



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

Western Refining, LLC (Agent, WT Group Speedway LLC) request a conditional use to allow liquor retail for Lot B1, Block 101, Brentwood Hills, located at 2912 Juan Tabo Blvd NE, zoned MX-M [Section 14-16-4-3-D-36]

Special Exception No:..... **VA-2020-00344**
Project No: **Project#2020-003814**
Hearing Date: 11-17-20
Closing of Public Record: 11-17-20
Date of Decision: 12-02-20

On the 17th day of November, 2020, Agent, WT Group Speedway LLC, agent for property owner Western Refining, LLC (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a conditional use to allow liquor retail (“Application”) upon the real property located at 2912 Juan Tabo Blvd NE (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a conditional use to allow liquor retail.
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 Subject Property is zoned MX-M.
4. 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).
5. Applicant provided evidence that the proper "Notice of Hearing" signage was posted for the required time period as required by Section 14-16-6-4(K)(3).

6. Applicant provided evidence that all property owners and neighborhood association entitled to notice were notified of the Application.
7. Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval is consistent with the ABC Comp. Plan, as amended. Specifically, Applicant submitted evidence that the community would benefit from access to affordable gas and convenient store uses in a site close to, but buffered from, residential areas, which would “create healthy, sustainable communities with a mix of uses that are conveniently accessible from surrounding neighborhoods” as stated as a goal in ABC Comp. Plan Policy 5.2.1.
8. Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval 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. Specifically, Applicant testified and confirmed in written submittals that the requested Conditional Use approval would comport with all applicable requirements. A neighbor testified that Applicant had undertaken construction work on the property without a permit. Applicant admitted starting work without a permit, but testified that he has since removed the improvements installed without a permit and will obtain permits in advance of any further work.
9. Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval will not create significant adverse impacts on adjacent properties, the surrounding neighborhood, or the larger community. Specifically, Applicant testified and confirmed in written submittals that the requested Conditional Use approval would not create any adverse impact because the proposed use would abide by all applicable regulations and would be more safely accessible than the existing site.
10. Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval 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. Specifically, Applicant testified and confirmed in written submittals that the requested Conditional Use approval would not create material adverse impact on area land through traffic, parking, noise or vibration, because the proposed use is consistent with the current use and the updated site plan would increase accessibility to the site.
11. Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval 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. Specifically, Applicant testified that non-residential activity would not increase in any prohibited manner based on the preexisting use of the site as a gas station.
12. Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval will not negatively impact pedestrian or transit connectivity without appropriate mitigation. Specifically, Applicant testified that no negative impact on pedestrian or transit connectivity would result.
13. The City Traffic Engineering Division stated no objection.
14. The criteria within IDO Section 14-16-6-6(A)(3) are satisfied.

15. The IDO imposes the following Applicable Use-Specific Standards on Liquor Retail use, pursuant to IDO Section 14-16-4-3(D)(36):
- 4-3(D)(36)(a) Alcohol sales for off-premises consumption is allowed provided that the establishment complies with all New Mexico state law requirements, including but not limited to any required spacing from other uses or facilities.*
 - 4-3(D)(36)(b) Alcohol sales for on-premises consumption is also allowed as an incidental activity provided that the establishment complies with all New Mexico state law requirements.*
 - 4-3(D)(36)(c) Notwithstanding other provisions in this Subsection 14-16-4-3(D)(36), this use requires a Conditional Use Approval pursuant to Subsection 14-16-6-6(A) when proposed within 500 feet of any Residential or NR-PO zone district or any group home use, as measured from the nearest edge of the building containing the use to the nearest Residential or NR-PO zone district or lot containing a group home.*
16. Applicant submitted evidence stating that all New Mexico state law requirements, including but not limited to any required spacing from other uses or facilities, would be followed.
17. Agent testified that no on-premises consumption would be allowed at the Subject Property.
18. Applicants submitted this application in accordance and compliance with 14-16-4-3(D)(36)(c).
19. The criteria within IDO Section 14-16-4-3(D)(36) (use-specific standards) are satisfied.

DECISION:

APPROVAL of a conditional use to allow liquor retail.

APPEAL:

If you wish to appeal this decision, you must do so by December 17, 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

WT Group Speedway LLC, chriskalischefski@cdg-llc.com



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

Western Refining, LLC (Agent, WT Group Speedway LLC) request a conditional use to allow liquor retail for Lot 1P, Block 101, Brentwood Hills, located at 2932 Juan Tabo Blvd NE, zoned MX-L [Section 14-16-4-3-D-36]

Special Exception No:..... **VA-2020-00344**
Project No: **Project#2020-003814**
Hearing Date: 11-17-20
Closing of Public Record: 11-17-20
Date of Decision: 12-02-20

On the 17th day of November, 2020, WT Group Speedway LLC, agent for property owner Western Refining, LLC (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a conditional use to allow liquor retail (“Application”) upon the real property located at 2932 Juan Tabo Blvd NE (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a conditional use to allow liquor retail.
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 Subject Property is zoned MX-L.
4. 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).
5. Applicant provided evidence that the proper "Notice of Hearing" signage was posted for the required time period as required by Section 14-16-6-4(K)(3).

6. Applicant provided evidence that all property owners and neighborhood association entitled to notice were notified of the Application.
7. Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval is consistent with the ABC Comp. Plan, as amended. Specifically, Applicant submitted evidence that the community would benefit from access to affordable gas and convenient store uses in a site close to, but buffered from, residential areas, which would “create healthy, sustainable communities with a mix of uses that are conveniently accessible from surrounding neighborhoods” as stated as a goal in ABC Comp. Plan Policy 5.2.1.
8. Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval 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. Specifically, Applicant testified and confirmed in written submittals that the requested Conditional Use approval would comport with all applicable requirements. A neighbor testified that Applicant had undertaken construction work on the property without a permit. Applicant admitted starting work without a permit, but testified that he has since removed the improvements installed without a permit and will obtain permits in advance of any further work.
9. Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval will not create significant adverse impacts on adjacent properties, the surrounding neighborhood, or the larger community. Specifically, Applicant testified and confirmed in written submittals that the requested Conditional Use approval would not create any adverse impact because the proposed use would abide by all applicable regulations and would be more safely accessible than the existing site.
10. Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval 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. Specifically, Applicant testified and confirmed in written submittals that the requested Conditional Use approval would not create material adverse impact on area land through traffic, parking, noise or vibration, because the proposed use is consistent with the current use and the updated site plan would increase accessibility to the site.
11. Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval 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. Specifically, Applicant testified that non-residential activity would not increase in any prohibited manner based on the preexisting use of the site as a gas station.
12. Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval will not negatively impact pedestrian or transit connectivity without appropriate mitigation. Specifically, Applicant testified that no negative impact on pedestrian or transit connectivity would result.
13. The City Traffic Engineering Division stated no objection.
14. The criteria within IDO Section 14-16-6-6(A)(3) are satisfied.

