment opportunity. In accordance with all such laws, rules and regulations the Grantee agrees to assure that no person shall, on the grounds of race, color, national origin, sex, sexual preference, age or handicap, be excluded from employment with Grantee, be excluded from participation in the Project, be denied benefits or otherwise be subject to discrimination under, any activity performed under this Agreement. If Grantee is found to be not in compliance with these requirements during the life of this Agreement, Grantee agrees to take appropriate steps to correct any deficiencies. The Grantee's failure to implement such appropriate steps within a reasonable time constitutes grounds for terminating this Agreement.
- B. The Grantee hereby represents and warrants the following:
- (i) The Grantee has the legal authority to receive and expend the Project's funds.

- (ii) This Agreement has been duly authorized by the Grantee, the person executing this Agreement has authority to do so, and, once executed by the Grantee, this Agreement shall constitute a binding obligation of the Grantee, enforceable according to its terms.
- (iii) This Agreement and the Grantee's obligations hereunder do not conflict with any law or ordinance or resolution applicable to the Grantee, the Grantee's charter (if applicable), or any judgment or decree to which the Grantee is subject.
- (iv) The Grantee has independently confirmed that the Project Description, including, but not limited to, the amount and Reversion Date, is consistent with the underlying appropriation in law.
- (v) The Grantee's governing body has duly adopted or passed as an official act a resolution, motion, or similar action authorizing the person identified as the official representative of the Grantee to sign the Agreement and to sign Requests for Payment.
- (vi) The Grantee shall abide by New Mexico laws regarding conflicts of interest, governmental conduct and whistleblower protection. The Grantee specifically agrees that no officer or employee of the local jurisdiction or its designees or agents, no member of the governing body, and no other public official of the locality who exercises any function or responsibility with respect to this Grant, during their tenure or for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed or goods to be received, pursuant to this Grant. Further, Grantee shall require all of its contractors to incorporate in all subcontracts the language set forth in this paragraph prohibiting conflicts of interest.
- (vii) No funds have been paid or will be paid, by or on behalf of the Grantee, to any person for influencing or attempting to influence an officer or employee of this or any agency or body in connection with the awarding of any Third Party Obligation and that the Grantee shall require certifying language prohibiting lobbying to be included in the award documents for all subawards, including subcontracts, loans and cooperative agreements. All subrecipients shall be required to certify accordingly.

ARTICLE XI. STRICT ACCOUNTABILITY OF RECEIPTS AND DISBURSEMENTS; PROJECT RECORDS

A. The Grantee shall be strictly accountable for receipts and disbursements relating to the Project's funds. The Grantee shall follow generally accepted accounting principles, and, if feasible, maintain a separate bank account or fund with a separate organizational code, for the funds to assure separate budgeting and accounting of the funds.

B. For a period of six (6) years following the Project's completion, the Grantee shall maintain all Project related records, including, but not limited to, all financial records, requests for proposals, invitations to bid, selection and award criteria, contracts and subcontracts, advertisements, minutes of pertinent meetings, as well as records sufficient to fully account for the amount and disposition of the total funds from all sources budgeted for the Project, the purpose for which such funds were used, and such other records as the Department shall prescribe.

C. The Grantee shall make all Project records available to the Department, the Department of Finance and Administration, and the New Mexico State Auditor upon request. With respect to the funds that are the subject of this Agreement, if the State Auditor or the Department of Finance and Administration finds that any

or all of these funds were improperly expended, the Grantee may be required to reimburse to the State of New Mexico, to the originating fund, any and all amounts found to be improperly expended.

ARTICLE XII. IMPROPERLY REIMBURSED FUNDS

If the Department determines that part or all of the Appropriation Amount was improperly reimbursed to Grantee, including but not limited to, Project funds reimbursed to Grantee based upon fraud, mismanagement, misrepresentation, misuse, violation of law by the Grantee, or violation of this Agreement, the Grantee shall return such funds to the Department for disposition in accordance with law.

ARTICLE XIII. LIABILITY

Neither party shall be responsible for liability incurred as a result of the other party's acts or omissions in connection with this Agreement. Any liability incurred in connection with this Agreement is subject to immunities and limitations of the New Mexico Tort Claims Act.

ARTICLE XIV. SCOPE OF AGREEMENT

This Agreement constitutes the entire and exclusive agreement between the Grantee and Department concerning the subject matter hereof. The Agreement supersedes any and all prior or contemporaneous agreements, understandings, discussions, communications, and representations, written or verbal.

ARTICLE XV. REQUIRED NON-APPROPRIATIONS CLAUSE IN CONTRACTS FUNDED IN WHOLE OR PART BY FUNDS MADE AVAILABLE UNDER THIS AGREEMENT

The Grantee acknowledges, warrants, and agrees that Grantee shall include a "non-appropriations" clause in all contracts between it and other parties that are (i) funded in whole or part by funds made available under this Agreement and (ii) entered into after the effective date of this Agreement that states:

"The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the Legislature of New Mexico for the performance of this Agreement. If sufficient appropriations and authorization are not made by the Legislature, the City of Aztec may immediately terminate this Agreement by giving Contractor written notice of such termination. The City of Aztec's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. Contractor hereby waives any rights to assert an impairment of contract claim against the City of Aztec or the ALTSD or the State of New Mexico in the event of immediate or Early Termination of this Agreement by the City of Aztec or the Department"

ARTICLE XVI. REQUIRED TERMINATION CLAUSE IN CONTRACTS FUNDED IN WHOLE OR PART BY FUNDS MADE AVAILABLE UNDER THIS AGREEMENT

Grantee acknowledges, warrants, and agrees that Grantee shall include the following termination clause in all contracts that are (i) funded in whole or part by funds made available under this Agreement and (ii) entered into after the effective date of this Agreement:

“This contract is funded in whole or in part by funds made available under an ALTSD Grant Agreement. Should the ALTSD early terminate the grant agreement, the City of Aztec may early terminate this contract by providing Contractor written notice of such termination. In the event of termination pursuant to this paragraph, the City of Aztec only liability shall be to pay Contractor for acceptable goods delivered and services rendered before the termination date.”

Grantee hereby waives any rights to assert an impairment of contract claim against the Department or the State of New Mexico in the event of Early Termination of this Agreement by the Department.

XVII. COMPLIANCE WITH UNIFORM FUNDING CRITERIA.

- A. Throughout the term of this Agreement, Grantee shall
1. submit all reports of annual audits and agreed upon procedures required by Section 12-6-3(A)-(B) NMSA 1978 by the due dates established in 2.2.2 NMAC, reports of which must be a public record pursuant to Section 12-6-5(A) NMSA 1978 within forty-five days of delivery to the State Auditor;
 2. have a duly adopted budget for the current fiscal year approved by its budgetary oversight agency (if any);
 3. timely submit all required financial reports to its budgetary oversight agency (if any); and
 4. have adequate accounting methods and procedures to expend grant funds in accordance with applicable law and account for and safeguard grant funds and assets acquired by grant funds.
- B. In the event Grantee fails to comply with the requirements of Paragraph A of this Article XVII, the Department may take one or more of the following actions:
1. suspend new or further obligations pursuant to Article VI(A) of this Agreement;
 2. require the Grantee to develop and implement a written corrective action plan pursuant to Article VI(D) of this Agreement to remedy the non-compliance;
 3. impose special grant conditions to address the non-compliance by giving the Grantee notice of such special conditions in accordance with Article III of this Agreement; the special conditions shall be binding and effective on the date that notice is deemed to have been given pursuant to Article III; or
 4. terminate this Agreement pursuant to Article V(A) of this Agreement.

[THIS SPACE LEFT BLANK INTENTIONALLY]

IN WITNESS WHEREOF, the parties have duly executed this Agreement as of the date of execution
by the Department.

GRANTEE

Signature of Official with Authority to Bind Grantee

Entity Name

By: _____
(Type or Print Name)

Its: _____
(Type or Print Title)

Date

AGING AND LONG TERM SERVICES DEPARTMENT

By:

Its: Cabinet Secretary or Designee

Date

**STATE OF NEW MEXICO
 CAPITAL GRANT PROJECT
 Request for Payment Form
 Exhibit 1**

I. Grantee Information

(Make sure information is complete & accurate)

A. Grantee: _____
 B. Address: _____
 (Complete Mailing, including Suite, if applicable)

 City State Zip
 C. Phone No: _____
 D. Grant No: _____
 E. Project Title: _____
 F. Grant Expiration Date: _____

II. Payment Computation

A. Payment Request No. _____
 B. Grant Amount: _____
 C. AIPP Amount (If Applicable): _____
 D. Funds Requested to Date: _____
 E. Amount Requested this Payment: _____
 F. Reversion Amount (If Applicable): _____
 G. Grant Balance: _____
 H. GF GOB STB (attach wire if first draw)
 I. Final Request for Payment (if Applicable)

III. Fiscal Year : _____

(The State of NM Fiscal Year is July 1, 20XX through June 30, 20XX of the following year)

IV. Reporting Certification: I hereby certify to the best of my know ledge and belief, that database reporting is up to date; to include the accuracy of expenditures and grant balance, project status, project phase, achievements and milestones; and in compliance with Article VII of the Capital Outlay Grant Agreement.

V. Compliance Certification: Under penalty of law, I hereby certify to the best of my know ledge and belief, the above information is correct; expenditures are properly documented, and are valid expenditures or actual receipts; and that the grant activity is in full compliance with Article IX, Sec. 14 of the New Mexico Constitution known as the "anti donation" clause.

 Grantee Fiscal Officer
 or Fiscal Agent (if applicable)

 Grantee Representative

 Printed Name
 Date: _____

 Printed Name
 Date: _____

(State Agency Use Only)

Vendor Code: _____ Fund No.: _____ Loc No.: _____

I certify that the State Agency financial and vendor file information agree with the above submitted information.

 Division Fiscal Officer Date

 Division Project Manager Date

**NOTICE OF OBLIGATION TO REIMBURSE GRANTEE
EXHIBIT 2**

Notice of Obligation to Reimburse Grantee # _____

DATE: _____

TO: Department Representative: _____

FROM: Grantee: _____

Grantee Official Representative: _____

SUBJECT: Notice of Obligation to Reimburse Grantee

Grant Number: _____

Grant Termination Date: _____

As the designated representative of the Department for Grant Agreement number _____ entered into between Grantee and the Department, I certify that the Grantee has submitted to the Department the following third party obligation executed, in writing, by the third party's authorized representative:

Vendor or Contractor: _____

Third Party Obligation Amount: _____

Vendor or Contractor: _____

Third Party Obligation Amount: _____

Vendor or Contractor: _____

Third Party Obligation Amount: _____

I certify that the State is issuing this Notice of Obligation to Reimburse Grantee for permissible purposes within the scope of the project description, subject to all the terms and conditions of the above referenced Grant Agreement.

