



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

Maverick Inc requests a conditional use to allow a light vehicle fueling station adjacent to a residential zone for Lot B, Block 8, La Cuesta, located at 670 Juan Tabo Blvd NE, zoned MX-M [Section 14-16-4-3(D)(17)]

Special Exception No:.....**VA-2018-00062**
Project No:**Project#2018-001411**
Hearing Date:09-18-18
Closing of Public Record:09-18-18
Date of Decision:.....10-03-18

On the 18th day of September, 2018, Tierra West LLC, agent for property owner Maverick Inc (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a conditional use to allow a light vehicle fueling station adjacent to a residential zone (“Application”) upon the real property located at 670 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 light vehicle fueling station adjacent to a residential zone.
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:*
 - (a) *It is consistent with the ABC Comp. Plan, as amended;*
 - (b) *It 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;*
 - (c) *It will not create significant adverse impacts on adjacent properties, the surrounding neighborhood, or the larger community;*
 - (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;*
 - (e) *It will not increase non-residential activity within 300 feet of a lot in any residential zone district between the hours of 8:00 pm and 6:00 am;*
 - (f) *It will not negatively impact pedestrian or transit connectivity without appropriate mitigation.*
3. Ronald Bohannon, Tierra West, agent for Maverick Inc., owner, appeared and gave evidence in support of the application.
4. All property owners within 100 feet of the subject property and the affected neighborhood association were notified.
5. The Sandia Vista NA is the affected neighborhood association.
6. Nothing was submitted in opposition to the proposed use.
7. The subject property is currently zoned MX-M.

8. The application will provide employment opportunities to an area that is economically challenged.
9. The area is presently being redeveloped and the proposed use will enhance the economic viability of the surrounding area and community.
10. The proposed use will enhance the pedestrian and transit connectivity.
11. The application will redevelop a currently vacant site thereby increasing the vitality of the area.
12. The application will replace a vacant commercial building with an active business that would increase the viability and appearance of the area.
13. Access to the site must be approved by both COA Transportation and NM DOT.
14. This application would reduce traffic congestion on the surrounding local roads.
15. The building for the application is located to provide a barrier between the commercial activities generated by the project and the adjacent residential zone.
16. A 15 foot landscape strip is located between the building/parking lot and the adjacent residential zone.
17. The nature of the application will result in less local traffic congestion during a 24 hour period.
18. The existing pedestrian connections around the application will remain unaltered.
19. The application complies with building setbacks and height and exceeds the 15% landscaping requirement outlined in the IDO for an MX-M zone.
20. The application is not located within 330 feet of Major Public Open Space.
21. The proposed use is consistent with the ABC Comp. Plan, as amended, as required by Section 14-16-6-6(A)(3)(a).
22. The proposed 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; any conditions specifically applied to the development of the property in a prior permit or approval affecting the property, as required by Section 14-16-6-6(A)(3)(b).
23. The proposed use will not create significant adverse impacts on the adjacent properties, the surrounding neighborhood or the larger community, as required by Section 14-16-6-6(A)(3)(c).
24. The proposed use will create potential adverse impacts on other land in the surrounding area through increases in traffic congestion, parking congestion, noise or vibration, however, applicant presented sufficient mitigating factors, showing civic benefits that outweigh the expected impacts as required by Section 14-15-6-6(A)(3)(d).
25. The proposed use will increase non-residential activity within 300 feet of a lot in any residential zone between the hours of 8:00pm and 6:00am, however, Applicant presented sufficient mitigating factors, showing civic benefits that outweigh the expected impacts as required by Section 14-16-6-6(A)(3)(e).
26. The proposed use will not negatively impact pedestrian or transit connectivity, as required by Section 14-16-6-6(A)(3)(f).
27. The ZHE finds that the proper "Notice of Hearing" signage was posted for the required time period as required by Section 14-16-4-6-4(K)(3).
28. The ZHE finds that the Applicant has authority to pursue this Application.

DECISION:

APPROVAL of a conditional use to allow a light vehicle fueling station adjacent to a residential zone.

If you wish to appeal this decision, you must do so by October 18, 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. A fee is to be collected as well as a written explanation outlining the reason for appeal and a copy of the ZHE decision. Appeals are taken at 600 2nd Street, Plaza Del Sol Building, Ground Level, Planning Application Counter located on the west side of the lobby. **Please present this letter of notification when filing an appeal.** When an application is withdrawn, the fee shall not be refunded.

An appeal shall be heard by the Board of Appeals within 45 days of the appeal period and concluded within 75 days of the appeal period. The Planning Division shall give written notice of an appeal, together with a notice of the date, time and place of the hearing to the applicant, a representative of the opponents, if any are known, and the appellant.

Please note that pursuant to Section 14-16-6-4(U) of the Integrated Development Ordinance, you must demonstrate that you have legal standing to file an appeal as defined.

You will receive notice if any other person files an appeal. If there is no appeal, you can receive building permits any time after the appeal deadline quoted above, provided all conditions imposed at the time of approval have been met. However, the Zoning Hearing Examiner may allow issuance of building permits if the public hearing produces no objection of any kind to the approval of an application. To receive this approval, the applicant agrees in writing to return the building permit or occupation tax number.

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



Stan Harada, Esq.
Zoning Hearing Examiner

cc: Zoning Enforcement
ZHE File
Tierra West LLC, 5571 Midway Park Pl NE, 87109
Maverick Inc., 670 Juan Tabo NE, 87123