



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

Blake's Lotaburger requests a conditional use to allow a drive through or drive up facility for all or a portion of Lot 1A, Block 96, Snow Heights Addn, located on 1801 Juan Tabo Blvd NE, zoned MX-L [Section 14-16-4-2]

Special Exception No:.....**VA-2018-00014**
Project No:**Project#2018-001228**
Hearing Date:08-21-18
Closing of Public Record:08-21-18
Date of Decision:08-22-18

On the 21st day of August, 2018, Barbara Felix, agent for property owner Blake's Lotaburger ("Applicant") appeared before the Zoning Hearing Examiner ("ZHE") requesting a conditional use to allow a drive through or drive up facility ("Application") upon the real property located at 1801 Juan Tabo Blvd NE ("Subject Property"). Below are the ZHE's findings of fact and decision:

FINDINGS:

1. Applicant is requesting a conditional use to allow a drive through or drive up facility.
2. The City of Albuquerque Code of Ordinances Section 14-16-4-2(C)(1) (Special Exceptions – Conditional Use) reads: "*A conditional use shall be approved if and only if, in the circumstances of the particular case and under conditions imposed, the use proposed:*
(a) *Will not be injurious to the adjacent property, the neighborhood, or the community;*
(b) *Will not be significantly damaged by surrounding structures or activities.*
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 14-16-4-2(C).
4. Barbara Felix appeared and presented evidence in support of the application.
5. The current zone for the application is MX-L.
6. Bob Ellis, a property owner adjacent to the subject address appeared and testified in favor of the application.
7. Levereth Hadlow, a property owner adjacent to the subject address, appeared and testified in support of the application.
8. Both Ellis and Hadlow had a meeting, with Felix, agent for the applicant.
9. This meeting resulted in site plan design changes that addressed the concerns they had regarding placement and concealment of the solid waste dumpsters for the project.
10. Specifically, the ZHE finds the proposed project is at the same location as the same business.
11. The previous building for the business was built in 1983 and was there until a fire destroyed the previous building in 2016.
12. The project will create economic vitality and potential jobs for the surrounding neighborhoods.

13. The project is a prudent use of existing resources, since the utilities and connections for the previous building remain.
14. The project is consistent with community health by providing a buffer between the business and the adjacent residential zone.
15. The proposed site plan for the project addresses buffering to the adjacent residential neighborhood, through the use of low wall, plus plant screening.
16. The project will not affect existing sidewalks or transit corridor.
17. The ZHE finds that in the proposed use will not be injurious to the adjacent property, the neighborhood, or the community as required by Section 14-16-4-2(C)(1)(a).
18. The ZHE finds that the proposed use will not be significantly damaged by surrounding structures or activities as required by Section 14-16-4-2(C)(1)(b).
19. The ZHE finds that the proper "Notice of Hearing" signage was posted for the required time period as required by Section 14-16-4-2(B)(4).
20. The ZHE finds that the Applicant has authority to pursue this Application.

DECISION:

APPROVAL of a conditional use to allow a drive through or drive up facility.

If you wish to appeal this decision, you must do so by September 20, 2018 in the manner described below. A non-refundable filing fee will be calculated at the Planning Department's Land Development Coordination counter and is required at the time the Appeal is filed.

Appeal is to be filed within 15 days of the decision. Appeals are taken at 600 2nd Street, Plaza Del Sol Building, Ground Level, on the west side of the lobby. **Please present this letter of notification when filing an appeal.**

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.



Stan Harada, Esq.
Zoning Hearing Examiner

cc: Zoning Enforcement

ZHE File

Blake's Lotaburger, 3205 Richmond Drive NE, 87107

Barbara Felix, Arch+Design, 511 Agua Fria ST, 87501

Bob Ellis, 11716 Snow Heights NE, 87112

Levereth Hadlow, 11705 Snow Heights, 87112