Grant Amount (Minus AIPP if applicable): _____

The Amount of this Notice of Obligation: _____

The Total Amount of all Previously Issued Notices of Obligation: _____

The Total Amount of all Notices of Obligation to Date: _____

Note: Contract amounts may exceed the total grant amount, but the invoices paid by the grant will not exceed the grant amount.

Department Rep. Approver: _____

Title: _____

Signature: _____

Date: _____

1 Administrative and/or Indirect Cost – generally, the legislation authorizing the issuance of bonds prohibits the use of its proceeds for indirect expenses (e.g. penalty fees or damages other than pay for work performed, attorney fees, and administrative fees). Such use of bond proceeds shall not be allowed unless specifically authorized by statute.

**OPTIONAL ATTACHMENT A
SPECIAL CONDITIONS**

The capital outlay oversight requires grantees' accounting methods and procedures, including their internal control framework, to be scrutinized, so as to safeguard State capital outlay appropriations and assets acquired with such appropriations.

The grantee has provided sufficient documentation in compliance with special conditions for Capital Assets, and Travel and Per Diem.

PROJECT DESCRIPTION FORM
SCOPE OF WORK (SOW)

(Please email this completed form to ALTSD in MS Word format)

1. **Name of Grantee/ Fiscal Agent:** CITY OF AZTEC
2. **Project Title:** Fire Alarm System Upgrade
3. **Grant Agreement Number:** A19D2049
4. **Background Narrative:** Upgrade of fire alarm system at the City of Aztec Senior Center, located in Aztec, New Mexico, San Juan County, in the amount of \$53,800. Fire alarm system upgrade will meet current ADA and fire codes providing early notification and protection of senior center occupants and emergency responders.
5. **Work Plan:** A scope of work will be finalized and procurement regulations will be followed to retain the services of qualified contractor to perform the work necessary to meet current ADA and fire codes. Procurement completed February 2020; project anticipated to be completed August 2020.

6. Budget Detail:

Project Cost Activities <i>(These are only examples. Insert activities specific to the proposed project.)</i>	Other Funds	State Funds
Architect/Engineer		
Construction		53,800.00
Renovation		
Improvements for Code Compliance		
Equipment <small>*NOTE: Capital Outlay Reform, effective July 1, 2014, mandates equipment purchased with capital appropriations must be valued at \$5,000 or more.</small>		
Meals Equipment <small>*NOTE: Capital Outlay Reform, effective July 1, 2014, mandates equipment purchased with capital appropriations must be valued at \$5,000 or more.</small>		
Vehicle Purchase		
Other Costs (specify)		
AIPP (if applicable)		
Totals		53,800.00

7. **Performance Measures:**
 Completion of alarm system summer 2020.

8. Results Expected:

Fire alarm system that meets ADA and fire code requirements providing the necessary safety measure for the participants which utilizes the Aztec Senior Center.

9.

Time Frame/ Milestones: Upon full execution of the Grant Agreement the following tasks will commence to meet the time frame/milestones. (These are only examples. Insert milestones specific to the proposed project.)	
RFP/Quotes Secured	February 2020
Bid Closing	February 2020
Bid Award to Contractor/Vendor	February 2020
<u>Choose the appropriate project-type from below:</u>	<u>Type the number of months appropriate to the project-type:</u>
Meals Equipment – Purchase and Install	Months 4-5
Equipment - Purchase and Install	Months 4-5
Construction	April - June 2020
Renovation	Months 4-8
Code Compliance projects	Months 4-10
Vehicles – Purchase and Equip	Month 6
Project Completion & Review	July 2020
Submit Exhibit I – Monthly / Final Report Form & Request for Payment according to contractual requirements as set forth in Articles VIII & IX of the Grant Agreement	January – August 2020

10. Responsible Staff (include Project Manager and Fiscal Contact):

Name: Jeff Blackburn
 Title: General Services Director
 Address: 201 W Chaco, Aztec NM 87410
 Email: jblackburn@aztecnm.gov
 Phone: 505-334-7664

Name: Kathy Lamb
 Title: Finance Director
 Address: 201 W Chaco, Aztec NM 87410
 Email: klamb@aztecnm.gov
 Phone: 505-334-7653

NOTICE: The Grant Application, if approved for funding by the Aging and Long Term Services Department (ALTSD) and any attachments to the Grant Application are incorporated by reference into the scope of work. In the event of a conflict between any of the documents that are part of the Agreement, the ALTSD Cabinet Secretary, at the sole discretion of ALTSD, shall resolve that conflict.

Staff Summary Report

MEETING DATE: February 25, 2020
AGENDA ITEM: X. Quasi-Judicial Hearings (Land Use) (A)
AGENDA TITLE: CUP 19-02 – Conditional Use Permit— To Allow a Church in a C-1 Commercial Zoning District.

ACTION REQUESTED BY: Danny Bost

SUMMARY BY: Steven Saavedra

PROJECT DESCRIPTION / FACTS

Applicant	Danny Bost
Representative	N/A
Date of Application	12-09-2020
Requested Action	CUP 19-02 – Conditional Use Permit - to allow a Church in a C-1 Commercial District.
Location	222. N. Main Ave, Aztec, NM
Dimensions	Tax ID # R0000513
Existing Land Use	Commercial
Existing Zoning	C-1 Limited Retail / Neighborhood Commercial District
Surrounding Zoning	North: C-1 Limited Retail / Neighborhood Commercial South: C-1 Limited Retail / Neighborhood Commercial East: R-2 Multiple-Family Dwelling West: O-1 Office & Institutional
Notice	Property owners within 100-feet were sent notice by certified mail on December 16, 2019, and a classified ad was placed with the Daily Times on December 17, 2019. This meeting was re-advertised for the February 11, 2020 City Commission meeting and then rescheduled and re-advertised for the February 25, 2020 meeting.
FEMA SFHA	YES
MRA District	YES
Access	Main Ave (NM Highway 550)

Summary

The applicant is proposing the placement of the New Harvest Church at 222 N. Main Avenue, Aztec, NM. The subject property is located in the C-1 Limited Retail / Neighborhood Commercial Zoning District and the Metropolitan Redevelopment Area (MRA). The C-1 District states that institutions, such as libraries, museums, schools, orphanages, assisted living facilities, are allowed without Commission approval. However, churches are not mentioned as allowed use by right per the C-1 District, and COA 26-4-501 stipulates, "any land use not specified under uses Permitted" within the text of this Chapter shall be considered a conditional use provided the applicant can demonstrate compatibility with other land uses in the surrounding property or community. Therefore, the New Harvest Church is seeking approval of a conditional use permit in order to reside at 222 N. Main Ave.

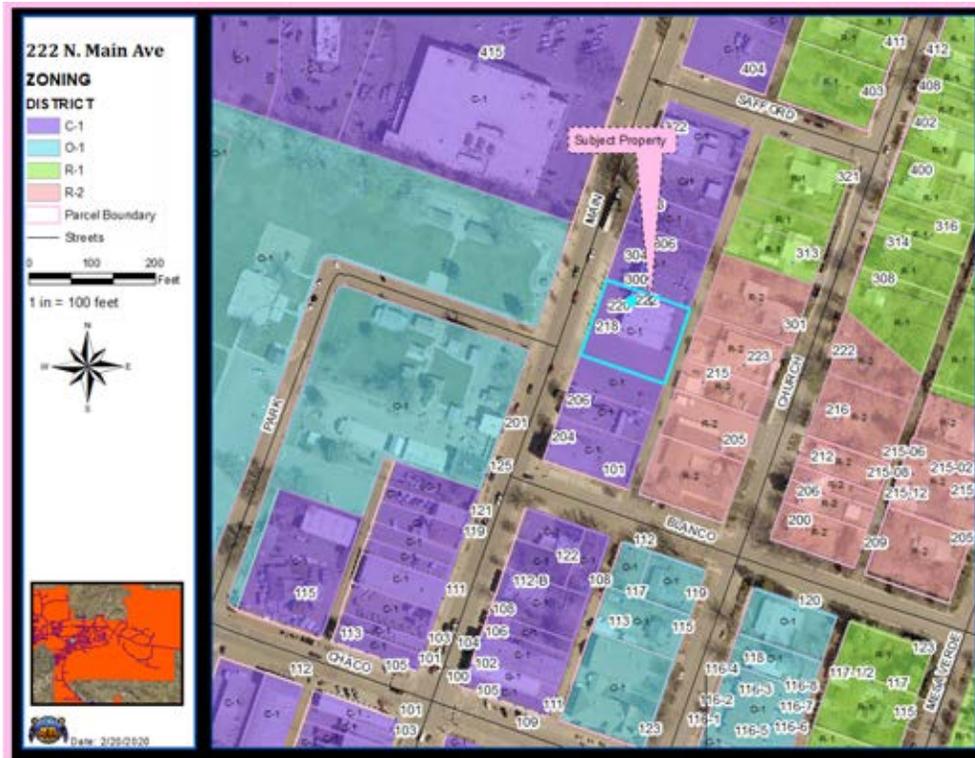


Figure 1: Zoning Map

The New Harvest Church was previously located in the C-1 District, at 207 S. Main Avenue., Aztec, NM. The New Harvest Church had been at 207 S. Main Ave since the summer of 2016. There is currently no conditional use permit on file for a church at 207 S. Main Ave. In the fall of 2019, a fire at 207 S. Main Ave forced New Harvest Church to relocate. Previous uses and business at 222 N. Main were Tahoe Laundry, Tropical Paradise, and Aztec Finance.

According to the COA Land Use Definition, a Church is defined as "a structure designed, used or intended for the purpose of conducting religious services including,

but not limited to educational, social and other activities associated with the organization. This definition is strictly structurally defined and not faith-based" (COA 26-85). In 2000, the City of Aztec proposed ordinance 2000-254, stating churches, provided a development plan, approved in a PUD for zone, and defined a Church as a place of worship, please see exhibit 1. In 2001, the City of Aztec's former Planning & Zoning Board rejected Ordinance 2000-254, as there were concerns regarding churches in Downtown and Aztec Blvd. Two primary concerns from the former Planning & Zoning Board were restrictions on alcohol sales and the appearance of a vacant structure. Businesses are not allowed to serve or sell alcohol within 300-feet of a Church unless the City Commission approves a waiver. Churches are typically occupied one or two days of the week. Therefore, the storefront appears vacant most days of the week. The City of Aztec never adopted ordinance 2000-254. The concerns from the former Planning & Zoning Board remain should a church appear vacant, and opposition to alcohol sales occur in the downtown district.

C-1 Limited Retail / Neighborhood Commercial District

Sec. 26-2-61. This district is established as a mixed use neighborhood commercial district. An activity permissive in this district should attempt to locate in or near the City's "Central Business District". This district should contain the major bulk of the shopper's goods, specialty goods and professional services needed to satisfy the day-to-day requirements of the City's population. The district should also encourage in-fill housing, institutional uses, public buildings and spaces. (Code 2007, 26-61).

