



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

Mary & Arthur Dow Trustees Dow RVT (Agent, JAG Planning & Zoning) request a conditional use to allow a drive-thru/drive-up for Lot A3A, Block D, Glenrio Heights Addn, located at 99999 Coors Blvd NW, zoned MX-L [Section 14-16-4-2]

Special Exception No:..... **VA-2021-00096**
Project No: **Project#2021-005328**
Hearing Date: 05-18-21
Closing of Public Record: 05-18-21
Date of Decision: 06-02-21

On the 18th day of May, 2021, JAG Planning & Zoning, agent for property owners Mary & Arthur Dow Trustees Dow RVT (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a conditional use to allow a drive-thru/drive-up (“Application”) upon the real property located at 99999 Coors Blvd NW (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a conditional use to allow a drive-thru/drive-up.
2. The City of Albuquerque Code of Ordinances Section 14-16-6-6(A)(3) (Review and Decision Criteria– Conditional Use) reads: *“An application for a Conditional Use Approval shall be approved if it meets all of the following criteria:*
 - 6-6(A)(3)(a) *It is consistent with the adopted ABC Comp Plan, as amended.*
 - 6-6(A)(3)(b) *It complies with all applicable provisions of this IDO, including but not limited to any Use-specific Standards applicable to the use in Section 14-16-4-3; the DPM; other adopted City regulations; and any conditions specifically applied to development of the property in a prior permit or approval affecting the property, or there is a condition of approval that any Variances or Waivers needed to comply with any of these provisions must be approved or the Conditional Use Approval will be invalidated pursuant to Subsection (2)(c)2 above.*
 - 6-6(A)(3)(c) *It will not create significant adverse impacts on adjacent properties, the surrounding neighborhood, or the larger community.*
 - 6-6(A)(3)(d) *It will not create material adverse impacts on other land in the surrounding area through increases in traffic congestion, parking congestion, noise, or vibration without sufficient mitigation or civic or environmental benefits that outweigh the expected impacts.*
 - 6-6(A)(3)(e) *On a project site with existing uses, it will not increase non-residential activity within 300 feet in any direction of a lot in any Residential zone district between the hours of 10:00 P.M. and 6:00 A.M.*
 - 6-6(A)(3)(f) *It will not negatively impact pedestrian or transit connectivity without appropriate mitigation.*

3. The Applicant bears the burden of ensuring there is evidence in the record supporting a finding that the above criteria are met under Section 14-16-6-4(N)(1).
4. All property owners within 100 feet and affected neighborhood association(s) were timely notified.
5. The subject property is currently zoned MX-L.
6. City Transportation stated no objection to the application.
7. Based on evidence submitted by the Applicant, the requested conditional use is consistent with the ABC Comp. Plan, as amended. Specifically, applicant cited that the Subject Property is located along a major corridor and an area of change, where development is encouraged. Further, Applicant submitted evidence that the proposed conditional use furthers the following policies of the ABC Comp Plan: Policy 2.4.2 (encouraging infill), Policy 2.4.6 (focusing growth in Centers and Corridors), Policy 5.6.2 (directing development to areas of change).
8. Based on evidence submitted by the Applicant, the requested conditional use complies with all applicable provisions of the IDO, including, but not limited to any Use-specific Standards applicable to the use in Section 14-16-4-3; the DPM; other adopted City regulations; and any conditions specifically applied to development of the property in any prior permit or approval affecting the property.
9. Based on evidence submitted by the Applicant, the requested conditional use will not create significant adverse impacts on adjacent properties, the surrounding neighborhood, or the larger community. While neighbors offered evidence and testimony that traffic would increase, the City Traffic engineer did not object to the Application, and the Applicant agreed to take steps to mitigate any material adverse impact. Also, a neighbor testified that the development would improve the neighborhood by eliminating an undeveloped lot that attracted trash and vagrants, and across which winds blew dust into neighboring residences.
10. Based on evidence submitted by the Applicant, the requested conditional use will not create material adverse impacts on other land in the surrounding area, through increases in traffic congestion, parking congestion noise, or vibration without sufficient mitigation or civic or environmental benefits that outweigh the expected impacts. While neighbors offered evidence and testimony that traffic would increase, the City Traffic engineer did not object to the Application, and the Applicant agreed to take steps to mitigate any material adverse impact of increased traffic. Namely, Applicant worked with the City to establish an access and circulation plan for the site that would minimize impact on the community. No access is allowed off of Coors Blvd, but will instead be provided via Hanover Rd across an easement over the property immediately to the north of the Subject Property, as well as via 59th Street to the east of the Subject Property. The drive-through stacking lanes are oriented to minimize traffic back-ups in or near the residential neighborhood and to eliminate headlights beaming into residences. Applicant will install and maintain directional signage indicating that the Subject Property may be accessed via Hanover Rd across an easement over the property immediately to the north of the Subject Property.
11. Applicant established that IDO Section 6-6(A)(3)(e) does not apply, because the project site has no existing uses. To the extent, if at all, that Section 6-6(A)(3)(e) applies, Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval will not increase non-residential activity within 300 feet of a lot in any residential zone district between the hours of 10:00 pm and 6:00 am. Specifically, Applicant testified that non-residential activity would not increase in any prohibited manner.

12. Based on evidence submitted by the Applicant, the requested conditional use proposed use will not negatively impact pedestrian or transit connectivity, as required by Section 14-16-6-6(A)(3)(f).
13. The ZHE finds that the proper “Notice of Hearing” signage was posted for the required time period as required by Section 14-16-6-4(K)(3).
14. The ZHE finds that the Applicant has authority to pursue this Application.

DECISION:

APPROVAL WITH CONDITION of a conditional use to allow a drive-thru/drive-up.

CONDITION:

Applicant must install and maintain directional signage indicating that the Subject Property may be accessed via Hanover Rd. across an easement over the property immediately to the north of the Subject Property.

APPEAL:

If you wish to appeal this decision, you must do so by June 17, 2021 pursuant to Section 14-16-6-4(U), of the Integrated Development Ordinance, you must demonstrate that you have legal standing to file an appeal as defined.

Successful applicants are reminded that other regulations of the City must be complied with, even after approval of a special exception is secured. This decision does not constitute approval of plans for a building permit. If your application is approved, bring this decision with you when you apply for any related building permit or occupation tax number. Approval of a conditional use or a variance application is void after one year from date of approval if the rights and privileges are granted, thereby have not been executed, or utilized.



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cc:

ZHE File
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