15. The IDO imposes the following Applicable Use-Specific Standards on Liquor Retail use, pursuant to IDO Section 14-16-4-3(D)(36):
- 4-3(D)(36)(a) Alcohol sales for off-premises consumption is allowed provided that the establishment complies with all New Mexico state law requirements, including but not limited to any required spacing from other uses or facilities.*
 - 4-3(D)(36)(b) Alcohol sales for on-premises consumption is also allowed as an incidental activity provided that the establishment complies with all New Mexico state law requirements.*
 - 4-3(D)(36)(c) Notwithstanding other provisions in this Subsection 14-16-4-3(D)(36), this use requires a Conditional Use Approval pursuant to Subsection 14-16-6-6(A) when proposed within 500 feet of any Residential or NR-PO zone district or any group home use, as measured from the nearest edge of the building containing the use to the nearest Residential or NR-PO zone district or lot containing a group home.*
16. Applicant submitted evidence stating that all New Mexico state law requirements, including but not limited to any required spacing from other uses or facilities, would be followed.
17. Agent testified that no on-premises consumption would be allowed at the Subject Property.
18. Applicants submitted this application in accordance and compliance with 14-16-4-3(D)(36)(c).
19. The criteria within IDO Section 14-16-4-3(D)(36) (use-specific standards) are satisfied.

DECISION:

APPROVAL of a conditional use to allow liquor retail.

APPEAL:

If you wish to appeal this decision, you must do so by December 17, 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
WT Group Speedway LLC, chriskalischefski@cdg-llc.com



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

Western Refining, LLC (Agent, WT Group Speedway LLC) request a conditional use to allow liquor retail for Lot 2P, Block 101, Brentwood Hills, located at 2932 Juan Tabo Blvd NE, zoned MX-L [Section 14-16-4-3-D-36]

Special Exception No:..... **VA-2020-00344**
Project No: **Project#2020-003814**
Hearing Date: 11-17-20
Closing of Public Record: 11-17-20
Date of Decision: 12-02-20

On the 17th day of November, 2020, WT Group Speedway LLC, agent for property owner Western Refining, LLC (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a conditional use to allow liquor retail (“Application”) upon the real property located at 2932 Juan Tabo Blvd NE (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a conditional use to allow liquor retail.
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 Subject Property is zoned MX-L.
4. 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).
5. Applicant provided evidence that the proper "Notice of Hearing" signage was posted for the required time period as required by Section 14-16-6-4(K)(3).

6. Applicant provided evidence that all property owners and neighborhood association entitled to notice were notified of the Application.
7. Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval is consistent with the ABC Comp. Plan, as amended. Specifically, Applicant submitted evidence that the community would benefit from access to affordable gas and convenient store uses in a site close to, but buffered from, residential areas, which would “create healthy, sustainable communities with a mix of uses that are conveniently accessible from surrounding neighborhoods” as stated as a goal in ABC Comp. Plan Policy 5.2.1.
8. Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval 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. Specifically, Applicant testified and confirmed in written submittals that the requested Conditional Use approval would comport with all applicable requirements. A neighbor testified that Applicant had undertaken construction work on the property without a permit. Applicant admitted starting work without a permit, but testified that he has since removed the improvements installed without a permit and will obtain permits in advance of any further work.
9. Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval will not create significant adverse impacts on adjacent properties, the surrounding neighborhood, or the larger community. Specifically, Applicant testified and confirmed in written submittals that the requested Conditional Use approval would not create any adverse impact because the proposed use would abide by all applicable regulations and would be more safely accessible than the existing site.
10. Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval 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. Specifically, Applicant testified and confirmed in written submittals that the requested Conditional Use approval would not create material adverse impact on area land through traffic, parking, noise or vibration, because the proposed use is consistent with the current use and the updated site plan would increase accessibility to the site.
11. Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval 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. Specifically, Applicant testified that non-residential activity would not increase in any prohibited manner based on the preexisting use of the site as a gas station.
12. Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval will not negatively impact pedestrian or transit connectivity without appropriate mitigation. Specifically, Applicant testified that no negative impact on pedestrian or transit connectivity would result.
13. The City Traffic Engineering Division stated no objection.
14. The criteria within IDO Section 14-16-6-6(A)(3) are satisfied.

15. The IDO imposes the following Applicable Use-Specific Standards on Liquor Retail use, pursuant to IDO Section 14-16-4-3(D)(36):
 - 4-3(D)(36)(a) Alcohol sales for off-premises consumption is allowed provided that the establishment complies with all New Mexico state law requirements, including but not limited to any required spacing from other uses or facilities.*
 - 4-3(D)(36)(b) Alcohol sales for on-premises consumption is also allowed as an incidental activity provided that the establishment complies with all New Mexico state law requirements.*
 - 4-3(D)(36)(c) Notwithstanding other provisions in this Subsection 14-16-4-3(D)(36), this use requires a Conditional Use Approval pursuant to Subsection 14-16-6-6(A) when proposed within 500 feet of any Residential or NR-PO zone district or any group home use, as measured from the nearest edge of the building containing the use to the nearest Residential or NR-PO zone district or lot containing a group home.*
16. Applicant submitted evidence stating that all New Mexico state law requirements, including but not limited to any required spacing from other uses or facilities, would be followed.
17. Agent testified that no on-premises consumption would be allowed at the Subject Property.
18. Applicants submitted this application in accordance and compliance with 14-16-4-3(D)(36)(c).
19. The criteria within IDO Section 14-16-4-3(D)(36) (use-specific standards) are satisfied.

DECISION:

APPROVAL of a conditional use to allow liquor retail.

APPEAL:

If you wish to appeal this decision, you must do so by December 17, 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
WT Group Speedway LLC, chriskalischefski@cdg-llc.com



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

Western Refining, LLC (Agent, WT Group Speedway LLC) request a conditional use to allow liquor retail for Lot 3P, Block 101, Brentwood Hills, located at 2932 Juan Tabo Blvd NE, zoned MX-L [Section 14-16-4-3-D-36]

Special Exception No:..... **VA-2020-00344**
Project No: **Project#2020-003814**
Hearing Date: 11-17-20
Closing of Public Record: 11-17-20
Date of Decision: 12-02-20

On the 17th day of November, 2020, WT Group Speedway LLC, agent for property owner Western Refining, LLC (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a conditional use to allow liquor retail (“Application”) upon the real property located at 2932 Juan Tabo Blvd NE (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a conditional use to allow liquor retail.
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 Subject Property is zoned MX-L.
4. 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).
5. Applicant provided evidence that the proper "Notice of Hearing" signage was posted for the required time period as required by Section 14-16-6-4(K)(3).