Conditional Use Permit Requirements

Approval or Denial. No "Conditional Use Permit" shall be approved or granted by the City Commission unless the conditional use:

- (1) is necessary for public convenience at the proposed location. AZTEC CITY CODE CHAPTER 26 – LAND USE REGULATIONS 2019 JANUARY 10 26-80.
- (2) Is so designed, located and proposed to be operated that the public health, safety and welfare will be protected.
- (3) Will not cause substantial injury to the value of other property in the neighborhood of which it is a part; and
- (4) That in no case will such use change or alter the Land Development district of which it is a part and further, in the event of such use cease to operate, the property occupied by the "conditional use" will revert back to its intended District. Denial of the "Conditional Use Permit" can occur if:
 - (5) A written protest to the proposed conditional use is signed by the majority of owners of property within one hundred (100) feet; or
 - (6) The Conditional Use application fails to receive a majority vote of the City Commission.

Analysis

Negative externalities, such as noise, smoke, flashing bright lights are not expected, based on the use and history of the New Harvest Church. The parcel of property is

located in a FEMA Special Flood Hazard Area (SFHA), but the building structure is located outside of SFHA. The New Harvest Church may negatively influence the wellbeing of the downtown area if the church is closed or unoccupied most days of the week; the structure will appear vacant. Vacant or unoccupied structures are counter to Aztec's Downtown Metropolitan Redevelopment Area Plan (MRA) and the Comprehensive Plan. Both the Comprehensive and Downtown MRA Plan seeks to encourage economic activity in the downtown corridor. If the church appears vacant or blighted, this negatively influences the valuation of surrounding property, primarily commercial properties. Similar to a downzone, a church in a commercial district may create further nonconforming uses, loss of commercial property value, and a possible decrease in tax revenue for the City as a whole. The supply of commercial real estate is reduced, should a church occupy 222 N. Main Ave. It is important to note the economic downturn has resulted in more than average vacant buildings in downtown in the past four years. A church is not an optimal use for the C-1 district, the MRA, or downtown; it, however, is preferable to a vacant storefront.

To date, Community Development has not received any comments, questions, concerns, support or opposition to this conditional use permit request.

The City Commission tabled CUP 19-02 application on January 14, 2020. The City Commission requested a recommendation from the Economic Development Advisory Board (EDAB). On January 16, 2020 the Economic Development Advisory Board reviewed the application and welcomed Mr. Danny Bost, as he presented his case to the board. The Economic Development Advisory Board expressed their concern with CUP 19-02, as the MRA Plan seeks to encourage businesses and economic activity. The church is currently located in the MRA and is not a business. However, the Economic Development Advisory Board recommended approval of CUP 19-02, with the conditions found in the staff report from the January 14, 2020 land use hearing for CUP 19-02. In addition, the Economic Development Advisory Board recommended an additional condition. The Economic Development Advisory Board recommended the church actively search for an alternate location that is not in a commercial district during the duration of the lease contract. The recommendation was unanimous.



Figure 2: Storefront

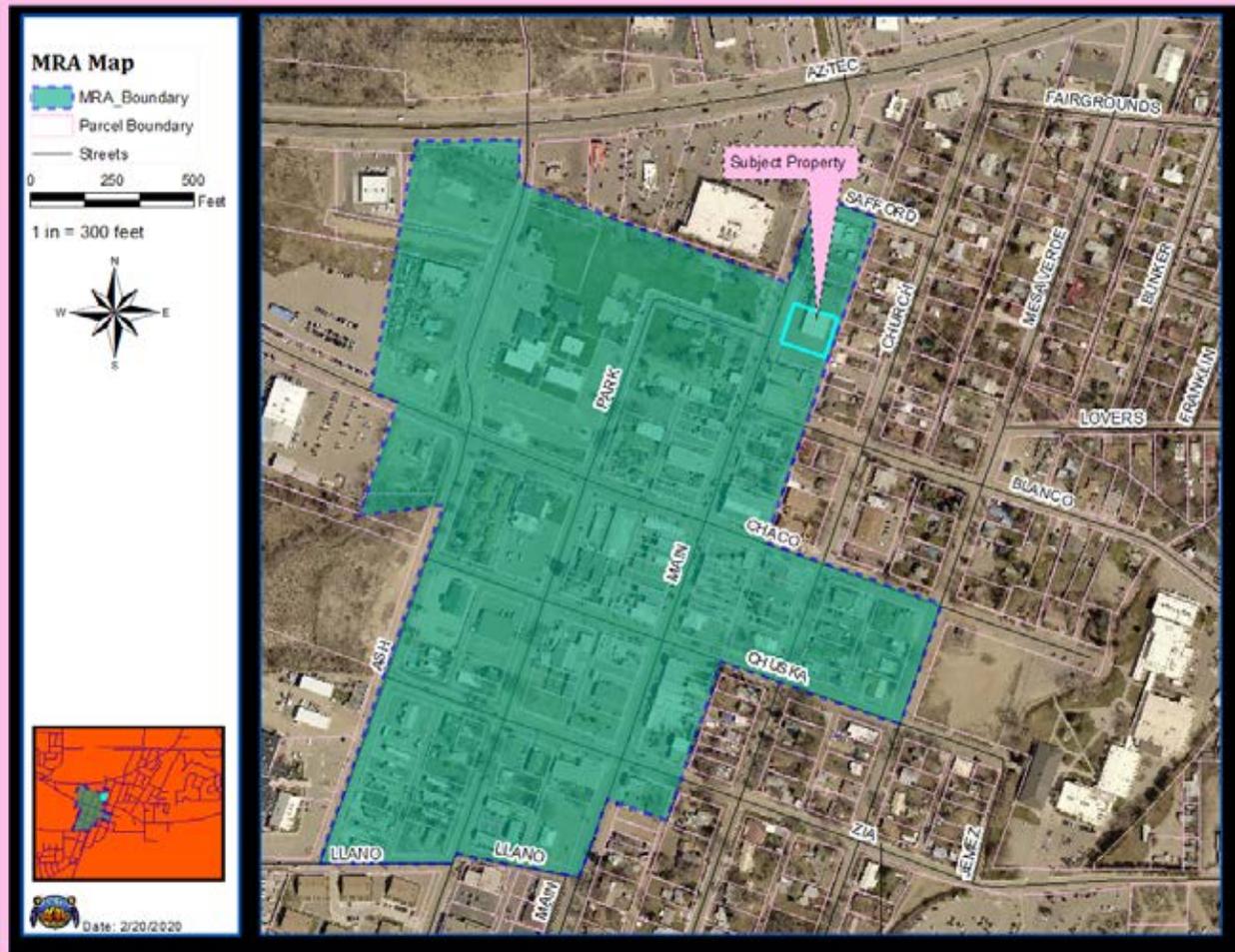


Figure 3: MRA Map

SUPPORT DOCUMENTS:

1. Application
2. List of Adjacent Property Owners
3. Adjacent Property Owner Notification Letter

DEPARTMENT’S RECOMMENDED MOTION: Move to approve CUP 19-02, a request from Danny Bost, for a conditional use permit to allow a church in the C-1 District at 222 N. Main Ave, with the following conditions:

- 1) The church must have lights turned on at all times, especially thought out the evening, in order to appear occupied when not in use;
- 2) Continues display of plants, flowers, bushes, and or trees displayed outside of the storefront in order to appear occupied;
- 3) The church does not object to any and all current or future liquor licenses within 300-feet of the subject area;
- 4) Window signs must adhere to sign requirements set forth in COA Sec. 20-4-4 “Window Signs. Permanent window signs shall not exceed twenty-five (25) percent of the area of a window or, in cases of buildings with numerous windows,

shall not exceed twenty-five (25) percent of the total area of all windows combined. The total area of all window signs, including both permanent and temporary signs, shall not exceed fifty (50) percent of the window area or, in cases of buildings with numerous windows, shall not exceed fifty (50) percent of the total area of all windows combined”;

- 5) Adhere to the parking requirements set forth in Chapter 26-3-171(2);
- 6) Lack of compliance with the listed conditions, may result in the revocation of the conditional use permit.

EDAB’S RECOMMENDED MOTION:

Move to approve CUP 19-02, a request from Danny Bost, for a conditional use permit to allow a church in the C-1 District at 222 N. Main Ave, with the following conditions:

- 1) The church must have lights turned on at all times, especially thought out the evening, in order to appear occupied when not in use;
- 2) Continues display of plants, flowers, bushes, and or trees displayed outside of the storefront in order to appear occupied;
- 3) The church does not object to any and all current or future liquor licenses within 300-feet of the subject area;
- 4) Window signs must adhere to sign requirements set forth in COA Sec. 20-4-4 “Window Signs. Permanent window signs shall not exceed twenty-five (25) percent of the area of a window or, in cases of buildings with numerous windows, shall not exceed twenty-five (25) percent of the total area of all windows combined. The total area of all window signs, including both permanent and temporary signs, shall not exceed fifty (50) percent of the window area or, in cases of buildings with numerous windows, shall not exceed fifty (50) percent of the total area of all windows combined”;
- 5) Adhere to the parking requirements set forth in Chapter 26-3-171(2);
- 6) Lack of compliance with the listed conditions, may result in the revocation of the conditional use permit.
- 7) The church actively searches for an alternate location that is not in a commercial district during the duration of the lease contract.





Figure 4: Streetview



CITY OF AZTEC CONDITIONAL USE APPLICATION

Permit #: CUP 19-02 Date Started: 12-09-19 Date Approved: _____ Fees Paid: _____

PROPERTY OWNER CONTACT INFORMATION

Name: Danny Bost Dbe New Harvest Church
Mailing Address: 222 N. Main Ave Aztec NM 87415
Phone: 505-333-5970
Email: Bostcustom@gmail.com

PROPERTY INFORMATION / DEVELOPMENT SITE

Address: 222 N Main
Tax ID: R0000513 Parcel Size (ac): .40
Zone District: C-1
Current Use: Church
Proposed Use: Church
Flood Zone Designation: _____

REASON FOR REQUESTING A CONDITIONAL USE

We would like to utilize the facility for a church

APPLICANT SIGNATURE

I, Danny Bost representing New Harvest Church hereby certify that I have read this application and hereby dispose and state under penalty of perjury that all statements, proposals, and documents submitted with this application are true and correct and that I shall adhere to the Municipal Regulations of the City of Aztec.

