



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

Prime Properties LLC requests a conditional use for a drive-through for Lot A & D, Gibson and Miles Area, located at 1314 Gibson Blvd SE, zoned MX-L [Section 14-16-4-3(F)(4)]

Special Exception No:..... **VA-2019-00255**
Project No: **Project#2019-002700**
Hearing Date: 09-17-19
Closing of Public Record: 09-17-19
Date of Decision: 10-02-19

On the 17th day of September, 2019, Jim Strozier of Consensus Planning, agent for property owner Prime Properties LLC (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a conditional use to allow for a drive-through (“Application”) upon the real property located at 1314 Gibson Blvd SE (“Subject Property”). Below are the ZHE’s findings of fact and decision:

FINDINGS:

1. Applicant is requesting a conditional use to allow for 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. Jim Strozier of Consensus Planning, agent for Isshin Ryu Club, Inc. property owner appeared and gave evidence in support of the application.
5. The address of the subject property is 1314 Gibson Blvd. SE.
6. The subject property is currently zoned MX-L.
7. All property owners within 100 feet and affected neighborhood association(s) were notified.

8. Kirtland Community Association and Clayton Heights Lomas del Cielo Neighborhood Association are the affected neighborhood associations.
9. A meeting between the developer and agent and the Kirtland Community Association was held July 16, 2019.
10. The minutes from that meeting indicate general approval of the proposed use from the members present and stipulation from the Applicant that the Site Plan would eliminate any connection to the adjacent Subway parking lot and prevent traffic flow onto the subject site.
11. There were no areas of disagreement from the KCA.
12. A copy of the Meeting Minutes, accompanied by the sign-in log from the meeting was submitted in support of the Application.
13. The request is for a conditional use in an MX-L zone to allow for a drive-through facility in conjunction with a proposed restaurant use.
14. The proposed project is development of the subject site with one commercial building for a permissive restaurant use under the MX-L zoning.
15. The requested use is regulated by Section 14-16-4-3(F)(4) ***USE REGULATIONS; Use-specific Standards; Accessory Uses; Drive Through or Drive-up Facility.***
16. The project is proposing a drive-through for the building to support a proposed coffee shop, subject of this Application.
17. The subject property consists of four parcels that are zoned MX-L and is approximately 0.88 acres in size.
18. The subject property is located at the southeast corner of Mulberry St. SE and Gibson Bl. SE.
19. There are existing commercial zone districts on both sides of the subject property.
20. Gibson Bl. SE is a Principal Arterial, as well as a Commuter Corridor, Consistency as designated in the ABC Comprehensive Plan.
21. There are two access driveways from Gibson Bl. SE and one driveway access from Mulberry St. SE.
22. The subject property is currently occupied by a karate club that is planned for closure and demolition.
23. The subject property is in an Area of Consistency as designated in the ABC Comprehensive Plan.
24. Surrounding zoning and other land uses are mixed land uses to the east, north and west, including two fast food drive-through restaurants and a department store.
25. To the west and north is an "Undesignated" land use that serves as a storm-drain facility for the Albuquerque Metropolitan Arroyo Flood Control (AMAFCA).
26. The nearest residential zone district is located to the south of the subject site, with rear yards adjacent to the subject property.
27. There is an existing 6 foot wall, a 10 foot public alley, and a proposed 10 foot landscape strip separating the residential yards from the project driveway.
28. Due to the existing 10 foot public alley, the site does not abut any residential zone district or lot containing a residential use.
29. The proposed drive-through use along Gibson Bl., will encourage drivers using this commuter corridor, whether traveling to the airport, Kirtland AFB, Sandia National Labs, and across town, will be able to quickly and efficiently go through the proposed drive-through for food and coffee.
30. This activity is consistent with and facilitates ***ABC Comprehensive Plan, Policy 5.1.12: Commuter Corridors: "Allow auto-oriented development along Commuter Corridors that***

are higher-speed and higher-traffic volume routes for people going across town, often as limited-access roadways.”

31. The proposed project will facilitate infill development on a property that is surrounded by similar commercial uses, and will add a complementary restaurant use in form and scale that are compatible with the neighboring services and appropriate along a Commuter Corridor.
32. This activity is consistent with and facilitates ***ABC Comprehensive Plan, Policy 5.2.1 Land Uses***: “*Create health, sustainable, and distinct communities with a mix of uses that are conveniently accessible from surrounding neighborhoods.*”
33. The proposed project, located outside of a Center and next to a Commuter Corridor, will reinforce the scale, intensity, and setbacks of the immediately surrounding context that already includes drive-through uses and smaller scale commercial development.
34. This activity is consistent with and facilitates ***ABC Comprehensive Plan, Policy 5.6.3 Area of Consistency***: “*Protect and enhance the character of existing single-family neighborhoods, area outside of Centers and Corridors, parks, and Major Public Open Space*”.
35. The proposed use is consistent with the ABC Comp. Plan, as amended, as required by Section 14-16-6-6(A)(3)(a).
36. This new proposed development will be required to submit a Site Plan that will be reviewed for conformance with all IDO requirements, specifically all Use-Specific Standards regulating drive-through or drive-up facilities (Section 14-16-5-5(l)(1): ***Drive-through or Drive-up facility design***), and including Parking and Loading (Section 14-16-5-5: ***Development Standards; Parking and Loading***).
37. Other Use-Specific Standards will not apply because the site is far enough from any Protected Lot that (Subsection 14-16-5-6(e) ***Neighbor Edge Provisions; Edge Buffer Landscaping***) are satisfied, no Major Public Open Space is adjacent, and the site is not located in any mapped area.
38. 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).
39. The proposed use is adequately separated from any nearby residential zone, is compatible with the other commercial uses in the area and is along a major roadway/Commuter Corridor that can handle the anticipated traffic from the development.
40. 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).
41. The site will not adversely affect traffic along Gibson Blvd., a Regional Principal Arterial, or Mulberry St., a Local Street.
42. The proposed use is sufficiently separated from any nearby residential uses, and the existing shared access points will ensure traffic flow from the project is adequately controlled and will not create any adverse impacts to the Gibson and Mulberry intersection.
43. Use-Specific standards and design standards for drive-throughs will be applied in the Site Plan administrative process (DRB) and will also sufficiently mitigate any expected impacts of the proposed use.

44. 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).
45. The proposed use is designed to be located on the site as far from the residential zone as possible.
46. The hours of operation for the proposed use are 5 am to 8 pm.
47. The use and hours are consistent with other business in the surrounding area.
48. 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).
49. The existing public sidewalks along both streets will not be affected by the project.
50. The nearest ABQ Ride bus stop is located approximately 100 feet east and across Gibson Blvd.
51. The proposed use will not negatively impact pedestrian or transit connectivity, as required by Section 14-16-6-6(A)(3)(f).
52. 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).
53. The ZHE finds that the Applicant has authority to pursue this Application.

DECISION:

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

CONDITIONS:

Compliance with Section 14-16-4-3(F)(4) ***USE REGULATIONS; Use-Specific Standards; Accessory Uses; Drive Through or Drive-up Facility.***

APPEAL:

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