



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

La Luz Real Estate LLC / Joshua Lange requests a conditional use to allow a drive through or drive up facility for Lot 6A, Block 2, Sandia Plaza, located at 1115 Griegos RD NW, zoned MX-L [Section 14-16-4-2]

Special Exception No:..... **VA-2020-00262**
Project No: **Project#2020-003006**
Hearing Date: 10-20-20
Closing of Public Record: 10-20-20
Date of Decision: 11-04-20

On the 20th day of October, 2020, property owner La Luz Real Estate LLC / Joshua Lange (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a conditional use to allow a drive through or drive up facility (“Application”) upon the real property located at 1115 Griegos RD NW (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a conditional use to allow a drive through or drive up facility.
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. All property owners within 100 feet and affected neighborhood association(s) were timely notified.
5. The subject property is currently zoned MX-L.

6. Based on evidence submitted by the Applicant, the requested conditional use is consistent with the ABC Comp. Plan, as amended, in particular as it supports neighborhood job creation and creating spaces for vibrant redevelopment.
7. Based on evidence submitted by the Applicant, the requested conditional use is 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.
8. Based on evidence submitted by the Applicant, the requested conditional use will not create significant adverse impacts on adjacent properties, the surrounding neighborhood, or the larger community. Although traffic and noise were cited as potential significant long-term adverse impacts, Applicant and neighbors agreed that a way to mitigate such adverse impacts would be to make the proposed use temporary.
9. Based on evidence submitted by the Applicant, the requested conditional 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. Although some increases in traffic congestion, parking congestion noise, or vibration are likely to occur, Applicant and neighbors agreed that a way to mitigate such adverse impacts would be to make the proposed use temporary. Further, the hours of operation of the business on site are not excessive.
10. Based on evidence submitted by the Applicant, the requested conditional use 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). Specifically, the Applicant testified that the business on site is closed during such hours.
11. Based on evidence submitted by the Applicant, the requested conditional use proposed use will not negatively impact pedestrian or transit connectivity, as required by Section 14-16-6-6(A)(3)(f). Testimony was provided that no such negative impacts would occur.
12. City Transportation stated no objection to the application.
13. 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).
14. The ZHE finds that the Applicant has authority to pursue this Application.

DECISION:

APPROVAL WITH CONDITION of a conditional use to allow a drive through or drive up facility.

CONDITION:

This approval is in place for a period of one year from the date of this decision.

APPEAL:

If you wish to appeal this decision, you must do so by November 19, 2020 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.



Robert Lucero, Esq.
Zoning Hearing Examiner

cc:

ZHE File
Zoning Enforcement
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NOTIFICATION OF DECISION

La Luz Real Estate LLC / Joshua Lange requests a conditional use to allow a drive through or drive up facility for Lot 7A, Block 2, Sandia Plaza, located at 1111 Griegos RD NW, zoned MX-L [Section 14-16-4-2]

Special Exception No:..... **VA-2020-00263**
Project No: **Project#2020-003006**
Hearing Date: 10-20-20
Closing of Public Record: 10-20-20
Date of Decision: 11-04-20

On the 20th day of October, 2020, property owner La Luz Real Estate LLC / Joshua Lange (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a conditional use to allow a drive through or drive up facility (“Application”) upon the real property located at 1111 Griegos RD NW (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a conditional use to allow a drive through or drive up facility.
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. All property owners within 100 feet and affected neighborhood association(s) were timely notified.
5. The subject property is currently zoned MX-L.

6. Based on evidence submitted by the Applicant, the requested conditional use is consistent with the ABC Comp. Plan, as amended, in particular as it supports neighborhood job creation and creating spaces for vibrant redevelopment.
7. Based on evidence submitted by the Applicant, the requested conditional use is 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.
8. Based on evidence submitted by the Applicant, the requested conditional use will not create significant adverse impacts on adjacent properties, the surrounding neighborhood, or the larger community. Although traffic and noise were cited as potential significant long-term adverse impacts, Applicant and neighbors agreed that a way to mitigate such adverse impacts would be to make the proposed use temporary.
9. Based on evidence submitted by the Applicant, the requested conditional 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. Although some increases in traffic congestion, parking congestion noise, or vibration are likely to occur, Applicant and neighbors agreed that a way to mitigate such adverse impacts would be to make the proposed use temporary. Further, the hours of operation of the business on site are not excessive.
10. Based on evidence submitted by the Applicant, the requested conditional use 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). Specifically, the Applicant testified that the business on site is closed during such hours.
11. Based on evidence submitted by the Applicant, the requested conditional use proposed use will not negatively impact pedestrian or transit connectivity, as required by Section 14-16-6-6(A)(3)(f). Testimony was provided that no such negative impacts would occur.
12. City Transportation stated no objection to the application.
13. 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).
14. The ZHE finds that the Applicant has authority to pursue this Application.

