



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

Homes Direct requests a conditional use to allow general retail, outdoor display or storage for Lot 6A1, Broadway Industrial Center Unit 2, located at 2610 Broadway Blvd SE, zoned NR-LM [Section 14-16-4-3(D)(34)]

Special Exception No:..... **VA-2019-00299**  
Project No: ..... **Project#2019-002824**  
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, Jim Strozier of Consensus Planning, agent for property owner Homes Direct (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a conditional use to allow general retail, outdoor display or storage (“Application”) upon the real property located at 2610 Broadway Blvd SE (“Subject Property”). Below are the ZHE’s findings of fact and decision:

FINDINGS:

1. Applicant is requesting a conditional accessory use to allow general retail, outdoor display or storage.
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 Retail, Outdoor Display or Storage; under Section 14-16-4; **USE REGULATIONS**; Table 4-2-1; **Allowable Uses**; *Retail Sales*.

5. This use is regulated by Section 14-16-4-3(D)(34): *Use-Specific Standards: General Retail, small.*
6. Jim Strozier of Consensus Planning, agent for Homes Direct, property owner appeared and gave evidence in support of the application.
7. The address of the subject property is 2610 Broadway Blvd. SE.
8. The property is located on the northeast corner of Broadway Blvd. SE and San Jose SE, and contains 1.531 acres.
9. The subject property is currently zoned NR-LM (Non-residential, light manufacturing).
10. The request is for outdoor display of manufactured homes and a sales office on the subject property.
11. The NR-LM zone allows outdoor display as a Conditional Use.
12. The site is located within an Area of Change as designated by the ABC Comprehensive Plan.
13. The subject property is located within the APO ZONE, which is regulated by Section 14-16-3-3: **AIRPORT PROTECTION OVERLAY ZONE.**
14. An e-mail from Hartwell Briggs, CAB Sunport, indicating No Concerns, was submitted in support of the Application.
15. An e-mail from Malak Hakim, AIPC, Lead Community Planner, KAFB, indicating No Concerns, was submitted in support of the Application.
16. All property owners within 100 feet and affected neighborhood association(s) were notified.
17. San Jose Neighborhood Association is the affected neighborhood association.
18. The affected neighborhood association was notified by e-mail dated June 2, 2019.
19. No response, nor request for meeting was submitted.
20. The subject property is currently undeveloped with a 14 foot grade difference sloping east to west towards Broadway Blvd.
21. The property is intersected by a 46 kv PNM transmission line and a 12.47 kv PNM distribution line with a pole supporting the distribution line in the middle of the property.
22. There is currently a 6 foot chain link fence setback an average of 50-60 feet from the property boundary.
23. Applicant is proposing construction of a 1,200 square foot sales office on the site.
24. The subject site design will replicate a scaled version of a neighborhood, so potential customers can see the models with attached one and two car garages.
25. The site will be graded to drain to the western boundary to an underground storm water pond that will drain to an existing culvert under Broadway Blvd.
26. Applicant is coordinating with PNH to relocate the electric distribution line on the property.
27. The site plan shows required setbacks and a landscape buffer on the west property line, in compliance with IDO Section 14-16-5-6: **Landscape, Buffering and Screening Requirements.**
28. The zone district and land use around the subject property consists primarily of light manufacturing with two similar outdoor displays to the east and south for manufactured homes.
29. There is a residential zone located across Broadway to the west.
30. To the north is an auto salvage and car resales lot.

31. The subject property is in an Area of Change and is not located near a “Major Corridor” as designated by the ABC Comp. Plan.
32. Transportation has issued a report indicating No Objection to the Application.
33. Michael Omlor, 609 San Jose SE, appeared and spoke in opposition to the Application.
34. He states there is a charter school located nearby with over 200 students who walk past this area daily.
35. His primary concern is the safety of the pedestrians, primarily students, estimated at approximately 20 students, who must walk from the City bus stop on Broadway up San Jose to the school located on Carson Ct. SE.
36. He spoke of the high truck volume in the area, going to and from the facility that manufactures the homes.
37. He points out that the only sidewalk for the students passes directly across what will be the entrance to the subject site.
38. He pointed out that the traffic volume is intense about the time the students get out of school.
39. Agent, in response pointed out that this is an Industrial Park and is zoned light manufacturing and has been so zoned for some time.
40. The charter school chose to locate in this area, with knowledge of the other existing uses in the surrounding area.
41. The requested use is one of the least impactful uses, compared to other allowable uses in this zone district.
42. Agent restated that there will be only one point of ingress and egress off of San Jose, and that Applicant will reasonably maintain and improve the pedestrian environment.
43. This is a non-residential zone.
44. The proposed use will serve the surrounding neighborhood with a low intensity commercial infill development on a vacant and undeveloped lot, and will allow development on underutilized, vacant land that promotes the public good in an efficient manner consistent with adjacent uses and with existing infrastructure including: sidewalks, streets, transit stops, water, sewer and drainage.
45. This use will promote development patterns that maximize the utility of existing infrastructure and public facilities and the efficient use of land to support the public good, which is consistent with **ABC Comp. Plan; Goal 5.3; Efficient Development Patterns.**
46. The project will allow development of a low intensity commercial development on an infill property served by and existing infrastructure, which is consistent with **ABC Comp. Plan, Policy 5.3.1: Infill Development.**
47. The project will direct infill development to an already established light industrial corridor with similar uses, which is consistent with **ABC Comp. Plan, Policy 5.6.2: Areas of Change.**
48. The project will promote infill that enhances the built environment and blend in with its surrounding structures and development along Broadway, which is consistent with **ABC Comp. Plan, Policy 7.3.4: Infill.**
49. The proposed use is consistent with the ABC Comp. Plan, as amended, as required by Section 14-16-6-6(A)(3)(a).
50. The site plan shows a masonry fence surrounding the project with required landscape buffering, which meets the requirements of Section 14-16-4-3(D)(34)(a); **Use-Specific Standards: Outdoor Display.**

51. 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).
52. The requested use will be a low intensity, low traffic generator through a controlled access driveway off San Jose Ave. on the southern boundary of the property.
53. The requested use is far less intense than other allowable uses in the same zone.
54. Customers will have on-site parking that will be within a screened masonry fence to limit both visual and sound impacts to the surrounding area.
55. The proposed design to replicate a neighborhood setting will improve the aesthetics of a lot that is currently vacant.
56. 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).
57. There will only be a few employees and intermittent traffic from customer traffic during the day.
58. The on-site parking design is to accommodate light customer traffic with minimal impact off San Jose Ave.
59. The design of the project requires customers to park on-site and walk through the display, which minimizes any idling cars and exhaust pollution.
60. The project does not require daily commercial deliveries which might create excessive noises and vibrations.
61. 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).
62. The anticipated hours of operation are 8:00AM through 6:30PM, Monday through Saturday.
63. 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).
64. The proposed use will not negatively impact pedestrian or transit connectivity, as required by Section 14-16-6-6(A)(3)(f).
65. 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).
66. 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 general retail, outdoor display or storage.

CONDITIONS:

The use will comply with Use-Specific Standards contained in Section 14-16-4-3(D)(34).

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.



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cc: Zoning Enforcement  
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