6. Applicant provided evidence that all property owners and neighborhood association entitled to notice were notified of the Application.
7. Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval is consistent with the ABC Comp. Plan, as amended. Specifically, Applicant submitted evidence that the community would benefit from access to affordable gas and convenient store uses in a site close to, but buffered from, residential areas, which would “create healthy, sustainable communities with a mix of uses that are conveniently accessible from surrounding neighborhoods” as stated as a goal in ABC Comp. Plan Policy 5.2.1.
8. Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval 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. Specifically, Applicant testified and confirmed in written submittals that the requested Conditional Use approval would comport with all applicable requirements. A neighbor testified that Applicant had undertaken construction work on the property without a permit. Applicant admitted starting work without a permit, but testified that he has since removed the improvements installed without a permit and will obtain permits in advance of any further work.
9. Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval will not create significant adverse impacts on adjacent properties, the surrounding neighborhood, or the larger community. Specifically, Applicant testified and confirmed in written submittals that the requested Conditional Use approval would not create any adverse impact because the proposed use would abide by all applicable regulations and would be more safely accessible than the existing site.
10. Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval 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. Specifically, Applicant testified and confirmed in written submittals that the requested Conditional Use approval would not create material adverse impact on area land through traffic, parking, noise or vibration, because the proposed use is consistent with the current use and the updated site plan would increase accessibility to the site.
11. Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval 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. Specifically, Applicant testified that non-residential activity would not increase in any prohibited manner based on the preexisting use of the site as a gas station.
12. Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval will not negatively impact pedestrian or transit connectivity without appropriate mitigation. Specifically, Applicant testified that no negative impact on pedestrian or transit connectivity would result.
13. The City Traffic Engineering Division stated no objection.
14. The criteria within IDO Section 14-16-6-6(A)(3) are satisfied.

15. The IDO imposes the following Applicable Use-Specific Standards on Liquor Retail use, pursuant to IDO Section 14-16-4-3(D)(36):
- 4-3(D)(36)(a) Alcohol sales for off-premises consumption is allowed provided that the establishment complies with all New Mexico state law requirements, including but not limited to any required spacing from other uses or facilities.*
 - 4-3(D)(36)(b) Alcohol sales for on-premises consumption is also allowed as an incidental activity provided that the establishment complies with all New Mexico state law requirements.*
 - 4-3(D)(36)(c) Notwithstanding other provisions in this Subsection 14-16-4-3(D)(36), this use requires a Conditional Use Approval pursuant to Subsection 14-16-6-6(A) when proposed within 500 feet of any Residential or NR-PO zone district or any group home use, as measured from the nearest edge of the building containing the use to the nearest Residential or NR-PO zone district or lot containing a group home.*
16. Applicant submitted evidence stating that all New Mexico state law requirements, including but not limited to any required spacing from other uses or facilities, would be followed.
17. Agent testified that no on-premises consumption would be allowed at the Subject Property.
18. Applicants submitted this application in accordance and compliance with 14-16-4-3(D)(36)(c).
19. The criteria within IDO Section 14-16-4-3(D)(36) (use-specific standards) are satisfied.

DECISION:

APPROVAL of a conditional use to allow liquor retail.

APPEAL:

If you wish to appeal this decision, you must do so by December 17, 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
WT Group Speedway LLC, chriskalischefski@cdg-llc.com



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

Western Refining, LLC (Agent, WT Group Speedway LLC) request a conditional use to allow liquor retail for Lot 4P, Block 101, Brentwood Hills, located at 2932 Juan Tabo Blvd NE, zoned MX-L [Section 14-16-4-3-D-36]

Special Exception No:..... **VA-2020-00344**
Project No: **Project#2020-003814**
Hearing Date: 11-17-20
Closing of Public Record: 11-17-20
Date of Decision: 12-02-20

On the 17th day of November, 2020, WT Group Speedway LLC, agent for property owner Western Refining, LLC (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a conditional use to allow liquor retail (“Application”) upon the real property located at 2932 Juan Tabo Blvd NE (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a conditional use to allow liquor retail.
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 Subject Property is zoned MX-L.
4. 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).
5. Applicant provided evidence that the proper "Notice of Hearing" signage was posted for the required time period as required by Section 14-16-6-4(K)(3).

6. Applicant provided evidence that all property owners and neighborhood association entitled to notice were notified of the Application.
7. Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval is consistent with the ABC Comp. Plan, as amended. Specifically, Applicant submitted evidence that the community would benefit from access to affordable gas and convenient store uses in a site close to, but buffered from, residential areas, which would “create healthy, sustainable communities with a mix of uses that are conveniently accessible from surrounding neighborhoods” as stated as a goal in ABC Comp. Plan Policy 5.2.1.
8. Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval 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. Specifically, Applicant testified and confirmed in written submittals that the requested Conditional Use approval would comport with all applicable requirements. A neighbor testified that Applicant had undertaken construction work on the property without a permit. Applicant admitted starting work without a permit, but testified that he has since removed the improvements installed without a permit and will obtain permits in advance of any further work.
9. Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval will not create significant adverse impacts on adjacent properties, the surrounding neighborhood, or the larger community. Specifically, Applicant testified and confirmed in written submittals that the requested Conditional Use approval would not create any adverse impact because the proposed use would abide by all applicable regulations and would be more safely accessible than the existing site.
10. Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval 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. Specifically, Applicant testified and confirmed in written submittals that the requested Conditional Use approval would not create material adverse impact on area land through traffic, parking, noise or vibration, because the proposed use is consistent with the current use and the updated site plan would increase accessibility to the site.
11. Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval 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. Specifically, Applicant testified that non-residential activity would not increase in any prohibited manner based on the preexisting use of the site as a gas station.
12. Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval will not negatively impact pedestrian or transit connectivity without appropriate mitigation. Specifically, Applicant testified that no negative impact on pedestrian or transit connectivity would result.
13. The City Traffic Engineering Division stated no objection.
14. The criteria within IDO Section 14-16-6-6(A)(3) are satisfied.

15. The IDO imposes the following Applicable Use-Specific Standards on Liquor Retail use, pursuant to IDO Section 14-16-4-3(D)(36):
- 4-3(D)(36)(a) Alcohol sales for off-premises consumption is allowed provided that the establishment complies with all New Mexico state law requirements, including but not limited to any required spacing from other uses or facilities.*
 - 4-3(D)(36)(b) Alcohol sales for on-premises consumption is also allowed as an incidental activity provided that the establishment complies with all New Mexico state law requirements.*
 - 4-3(D)(36)(c) Notwithstanding other provisions in this Subsection 14-16-4-3(D)(36), this use requires a Conditional Use Approval pursuant to Subsection 14-16-6-6(A) when proposed within 500 feet of any Residential or NR-PO zone district or any group home use, as measured from the nearest edge of the building containing the use to the nearest Residential or NR-PO zone district or lot containing a group home.*
16. Applicant submitted evidence stating that all New Mexico state law requirements, including but not limited to any required spacing from other uses or facilities, would be followed.
17. Agent testified that no on-premises consumption would be allowed at the Subject Property.
18. Applicants submitted this application in accordance and compliance with 14-16-4-3(D)(36)(c).
19. The criteria within IDO Section 14-16-4-3(D)(36) (use-specific standards) are satisfied.

