



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

Maria Purdum requests a conditional use to allow a restaurant for Lot 8, McNeil Addn, located at 727 Tijeras Ave NW, zoned MX-T [Section 14-16-4-2]

Special Exception No:..... **VA-2019-00215**
Project No: **Project#2019-002569**
Hearing Date: 08-20-19
Closing of Public Record: 08-20-19
Date of Decision: 09-04-19

On the 20th day of August, 2019, Joshua Castleberry, agent for property owner, Maria Purdum (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a conditional use to allow a restaurant (“Application”) upon the real property located at 727 Tijeras Ave NW (“Subject Property”). Below are the ZHE’s findings of fact and decision:

FINDINGS:

1. Applicant is requesting a conditional use to allow a restaurant.
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. Joshua Castleberry, agent for Maria Purdum, property owner appeared and gave evidence in support of the application.
5. The address of the subject property is 727 Tijeras Ave NW.
6. The subject property is currently zoned MX-T.

7. The subject property is located in Character Protection Overlay CPO #3: *Downtown Neighborhood Area*.
8. The proposed project is for a coffee shop in the subject property.
9. The requested use is regulated by Applicable Use-Specific Standards contained in Section 14-16-4-3(D)(8): *Bar, Nightclub, Restaurant and Tap-Room*.
10. All property owners within 100 feet and affected neighborhood association(s) were notified.
11. Downtown Neighborhood Association and Silver Platinum Downtown Neighborhood Association are the affected NAs.
12. An e-mail from Ron Casias, Chair/Spokesperson for Silver Platinum Downtown Neighborhood Association (SPDNA), dated June 17, 2019, indicating the request will have "No adverse effect to our neighborhood" was submitted in support of the Application.
13. A site plan and accompanying photographs were submitted in support of the Application.
14. The coffee shop will sell no alcohol, and will not be cooking or preparing food.
15. The subject property is 1,700 square feet.
16. The coffee shop will only sell coffee and will cross promote with nearby restaurant (Lush) to provide pasties, and other items beside coffee.
17. The coffee shop will only be open during regular business hours, and there is no residential district close to the subject property.
18. Spencer Brown, 6508 Amberside Rd. NW, appeared and gave testimony in support of the request.
19. Ruben Cordova, 1108 Kentucky SE, appeared and gave testimony in support of the request.
20. The subject property is located in an Area of Consistency as designated in the ABC Comp. Plan.
21. The proposed project will provide more employment density and new employment opportunities, which will promote mature and established neighborhoods with new opportunities, which is consistent with ABC Comp. Plan, Policy 5.6.3 *Areas of Consistency: Protect and enhance the character of existing... neighborhoods*.
22. This employment density and mix, is also consistent with ABC Comp. Plan, Policy 5.1.3: *Downtown: Strengthen Downtown's identity as a regional hub for the highest intensity development, with concentrated job and commercial activity supported by the highest-density housing*.
23. The proposed project is in close walking distance with most of the downtown area, and the many residential opportunities and is also consistent with ABC Comp. Plan, policy 5.2.1: *Land Uses: Create healthy, sustainable, and distinct communities with a mix of uses that are conveniently accessible from surrounding neighborhoods*.
24. The proposed project located in an area that is home to a number of government offices (City, State and Federal, as well as courthouses and many other support activities of government which is consistent with ABC Comp. Plan, Policy 5.3.1: *Infill Development: Support additional growth in areas with existing infrastructure and public facilities*.
25. The downtown area has been identified as its own Center, with the most intense, walkable, mixed use environment in the Albuquerque area, as designated in the ABC Comp. Plan, Policy 5.1.2.3: *Centers & Corridors*.
26. The proposed project will promote other businesses in the area, including nearby restaurants, artists and galleries and encourage communication and cross promotion in the highly diverse mixed environment of downtown, which is consistent generally with Policy 5.1.2.5: *Development Areas, Areas of Consistency (City)*.

27. Transportation issued a report indicating No Objection to the Application.
28. The requested use is consistent with the ABC Comp. Plan as required by Section 14-16-6-6(A)(3)(a).
29. The requested 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 as required by Section 14-16-6-6(A)(3)(b).
30. The requested use will not create significant adverse impacts on adjacent properties, the surrounding neighborhood, or the larger community as required by Section 14-16-6-6(A)(3)(c).
31. The requested 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 required by Section 14-16-6-6(A)(3)(d).
32. 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).
33. The proposed use will not negatively impact pedestrian or transit connectivity, as required by Section 14-16-6-6(A)(3)(f).
34. 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).
35. The ZHE finds that the Applicant has authority to pursue this Application.

DECISION:

APPROVAL of a conditional use to allow a restaurant.

CONDITIONS:

Compliance with Use-Specific Standards, Section 14-16-4-3(D)(8): *Bar, Nightclub, Restaurant and Tap-Room.*

APPEAL:

If you wish to appeal this decision, you must do so by September 19, 2019 pursuant to Section 14-16-6-4(U), of the Integrated Development Ordinance, you must demonstrate that you have legal standing to file an appeal as defined.

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



Stan Harada, Esq.
Zoning Hearing Examiner

cc:

ZHE File

Zoning Enforcement

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Maria Purdom, 703 Fruit Ave, 87102

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