Signature: Danny Bost Date: 12/9/19

CITY OF AZTEC USE ONLY

City Commission Meeting Date: _____

City Commission Action: _____ APPROVED _____ DENIED

FEES ARE DUE PRIOR TO COMMISSION MEETING

Fees are: \$10 Administration Fee + \$250 Conditional Use Fee = Total \$260



CITY OF AZTEC CONDITIONAL USE EVALUATION

Permit #: CUP 19-02

1. Is the Conditional Use necessary for public convenience? No Yes
2. Does the Conditional Use impose a health issue on the public? No Yes
3. Does the Conditional Use impose a safety issue on the public? No Yes
4. Is the Conditional Use detrimental to the property? No Yes
5. Is the Conditional Use detrimental to surrounding properties? No Yes
6. Have a majority of the property owners within 100 ft signed a written protest? No Yes



CITY OF AZTEC CONDITIONAL USE CHECKLIST

Applicable Fees

Administrative Fee \$10
Conditional Use Permit Fee \$250

Detailed site map which includes the following:

- Address of property and adjacent properties
- Property boundary (all sides)
- Existing or proposed street(s) adjoining property (labeled)
- North arrow and scale
- All utility easements
- All utility lines
- All utility meters
- Existing and/or proposed structures
- Location of improvement(s)
- Setbacks for front, side and rear yards
- Driveway location (required for new addresses)
- Proposed parking area (if different than driveway)
- Location of all drainages

Ownership

A document that verifies ownership or legal interest in the property (copy of abstract, title certificate, insurance, or contract).

Legal Description

Includes the legal description or physical address of the property.

Proposed Use

Statement describing the proposed use of the buildings, structures, premises, etc.

Church.

LEASE

Lease made this 1st day of SEPT 2019, between Danny Best dba New Harvest Church herein referred to as Lessor, and Fred + Gerdy in Brandenb herein referred to as Lessee. In consideration of the mutual covenants contained herein, the parties agree as follows:

I. DESCRIPTION OF PREMISES

Lessor leases to Lessee the premises located at 222 N. MAIN ST Artee. N.M. and described more particularly as:

That section of the floor space of the building located at 222 N. MAIN ST as agreed to between the parties. A sketch of the floor plan and the portioned leased to Lessee is attached hereto and hereby incorporated by reference.

II. TERM

The term of this lease is for ONE year beginning on SEPT 1st 2019, and terminating on Aug 31st 2020, 12 O'clock A.M.

III. RENT

The total rent under this lease is to be a minimum of SEVENTY^{two} hundred (700). Lessee shall pay Lessor that amount in installments of (600) each month, beginning SEPT 1st 2019, with succeeding payments due on the first day of each month thereafter during the term of the lease. Rent shall be paid to Lessor at 223 N. Church Ave Artee N.M

This rental amount shall not include utilities or Telephone Service. Lessee shall be responsible of his own utilities and telephone installation, service and monthly billings.

IV. SECURITY DEPOSIT

Upon signing this lease Lessee has a deposit of 600⁰² with Lessor, which amount shall be held by Lessor as security for the full and timely performance by Lessee of the terms and conditions herein and for payment of any final Judgment that may be rendered against Lessee for a breach of those terms and conditions. No interest shall be paid on this deposit. The rights of Lessor against Lessee for breach of this lease shall in no way be limited or restricted by this deposit, but Lessor shall have the absolute right to pursue any available remedy to protect its interest herein. This deposit shall represent a first and last month rental fee. The deposit shall be applied to the first month's rent and may be applied to the final month's rent at Lessor's option. Should these premises be sold, Lessor may transfer or deliver this deposit to the purchaser which delivery shall discharge them from any further liability with respect to the security deposit.

V. USE OF PREMISES

The premises are to be used solely for the purpose of operating a Church
Lessee shall restrict its use to such purpose without the written consent of Lessor.

VI. REPAIRS AND MAINTENANCE

Lessee shall maintain the premises and keep them in good repair at his own expense, except that rear exterior walls and the roof will be maintained in good condition by Lessor. Lessee shall maintain and repair windows, doors, light bulbs, electrical and plumbing systems, and interior walls. Repair of any damage to the interior shall be the responsibility of Lessee; all repairs will comply to applicable codes and regulations.

VII. DELIVERY, ACCEPTANCE, AND SURRENDER OF PREMISES

Lessor represents that the premises are in fit condition for use by Lessee. Acceptance of the premises by Lessee shall be construed as recognition that premises are in good state of repair and in sanitary condition. Lessee shall surrender the premises at the end of the lease term, or and renewal thereof, in the same condition as when lessee took possession, allowing for reasonable use and wear, and damage by acts of God, including fires, and storms. Before delivery Lessee shall remove all business signs placed on the premises by Lessee and restore the portion of the premises on which they were placed in the same condition as when received.

VIII. PARTIAL DESTRUCTION OF PREMISES

Partial destruction of the leased premises shall not render this lease void or voidable, nor terminated except as herein provided. If the premises are partially destroyed during the term of the lease, Lessor shall repair them as soon as such repairs can be made; the repairs are to be made in conformity with applicable governmental laws, regulations, and codes, within 120 days of the partial destruction. Written notice of the intention of Lessor to repair shall be given to Lessee within 15 days after any partial destruction. Rent may be reduced proportionally to the extent to which the repair operations interfere with the business conduct on the premises by Lessee. Reduction of the rent shall be solely at Lessor's option. If the repairs cannot be made within the time specified above, Lessor shall have the option to make them within a reasonable time and continue this lease in effect with proportional rent rebate to Lessee as provided herein. If the repairs cannot be made within 120 days, and if Lessor does not elect to make them within a reasonable time, either party shall have the option to terminate this lease.

If partial destruction of the Lease premises is due to Lessee's or his agent's negligence, Lessee shall be fully responsible for all repairs. If all repairs are not completed within 120 days of the partial destruction, Lessor shall have the option to make all repairs and obtain reimbursement from the Lessee therefore.

IX. ENTRY OF PREMISES BY LESSOR

Lessor reserves the right to enter on the premises at reasonable times to inspect them, perform required maintenance and repairs, or make additions, alterations, or modifications to any part of the building in which the premises are located and Lessee shall permit Lessor to do so. Lessor may erect scaffolding, fences, and similar structures, post relevant notices, and place movable equipment without making alterations, additions, or repairs, all without incurring liabilities to Lessee for the disturbance of quiet enjoyment of the premises, or loss of occupation thereof.

X. SIGNS

Lessee shall conduct and place on the exterior of the premises only such signs as are necessary to the business of Church. Lessee shall remove all such signs, displays, advertisements, or decorations within 15 days after receiving written notice from Lessor to remove them, Lessor reserves the right to enter the premises and remove them at the expense of Lessee.

XI. NON LIABILITY OF LESSOR FOR DAMAGES

Lessor shall not be liable for liability or damage claims for injury to persons or property from any cause relating to the occupancy of the premises by Lessee, including those arising out of damages or losses occurring on sidewalks and other areas adjacent to the leased premises during the term of this lease or any extension thereof. Lessee shall indemnify Lessor from all liability, loss, or other damage claims or obligations resulting from any injuries or losses of this nature.

XII. LIABILITY INSURANCE

Lessee shall procure and maintain in force at his expense during the term of this lease and any extension thereof, general liability insurance with insurers and through brokers approved by Lessor in the minimum amount of \$300,000.00 for each occurrence. The insurance policies shall provide coverage for contingent liability of Lessor on any claims or losses and copy of the policy shall be delivered to Lessor for keeping. Lessee shall obtain a written obligation from the insurers to notify Lessor in writing at least five days prior to cancellation or refusal to renew any policy. If the insurance policies are not kept in force during the entire term of this lease or any extension thereof, Lessor may procure the necessary insurance and pay the premium therefore, Lessor may procure repaid to Lessor as an additional rent installment for the month following the date on which the premiums were paid by Lessor.

XIII. ASSIGNMENT, SUBLEASE, OR LICENSE

Lessee shall not assign or sublease the premises or any right to privilege connected therewith, or allow any other person except agents and employees of Lessee to occupy the premises or any part thereof with first obtaining the written consent of Lessor. A consent by Lessor shall not be consent to a subsequence assignment, sublease or occupation by other persons. An unauthorized assignment, sublease or license to occupy by Lessee shall be void and shall terminate this lease at the option of Lessor. The interest of Lessee in this lease is not assignable by operation of law without the written consent of Lessor.

XIV. TAXES AND ASSESSMENTS

Lessor shall pay, and keep current, all taxes assessed to the real property valuation and external building of the premises. Lessee shall be responsible for payment of all taxes assessed on the personal property located on the interior of the building and for any regularly incurred business taxes.

XV. DEFAULT OR BREACH

Each of the following events shall constitute a default or breach of this lease by Lessee:

1: If Lessee or any successor or assignee of Lessee while in possession, shall file a petition in bankruptcy or insolvency or for reorganization under any bankruptcy act, or shall voluntarily take advantage of any such act by answer or otherwise, or shall make an assignment for the benefit of creditors.

2: If involuntary proceedings under any bankruptcy law or insolvency act shall be instituted against the Lessee, or if a receiver or trustee shall be appointed of substantially all of the property of Lessee, and such proceedings shall not be dismissed or the receivership or trusteeship vacated within 10 days after the institution or appointment.

3: If Lessee shall fail to pay the Lessor any rent or additional rent when the rent shall become due and shall not make payment within five days after notice thereof by Lessor to Lessee.

4: If Lessee shall fail to perform or comply with any of the conditions of this lease and if non performance shall continue for a period five days after notice thereof by Lessor or to Lessee or, if the performance cannot be reasonably had within the five day period, Lessee shall not in good faith have commenced performance within the five day period and shall not diligently proceed to completion of performances.

5: If Lessee shall vacate or abandon the leased premises.

6: If this lease shall be transferred to or passed to any other person or party, except in the manner herein permitted.

XVI. EFFECT OF DEFAULT

It is expressly understood and agreed between the parties aforesaid, that if the rent above reserved, or any part thereof, shall be behind or unpaid on the day of payment whereon the same ought to be paid as aforesaid, or if default shall be made in any of the covenants or agreements herein contained to be kept by Lessee, Lessee's executors, administrators, assigns, and successors in interest, it shall and may be lawful for the Lessor, Lessor's heirs, executors, administrators, agents, attorneys, assigns, or successors in interest, at Lessor's election to declare said term ended and to re-enter the said premises, or and part thereof, either with or without process of law, to expel, remove, and put out, the Lessee, or and other person or persons occupying the same, using such force as may be necessary in so doing, and to repossess and enjoy the same premises again as in its first and former state, and distrain for any rent that may be due thereon any property belonging to Lessee, whether the same be exempt from execution and distress by law or not, and Lessee in that case hereby waives any all legal rights which Lessee now has, or may have, to hold or retain any such property under any exemption laws not in force in the State, or in any other way; meaning and intending hereby to recognize in Lessor, Lessor's heirs, executors, administrators, assigns, or successors in interest, a valid first lien as provided in the laws of New Mexico, upon any and all goods, chattels, and other property belonging to Lessee and located in said premises as security for the payment of said rent and fulfillment of the faithful performance of conditions in the manner aforesaid, anything hereinbefore mentioned to the contrary not with standing. And if at any time said term shall be ended at such election of Lessor, Lessor's heirs, executors, administrators, assigns, or successors in interest, as aforesaid, or in any other way, Lessee, Lessee's heirs, executors, administrators, assigns, or successors in interest, do hereby covenant and agree to surrender and deliver up the above describe premises and property peaceably to Lessor, Lessor's heirs, executors, administrators, assigns, or successors in interest, immediately upon the termination of said term as aforesaid, and if Lessee shall remain in possession of the same 10 days after notice of such default, or after the termination of the lease in any of the ways above named. Lessee shall be deemed guilty of a forcible detainer of said premises under the statute and shall be subject to all the conditions and provisions above named, and the eviction and removal forcible or otherwise, with or without process of law as above stated. And it is further covenanted and agreed by and between the parties hereto that the Lessee shall pay and discharge all costs, attorneys fees, and expenses that shall arise from enforcing the covenants of this indenture by Lessor, Lessor's heirs, executors, administrators, assigns, or successors in interest.