DECISION:

APPROVAL of a conditional use to allow liquor retail.

APPEAL:

If you wish to appeal this decision, you must do so by December 17, 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
WT Group Speedway LLC, chriskalischefski@cdg-llc.com



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

Western Refining, LLC (Agent, WT Group Speedway LLC) request a conditional use to allow liquor retail for Lot 5P, Block 101, Brentwood Hills, located at 2932 Juan Tabo Blvd NE, zoned MX-L [Section 14-16-4-3-D-36]

Special Exception No:..... **VA-2020-00344**
Project No: **Project#2020-003814**
Hearing Date: 11-17-20
Closing of Public Record: 11-17-20
Date of Decision: 12-02-20

On the 17th day of November, 2020, WT Group Speedway LLC, agent for property owner Western Refining, LLC (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a conditional use to allow liquor retail (“Application”) upon the real property located at 2932 Juan Tabo Blvd NE (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a conditional use to allow liquor retail.
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 Subject Property is zoned MX-L.
4. 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).
5. Applicant provided evidence that the proper "Notice of Hearing" signage was posted for the required time period as required by Section 14-16-6-4(K)(3).

6. Applicant provided evidence that all property owners and neighborhood association entitled to notice were notified of the Application.
7. Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval is consistent with the ABC Comp. Plan, as amended. Specifically, Applicant submitted evidence that the community would benefit from access to affordable gas and convenient store uses in a site close to, but buffered from, residential areas, which would “create healthy, sustainable communities with a mix of uses that are conveniently accessible from surrounding neighborhoods” as stated as a goal in ABC Comp. Plan Policy 5.2.1.
8. Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval 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. Specifically, Applicant testified and confirmed in written submittals that the requested Conditional Use approval would comport with all applicable requirements. A neighbor testified that Applicant had undertaken construction work on the property without a permit. Applicant admitted starting work without a permit, but testified that he has since removed the improvements installed without a permit and will obtain permits in advance of any further work.
9. Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval will not create significant adverse impacts on adjacent properties, the surrounding neighborhood, or the larger community. Specifically, Applicant testified and confirmed in written submittals that the requested Conditional Use approval would not create any adverse impact because the proposed use would abide by all applicable regulations and would be more safely accessible than the existing site.
10. Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval 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. Specifically, Applicant testified and confirmed in written submittals that the requested Conditional Use approval would not create material adverse impact on area land through traffic, parking, noise or vibration, because the proposed use is consistent with the current use and the updated site plan would increase accessibility to the site.
11. Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval 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. Specifically, Applicant testified that non-residential activity would not increase in any prohibited manner based on the preexisting use of the site as a gas station.
12. Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval will not negatively impact pedestrian or transit connectivity without appropriate mitigation. Specifically, Applicant testified that no negative impact on pedestrian or transit connectivity would result.
13. The City Traffic Engineering Division stated no objection.
14. The criteria within IDO Section 14-16-6-6(A)(3) are satisfied.

15. The IDO imposes the following Applicable Use-Specific Standards on Liquor Retail use, pursuant to IDO Section 14-16-4-3(D)(36):
 - 4-3(D)(36)(a) Alcohol sales for off-premises consumption is allowed provided that the establishment complies with all New Mexico state law requirements, including but not limited to any required spacing from other uses or facilities.*
 - 4-3(D)(36)(b) Alcohol sales for on-premises consumption is also allowed as an incidental activity provided that the establishment complies with all New Mexico state law requirements.*
 - 4-3(D)(36)(c) Notwithstanding other provisions in this Subsection 14-16-4-3(D)(36), this use requires a Conditional Use Approval pursuant to Subsection 14-16-6-6(A) when proposed within 500 feet of any Residential or NR-PO zone district or any group home use, as measured from the nearest edge of the building containing the use to the nearest Residential or NR-PO zone district or lot containing a group home.*
16. Applicant submitted evidence stating that all New Mexico state law requirements, including but not limited to any required spacing from other uses or facilities, would be followed.
17. Agent testified that no on-premises consumption would be allowed at the Subject Property.
18. Applicants submitted this application in accordance and compliance with 14-16-4-3(D)(36)(c).
19. The criteria within IDO Section 14-16-4-3(D)(36) (use-specific standards) are satisfied.

DECISION:

APPROVAL of a conditional use to allow liquor retail.

APPEAL:

If you wish to appeal this decision, you must do so by December 17, 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
WT Group Speedway LLC, chriskalischefski@cdg-llc.com



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

Western Refining, LLC (Agent, WT Group Speedway LLC) request a conditional use to allow liquor retail for Lot 6P, Block 101, Brentwood Hills, located at 2932 Juan Tabo Blvd NE, zoned MX-L [Section 14-16-4-3-D-36]

Special Exception No:..... **VA-2020-00344**
Project No: **Project#2020-003814**
Hearing Date: 11-17-20
Closing of Public Record: 11-17-20
Date of Decision: 12-02-20

On the 17th day of November, 2020, WT Group Speedway LLC, agent for property owner Western Refining, LLC (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a conditional use to allow liquor retail (“Application”) upon the real property located at 2932 Juan Tabo Blvd NE (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a conditional use to allow liquor retail.
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 Subject Property is zoned MX-L.
4. 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).

5. Applicant provided evidence that the proper "Notice of Hearing" signage was posted for the required time period as required by Section 14-16-6-4(K)(3).
6. Applicant provided evidence that all property owners and neighborhood association entitled to notice were notified of the Application.
7. Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval is consistent with the ABC Comp. Plan, as amended. Specifically, Applicant submitted evidence that the community would benefit from access to affordable gas and convenient store uses in a site close to, but buffered from, residential areas, which would "create healthy, sustainable communities with a mix of uses that are conveniently accessible from surrounding neighborhoods" as stated as a goal in ABC Comp. Plan Policy 5.2.1.
8. Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval 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. Specifically, Applicant testified and confirmed in written submittals that the requested Conditional Use approval would comport with all applicable requirements. A neighbor testified that Applicant had undertaken construction work on the property without a permit. Applicant admitted starting work without a permit, but testified that he has since removed the improvements installed without a permit and will obtain permits in advance of any further work.
9. Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval will not create significant adverse impacts on adjacent properties, the surrounding neighborhood, or the larger community. Specifically, Applicant testified and confirmed in written submittals that the requested Conditional Use approval would not create any adverse impact because the proposed use would abide by all applicable regulations and would be more safely accessible than the existing site.
10. Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval 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. Specifically, Applicant testified and confirmed in written submittals that the requested Conditional Use approval would not create material adverse impact on area land through traffic, parking, noise or vibration, because the proposed use is consistent with the current use and the updated site plan would increase accessibility to the site.
11. Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval 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. Specifically, Applicant testified that non-residential activity would not increase in any prohibited manner based on the preexisting use of the site as a gas station.
12. Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval will not negatively impact pedestrian or transit connectivity without appropriate mitigation. Specifically, Applicant testified that no negative impact on pedestrian or transit connectivity would result.
13. The City Traffic Engineering Division stated no objection.

