



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

Land Development 8, LLC requests a conditional use to allow for a drive-through facility in an MX-L zone for Lot 3, La Mirada, located at 4201 Wyoming Blvd NE, zoned MX-L [Section 14-16-4(2)]

Special Exception No:..... **VA-2019-00398**
Project No: **Project#2019-002353**
Hearing Date: 12-17-19
Closing of Public Record: 12-17-19
Date of Decision: 01-01-20

On the 17th day of December, 2019, property owner Land Development 8, LLC (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a conditional use to allow for a drive-through facility in an MX-L zone (“Application”) upon the real property located at 4201 Wyoming Blvd NE (“Subject Property”). Below are the ZHE’s findings of fact and decision:

FINDINGS:

1. Applicant is requesting a conditional use to allow for a drive-through facility in an MX-L 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. 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. Based on evidence submitted by the Applicant, the requested conditional use is consistent with the ABC Comp. Plan, as amended. No evidence to the contrary was presented.
7. Based on evidence submitted by the Applicant, the requested conditional use is 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. No evidence to the contrary was presented.
8. 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. No evidence to the contrary was presented.
9. 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. No evidence to the contrary was presented.
10. Based on evidence submitted by the Applicant, the requested conditional use proposed use will not increase non-residential activity within 300 feet of a lot in any residential zone between the hours of 8:00PM and 6:00AM as required by Section 14-16-6-6(A)(3)(e). No evidence to the contrary was presented.
11. 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). No evidence to the contrary was presented.
12. City Transportation stated no objection to the application.
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 of a conditional use to allow for a drive-through facility in an MX-L zone.

APPEAL:

If you wish to appeal this decision, you must do so by January 16, 2020 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.



Robert Lucero, Esq.
Zoning Hearing Examiner

cc:

ZHE File
Zoning Enforcement
Land Development LLC Josh Skarsgard, 8220 San Pedro DR NE, Suite 500, 87113