



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

RIT 3700 LLC requests a conditional use for a drive-through with a restaurant on Lot F2, Block 1, Holiday Park Unit 11, located at 11301 Comanche Road NE, zoned MX-L [Section 14-16-6-6(A)]

Special Exception No:..... **VA-2019-00259**
Project No: **Project#2019-002701**
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, property owner RIT 3700 LLC (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a conditional use to allow for a drive-through with a restaurant (“Application”) upon the real property located at 11301 Comanche Road NE (“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 with 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. Jim Strozier of Consensus Planning, agent for Pride Investments LLC, property owner appeared and gave evidence in support of the application.
5. The address of the subject property is 3700 Juan Tabo NE.
6. The subject property is currently zoned MX-L.

7. 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.
8. The proposed project is development of the subject site with one commercial building for a permissive restaurant use under the MX-L zoning.
9. 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**.
10. The project is proposing a drive-through for the building to support a proposed restaurant, which is the subject of this Application.
11. All property owners within 100 feet and affected neighborhood association(s) were notified. Cielito Lindo Neighborhood Association; Holiday Park Neighborhood Association and District 8 Coalition of Neighborhood Associations are is the affected neighborhood associations.
12. The neighborhood associations were notified by e-mail dated July 2, 1019.
13. No response nor request for meeting has been submitted.
14. The proposed project would redevelop three parcels described generally as Site #1: 3720 Juan Tabo NE [Tract E]; Tract #2: 3700 Juan Tabo NE [Tract F1]; and Site #3: 3700 Juan Tabo NE [Tract F2].
15. Applicant is proposing to redevelop the entire property, which currently includes: Site #1: contains the existing Golden Pride Restaurant and drive-through; Site #2: contains a vacant gas station/car wash that is currently being used by Golden Pride as overflow drive-through lanes; and Site #3 is vacant; and to the west of the subject property is a 20 foot public alley.
16. The project would demolish the existing restaurant, the vacant gas station and vacant storage structure in order to construct a larger restaurant and reconfigure the site to add three drive-through lanes.
17. The design of the current driveways creates a circulation which utilizes the alleyway as an overflow egress from the business and a significant adverse impact to the nearby residential district.
18. The redesign and redevelopment and the addition of a landscape buffer to the existing public alleyway, will result in a significant reduction in the use of the alley, and elimination of the adverse material impact to the residential district.
19. The subject property is located in an Area of Change as designated by the **ABC Comprehensive Plan**. on the northeast corner of Juan Tabo Blvd NE and Comanche Rd. NE.
20. Juan Tabo Blvd is classified as an Urban Principal Arterial and is a Multi-Modal Corridor as designated by the **ABC Comprehensive Plan**.
21. Comanche Road is classified as an Urban Major Collector as designated by the **ABC Comprehensive Plan**.
22. The combined sites currently have 7 existing driveways from Juan Tabo onto the sites, and one driveway from Comanche Rd.
23. The proposed new restaurant will be designed to reduce to one driveway from Juan Tabo and an entrance/exit from Comanche.
24. This would significantly reduce traffic congestion caused by the multiple driveways from Juan Tabo.
25. Site #3 abuts an alleyway egress on Comanche Road which provides access to the site.
26. The proposed drive-through configuration will not utilize the alley for drive-through traffic.
27. The subject site is surrounded by MX-L zone districts across Juan Tabo and across Comanche, with are a mix of commercial, retail and commercial service uses.

28. Zoning to the east of the subject site is an R-1C, Single-Family Residential (large lot) properties.
29. Residential properties have 6-foot fences/walls abutting the 20-foot alley, which runs between the subject property and the residential zone.
30. Applicant is proposing a 15-foot landscape barrier between the alley and the parking lot on the site.
31. Juan Tabo, a Multi-Modal corridor and Urban Principal Arterial, is utilized by passenger vehicles, bicycle, transit and pedestrians.
32. The subject site is served by two ABQ Ride Bus routes.
33. Transportation reported No Objection to the Application.
34. The proposed restaurant will redevelop a successful existing commercial business in an Activity Center along a strong transportation network, which is consistent with ***ABC Comprehensive Plan, GOAL 2.4: ACCOMMODATING FUTURE GROWTH; Policy 2.4.6: Focusing Growth in Centers and Corridors.***
35. The project will direct growth and redevelopment along an Urban Principal Arterial.
36. The redevelopment and redesign of the Golden Pride Restaurant drive-through facilities as it will improve the efficiency and circulation of vehicles through the site and reduce the multiple driveways along Juan Tabo.
37. This is consistent with ***ABC Comprehensive Plan, GOAL: CITY DEVELOPMENT AREAS; Policy 5.6.2: Direct Growth and more intensive development to Centers, Corridors, ...***
38. The 20-foot alley, plus the proposed design will add a 15-foot landscape buffer between the alley and the parking spaces, where there is currently no landscape buffer to adjacent residential properties, which will significantly reduce the use of the alley way for commercial traffic, which is consistent with ***ABC Comprehensive Plan, GOAL: CITY DEVELOPMENT AREAS; Appropriate Transitions: Provide Transitions in Areas of Change adjacent to Areas of Consistency through adequate setbacks, buffering ...***
39. The proposed redesign will eliminate three driveways and minimize curb cuts on Juan Tabo, reducing pedestrian vehicle conflicts and improve walkability, which is consistent with ***ABC Comprehensive Plan, GOAL6.1: LAND USE – TRANSPORTATION INTEGRATION; Policy 6.1.7: Multi-Modal Corridors: Balance the competing needs of pedestrians, bicyclist, autos, and transit in street design and improvements by slowing auto traffic, minimizing curb cuts, and encouraging primary auto access to parking lots to be provided from intersecting streets.***
40. The proposed use is consistent with the ABC Comp. Plan, as amended, as required by Section 14-16-6-6(A)(3)(a).
41. Site Plan for the proposed project shall be required to comply with all regulations contained in Section 14-16-5-5(I): ***VEHICLE STACKING AND DRIVE-THROUGH OR DRIVE-UP FACILITIES***; Table: 5-5-8: ***Required Stacking Spaces***; and Subsection 14-5-5(I)(1)(a) through 5-5(I)(1)(g): ***Drive-through or Drive-up Facility Design.***
42. 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).

43. The redesign of the drive-through lanes will be more advantageous to adjacent residential than the existing configuration.
44. 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).
45. The redesign of the site and removal of three driveways on Juan Tabo will reduce traffic congestion.
46. Landscape buffers and location of the drive-through lanes will mitigate any negative impacts on the adjacent residential properties.
47. The redesign of the drive-through lanes and restaurant will result in lower impacts on the neighborhood and adjacent commercial than the current restaurant.
48. 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 required by Section 14-16-6(A)(3)(d).
49. Golden Pride current hours are 6 am to 10 pm and 7 am to 9 pm Sundays and will not change with the new/replacement restaurant.
50. 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).
51. Public sidewalks will actually be enhanced by the closing of three driveways from Juan Tabo and the reconstruction of the sidewalk.
52. Restricting access to the site from the alley egress from Comanche Road will manage traffic existing onto Comanche, making it a safer and more secure walking and cycling environment.
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 for a drive-through with a restaurant.

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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