14. The criteria within IDO Section 14-16-6-6(A)(3) are satisfied.
15. The IDO imposes the following Applicable Use-Specific Standards on Liquor Retail use, pursuant to IDO Section 14-16-4-3(D)(36):
 - 4-3(D)(36)(a) *Alcohol sales for off-premises consumption is allowed provided that the establishment complies with all New Mexico state law requirements, including but not limited to any required spacing from other uses or facilities.*
 - 4-3(D)(36)(b) *Alcohol sales for on-premises consumption is also allowed as an incidental activity provided that the establishment complies with all New Mexico state law requirements.*
 - 4-3(D)(36)(c) *Notwithstanding other provisions in this Subsection 14-16-4-3(D)(36), this use requires a Conditional Use Approval pursuant to Subsection 14-16-6-6(A) when proposed within 500 feet of any Residential or NR-PO zone district or any group home use, as measured from the nearest edge of the building containing the use to the nearest Residential or NR-PO zone district or lot containing a group home.*
16. Applicant submitted evidence stating that all New Mexico state law requirements, including but not limited to any required spacing from other uses or facilities, would be followed.
17. Agent testified that no on-premises consumption would be allowed at the Subject Property.
18. Applicants submitted this application in accordance and compliance with 14-16-4-3(D)(36)(c).
19. The criteria within IDO Section 14-16-4-3(D)(36) (use-specific standards) are satisfied.

DECISION:

APPROVAL of a conditional use to allow liquor retail.

APPEAL:

If you wish to appeal this decision, you must do so by December 17, 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
WT Group Speedway LLC, chriskalischefski@cdg-llc.com



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

Western Refining, LLC (Agent, WT Group Speedway LLC) request a conditional use to allow liquor retail for Lot 1C, Block 101, Brentwood Hills, located at 2932 Juan Tabo Blvd NE, zoned MX-L [Section 14-16-4-3-D-36]

Special Exception No:..... **VA-2020-00344**
Project No: **Project#2020-003814**
Hearing Date: 11-17-20
Closing of Public Record: 11-17-20
Date of Decision: 12-02-20

On the 17th day of November, 2020, WT Group Speedway LLC, agent for property owner Western Refining, LLC (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a conditional use to allow liquor retail (“Application”) upon the real property located at 2932 Juan Tabo Blvd NE (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a conditional use to allow liquor retail.
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 Subject Property is zoned MX-L.
4. 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).
5. Applicant provided evidence that the proper "Notice of Hearing" signage was posted for the required time period as required by Section 14-16-6-4(K)(3).

6. Applicant provided evidence that all property owners and neighborhood association entitled to notice were notified of the Application.
7. Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval is consistent with the ABC Comp. Plan, as amended. Specifically, Applicant submitted evidence that the community would benefit from access to affordable gas and convenient store uses in a site close to, but buffered from, residential areas, which would “create healthy, sustainable communities with a mix of uses that are conveniently accessible from surrounding neighborhoods” as stated as a goal in ABC Comp. Plan Policy 5.2.1.
8. Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval 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. Specifically, Applicant testified and confirmed in written submittals that the requested Conditional Use approval would comport with all applicable requirements. A neighbor testified that Applicant had undertaken construction work on the property without a permit. Applicant admitted starting work without a permit, but testified that he has since removed the improvements installed without a permit and will obtain permits in advance of any further work.
9. Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval will not create significant adverse impacts on adjacent properties, the surrounding neighborhood, or the larger community. Specifically, Applicant testified and confirmed in written submittals that the requested Conditional Use approval would not create any adverse impact because the proposed use would abide by all applicable regulations and would be more safely accessible than the existing site.
10. Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval 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. Specifically, Applicant testified and confirmed in written submittals that the requested Conditional Use approval would not create material adverse impact on area land through traffic, parking, noise or vibration, because the proposed use is consistent with the current use and the updated site plan would increase accessibility to the site.
11. Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval 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. Specifically, Applicant testified that non-residential activity would not increase in any prohibited manner based on the preexisting use of the site as a gas station.
12. Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval will not negatively impact pedestrian or transit connectivity without appropriate mitigation. Specifically, Applicant testified that no negative impact on pedestrian or transit connectivity would result.
13. The City Traffic Engineering Division stated no objection.
14. The criteria within IDO Section 14-16-6-6(A)(3) are satisfied.

15. The IDO imposes the following Applicable Use-Specific Standards on Liquor Retail use, pursuant to IDO Section 14-16-4-3(D)(36):
 - 4-3(D)(36)(a) Alcohol sales for off-premises consumption is allowed provided that the establishment complies with all New Mexico state law requirements, including but not limited to any required spacing from other uses or facilities.*
 - 4-3(D)(36)(b) Alcohol sales for on-premises consumption is also allowed as an incidental activity provided that the establishment complies with all New Mexico state law requirements.*
 - 4-3(D)(36)(c) Notwithstanding other provisions in this Subsection 14-16-4-3(D)(36), this use requires a Conditional Use Approval pursuant to Subsection 14-16-6-6(A) when proposed within 500 feet of any Residential or NR-PO zone district or any group home use, as measured from the nearest edge of the building containing the use to the nearest Residential or NR-PO zone district or lot containing a group home.*
16. Applicant submitted evidence stating that all New Mexico state law requirements, including but not limited to any required spacing from other uses or facilities, would be followed.
17. Agent testified that no on-premises consumption would be allowed at the Subject Property.
18. Applicants submitted this application in accordance and compliance with 14-16-4-3(D)(36)(c).
19. The criteria within IDO Section 14-16-4-3(D)(36) (use-specific standards) are satisfied.

DECISION:

APPROVAL of a conditional use to allow liquor retail.

APPEAL:

If you wish to appeal this decision, you must do so by December 17, 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
WT Group Speedway LLC, chriskalischefski@cdg-llc.com



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

Western Refining, LLC (Agent, WT Group Speedway LLC) request a conditional use to allow liquor retail for Lot 2C, Block 101, Brentwood Hills, located at 2932 Juan Tabo Blvd NE, zoned MX-L [Section 14-16-4-3-D-36]

Special Exception No:..... **VA-2020-00344**
Project No: **Project#2020-003814**
Hearing Date: 11-17-20
Closing of Public Record: 11-17-20
Date of Decision: 12-02-20

On the 17th day of November, 2020, WT Group Speedway LLC, agent for property owner Western Refining, LLC (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a conditional use to allow liquor retail (“Application”) upon the real property located at 2932 Juan Tabo Blvd NE (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a conditional use to allow liquor retail.
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 Subject Property is zoned MX-L.
4. 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).
5. Applicant provided evidence that the proper "Notice of Hearing" signage was posted for the required time period as required by Section 14-16-6-4(K)(3).