XVII. ATTORNEY'S FEES

If Lessor files as action to enforce any agreement contained in this Lease or for breach of any covenant of this lease, Lessee shall pay Lessor reasonable attorney's fees for the services of Lessor's attorney in the action.

XVIII. OPTION TO RENEW

Lessor grants Lessee an option to renew this lease for a period of one to five years after expiration of the term of this lease at a rental to be determined by the parties at the time of the renewal. The monthly rental payment shall be adjusted to reflect the increase in the Consumer Price Index as reported by the United States Government, but no more than 10% in any one year. To exercise this option to renew, Lessee must give Lessor written notice of intention to do so at least 60 days before this lease expires.

XIX. NOTICE

All notices to be given with respect to this lease shall be in writing. Each notice shall be sent by registered or certified mail, postage pre-paid and return receipt requested, to the party to be notified and the address set forth below or at such other address as either party may from time to time designate in writing.

XX. TOTAL AGREEMENT

This lease contains the entire agreement between the parties and cannot be changed or terminated except by a written instrument executed by the parties here to. This lease and the terms and conditions hereof apply to and are binding on the heirs, legal representatives, successors, and assigns of both parties.

IN WITNESS WHEREOF, the parties have executed this lease on the day and year first written above.

Fred C. Brandenburg
Georgia Brandenburg

Danny Boat

CITY OF AZTEC
PLANNING AND ZONING BOARD MEETING
January 9, 2001

I. CALL TO ORDER

Tony Tristano called the meeting to order at 5:30 PM at the Public Works Building located at 303 S. Ash St., Aztec, NM.

MEMBERS PRESENT: David Selby, Jessica Polatty, Beth Rabourn, Tony Tristano, Norman Tucker and George Jewett.

MEMBERS ABSENT: Don Looney

OTHERS PRESENT: Erick Aune, Ed Kotyk, Brandy Candelaria and John Martin

II. APPROVAL OF MINUTES OF LAST MEETING - December 12, 2000

Tony Tristano suggested that the approval of the December 12, 2000 minutes be postponed until changes are made. He asked that on page two at the very bottom it states that George Jewett asked where the drainage ponds should be placed and then it goes on to page three where Erick Aune responded at the base of Oliver. Tony questioned Erick on where the base of Oliver is, the board came to the conclusion that it should be changed to where the proposed property lines meet Oliver Street. Tony Tristano and Beth Rabourn questioned the subdivision drainage onto the road. Erick responded that it would be discussed this evening. Tony Tristano and George Jewett questioned the wording of minutes on page four " Discussion continued about the language of the ordinance." Tony Tristano stated that not being at the meeting and having to rely on the minutes, that sentence does not give enough important details and asked that the details of the discussion be put into the minutes. Beth Rabourn should be taken out of the moved motion in the tabling of the Church Ordinance. Jessica Polatty's name should be corrected on page three.

III. OLD BUSINESS

- A. An application for a Preliminary and Final Plat of the Chamisa Loma Subdivision located on the East Side of Oliver 100 feet North of Sierra Street, Aztec, New Mexico.

Erick Aune introduced Mr. John Martin to the board as the owner of said property. Erick gave background information on the subdivision, an engineer was hired to look at the three lots and did some calculations in regards to the run off of the developed land. Three holding ponds at the bottom of the lots adjoining the street were recommended. Erick Aune, Steve Christensen - Public Works Director, John Martin, Ken George - Electrical Director and the engineer met on site to discuss what was sufficient for a minor subdivision with fairly steep slopes and with a lot of runoff in the area. Discussed the historical runoff of the subdivision. Erick concluded that the added runoff to the historical runoff would not affect the neighboring landowners. Jessica Polatty questioned where the runoff drains. Erick responded Hwy 516. Tony Tristano asked if the drains have been revised since the last flood. Erick responded no. Tony Tristano questioned Erick Aune more about the runoff to the street and intersection.

George Jewett asked if the drainage pond concept has been changed to retaining walls. Erick Aune responded that Mr. Martin now has proposed that there will be retaining walls and drainage easements, built into the plat.

Jessica Polatty asked if there would be any kind of road to the back of the property for easement. Mr. Martin responded that there already is a road for easement.

MOVED by Jessica Polatty **SECONDED** by Beth Rabourn to approve the Preliminary and Final Plat of the Chamisa Loma Subdivision with the addition of the 36 inch retaining walls. All voted aye.

- B. Final Adoption of Ordinance 2000-254 to adopt City of Aztec Zoning Ordinance Amendment to specifically include "Church" as

a conditional use in the Office and Institutional Zone, the Commercial - 1 and 2 zones, and the Manufacturing 1 and 2 Zones.

Erick Aune began discussion with the history of the Ordinance by beginning with the Federal and State Laws concerning this issue. Erick went on to describe the sequence of events in the past. The church community gathered, presented him with a letter to request this issue to be put on the next Commission Meeting Agenda. Erick's response was to redraft the Amendment to include churches as a conditional use in all zones. Which conditional use means considering parking access, health and safety

issues and conditions. One person from the audience group wanted the word church to be taken out of the amendment and changed to something more broad based. After researching the proposed word "organization", came to the conclusion that organization is too broad of a term and did not change the amendment with the word. But added place of worship to the amendment. At the last P & Z meeting the representative of the church community was not happy with the change.

Norman Tucker stated that laws are not separating the churches but protecting them.

Beth Rabourn asked how does the Federal law address the wording of organizations or churches.

Erick Aune responded that they use churches in the Federal Law.

Erick Aune expressed his concerns that if you change the wording and eliminated the word church, in the future that there could be ultimate discrimination because they are not addressed specifically.

Tony Tristano stated that he agreed with using the term church in the Ordinance. Church is used only because of its common use and has become a common term. And proposed to leave the word church in and change the definition of the word church.

Tony Tristano then brought up the issue that there has been a concern with churches on main and parking. And there is mutual concern with other organizations on main and their parking issues.

Erick Aune responded that is a common misunderstanding with this issue. These other organizations were grandfathered in and look like there is discrimination against the churches.

Tony Tristano asked how this was going to look if they allow the grandfathered organizations to stay but do not allow the churches on main.

Erick Aune responded that after meeting with the San Juan Lodge he explained to them that if they are looking to move off main or to another location on main, the grandfather is removed and you will have to go through the same process as the churches. And they would be out of compliance and

they could not stay on main. Then they would go through the process of rezoning to office and institutional or obtain a special use permit. So the question is what direction do we take? Erick's recommendation is to put this on hold and decide what is the intent of the board and do you want to keep the churches on Main Street.

David Selby stated that he is not convinced that we should allow the churches to be on mainstreet when we have plenty of area for them in the residential areas. There are concerns that a storefront church could damage the appearance of mainstreet.

Tony Tristano agreed with David and also would like to make the point that if these organizations are occupying these spaces on Main Street only one day out of the week, it makes the space look vacant six days out of the week.

Beth Rabourn explained that is not fair to the other retailers on main who are trying to draw in traffic.

Tony Tristano addressed that the businesses in Aztec have to work as a team, and if businesses start leaving main street there is less of a draw as a whole to downtown Aztec. And that is Aztec's only commercial area in town other than Hwy 516.

David Selby stated that he has concerns with the alcohol issue concerning churches in the area and empty buildings majority of the time on main.

Erick Aune asked if the City were using the zoning laws with a compelling reason to the welfare of the town. Is it unreasonable to say no to commercial districts.

Norman Tucker said that he felt they should come up with a compromise for the churches.

Erick Aune said that would put us in the realm of government in private sector, and we can't do that. And there is a responsibility on the landowners to understand the parameters of the zoning of land they are buying. And if they can't function in those parameters then it is up to them to be responsible to sell or follow compliance.

George Jewett said that education of landowners should be the front line of enforcement of the code.

Tony Tristano stated that there is residential area for the churches and then referred to the Ordinance 2000-254, second paragraph stating that the City of Aztec is empowered pursuant to NMSA 1978, Section 3-17-1 to adopt ordinances for the purposes of providing for the safety, preserving the health promoting the welfare of the municipality and its inhabitants. He went on to say that the board is honestly acting in the best interest of their commercial district.

Erick Aune asked the board direction on how to handle this issue.

MOVED by David Selby and SECONDED by Tony Tristano to reject the adoption of the Ordinance 254-2000 to include "Church" as a conditional use in the Office and Institutional Zone, the Commercial -1

and 2 zones, and the Manufacturing 1 and 2 Zones. And on a side note that the commission get a detailed copy of the boards discussion. All voted aye.

IV. NEW BUSINESS

- A. Special Use Permit requested by DayBreak Center, to allow for a Community Residential Program facility for battered women at 305 E. Chuska, Aztec, New Mexico, zoned Office and Institutional.

Item was removed from agenda due to the DayBreak Center could not come up with the funding.

V. ADJOURNMENT

MOVED by Jessica Polatty and **SECONDED** by Beth Rabourn to adjourn the meeting at 6:42 P.M. All Voted Aye.

ORDINANCE 2000-254

An ordinance amending Chapter 26 of the Code of the City of Aztec, and revising the City of Aztec Zoning Ordinance adopted and amended June 30, 1975, and January 6, 1975, respectively, providing under a "Conditional Use" in the Commercial 1-2 and Manufacturing 1-2 "Church, provided a development plan is submitted and approved as required in the PUD Zone." And further to amend the definition of "Church" to read "Church or Place of Worship."

