



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

Kawips New Mexico, LLC c/o Allan Spiwak requests a conditional use to allow a taproom for Lot 2, Promenade, located at 5210 Eubank Blvd NE, zoned PD [Section 14-16-4-2]

Special Exception No:..... **VA-2019-00264**
Project No: **Project#2019-002718**
Hearing Date: 10-15-19
Closing of Public Record: 10-15-19
Date of Decision: 10-30-19

On the 15th day of October, 2019, Angela Williamson, Modulus Architects, agent for property owner Kawips New Mexico, LLC c/o Allan Spiwak (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a conditional use to allow a taproom (“Application”) upon the real property located at 5210 Eubank Blvd NE (“Subject Property”). Below are the ZHE’s findings of fact and decision:

FINDINGS:

1. Applicant is requesting a conditional accessory use to allow a Taproom.
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. The request is for a Conditional Use to Allow a Tap-Room; under Section 14-16-4-; **USE REGULATIONS**; Table 4-2-1; **Allowable Uses**.

5. This use is regulated by Section 14-16-4-3(D)(8): *Use-Specific Standards: Bar, Nightclub, Restaurant, and Tap Room.*
6. Angela Williamson at Modulus Architects, Inc., agent for Kawips New Mexico, LLC, property owner appeared and gave evidence in support of the application.
7. The address of the subject property is 5210 Eubank Blvd. NE.
8. The subject property is currently zoned PD.
9. The intended operator of the requested use is Bosque Brewery.
10. A site plan, with accompanying photographs was submitted in support of the Application.
11. Operators currently have been approved of several similar conditional uses for other properties located in the City of Albuquerque.
12. The location of the proposed use is currently a Godfather's Pizza Restaurant located in the Promenade Shopping Center.
13. The shopping center is located at the southwest corner of Eubank Blvd. NE and Spain Rd. NE.
14. All property owners within 100 feet and affected neighborhood association(s) were notified.
15. Academy Estates East Neighborhood Association; Park Condominium Association, Inc., and District 8 Coalition of Neighborhood Associations are the affected neighborhood associations.
16. The affected neighborhood associations were notified by e-mail dated August 6, 2019.
17. No response, nor request for meeting has been submitted.
18. The subject site is part of a previously approved Site Development Plan for the Promenade Shopping Center, approved by the DRB in 1986 for C-1 Uses.
19. The IDO converted C-1 uses to the MX-L zone district, which identifies a Tap Room as a Conditional Use.
20. The subject property is an existing structure that is part of a large shopping center constructed in 1984.
21. The existing use is a Godfather's Pizza Restaurant that currently serves beer and wine.
22. The existing property has existing landscape barriers and buffers which were approved in the original Development Plan.
23. Applicant has plans to remodel the existing building, which would require new site plans and approvals.
24. The requested use will protect and identify the cohesiveness of neighborhoods ensuring appropriate scale and location of development, which is consistent with *ABC Comp Plan*, Policy 4.1.2
25. The proposed use will allow for a mix of goods and services to be available which are conveniently accessible.
26. The characteristics of the community will be maintained since the requested use is permissive and occur in an existing commercial zone with an approved site Development Plan.
27. The proposed project will help create a healthy, sustainable community, within a mix of uses conveniently accessible from surrounding neighborhoods, which is consistent with *ABC Comp. Plan*, GOAL 5.2 *COMPLETE COMMUNITIES*, Policy 5.2.1: *Land Use.*
28. The subject property is an existing structure that is part of a larger shopping center, which has served the needs of the community since 1984.

29. The proposed use is similar in scale and character of the existing pizza restaurant and therefore would help protect the identity and cohesiveness of surrounding neighborhoods by ensuring the appropriate scale and location of the development, mix of uses and character of the building design, which is consistent with *ABC Comp. Plan*, GOAL 4.1, *COMMUNITY IDENTITY*, Policy 4.1.2, *Character, Identify and Design*.
30. The requested use will encourage economic development that will provide jobs, goods and services which improve the life for new and existing residents and contribute to a diverse and vibrant economy by revitalizing a developed area with growth that is consistent with and enhances the established character of existing development, which is consistent with *ABC Comp. Plan*, GOAL 8.0 *DIVERSIFYING THE ECONOMY*; Policy 8.1.2; *Resilient Economy*.
31. The proposed use is consistent with the ABC Comp. Plan, as amended, as required by Section 14-16-6-6(A)(3)(a).
32. 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).
33. The subject property site is located in an existing shopping center that was built in 1984, and has seen a number of businesses come and go, however it has remained an important destination for the surrounding neighborhoods.
34. 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).
35. The proposed use will not create material adverse impacts on other land in the surrounding area through increases in traffic congestion, parking congestion, noise, or vibration as requires by Section 14-16-6(A)(3)(d).
36. The services will be provided from 10:00 am to 12:00 am Monday through Saturday.
37. The 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).
38. The center and the existing structure are served by the existing infrastructure and public facilities.
39. The proposed use will not negatively impact pedestrian or transit connectivity, as required by Section 14-16-6-6(A)(3)(f).
40. 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).
41. The ZHE finds that the Applicant has authority to pursue this Application.

CONCLUSIONS OF LAW:

The criteria within Section 14-16-6-6(A)(3) of the Albuquerque Zoning Code are satisfied.

DECISION:

APPROVAL of a conditional use to allow a Tap Room.

CONDITIONS:

The use will comply with Use-Specific Standards contained in Section 14-16-4-3(D)(8): *Use-Specific Standards: Bar, Nightclub, Restaurant, and Tap Room.*

APPEAL:

If you wish to appeal this decision, you must do so by November 14, 2019 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.



Stan Harada, Esq.
Zoning Hearing Examiner

cc: Zoning Enforcement
ZHE File
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