DECISION:

APPROVAL WITH CONDITION of a conditional use to allow a drive through or drive up facility.

CONDITION:

This approval is in place for a period of one year from the date of this decision.

APPEAL:

If you wish to appeal this decision, you must do so by November 19, 2020 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.



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Zoning Hearing Examiner

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CITY OF ALBUQUERQUE
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ZONING HEARING EXAMINER
NOTIFICATION OF DECISION

La Luz Real Estate LLC / Joshua Lange requests a variance of 30 ft to the required 50 ft separation for a drive through lane between a regulated lot and a protected lot for Lot 7A, Block 2, Sandia Plaza, located at 1111 Griegos RD NW, zoned MX-L [Section 14-16-5-9(F)(1)]

Special Exception No:..... **VA-2020-00264**
Project No: **Project#2020-003006**
Hearing Date: 10-20-20
Closing of Public Record: 10-20-20
Date of Decision: 11-04-20

On the 20th day of October, 2020, property owner La Luz Real Estate LLC / Joshua Lange (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 30 ft to the required 50 ft separation for a drive through lane between a regulated lot and a protected lot. (“Application”) upon the real property located at 1111 Griegos RD NW (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 30 ft to the required 50 ft separation for a drive through lane between a regulated lot and a protected lot.
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. Applicant and Agent appeared and gave evidence in support of the application.
5. All property owners within 100 feet of the subject property and the affected neighborhood association were notified.
6. The subject property is currently zoned MX-L.
7. Based on evidence submitted by or on behalf of Applicant, there are special circumstances applicable to the Subject Property that are not self-imposed and that do not apply generally to other property in the same zone and vicinity such as size, shape, topography, location, surroundings, or physical characteristics created by natural forces or government action for which no compensation was paid, as required by Section 14-16-6-6(N)(3)(a)(1). Specifically, the surroundings and location characteristics of the site, are unique.
8. Based on evidence submitted by or on behalf of Applicant, the variance will not be contrary to the public safety, health and welfare of the community as required by Section 14-16-6-6(N)(3)(a)(2). Specifically, evidence was submitted supporting that, if granted approval, the Applicant intends to use the property in a manner that is consistent with the IDO and the Development Process Manual (DPM).
9. Based on evidence submitted by or on behalf of Applicant, the variance will not cause significant adverse material impacts on surrounding properties or infrastructure improvements in the vicinity as required by Section 14-16-6-6(N)(3)(a)(3). Specifically, the Agent submitted evidence that there would be no adverse material impacts on surrounding properties or infrastructure improvements, because the requested variance is minimal and consistent with existing and surrounding uses. Although some increases in traffic congestion, parking congestion noise, or vibration are likely to occur, Applicant and neighbors agreed that a way to mitigate any such material adverse impacts would be to make the proposed use temporary. Further, the hours of operation of the business on site are not excessive.
10. Based on evidence submitted by or on behalf of Applicant, the variance will not materially undermine the intent and purpose of the IDO or applicable zone district as required by Section 14-16-6-6(N)(3)(a)(4). Specifically, Applicant presented evidence that the intent of IDO will still be met in that the subject site will continue the existing use and the proposed variance would merely add to the functionality of the site in a manner sensitive to neighboring properties and residents.
11. Based on evidence submitted by or on behalf of Applicant, the variance approved is the minimum necessary to avoid extraordinary hardship or practical difficulties as required by Section 14-16-6-6(N)(3)(a)(5). Specifically, Applicant testified that any lower level of variance would be ineffective. Thus, the applicant is not requesting more than what is minimally necessary for a variance.
12. City Transportation submitted a report stating no objection.
13. The proper "Notice of Hearing" signage was posted for the required time period as required by Section 14-16-6-4(K)(3).
14. The Applicant has authority to pursue this Application.

DECISION:

APPROVAL WITH CONDITION of a variance of 30 ft to the required 50 ft separation for a drive through lane between a regulated lot and a protected lot.

CONDITION:

This approval is in place for a period of one year from the date of this decision.

APPEAL:

If you wish to appeal this decision, you must do so by November 19, 2020 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.



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