WHEREAS, The City of Aztec is empowered pursuant to NMSA 1978, Section 3-17-1 (Repl. 1995) to adopt ordinances for the purposes of providing for the safety, preserving the health promoting the welfare of the municipality and its inhabitants:

NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF AZTEC, NEW MEXICO, THAT SECTION 26-1.15 E, 26-1.16 G, 26-1.17 E, 26-1.18 C be amended as follows:

26-1.15(E) C-1 (Limited Retail And Neighborhood Commercial Zone) Conditional Uses - Except Mortuaries and Studio

1. Any Conditional use permitted in the 0-1 Zone except 26-1.14(G) 3. and 26-1.14(G) 4.
2. Theaters and commercial auditorium.
3. Amusement centers, including dance halls, nightclubs, bowling alleys, billiard halls, boxing arenas, miniature golf course, games of skill and other similar activities.
4. Multiple Family Dwellings designed for two or more family units with the number of families in residence not exceeding the number of dwelling units provided. This may include apartments, duplex, townhouses and condominiums.
5. *Church, provided a development plan is submitted and approved as required in the PUD zone.*

26-1.16(E) C-2 General Commercial and Wholesale Zone Conditional Uses

1. Restaurants or cafes provided such facilities are for the use of the people working or residing within the Zone.
2. Rendering plants and slaughter houses, provided that such activities are completely enclosed within a building or structure, that all objectionable noise and odor is confined to the premises, and that such activity shall be at least three hundred (300) feet from any dwelling or other structure having public use, and provided further, that the area of the lot shall be not less than five (5) acres in size.
3. Special manufacturing processes permitting the manufacturing of paints, petroleum by-products, plastics, asphalt, and other similar activities,

provided that, suitable precautions are made for the protection of surrounding property and the health and welfare of residents in the Zone.

4. *Church, provided a development plan is submitted and approved as required in the PUD zone.*

26-1.17(E) M-1 (Light Manufacturing Zone) Conditional Uses Conditional Uses

1. Restaurants or cafes provided such facilities are for the use of the people working or residing within the Zone.
2. Rendering plants and slaughter houses, provided that such activities are completely enclosed within a building or structure, that all objectionable noise and odor is confined to the premises, and that such activity shall be at least three hundred (300) feet from any dwelling or other structure having public use, and provided further, that the area of the lot shall be not less than five (5) acres in size.
3. Special manufacturing processes permitting the manufacturing of paints, petroleum by-products, plastics, asphalt, and other similar activities, provided that, suitable precautions are made for the protection of surrounding property and the health and welfare of residents in the Zone.
4. *Church, provided a development plan is submitted and approved as required in the PUD zone.*

26-1.18(E) M-2 (Heavy Manufacturing Zone) Conditional Uses

The following uses shall be permitted, provided the Commission and Board first approves them:

1. Any Conditional Use as described for the M-1 Zone.
2. Objectionable activities permitting the following to include such items as bone distillation, fat rendering, cement or lime manufacturing, explosives, fertilizer, glue, stock yards and feeding pens, extensive slaughtering operations, tanneries and hide curing, wool pulling or scouring, alfalfa processing, fertilizer mixing or manufacture, or other similar activities provided those suitable protective measures as determined by the Commission shall be imposed on the facility in advance, and provided further, that periodic inspections by the Zoning Administrator shall be made at the discretion of the Commission to insure compliance with any special rules or protective measures.
3. *Church, provided a development plan is submitted and approved as required in the PUD zone.*

FURTHERMORE THAT SECTION 26-1.28 DEFINITIONS BE AMENDED TO READ AS FOLLOWS:

CHURCH or PLACE OF WORSHIP

A structure designed, used or intended for the purpose of conducting religious services including, but not limited to educational, social and other activities associated with the organization.

PLACE OF WORSHIP

(See CHURCH)

Be it ordained by the Governing Body of the City of Aztec, New Mexico.

Ordinance 2000-254 – Revisions to C-1/2 and M-1/2 Zoning

Text of Ad: 02/06/2020

**Conditional Use Application
CUP 19-02
222 N. Main Ave., Aztec, NM**

Notice is hereby given that an application has been filed with the City of Aztec-Community Development Department for a Conditional Use Permit to allow a Church at 222 N. Main Ave., within the C-1 Limited Retail / Neighborhood Commercial Zoning District.

LEGAL DESCRIPTION

**AZTEC ORIGINAL TOWNSITE SUBDIVISION LOTS 20, 21, 22,
23, 24 BLK 51 – Otherwise known as 222 N. Main Ave.,
Aztec, NM
TAX ID R0000513**

Pursuant to the provisions of Section 3-21-6, New Mexico Statutes Annotated, 1978 Compilation, notice is hereby given that the petition will be heard in a public hearing by Aztec's City Commission on Tuesday, February 25, 2020 at 6:00 p.m. in the City Commission Chambers at City Hall, 201 W. Chaco Street, Aztec, New Mexico. All persons shall have an opportunity to be heard why said application should be granted or denied. All persons are invited to attend said hearing.

**Conditional Use Application
CUP 2020-01
300 Ash St., Aztec, NM**

Notice is hereby given that an application has been filed with the City of Aztec-Community Development Department for a Conditional Use Permit to allow a tanning salon at 300 Ash St., within the O-1 Office and Institutional Zoning District.

LEGAL DESCRIPTION

**CURRENTS ADDITION SUBDIVISION LOTS 16, 17 BLOCK TWO
BK.1499 PG.297 – Otherwise known as 300 Ash St.,
Aztec, NM
TAX ID R0001736**

Pursuant to the provisions of Section 3-21-6, New Mexico Statutes Annotated, 1978 Compilation, notice is hereby given that the petition will be heard in a public hearing by Aztec's City Commission on Tuesday, February 25, 2020 at 6:00 p.m. in the City Commission Chambers at City Hall, 201 W. Chaco Street, Aztec, New Mexico. All persons shall have an opportunity to be heard why said application should be granted or denied. All persons are invited to attend said hearing.

#4045254, Daily Times, February 7, 2020

**B & R Partners LLC
8450 Hood Mesa
Farmington, NM 87402**

**B & R Partners LLC
8450 Hood Mesa
Farmington, NM 87402**

**B & R Partners LLC
8450 Hood Mesa
Farmington, NM 87402**

**Christopher & Jenn
Middlebrook Trust
19 Rd 2965
Aztec, NM 87410**

**Christopher & Jenn
Middlebrook Trust
19 Rd 2965
Aztec, NM 87410**

**Christopher & Jenn
Middlebrook Trust
19 Rd 2965
Aztec, NM 87410**

**Marlin & Mary Nossaman
5819 Amherst Farms Ln
Fulshear, TX 77441**

**Marlin & Mary Nossaman
5819 Amherst Farms Ln
Fulshear, TX 77441**

**Marlin & Mary Nossaman
5819 Amherst Farms Ln
Fulshear, TX 77441**

**Aztec Presbyterian Church
Attn: Rob
205 N. Church
Aztec, NM 87410**

**Aztec Presbyterian Church
Attn: Rob
205 N. Church
Aztec, NM 87410**

**Aztec Presbyterian Church
Attn: Rob
205 N. Church
Aztec, NM 87410**

**Fred & Georgia Brandenburg
PO Box 1005
Aztec, NM 87410**

**Fred & Georgia Brandenburg
PO Box 1005
Aztec, NM 87410**

**Fred & Georgia Brandenburg
PO Box 1005
Aztec, NM 87410**

**Kris & Sarah Brandenburg
301 N Church
Aztec, NM 87410**

**Kris & Sarah Brandenburg
301 N Church
Aztec, NM 87410**

**Kris & Sarah Brandenburg
301 N Church
Aztec, NM 87410**

**Barry & Linda Goldberg
419 E Main
Farmington, NM 87401**

**Barry & Linda Goldberg
419 E Main
Farmington, NM 87401**

**Barry & Linda Goldberg
419 E Main
Farmington, NM 87401**

**Danny Bost
222 N Main Ave
Aztec, NM 87410**

**Danny Bost
222 N Main Ave
Aztec, NM 87410**

**Danny Bost
222 N Main Ave
Aztec, NM 87410**

Mayor
Victor C. Snover

Mayor Pro-Tem
Rosalyn A. Fry



Commissioners
Austin R. Randall
Sheri A. Sipe
Mark E. Lewis

A desirable place to live, work and play; rich in history and small town values!

**NOTICE OF PUBLIC HEARING
CONDITIONAL USE PERMIT REQUEST
PETITION NO. 2019-02**

December 18, 2019

Dear Property Owner:

Notice is hereby given that an application has been filed with the City of Aztec - Community Development Department for a Conditional Use Permit to allow a Church at 222 N Main Ave., Aztec, NM located in the C-1 : Limited Retail/Neighborhood Commercial District

**LEGAL DESCRIPTION:
AZTEC ORIGINAL TOWNSITE SUBDIVISION LOTS 20, 21, 22, 23, 24 BLK 51
BK.1481 PG.803**

Otherwise known as: 222 N. Main Ave.

Pursuant to the provisions of Section 3-21-6, New Mexico Statutes Annotated, 1978 Compilation, notice is hereby given that the petition will be heard in a public hearing by Aztec's City Commission on **Tuesday, January 14, 2020 at 6:00 p.m.** in the City Commission Chambers at City Hall, 201 W. Chaco Street, Aztec, New Mexico. All persons shall have an opportunity to be heard why said application should be granted or denied. All persons are invited to attend said hearing.

You are receiving this letter because you may own property within 100 feet (excluding public right-of-way) of the proposed request. You are invited to attend the hearings noted above or submit written comments prior to the meeting to the Community Development Department at 201 W. Chaco Street, Aztec, New Mexico 87410. Please be advised that this petition could be canceled or withdrawn prior to the meeting date.

If you have any questions regarding this notice or would like additional information regarding this petition, please contact the Community Development Department at 505-334-7604 or ssaavedra@aztecnm.gov

Sincerely,

Erikka A. Martinez
Community Development

Staff Summary Report

MEETING DATE:	February 25, 2020
AGENDA ITEM:	X. Quasi-Judicial Hearings (Land Use) B
AGENDA TITLE:	CUP 2020-01– A Conditional Use Permit to allow a beauty & tanning salon in the O-1 Zoning District.

ACTION REQUESTED BY:	Misty Denney
ACTION REQUESTED:	CUP 2020-01 – Approval of a Conditional Use Permit - to allow a beauty & tanning salon in the O-1 Zoning District

SUMMARY BY:	Steven Saavedra
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PROJECT DESCRIPTION / FACTS

Applicant	Southside Water Users Association
Representative	Misty Denny
Date of Application	January 29, 2020
Requested Action	CUP 2020-01 – Approval of a Conditional Use Permit - to allow a beauty & tanning salon in the O-1 Zoning District
Location	300 & 302 Ash St.
Dimensions	Tax ID # R0001736
Existing Land Use	Office Use (non-commercial)
Existing Zoning	Office & Institutional District.
Surrounding Zoning / Land Use	North: MH Mobile Home District South: MH Mobile Home District East: C-1 Neighborhood Commercial West: MH Mobile Home District
Notice	Property owners within 100 feet were sent notice by certified mail on February 10, 2020, and a classified ad was placed with the Daily Times on Feb 07, 2020.
MRA	Yes
FEMA SFHA	No
Access	Ash street and Zia street.