6. Applicant provided evidence that all property owners and neighborhood association entitled to notice were notified of the Application.
7. Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval is consistent with the ABC Comp. Plan, as amended. Specifically, Applicant submitted evidence that the community would benefit from access to affordable gas and convenient store uses in a site close to, but buffered from, residential areas, which would “create healthy, sustainable communities with a mix of uses that are conveniently accessible from surrounding neighborhoods” as stated as a goal in ABC Comp. Plan Policy 5.2.1.
8. Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval 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. Specifically, Applicant testified and confirmed in written submittals that the requested Conditional Use approval would comport with all applicable requirements. A neighbor testified that Applicant had undertaken construction work on the property without a permit. Applicant admitted starting work without a permit, but testified that he has since removed the improvements installed without a permit and will obtain permits in advance of any further work.
9. Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval will not create significant adverse impacts on adjacent properties, the surrounding neighborhood, or the larger community. Specifically, Applicant testified and confirmed in written submittals that the requested Conditional Use approval would not create any adverse impact because the proposed use would abide by all applicable regulations and would be more safely accessible than the existing site.
10. Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval 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. Specifically, Applicant testified and confirmed in written submittals that the requested Conditional Use approval would not create material adverse impact on area land through traffic, parking, noise or vibration, because the proposed use is consistent with the current use and the updated site plan would increase accessibility to the site.
11. Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval 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. Specifically, Applicant testified that non-residential activity would not increase in any prohibited manner based on the preexisting use of the site as a gas station.
12. Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval will not negatively impact pedestrian or transit connectivity without appropriate mitigation. Specifically, Applicant testified that no negative impact on pedestrian or transit connectivity would result.
13. The City Traffic Engineering Division stated no objection.
14. The criteria within IDO Section 14-16-6-6(A)(3) are satisfied.

15. The IDO imposes the following Applicable Use-Specific Standards on Liquor Retail use, pursuant to IDO Section 14-16-4-3(D)(36):
 - 4-3(D)(36)(a) Alcohol sales for off-premises consumption is allowed provided that the establishment complies with all New Mexico state law requirements, including but not limited to any required spacing from other uses or facilities.*
 - 4-3(D)(36)(b) Alcohol sales for on-premises consumption is also allowed as an incidental activity provided that the establishment complies with all New Mexico state law requirements.*
 - 4-3(D)(36)(c) Notwithstanding other provisions in this Subsection 14-16-4-3(D)(36), this use requires a Conditional Use Approval pursuant to Subsection 14-16-6-6(A) when proposed within 500 feet of any Residential or NR-PO zone district or any group home use, as measured from the nearest edge of the building containing the use to the nearest Residential or NR-PO zone district or lot containing a group home.*
16. Applicant submitted evidence stating that all New Mexico state law requirements, including but not limited to any required spacing from other uses or facilities, would be followed.
17. Agent testified that no on-premises consumption would be allowed at the Subject Property.
18. Applicants submitted this application in accordance and compliance with 14-16-4-3(D)(36)(c).
19. The criteria within IDO Section 14-16-4-3(D)(36) (use-specific standards) are satisfied.

DECISION:

APPROVAL of a conditional use to allow liquor retail.

APPEAL:

If you wish to appeal this decision, you must do so by December 17, 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
WT Group Speedway LLC, chriskalischefski@cdg-llc.com



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

Western Refining, LLC (Agent, WT Group Speedway LLC) request a conditional use to allow liquor retail for Lot 3C, Block 101, Brentwood Hills, located at 2932 Juan Tabo Blvd NE, zoned MX-L [Section 14-16-4-3-D-36]

Special Exception No:..... **VA-2020-00344**
Project No: **Project#2020-003814**
Hearing Date: 11-17-20
Closing of Public Record: 11-17-20
Date of Decision: 12-02-20

On the 17th day of November, 2020, WT Group Speedway LLC, agent for property owner Western Refining, LLC (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a conditional use to allow liquor retail (“Application”) upon the real property located at 2932 Juan Tabo Blvd NE (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a conditional use to allow liquor retail.
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 Subject Property is zoned MX-L.
4. 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).
5. Applicant provided evidence that the proper "Notice of Hearing" signage was posted for the required time period as required by Section 14-16-6-4(K)(3).

6. Applicant provided evidence that all property owners and neighborhood association entitled to notice were notified of the Application.
7. Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval is consistent with the ABC Comp. Plan, as amended. Specifically, Applicant submitted evidence that the community would benefit from access to affordable gas and convenient store uses in a site close to, but buffered from, residential areas, which would “create healthy, sustainable communities with a mix of uses that are conveniently accessible from surrounding neighborhoods” as stated as a goal in ABC Comp. Plan Policy 5.2.1.
8. Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval 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. Specifically, Applicant testified and confirmed in written submittals that the requested Conditional Use approval would comport with all applicable requirements. A neighbor testified that Applicant had undertaken construction work on the property without a permit. Applicant admitted starting work without a permit, but testified that he has since removed the improvements installed without a permit and will obtain permits in advance of any further work.
9. Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval will not create significant adverse impacts on adjacent properties, the surrounding neighborhood, or the larger community. Specifically, Applicant testified and confirmed in written submittals that the requested Conditional Use approval would not create any adverse impact because the proposed use would abide by all applicable regulations and would be more safely accessible than the existing site.
10. Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval 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. Specifically, Applicant testified and confirmed in written submittals that the requested Conditional Use approval would not create material adverse impact on area land through traffic, parking, noise or vibration, because the proposed use is consistent with the current use and the updated site plan would increase accessibility to the site.
11. Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval 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. Specifically, Applicant testified that non-residential activity would not increase in any prohibited manner based on the preexisting use of the site as a gas station.
12. Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval will not negatively impact pedestrian or transit connectivity without appropriate mitigation. Specifically, Applicant testified that no negative impact on pedestrian or transit connectivity would result.
13. The City Traffic Engineering Division stated no objection.
14. The criteria within IDO Section 14-16-6-6(A)(3) are satisfied.

