



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

Saylor Family Trust requests a conditional use to allow auto sales in an MX-L zone for Lot 18, Block 7, Stronghurst Addition, located at 3015 Edith Blvd NE, zoned MX-L [Section 14-16-4-2-1]

Special Exception No:..... **VA-2018-00187**
Project No: **Project#2018-001762**
Hearing Date: 12-18-18
Closing of Public Record: 12-18-18
Date of Decision: 01-02-19

On the 18th day of December, 2018, Shawn Biazar, SBS Construction & Engineering, agent for property owner Saylor Family Trust (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a conditional use to allow auto sales in an MX-L zone (“Application”) upon the real property located at 3015 Edith Blvd NE (“Subject Property”). Below are the ZHE’s findings of fact and decision:

FINDINGS:

1. Applicant is requesting a conditional use to allow auto sales in an MX-L zone.
2. The City of Albuquerque Code of Ordinances Section 14-16-6-6(A)(3) (Review and Decision Criteria– Conditional Use) reads: “*An application for a Conditional Use Approval shall be approved if it meets all of the following criteria:*
 - (a) *It is consistent with the ABC Comp. Plan, as amended;*
 - (b) *It complies with all applicable provisions of the IDO, including, but not limited to any Use-specific Standards applicable to the use in Section 14-16-4-3; the DPM; other adopted City regulations; and any conditions specifically applied to development of the property in any prior permit or approval affecting the property;*
 - (c) *It will not create significant adverse impacts on adjacent properties, the surrounding neighborhood, or the larger community;*
 - (d) *It will not create material adverse impacts on other land in the surrounding area, through increases in traffic congestion, parking congestion noise, or vibration without sufficient mitigation or civic or environmental benefits that outweigh the expected impacts;*
 - (e) *It will not increase non-residential activity within 300 feet of a lot in any residential zone district between the hours of 8:00 pm and 6:00 am;*
 - (f) *It will not negatively impact pedestrian or transit connectivity without appropriate mitigation.*
3. The Applicant bears the burden of ensuring there is evidence in the record supporting a finding that the above criteria are met under Section 14-16-6-4-(F)(2).
4. Shawn Biazar, agent for owner appeared and gave evidence in support of the application.
5. Richard Saylor, managing partner of owner, Saylor Family Trust appeared and gave evidence in support of the application.
6. All property owners within 100 feet and affected neighborhood association(s) were notified of the application.
7. Stronghurst Improvement Association and North Edith Commercial Corridor Association are the affected NAs.
8. The subject property is currently zoned MX-L.

9. The purpose of the MX-L zone district is to provide for neighborhood scale convenience shopping needs, primarily at the corners of collector intersections.
10. The application complies with applicable Use-Specific Standards of the IDO, the DPM and other City regulations.
11. There are no other conditions applied on the property by a prior permit or approval.
12. The subject property is designated an Area of Consistency by the ABC Comp. Plan.
13. The proposed site is bounded to the west and south by residential zone districts.
14. There are a number of commercial businesses in the surrounding area.
15. The subject property for the proposed use is the southwest corner of the intersection of Candeleria and Edith NW.
16. There is a large retail mini-mall gasoline station located diagonally on the northeast corner of the intersection.
17. The proposed use is a small professional business office, and a modest light auto retail business.
18. The automobiles offered for sale would be higher quality.
19. The applicant estimated daily sales to average 2 per day.
20. The proposed business hours would be 9:00 am to 5:00 pm, and open Saturdays for half day.
21. There is no proposed change to in existing access to the subject property.
22. A letter signed by William Sabatini, president of the Stronghurst NA, dated November 30, 2018, was submitted in opposition to the proposed use.
23. The letter stated strong opposition to the proposed use.
24. The proposed use within the boundaries of a residential zone, make the proposed use incompatible with the existing residential use.
25. The NA sees no benefit for the area, and feel the proposed use will be a detriment to the area.
26. The NA feels additional light for the proposed use will disturb the residents of adjacent properties.
27. The NA feels the limited access to the property from Eastbound Candeleria and Southbound Edith, will create traffic hazards and encourage drivers to take short cuts through the residential neighborhood.
28. William Sabatini, 2904 Arno NE, appeared and gave evidence in opposition to the application.
29. He restated the items contained in his letter of opposition.
30. He also stated he felt that the NA could trust Mr. Biazar, however, expressed concerns that if applicant's business was not successful, the NA was concerned about future possible persons who might not be as trustworthy.
31. Gretchen Carr, 3014 Franciscan NE, appeared and gave evidence in opposition to the application.
32. She is the neighbor behind the subject property.
33. She expressed concerns that the commercial lighting for the proposed use would disturb her peace.
34. Biazar appeared and responded to the concerns and potential injury to the neighborhood expressed by those in opposition to the application.
35. Owner Saylor also appeared and gave responses to the concerns and complaints expressed in opposition.
36. Both stated their agreement to assure the design and site plan will comply with all required design and use standards.