Summary

This request seeks the approval from City Commission to allow a beauty & tanning salon in the Office & Institutional Zoning District. The O-1 District does not allow

personal services, such as beauty shops, barber shops, massage parlors, auditors, and other similar uses, unless the application has been reviewed by the Community Development Department and approved by the City Commission (COA § 26-2-56(11)). The applicant is Tanning & Co. and the location of the proposed business is 300 & 302 Ash St. The Southside Mutual Domestic Water Users own the subject property. Currently, the office space is vacant, as the High Desert Credit Union relocated from 302 Ash St., in 2019. Misty Denny is the business owner of Tanning & Co., and is currently leasing office space from Southside Mutual Domestic Water Users at the subject property.

On February 13, 2020, the Economic Development Advisory Board (EDAB) reviewed this CUP application and recommended approval. The recommendation was unanimous.

O-1: OFFICE AND INSTITUTIONAL DISTRICT

This district is established to permit R-1 and R-2 uses (Sections 26-11 and 26-12), plus offices, hotels, institutional, and service uses that are compatible with high-density residential areas. (Code 2007, 26-51).

Conditional Use Permit Requirements

Approval or Denial. No "Conditional Use Permit" shall be approved or granted by the City Commission unless the conditional use:

- (1) is necessary for public convenience at the proposed location. AZTEC CITY CODE CHAPTER 26 – LAND USE REGULATIONS 2019 JANUARY 10 26-80.
- (2) Is so designed, located and proposed to be operated that the public health, safety and welfare will be protected.
- (3) Will not cause substantial injury to the value of other property in the neighborhood of which it is a part; and
- (4) That in no case will such use change or alter the Land Development district of which it is a part and further, in the event of such use cease to operate, the property occupied by the "conditional use" will revert back to its intended District. Denial of the "Conditional Use Permit" can occur if:
 - (5) A written protest to the proposed conditional use is signed by the majority of owners of property within one hundred (100) feet; or
 - (6) The Conditional Use application fails to receive a majority vote of the City Commission.

Analysis

San Juan County's Fire Marshall inspected the property and deemed no significant areas of concern, with the exception of the front and back door emergency lighting. The Emergency lighting has since been corrected. This business currently complies with parking requirements, pursuant to COA § 26-3-171. Negative externalities, such as noise, smoke, flashing bright lights are not expected, based on the suggested use per the business. However, Community Development requests the business respect

residential properties to the north and east of 300 Ash St. Both the Comprehensive and Downtown MRA Plan seek to encourage economic activity. The subject property is located within the MRA and this business accommodates to the economic goals within the MRA Downtown plan.

DEPARTMENT'S RECOMMENDED MOTION: Move to approve CUP 20-01, a request from Southside Water Users Association, represented by Misty Denny, for a conditional use permit to allow a beauty & tanning salon in an O-1 District, at 300 & 302 Ash St., Aztec, NM with the following conditions:

1. All signs on the subject property need to follow sign regulations and obtain sign permits if applicable, pursuant to COA § 20-2-1. The temporary sign posted at the property needs to obtain a temporary sign permit and follow the regulations according to COA § 20-4-7; Window signs must adhere to sign requirements set forth in COA Sec. 20-4-4 "Window Signs. Permanent window signs shall not exceed twenty-five (25) percent of the area of a window or, in cases of buildings with numerous windows, shall not exceed twenty-five (25) percent of the total area of all windows combined. The total area of all window signs, including both permanent and temporary signs, shall not exceed fifty (50) percent of the window area or, in cases of buildings with numerous windows, shall not exceed fifty (50) percent of the total area of all windows combined";
2. Adhere to the parking requirements set forth in Chapter 26-3-171(2);
3. The applicant needs to be aware and adhere to COA § 26-4-542 every "Conditional Use Permit" is specific to the specified property and property owner. Should the property or business be sold to a new owner, the "Conditional Use Permit" automatically becomes void and terminates. Regardless of relationship, a "Conditional Use Permit" is not transferable from owner to owner. (Ord. 2019-498, eff. 2020-Feb-13; Code 2007, 26-542);
4. Lack of compliance with the listed conditions, may result in the revocation of the conditional use permit.

SUPPORT DOCUMENTS:

1. Application
 2. Map
 3. List of Adjacent Property Owners
 4. Adjacent Property Owner Notification Letter
-



Figure 1: Zoning Map

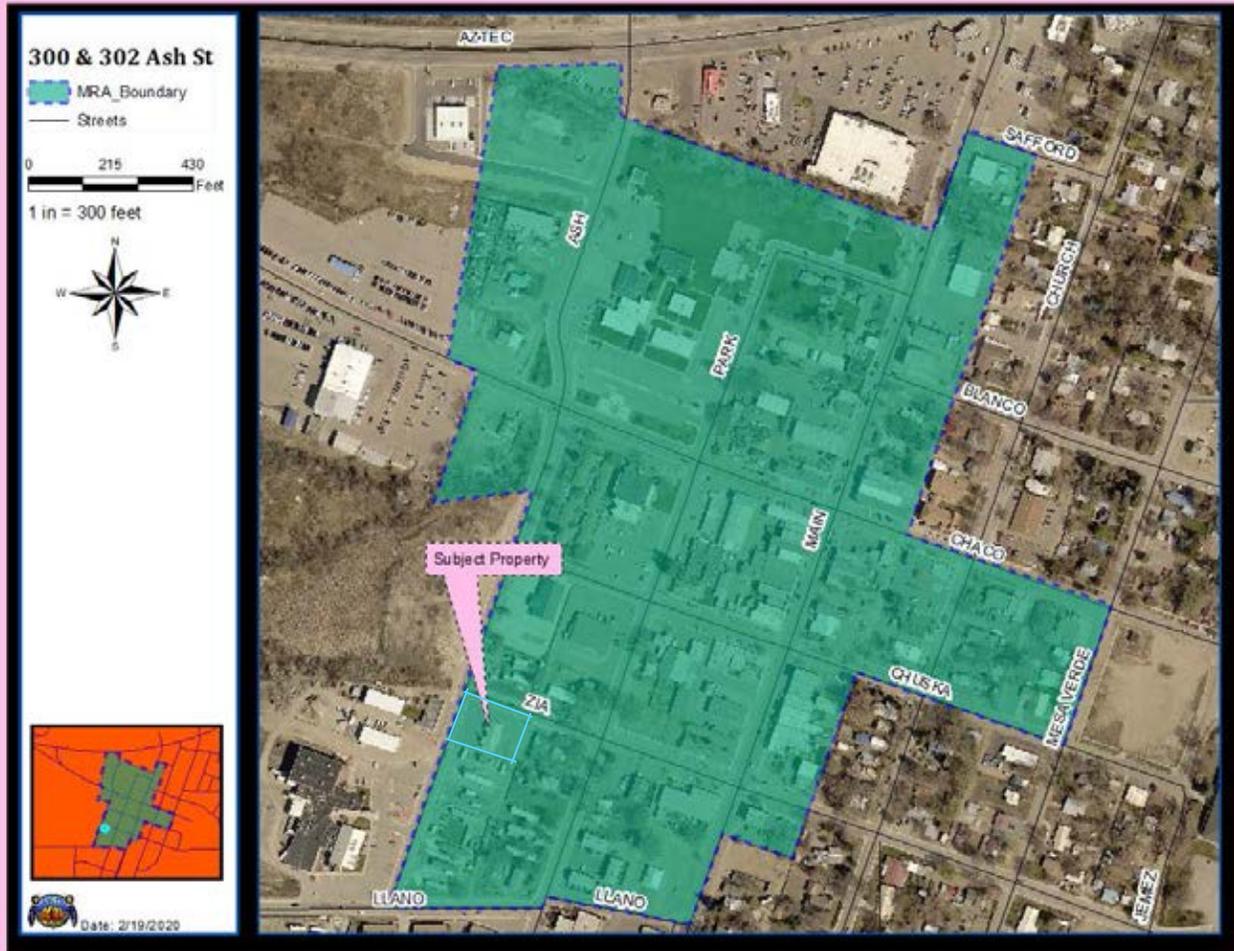


Figure 2: MRA Map



Figure 3: Storefront



Figure 4: 300 & 302 Ash St.

Mayor
Victor C. Snover

Mayor Pro-Tem
Rosalyn A. Fry



Commissioners
Austin R. Randall
Sherri A. Sipe
Mark E. Lewis

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Dear Applicant,

Thank you for taking the time to consult the Community Development Department in regards to an application for a Conditional Use Permit.

If you decide to proceed with the application, we encourage you to schedule a meeting with the Community Development Director prior to submitting your application. We have prepared an overview of the application process to assist you.

City Commission meetings are held on the second and fourth Tuesday of each month in the City Commission Room at 6:00 pm.

By City Code we are required to issue notifications:

- A minimum of (15) days prior to each meeting; and
- To all landowners within 100 feet of your property boundary.

In order to process your application, we need your application signed and returned with the application fee by Thursday, _____ To make the agenda for the Commission meeting held Tuesday, 2/25/2020.

If you have any questions, please do not hesitate to call. We look forward to hearing from you.

Sincerely,
Community Development Office
(505) 334-7604



CITY OF AZTEC CONDITIONAL USE PROCESS

- Step 1** Schedule a meeting with the Community Development Director to review your conditional use request (505) 334-7604.
- Step 2** Turn in completed application and items on the attached *Conditional Use Application Checklist* to the Community Development Department at least 21 days prior to the regularly scheduled City Commission meeting.
- Step 3** The Community Development Department will send out land notifications to property owners within 100 feet of your property boundary.
- Step 4** Once all fees and documentation has been received, the Conditional Use Application will be placed on the next City Commission agenda as a Land Use Hearing item.
- Step 5** On Tuesday, _____, the City Commission will meet at City Hall Commission Room at 6:00 p.m.
- Attendance is required by the applicant or by an authorized representative; applicants wishing to be represented by another party must submit this authorization to the Community Development Department in writing.
 - Failure to appear at the meeting may cause the Conditional Use Application to be postponed until the next regularly scheduled Commission meeting.
 - City Commission will make a ruling upon the Findings of Fact and Conclusions of Law and will issue a Land Use Hearing Order approving or denying the Conditional Use request.
- Step 6** Duration of Permit. Every "Conditional Use Permit" is specific to the specified property and property owner. Should the property be sold to a new owner, the "Conditional Use Permit" automatically becomes void and terminates. Regardless of relationship, a "Conditional Use Permit" is not transferable from owner to owner.



CITY OF AZTEC CONDITIONAL USE REQUIREMENTS

The requirements of a Conditional Use Permit are defined in Chapter 26 Land Use Regulations, Article IV., Division 4. Conditional Uses are listed in Aztec Municipal Code by Zone District. If you need assistance identifying the zone district of your property please consult the Community Development Office at (505) 334-7604.

An excerpt from Aztec Municipal Code which identifies the requirements of a conditional use is included below for your reference:

Sec. 26-4-541. Purpose.