15. The IDO imposes the following Applicable Use-Specific Standards on Liquor Retail use, pursuant to IDO Section 14-16-4-3(D)(36):
- 4-3(D)(36)(a) Alcohol sales for off-premises consumption is allowed provided that the establishment complies with all New Mexico state law requirements, including but not limited to any required spacing from other uses or facilities.*
 - 4-3(D)(36)(b) Alcohol sales for on-premises consumption is also allowed as an incidental activity provided that the establishment complies with all New Mexico state law requirements.*
 - 4-3(D)(36)(c) Notwithstanding other provisions in this Subsection 14-16-4-3(D)(36), this use requires a Conditional Use Approval pursuant to Subsection 14-16-6-6(A) when proposed within 500 feet of any Residential or NR-PO zone district or any group home use, as measured from the nearest edge of the building containing the use to the nearest Residential or NR-PO zone district or lot containing a group home.*
16. Applicant submitted evidence stating that all New Mexico state law requirements, including but not limited to any required spacing from other uses or facilities, would be followed.
17. Agent testified that no on-premises consumption would be allowed at the Subject Property.
18. Applicants submitted this application in accordance and compliance with 14-16-4-3(D)(36)(c).
19. The criteria within IDO Section 14-16-4-3(D)(36) (use-specific standards) are satisfied.

DECISION:

APPROVAL of a conditional use to allow liquor retail.

APPEAL:

If you wish to appeal this decision, you must do so by December 17, 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
WT Group Speedway LLC, chriskalischefski@cdg-llc.com



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

Western Refining, LLC (Agent, WT Group Speedway LLC) request a conditional use to allow liquor retail for Lot 4C, Block 101, Brentwood Hills, located at 2932 Juan Tabo Blvd NE, zoned MX-L [Section 14-16-4-3-D-36]

Special Exception No:..... **VA-2020-00344**
Project No: **Project#2020-003814**
Hearing Date: 11-17-20
Closing of Public Record: 11-17-20
Date of Decision: 12-02-20

On the 17th day of November, 2020, WT Group Speedway LLC, agent for property owner Western Refining, LLC (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a conditional use to allow liquor retail (“Application”) upon the real property located at 2932 Juan Tabo Blvd NE (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a conditional use to allow liquor retail.
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 Subject Property is zoned MX-L.
4. 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).
5. Applicant provided evidence that the proper "Notice of Hearing" signage was posted for the required time period as required by Section 14-16-6-4(K)(3).

6. Applicant provided evidence that all property owners and neighborhood association entitled to notice were notified of the Application.
7. Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval is consistent with the ABC Comp. Plan, as amended. Specifically, Applicant submitted evidence that the community would benefit from access to affordable gas and convenient store uses in a site close to, but buffered from, residential areas, which would “create healthy, sustainable communities with a mix of uses that are conveniently accessible from surrounding neighborhoods” as stated as a goal in ABC Comp. Plan Policy 5.2.1.
8. Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval 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. Specifically, Applicant testified and confirmed in written submittals that the requested Conditional Use approval would comport with all applicable requirements. A neighbor testified that Applicant had undertaken construction work on the property without a permit. Applicant admitted starting work without a permit, but testified that he has since removed the improvements installed without a permit and will obtain permits in advance of any further work.
9. Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval will not create significant adverse impacts on adjacent properties, the surrounding neighborhood, or the larger community. Specifically, Applicant testified and confirmed in written submittals that the requested Conditional Use approval would not create any adverse impact because the proposed use would abide by all applicable regulations and would be more safely accessible than the existing site.
10. Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval 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. Specifically, Applicant testified and confirmed in written submittals that the requested Conditional Use approval would not create material adverse impact on area land through traffic, parking, noise or vibration, because the proposed use is consistent with the current use and the updated site plan would increase accessibility to the site.
11. Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval 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. Specifically, Applicant testified that non-residential activity would not increase in any prohibited manner based on the preexisting use of the site as a gas station.
12. Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval will not negatively impact pedestrian or transit connectivity without appropriate mitigation. Specifically, Applicant testified that no negative impact on pedestrian or transit connectivity would result.
13. The City Traffic Engineering Division stated no objection.
14. The criteria within IDO Section 14-16-6-6(A)(3) are satisfied.

15. The IDO imposes the following Applicable Use-Specific Standards on Liquor Retail use, pursuant to IDO Section 14-16-4-3(D)(36):
- 4-3(D)(36)(a) Alcohol sales for off-premises consumption is allowed provided that the establishment complies with all New Mexico state law requirements, including but not limited to any required spacing from other uses or facilities.*
 - 4-3(D)(36)(b) Alcohol sales for on-premises consumption is also allowed as an incidental activity provided that the establishment complies with all New Mexico state law requirements.*
 - 4-3(D)(36)(c) Notwithstanding other provisions in this Subsection 14-16-4-3(D)(36), this use requires a Conditional Use Approval pursuant to Subsection 14-16-6-6(A) when proposed within 500 feet of any Residential or NR-PO zone district or any group home use, as measured from the nearest edge of the building containing the use to the nearest Residential or NR-PO zone district or lot containing a group home.*
16. Applicant submitted evidence stating that all New Mexico state law requirements, including but not limited to any required spacing from other uses or facilities, would be followed.
17. Agent testified that no on-premises consumption would be allowed at the Subject Property.
18. Applicants submitted this application in accordance and compliance with 14-16-4-3(D)(36)(c).
19. The criteria within IDO Section 14-16-4-3(D)(36) (use-specific standards) are satisfied.

DECISION:

APPROVAL of a conditional use to allow liquor retail.

APPEAL:

If you wish to appeal this decision, you must do so by December 17, 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
WT Group Speedway LLC, chriskalischefski@cdg-llc.com



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

Western Refining, LLC (Agent, WT Group Speedway LLC) request a conditional use to allow liquor retail for Lot 5C, Block 101, Brentwood Hills, located at 2932 Juan Tabo Blvd NE, zoned MX-L [Section 14-16-4-3-D-36]

Special Exception No:..... **VA-2020-00344**
Project No: **Project#2020-003814**
Hearing Date: 11-17-20
Closing of Public Record: 11-17-20
Date of Decision: 12-02-20

On the 17th day of November, 2020, WT Group Speedway LLC, agent for property owner Western Refining, LLC (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a conditional use to allow liquor retail (“Application”) upon the real property located at 2932 Juan Tabo Blvd NE (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a conditional use to allow liquor retail.
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 Subject Property is zoned MX-L.
4. 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).
5. Applicant provided evidence that the proper "Notice of Hearing" signage was posted for the required time period as required by Section 14-16-6-4(K)(3).

