



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

Ong David K and Jean J Trustee (Agent, Alfredo Barrenechea) request a conditional use to allow a drive through facility for Lot 5A, Block 5, Skyline Heights, located at 10026 Central Ave SE, zoned MX-H [Section 14-16-4]

Special Exception No:..... **VA-2019-00424**
Project No: **Project#2019-003121**
Hearing Date: 01-21-20
Closing of Public Record: 01-21-20
Date of Decision: 02-05-20

On the 21st day of January, 2020, Alfredo Barrenechea, agent for property owner Ong David K and Jean J Trustee (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a conditional use to allow a drive through facility (“Application”) upon the real property located at 10026 Central Ave SE (“Subject Property”). Below are the ZHE’s findings of fact and decision:

FINDINGS:

1. Applicant is requesting a conditional use to allow a drive-through facility.
2. The City of Albuquerque Code of Ordinances Section 14-16-6-6(A)(3) (Review and Decision Criteria– Conditional Use) reads: *“An application for a Conditional Use Approval shall be approved if it meets all of the following criteria:*
 - (a) *It is consistent with the ABC Comp. Plan, as amended;*
 - (b) *It complies with all applicable provisions of the IDO, including, but not limited to any Use-specific Standards applicable to the use in Section 14-16-4-3; the DPM; other adopted City regulations; and any conditions specifically applied to development of the property in any prior permit or approval affecting the property;*
 - (c) *It will not create significant adverse impacts on adjacent properties, the surrounding neighborhood, or the larger community;*
 - (d) *It will not create material adverse impacts on other land in the surrounding area, through increases in traffic congestion, parking congestion noise, or vibration without sufficient mitigation or civic or environmental benefits that outweigh the expected impacts;*
 - (e) *It will not increase non-residential activity within 300 feet of a lot in any residential zone district between the hours of 8:00 pm and 6:00 am;*
 - (f) *It will not negatively impact pedestrian or transit connectivity without appropriate mitigation*
3. The Applicant bears the burden of ensuring there is evidence in the record supporting a finding that the above criteria are met under Section 14-16-6-4(N)(1).
4. The request is for a Conditional Use to allow a drive through or drive in facility; under Section 14-16-4; **USE REGULATIONS**; Table 4-2-1; **Allowable Uses**.

5. This use is regulated by Section 14-16-4: *Use-Specific Standards: 4-3(F)(4): Drive through or Drive-up Facility.*
6. Alfredo Barrenechea at Urban Ventures Acquisitions, LLC, agent for property owners David and Jean Ong, Trustees appeared and gave evidence in support of the application.
7. The address of the subject property is 10026 Central Ave. SE.
8. The subject property is currently zoned MX-H.
9. The proposed project is a pizza restaurant, which is a permissive use, with a drive through conditional accessory use requested.
10. A preliminary site plan and accompanying photographs of the subject property and surrounding area were submitted in support of the request.
11. All property owners within 100 feet and affected neighborhood association(s) were notified.
12. South Los Altos Neighborhood Association and District 6 Coalition of NAs are the affected Neighborhood associations.
13. No response, nor request for meeting has been submitted.
14. The subject property is currently vacant and derelict.
15. The subject address is located in the Central Major-Transit Corridor and is located within an Area of Change as designated by the ABC Comp. Plan.
16. Transportation has reviewed the proposed project and has reported No Objection to the request.
17. An e-mail from Ms. Malak Hakim, AIPC, Kirtland Air Force Base, dated December 30, 2019, indicating No Concerns on the request.
18. No one appeared in opposition to the requested use.
19. The project will help grow the Central Ave. Corridor by redeveloping a currently vacant property into a community-oriented use that will provide jobs and affordable food to the residents of nearby neighborhoods, which is consistent with **ABC Comp. Plan, Goal 5.1.1 CENTERS & CORRIDORS** to grow the City as a community of strong Centers connected by a multi-modal network of corridors.
20. The proposed project will re-develop a currently vacant and derelict, and public nuisance property and improve the public sidewalk along the busy Central multi-Transit Corridor, which is consistent with **ABC Comp. Plan, Policy 5.1.10 - MAJOR TRANSIT CORRIDORS**, to foster corridors that prioritize high frequency transit service with pedestrian oriented development.
21. The proposed project will provide jobs and conveniently accessible, inexpensive food to the surrounding community, with the drive through assisting in making the food easily and safely accessible to the customers, which is consistent with **ABC Comp. Plan, Goal 5.2 COMPLETE COMMUNITIES** to foster communities where residents can live, work, learn, shop and play together.
22. The proposed project is located in an area of Central that has a mix of older and newer development and is consistent in use, size and scale to the surrounding newer development, which promotes a consistent pattern of development in the nearby area, which is consistent with **ABC Comp. Plan, Goal 5.3: EFFICIENT DEVELOPMENT PATTERNS** as it promotes development patterns that maximize the utility of existing infrastructure and public facilities and the efficient use of land to support the public good.