The objective of this land development ordinance is to provide for an orderly arrangement of compatible building and land uses compatible with the physical pattern of development characterized by the neighborhoods and districts within Aztec, and for the proper location of all types of uses required for the social and economic welfare of the City of Aztec. Toward this goal each type and kind of use is classified as being permitted in one or more respective districts. However, in addition to those uses specifically classified as "permitted uses" in each district, there are certain additional uses, because of their unusual characteristics or the service they provide the public. These "conditional uses" listed with their respective district require particular consideration as to their proper location in relation to adjacent established or intended uses. The conditions controlling the location and operation of such "conditional uses" are established by the following provisions of this Section.

(Code 2007, 26-541)

Sec. 26-4-542. Process.

1. Application. Each application for a "Conditional Use" must provide to the Community Development Department the following:
 - (1) A completed "Application for Use Permit" form;
 - (2) A site plan of the proposed activity showing the following requirements:
 - (a) An outline, with boundary dimensions and total acreage, of the area proposed for conditional use;
 - (b) Existing streets, roads, drainage courses and utility features expected to service the area;
 - (c) Proposed streets, private drives, parking area, and utility feature;
 - (d) Proposed locations of structures;
 - (e) North arrow, scale, and other geographic data. The site plan should be drawn on 8-1/2 by 11-inch paper for reproduction purposes.
 - (3) Verification of ownership or legal interest in the subject property (copy of abstract, title certificate, insurance or contract);
 - (4) Legal description of the property or proper street address;
 - (5) Statement describing the proposed use of the buildings, the structures and the premises;

1. Publication and Notification. Proper public notification and publication follows the procedures outlined in Section 26-504-2(3).
2. Fees. A non-refundable fee of two hundred and fifty dollars (\$250.⁰⁰) is required.
3. Approval or Denial. No "Conditional Use Permit" shall be approved or granted by the City Commission unless the conditional use:
 - (1) Is necessary for public convenience at the proposed location.
 - (2) Is so designed, located and proposed to be operated that the public health, safety and welfare will be protected.
 - (3) Will not cause substantial injury to the value of other property in the neighborhood of which it is a part; and
 - (4) That in no case will such use change or alter the Land Development district of which it is a part and further, in the event of such use cease to operate, the property occupied by the "conditional use" will revert back to its intended District.Denial of the "Conditional Use Permit" can occur if:
 - (5) A written protest to the proposed conditional use is signed by the majority of owners of property within one hundred (100) feet; or
 - (6) The Conditional Use application fails to receive a majority vote of the City Commission.
4. Duration. Every "Conditional Use Permit" is specific to the specified property and property owner. Should the property be sold to a new owner, the "Conditional Use Permit" automatically becomes void and terminates. Regardless of relationship, a "Conditional Use Permit" is not transferable from owner to owner.
(Code 2007, 26-542)



CITY OF AZTEC CONDITIONAL USE CHECKLIST

Applicable Fees

Administrative Fee \$10
Conditional Use Permit Fee \$250

Detailed site map which includes the following:

- Address of property and adjacent properties
- Property boundary (all sides)
- Existing or proposed street(s) adjoining property (labeled)
- North arrow and scale *COA provided*
- All utility easements
- All utility lines
- All utility meters
- Existing and/or proposed structures
- Location of improvement(s)
- Setbacks for front, side and rear yards
- Driveway location (required for new addresses)
- Proposed parking area (if different than driveway)
- Location of all drainages

Ownership

A document that verifies ownership or legal interest in the property (copy of abstract, title certificate, insurance, or contract).

Legal Description

Includes the legal description or physical address of the property.

Proposed Use

Statement describing the proposed use of the buildings, structures, premises, etc.



CITY OF AZTEC
CONDITIONAL USE EVALUATION

Permit #: Cup 2020-01

1. Is the Conditional Use necessary for public convenience? No Yes
2. Does the Conditional Use impose a health issue on the public? No Yes
3. Does the Conditional Use impose a safety issue on the public? No Yes
4. Is the Conditional Use detrimental to the property? No Yes
5. Is the Conditional Use detrimental to surrounding properties? No Yes
6. Have a majority of the property owners within 100 ft signed a written protest? No Yes



CITY OF AZTEC
CONDITIONAL USE APPLICATION

Permit #: CUP20-1 Date Started: 1/29/2020 Date Approved: pending Fees Paid: 260.00

PROPERTY OWNER CONTACT INFORMATION

Name: Southside Water Users Association
Mailing Address: 300 Ash Ave
Phone: 505-334-1414
Email: _____

PROPERTY INFORMATION / DEVELOPMENT SITE

Address: 302 Ash Ave
Tax ID: 20001736 Parcel Size (ac): 0.32 AC
Zone District: O-1
Current Use: Empty Commercial Building Office Building
Proposed Use: Beauty and Tanning Salon
Flood Zone Designation: Fema Zone "X"

REASON FOR REQUESTING A CONDITIONAL USE

This is an existing commercial building in Aztec, NM city limits. The building and property is currently zoned for office and institutional businesses with special use conditions for other types of businesses such as personal services and beauty shops. We would like to operate a beauty and tanning salon at this location. This will be a new business for the City of Aztec.

APPLICANT SIGNATURE

I, Misty Denney representing Tanning & Co. hereby certify that I have read this application and hereby dispose and state under penalty of perjury that all statements, proposals, and documents submitted with this application are true and correct and that I shall adhere to the Municipal Regulations of the City of Aztec.

Signature: Misty Denney Date: 01/29/2020

CITY OF AZTEC USE ONLY

City Commission Meeting Date: 2/25/2020

City Commission Action: APPROVED DENIED

FEES ARE DUE PRIOR TO COMMISSION MEETING

Fees are: \$10 Administration Fee + \$250 Conditional Use Fee = Total \$260

Joshua Brooks
210 S. Ash St.
Aztec, NM 87410

Emma & Noberto Garcia
208 S. Ash St.
Aztec, NM 87410

Aztec Lions Club
219 S. Park St.
Aztec, NM 87410

Walton Cozart
704 S. 1st
Bloomfield, NM 87413

Teresa & Anthony Montoya
308 S. Ash St.
Aztec, NM 87410

Andrew Galloway
29 Road 2595
Aztec, NM 87410

Ernest Martinez Jr.
507 Orchard Ave
Aztec, NM 87410

Carlos Gonzales Et Al
514 S. Commercial
Farmington, NM 87401

VMG Properties LLC
5704 Plaza Dr.
Farmington, NM 87402

Carlos & Tiffany Jaquez
66 Road 3008
Aztec, NM 87410

Ritter Louie Ralph
PO Box 571
Aztec, NM 87410

Evelynn & Michael Clawson
6149 Santo Domingo Dr.
Farmington, NM 87402

Gordon Crane
PO Drawer 190
Aztec, NM 87410-0190

**Conditional Use Application
CUP 19-02
222 N. Main Ave., Aztec, NM**

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LEGAL DESCRIPTION

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TAX ID R0001736

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Text of Ad: 02/06/2020

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CUP 19-02
222 N. Main Ave., Aztec, NM**

Notice is hereby given that an application has been filed with the City of Aztec-Community Development Department for a Conditional Use Permit to allow a Church at 222 N. Main Ave., within the C-1 Limited Retail / Neighborhood Commercial Zoning District.

LEGAL DESCRIPTION

**AZTEC ORIGINAL TOWNSITE SUBDIVISION LOTS 20, 21, 22,
23, 24 BLK 51 – Otherwise known as 222 N. Main Ave.,
Aztec, NM
TAX ID R0000513**

Pursuant to the provisions of Section 3-21-6, New Mexico Statutes Annotated, 1978 Compilation, notice is hereby given that the petition will be heard in a public hearing by Aztec's City Commission on Tuesday, February 25, 2020 at 6:00 p.m. in the City Commission Chambers at City Hall, 201 W. Chaco Street, Aztec, New Mexico. All persons shall have an opportunity to be heard why said application should be granted or denied. All persons are invited to attend said hearing.

**Conditional Use Application
CUP 2020-01
300 Ash St., Aztec, NM**

Notice is hereby given that an application has been filed with the City of Aztec-Community Development Department for a Conditional Use Permit to allow a tanning salon at 300 Ash St., within the O-1 Office and Institutional Zoning District.

LEGAL DESCRIPTION

**CURRENTS ADDITION SUBDIVISION LOTS 16, 17 BLOCK TWO
BK.1499 PG.297 – Otherwise known as 300 Ash St.,
Aztec, NM
TAX ID R0001736**

Pursuant to the provisions of Section 3-21-6, New Mexico Statutes Annotated, 1978 Compilation, notice is hereby given that the petition will be heard in a public hearing by Aztec's City Commission on Tuesday, February 25, 2020 at 6:00 p.m. in the City Commission Chambers at City Hall, 201 W. Chaco Street, Aztec, New Mexico. All persons shall have an opportunity to be heard why said application should be granted or denied. All persons are invited to attend said hearing.

#4045254, Daily Times, February 7, 2020

Mayor
Victor C. Snover

Mayor Pro-Tem
Rosalyn A. Fry



Commissioners
Austin R. Randall
Sherri A. Sipe
Mark E. Lewis

A desirable place to live, work and play; rich in history and small town values!

**NOTICE OF PUBLIC HEARING
CONDITIONAL USE PERMIT
PETITION NO. CUP 2020-01**

Dear Property Owner:

The City of Aztec has scheduled a public hearing to discuss and make a decision on a petition to allow a Conditional Use Permit (CUP). This permit allows a tanning salon at 300 Ash St., Aztec, NM. All persons shall have an opportunity to be heard why the said petition should be granted or denied. All persons are invited to attend the said hearing.

LEGAL DESCRIPTION

CURRENTS ADDITION SUBDIVISION LOTS 16, 17 BLOCK TWO BK.1499 PG.297 –
Otherwise known as 300 Ash St., Aztec, NM.
TAX ID R0001736

Pursuant to the provisions of Section 3-21-6, New Mexico Statutes Annotated, 1978 Compilation, notice is hereby given that Aztec's City Commission will hear the petition in a public hearing on Tuesday, February 25, 2020, at 6:00 p.m. in the City Commission Chambers at City Hall, 201 W. Chaco Street, Aztec, New Mexico. All persons shall have an opportunity to be heard why said petition should be granted or denied. All persons are invited to attend the said hearing.

You are receiving this letter because you may own property within 100 feet (excluding public right-of-way) of the proposed request. You are invited to attend the hearings noted above or submit written comments prior to the meeting to the Community Development Department at 201 W. Chaco Street, Aztec, New Mexico 87410. Please be advised that this petition could be canceled or withdrawn prior to the meeting date. If you have any questions regarding this notice or would like additional information regarding this petition, please contact the Community Development Department at 505-334-7605.

Sincerely,

Community Development Department
City of Aztec