6. Applicant provided evidence that all property owners and neighborhood association entitled to notice were notified of the Application.
7. Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval is consistent with the ABC Comp. Plan, as amended. Specifically, Applicant submitted evidence that the community would benefit from access to affordable gas and convenient store uses in a site close to, but buffered from, residential areas, which would “create healthy, sustainable communities with a mix of uses that are conveniently accessible from surrounding neighborhoods” as stated as a goal in ABC Comp. Plan Policy 5.2.1.
8. Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval 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. Specifically, Applicant testified and confirmed in written submittals that the requested Conditional Use approval would comport with all applicable requirements. A neighbor testified that Applicant had undertaken construction work on the property without a permit. Applicant admitted starting work without a permit, but testified that he has since removed the improvements installed without a permit and will obtain permits in advance of any further work.
9. Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval will not create significant adverse impacts on adjacent properties, the surrounding neighborhood, or the larger community. Specifically, Applicant testified and confirmed in written submittals that the requested Conditional Use approval would not create any adverse impact because the proposed use would abide by all applicable regulations and would be more safely accessible than the existing site.
10. Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval 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. Specifically, Applicant testified and confirmed in written submittals that the requested Conditional Use approval would not create material adverse impact on area land through traffic, parking, noise or vibration, because the proposed use is consistent with the current use and the updated site plan would increase accessibility to the site.
11. Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval 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. Specifically, Applicant testified that non-residential activity would not increase in any prohibited manner based on the preexisting use of the site as a gas station.
12. Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval will not negatively impact pedestrian or transit connectivity without appropriate mitigation. Specifically, Applicant testified that no negative impact on pedestrian or transit connectivity would result.
13. The City Traffic Engineering Division stated no objection.
14. The criteria within IDO Section 14-16-6-6(A)(3) are satisfied.

15. The IDO imposes the following Applicable Use-Specific Standards on Liquor Retail use, pursuant to IDO Section 14-16-4-3(D)(36):
 - 4-3(D)(36)(a) Alcohol sales for off-premises consumption is allowed provided that the establishment complies with all New Mexico state law requirements, including but not limited to any required spacing from other uses or facilities.*
 - 4-3(D)(36)(b) Alcohol sales for on-premises consumption is also allowed as an incidental activity provided that the establishment complies with all New Mexico state law requirements.*
 - 4-3(D)(36)(c) Notwithstanding other provisions in this Subsection 14-16-4-3(D)(36), this use requires a Conditional Use Approval pursuant to Subsection 14-16-6-6(A) when proposed within 500 feet of any Residential or NR-PO zone district or any group home use, as measured from the nearest edge of the building containing the use to the nearest Residential or NR-PO zone district or lot containing a group home.*
16. Applicant submitted evidence stating that all New Mexico state law requirements, including but not limited to any required spacing from other uses or facilities, would be followed.
17. Agent testified that no on-premises consumption would be allowed at the Subject Property.
18. Applicants submitted this application in accordance and compliance with 14-16-4-3(D)(36)(c).
19. The criteria within IDO Section 14-16-4-3(D)(36) (use-specific standards) are satisfied.

DECISION:

APPROVAL of a conditional use to allow liquor retail.

APPEAL:

If you wish to appeal this decision, you must do so by December 17, 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
WT Group Speedway LLC, chriskalischefski@cdg-llc.com



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

Western Refining, LLC (Agent, WT Group Speedway LLC) request a conditional use to allow liquor retail for Lot 6C, Block 101, Brentwood Hills, located at 2932 Juan Tabo Blvd NE, zoned MX-L [Section 14-16-4-3-D-36]

Special Exception No:..... **VA-2020-00344**
Project No: **Project#2020-003814**
Hearing Date: 11-17-20
Closing of Public Record: 11-17-20
Date of Decision: 12-02-20

On the 17th day of November, 2020, WT Group Speedway LLC, agent for property owner Western Refining, LLC (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a conditional use to allow liquor retail (“Application”) upon the real property located at 2932 Juan Tabo Blvd NE (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a conditional use to allow liquor retail.
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 Subject Property is zoned MX-L.
4. 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).
5. Applicant provided evidence that the proper "Notice of Hearing" signage was posted for the required time period as required by Section 14-16-6-4(K)(3).

6. Applicant provided evidence that all property owners and neighborhood association entitled to notice were notified of the Application.
7. Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval is consistent with the ABC Comp. Plan, as amended. Specifically, Applicant submitted evidence that the community would benefit from access to affordable gas and convenient store uses in a site close to, but buffered from, residential areas, which would “create healthy, sustainable communities with a mix of uses that are conveniently accessible from surrounding neighborhoods” as stated as a goal in ABC Comp. Plan Policy 5.2.1.
8. Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval 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. Specifically, Applicant testified and confirmed in written submittals that the requested Conditional Use approval would comport with all applicable requirements. A neighbor testified that Applicant had undertaken construction work on the property without a permit. Applicant admitted starting work without a permit, but testified that he has since removed the improvements installed without a permit and will obtain permits in advance of any further work.
9. Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval will not create significant adverse impacts on adjacent properties, the surrounding neighborhood, or the larger community. Specifically, Applicant testified and confirmed in written submittals that the requested Conditional Use approval would not create any adverse impact because the proposed use would abide by all applicable regulations and would be more safely accessible than the existing site.
10. Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval 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. Specifically, Applicant testified and confirmed in written submittals that the requested Conditional Use approval would not create material adverse impact on area land through traffic, parking, noise or vibration, because the proposed use is consistent with the current use and the updated site plan would increase accessibility to the site.
11. Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval 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. Specifically, Applicant testified that non-residential activity would not increase in any prohibited manner based on the preexisting use of the site as a gas station.
12. Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval will not negatively impact pedestrian or transit connectivity without appropriate mitigation. Specifically, Applicant testified that no negative impact on pedestrian or transit connectivity would result.
13. The City Traffic Engineering Division stated no objection.
14. The criteria within IDO Section 14-16-6-6(A)(3) are satisfied.

15. The IDO imposes the following Applicable Use-Specific Standards on Liquor Retail use, pursuant to IDO Section 14-16-4-3(D)(36):
 - 4-3(D)(36)(a) Alcohol sales for off-premises consumption is allowed provided that the establishment complies with all New Mexico state law requirements, including but not limited to any required spacing from other uses or facilities.*
 - 4-3(D)(36)(b) Alcohol sales for on-premises consumption is also allowed as an incidental activity provided that the establishment complies with all New Mexico state law requirements.*
 - 4-3(D)(36)(c) Notwithstanding other provisions in this Subsection 14-16-4-3(D)(36), this use requires a Conditional Use Approval pursuant to Subsection 14-16-6-6(A) when proposed within 500 feet of any Residential or NR-PO zone district or any group home use, as measured from the nearest edge of the building containing the use to the nearest Residential or NR-PO zone district or lot containing a group home.*
16. Applicant submitted evidence stating that all New Mexico state law requirements, including but not limited to any required spacing from other uses or facilities, would be followed.
17. Agent testified that no on-premises consumption would be allowed at the Subject Property.
18. Applicants submitted this application in accordance and compliance with 14-16-4-3(D)(36)(c).
19. The criteria within IDO Section 14-16-4-3(D)(36) (use-specific standards) are satisfied.

DECISION:

APPROVAL of a conditional use to allow liquor retail.

APPEAL:

If you wish to appeal this decision, you must do so by December 17, 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
WT Group Speedway LLC, chriskalischefski@cdg-llc.com