23. The project is on an infill parcel along Central Ave., which consistent with **ABC Comp. Plan, Goal 5.3, Policy 5.31: INFILL DEVELOPMENT**, by supporting additional growth in areas with existing infrastructure and public facilities.
24. The project is an infill project in a heavy commercial area with developed adjacent properties, which is consistent with **ABC Comp. Plan, Goal 5.3: Policy 5.3.2, LEAPFROG DEVELOPMENT**, by development in an area with existing infrastructure and public facilities.
25. The proposed project is built on a small parcel (+/- 0.54 acres) which allows the design to maximize the site and incorporate a maximum amount of open/landscaped area, which is consistent with **ABC Comp. Plan, Goal 5.3, Policy 5.3.3: COMPACT DEVELOPMENT**, by using a plan which clusters buildings and uses in order to provide landscaped open space.
26. The project is a new development of a vacant infill parcel in an Area of Change, which is consistent with ABC Comp. Plan, Goal 5.6: CITY DEVELOPMENT AREA; by helping to encourage growth to an Area of Change, while reinforcing the character and intensity of the surrounding area.
27. The project is supporting redevelopment and growth in the East Gateway MRA, by providing jobs and affordable food to the surrounding local community, which is consistent with **ABC Comp. Plan, Goal 5.6: Policy 5.6.2: AREAS OF CHANGE**.
28. The proposed use is consistent with the ABC Comp. Plan, as amended, as required by Section 14-16-6-6(A)(3)(a).
29. The proposed use complies with all applicable provisions of the IDO, including, but not limited to any Use-specific standards applicable to the use in Section 14-16-4-3; the DPM; other adopted City regulations; any conditions specifically applied to the development of the property in a prior permit or approval affecting the property, as required by Section 14-16-6-6(A)(3)(b).
30. The proposed use will not create significant adverse impacts on the adjacent properties; the surrounding neighborhood, or the larger community, as required by Section 14-16-6-6(A)(3)(c).
31. The proposed use will not create material adverse impacts on other land in the surrounding area through increases in traffic congestion, parking congestion, noise, or vibration as requires by Section 14-16-6(A)(3)(d).
32. The services will be provided from 10:30 am through 10:00 PM.
33. The subject property is not located within 300 feet of any Residential Zone District, nor any residential uses.
34. The proposed use will not increase non-residential activity within 300 feet of a lot in any residential zone between the hours of 8:00PM and 6:00AM as required by Section 14-16-6-6(A)(3)(e).
35. The proposed use will not negatively impact pedestrian or transit connectivity, as required by Section 14-16-6-6(A)(3)(f).
36. The ZHE finds that the proper "Notice of Hearing" signage was posted for the required time period as required by Section 14-16-6-4(K)(3).
37. The ZHE finds that the Applicant has authority to pursue this Application.

CONCLUSIONS OF LAW:

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

DECISION:

APPROVAL of a conditional use to allow a Drive-through or Drive-up Facility.

CONDITIONS:

The use will comply with Use-Specific Standards contained in Section 14-16-4-3(F): Drive Through or Drive-up Facility.

APPEAL:

If you wish to appeal this decision, you must do so by February 20, 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.



Stan Harada, Esq.
Zoning Hearing Examiner

cc:

ZHE File
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