37. They agreed they would comply with lighting standards that would not impact any adjacent properties.
38. They agreed to comply with any landscape and buffer requirements to mitigate any adverse visual impacts on the surrounding neighborhood.
39. The proposed use is consistent with the ABC Comp. Plan, as amended, as required by, Section 14-16-6-6(A)(3)(a).
40. 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).
41. 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).
42. Any potential adverse impacts shall be mitigated by applicant's compliance to all Use-Specific Standards, and all design standards as stated in Conditions for Approval below.
43. The proposed use will not create material adverse impacts on other land in the surrounding area through increased traffic congestion, parking congestion, noise or vibration as required by Section 14-16-6-6(A)(3)(d).
44. 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).
45. The proposed use will not negatively impact pedestrian or transit connectivity, as required by Section 14-16-6-6(A)(3)(f).
46. 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).
47. The ZHE finds that the Applicant has authority to pursue this Application.

DECISION:

APPROVAL of a conditional use to allow auto sales in an MX-L zone.

CONDITIONS:

Applicant shall comply with all applicable Use Regulations and Development Standards listed in Sections 14-16-4-3(D)(19) and 14-16-5-9.

If you wish to appeal this decision, you must do so by January 17, 2019 in the manner described below. A non-refundable filing fee will be calculated at the Planning Department's Land Development Coordination counter and is required at the time the Appeal is filed.

Appeal must be filed with the Planning Department within 15 days after the decision. The appeal shall specifically state the section of the Integrated Development Ordinance, City regulation, or condition attached to a decision that has not been interpreted correctly, as required by Section 14-16-6-4(U)(3)(a)(3) of the Integrated Development Ordinance. Appeals are taken at 600 2nd Street, Plaza Del Sol Building, Ground Level, Planning Application Counter located on the west

side of the lobby. **Please present this letter of notification when filing an appeal.** When an application is withdrawn, the fee shall not be refunded.

Once an appeal is accepted by the Planning Department, it shall prepare and transmit a record of the appeal together with all appeal material received from the appellant to impacted parties and to the Land Use Hearing Officer (LUHO) through the Clerk of the City Council.

The LUHO shall then schedule a hearing on the matter within 30 consecutive days of receipt and notify the parties, pursuant to Section 14-16-6-4(U)(3)(d).

The Planning Department shall give written notice of an appeal, together with a notice of the date, time and place of the hearing to the applicant, a representative of the opponents, if any are known, and the appellant.

Please note that 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.

You will receive notice if any other person files an appeal. If there is no appeal, you can receive building permits any time after the appeal deadline quoted above; provided all conditions imposed at the time of approval have been met. However, the Zoning Hearing Examiner may allow issuance of building permits if the public hearing produces no objection of any kind to the approval of an application. To receive this approval, the applicant agrees in writing to return the building permit or occupation tax number.

Successful applicants are reminded that other regulations of the City must be complied with, even after approval of a special exception is secured. This decision does not constitute approval of plans for a building permit. If your application is approved, bring this decision with you when you apply for any related building permit or occupation tax number. Approval of a conditional use or a variance application is **void after one year** from date of approval if the rights and privileges are granted, thereby have not been executed or utilized.



Stan Harada, Esq.
Zoning Hearing Examiner

cc: Zoning Enforcement
ZHE File
SBS Construction & Engineering, 10209 Snowflake CT NW, 87114
Gretchen Carr, 3014 Franciscan NE, 87107
Dixie Colvin, 3012 Franciscan NE, 87107
William Sabatini, 2904 Arno NE, 87107
Mark Lines, 3010 Arno ST NE, 87107
Deanna Dyke, 3010 Franciscan NE, 87107
Richard Saylor, 5565 Eakes Rd NW, 87107