



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

Stripes Restaurant requests a conditional use to allow a drive-through on Lot 38A, Block A, Sombra Del Monte, located at 2505 Wyoming Blvd NE, zoned MX-L [Section 14-16-4-2]

Special Exception No:..... **VA-2019-00004**
Project No: **Project# 2019-001935**
Hearing Date: 03-19-19
Closing of Public Record: 03-19-19
Date of Decision: 04-03-19

On the 19th day of March, 2019, Jackie Fishman, Consensus Planning, agent for property owner Stripes Restaurant (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a conditional use to allow a drive-through (“Application”) upon the real property located at 2505 Wyoming Blvd NE (“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.
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. Jacqueline Fishman for Consensus Planning, agent for property owner Stripes Restaurant, appeared and gave evidence in support of the application.
5. All property owners within 100 feet and affected neighborhood association(s) were notified.
6. Hoffmantown Neighborhood Association is the affected NA.
7. The subject property is currently zoned MX-L.

8. Transportation reports no objections to the proposed use.
9. The Applicant is proposing the redevelopment of a site that was a previous Circle-K store and gas station and car wash.
10. A site plan and photographs of the subject property were submitted.
11. The requested conditional accessory drive-through will be utilized by the restaurant proposed on the subject property.
12. The project will reuse the vacant store building for a drive-through restaurant and the car-wash building for on-site storage related to the primary use.
13. There will be no customer seating inside the restaurant.
14. The subject property is located in an Area of Change adjacent to an Area of Consistency as designated by the ABC Comp. Plan.
15. The subject property is located on Wyoming Blvd and Claremont Ave NE.
16. Wyoming Blvd. is a Principal Arterial and a multi-Modal Corridor as designated by the ABC Comp. Plan.
17. The existing site has one driveway from Wyoming Blvd and two driveways from Claremont Ave.
18. The subject property is .43 acres in area and currently vacant with two structures on the site.
19. The adjacent neighborhood to the west is zoned R-1C.
20. The proposed use will provide an appropriate transition to the adjacent single-family development.
21. There is a 20 foot alley adjacent to the west side of the property.
22. The proposed site design includes a 15 foot landscape barrier.
23. All residential, single family properties to the west have 6 foot fences/walls abutting the 20 foot alley.
24. The vacant car wash structure abuts the alley on the west property line.
25. The proposed use as a drive-through restaurant is appropriate in this location as it is located on Wyoming Blvd, a multi-Modal Corridor and Principal Arterial and facilitates development in an area of Change with available urban services.
26. The proposed use is consistent with and will complement present uses along Wyoming and Claremont NE.
27. The proposed use will encourage infill development in appropriate ways, which is consistent with ABC Comp. Plan, Policy 2.4.2.
28. The proposed use will redevelop a vacant property along a Principal Arterial, which is utilized by passenger vehicles, bicycle, transit and pedestrians.
29. The subject property is served by ABQ Ride, routes 31 and Crosstown Commuter Route 98, the Claremont bike path.
30. The proposed use will encourage and focus new development and growth in Centers and Corridors, which is consistent with ABC Comp. Plan, Policy 2.4.6.
31. The proposed use will redevelop a blighted and vacant site that is served by existing infrastructure (water and sewer) and public facilities.
32. The proposed use will support additional growth in areas with existing infrastructure and public facilities, which is consistent with ABC Comp. Plan, Policy 5.3.1.
33. The subject property is located between vacant retail to the south and offices to the north.
34. The 20 foot alley and, landscaping and fencing protects the existing residential neighborhood.

35. The proposed use will encourage infill and compact development in areas of vacant land contiguous to existing urban facilities and services, and ensure the integrity of the existing neighborhood, which is consistent with ABC Comp. Plan, Policy 5.5.5.g.
36. The proposed use will further the redevelopment and reuse of blighted and underutilized properties.
37. The requested use will direct growth and more intense development to Centers, Corridors, where change is encouraged, which is consistent with ABC Comp. Plan, Policy 5.6.2.
38. The proposed use will the existing one-story structure, which are consistent with the height of the surrounding buildings.
39. The existing setbacks along Wyoming and Claremont meet or exceed the IDO requirements.
40. Frank Saiz, 2500 Wisconsin NE, 87110, appeared and gave evidence in support of the requested use.
41. He is the owner of residential property adjacent to the subject property.
42. He complains that the vacant property had created transients and crime to the neighborhood and he supports the requested use.
43. He has resided in the neighborhood since 1982.
44. The requested use will provide appropriate transition in Areas of Change for development abutting Areas of Consistency, which is consistent to ABC Comp. Plan, Policy 5.6.4.
45. The requested use is regulated by Section 14-16-4-3(F)4 **Drive-through or Drive-up Facility**.
46. The requested use is also regulated by Development Standards Section 14-16-5-5(I)(1) **Drive-through or Drive-up Facility Design**, and Section 14-16-5-5(I)(1) **Vehicle Stacking and Drive-Through or Drive-up Facilities**.
47. The site plan addresses and satisfies placement, stacking and buffering requirements consistent with the Development Standards.
48. The hours of operation for the proposed restaurant will comply with the IDO requirements and will be closed between 8:00 pm and 6:00 am.
49. The proposed use complies with all applicable provisions of the IDO, Use-specific Standards applicable to the use, and any prior permit or approval affecting the property as required by Section 14-16-6-6(A)(3)(b).
50. The proposed 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).
51. 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 without sufficient mitigation or civic or environmental benefits that outweigh the expected impacts, as required by Section 14-16-6-6(A)(3)(d).
52. 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).
53. The proposed use will not negatively impact pedestrian or transit connectivity, as required by Section 14-16-6-6(A)(3)(f).
54. 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).
55. The ZHE finds that the Applicant has authority to pursue this Application.

DECISION:

APPROVAL of a conditional use to allow a drive-through.

CONDITIONS:

The final site plan shall comply with regulations contained in Specific Use Standards, Section 14-16-4-3(F)4 **Drive-through or Drive-up Facility**; and Development Standards Section 14-16-5-5(I)(1) **Drive-through or Drive-up Facility Design**, and Section 14-16-5-5(I)(1) **Vehicle Stacking and Drive-Through or Drive-up Facilities**.

APPEAL:

If you wish to appeal this decision, you must do so by April 18, 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: Zoning Enforcement
ZHE File
Stripes Restaurant, 5300 High Canyon Trail NE, 87111
Jackie Fishman, Consensus Planning, 302 Eighth ST NW, 87102
Frank Saiz, 2500 Wisconsin NE, 87110