



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

98th & I-40 Land LLC (Agent, Tierra West) requests a conditional use to allow heavy vehicle and equipment sales, rental, fueling, and repair for Lot 2, Avalon Unit 5, located at 99999 Daytona RD NW, zoned NR-BP [Section 14-16-4-3(D)(16)]

Special Exception No:..... **VA-2021-00066**
Project No: **Project#2020-004747**
Hearing Date: 04-20-21
Closing of Public Record: 04-20-21
Date of Decision: 05-05-21

On the 20th day of April, 2021, Tierra West, agent for property owner 98th & I-40 Land LLC (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a conditional use to allow heavy vehicle and equipment sales, rental, fueling, and repair (“Application”) upon the real property located at 99999 Daytona RD NW (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a conditional use to allow heavy vehicle and equipment sales, rental, fueling, and repair.
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 provided evidence that the proper "Notice of Hearing" signage was posted for the required time period as required by Section 14-16-6-4(K)(3).

5. Applicant provided evidence that all property owners and neighborhood association entitled to notice were notified of the Application.
6. Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval is consistent with the ABC Comp. Plan, as amended. Specifically, Applicant submitted evidence that the NR-BP zoning of the Subject Property, as well as the facts that the proposed use is consistent with other commercial uses in the area demonstrate that the use would be consistent with the ABC Comp Plan. Further, the subject property is located in an Area of Consistency, and the proposed use would be consistent with surrounding uses and the uses contemplated in the NR-BP zone district.
7. Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval 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. Specifically, Applicant testified and confirmed in written submittals that the requested Conditional Use approval would comport with all applicable requirements. No prior permits or approvals apply.
8. Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval will not create significant adverse impacts on adjacent properties, the surrounding neighborhood, or the larger community. Specifically, Applicant testified and confirmed in written submittals that the requested Conditional Use approval would not create any adverse impact.
9. Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval 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. Specifically, Applicant testified and confirmed in written submittals that the requested Conditional Use approval would not create any adverse impact, because it is consistent with the commercial uses in the area will not cause any inordinate increases in traffic congestion, parking congestion noise, or vibration.
10. Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval 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. Specifically, Applicant testified that non-residential activity would not increase in any prohibited manner.
11. Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval will not negatively impact pedestrian or transit connectivity without appropriate mitigation. Specifically, Applicant testified that no negative impact on pedestrian or transit connectivity would result, because the proposed activity is located entirely on the Subject Property and causes no impacts on transit or pedestrians.
12. The City Traffic Engineering Division stated no objection.
13. IDO Section 14-16-4-3(D)(16) requires the following Use-Specific Standards for Heavy Vehicle and Equipment Sales, Rental, Fueling, and Repair:
 - 4-3(D)(16)(a) This use must comply with stormwater quality requirements found in the DPM.*

- 4-3(D)(16)(b) The lot must be graded and surfaced pursuant to DPM standards and shall be maintained in a level and serviceable condition.*
- 4-3(D)(16)(c) This use must be screened as required by Subsection 14-16-5-6(G)(4) (Outdoor Storage Areas for Vehicles, Equipment, and Materials). The Planning Director may require a taller wall, fence, or vegetative screen to provide an adequate buffer for an abutting Residential zone district or lot containing a residential use in any Mixed-use zone district from the reasonably anticipated visual or noise impacts of this use.*
- 4-3(D)(16)(d) For fueling station canopies, all under-canopy lighting shall be recessed so that no light lens projects below the canopy ceiling. The canopy fascia shall not be internally illuminated.*
- 4-3(D)(16)(e) Vehicle repair, servicing, and maintenance shall be conducted within fully enclosed portions of a building.*
- 4-3(D)(16)(f) Any building that contains vehicle repair, servicing, and maintenance is prohibited within 25 feet in any direction of any Residential zone district or lot containing a residential use in any Mixed-use zone district.*
- 4-3(D)(16)(g) If located within 330 feet of any Residential zone district, this use shall require a Conditional Use Approval pursuant to Subsections 14-16-5-2(E) and 14-16-6-6(A).*
- 4-3(D)(16)(h) This use is prohibited within 330 feet in any direction of Major Public Open Space.*
- 4-3(D)(16)(i) A cumulative impacts analysis may be required at the time of application submittal for projects within the Railroad and Spur Area, pursuant to Subsections 14-16-5-2(E) (Cumulative Impacts) and 14-16-6-4(H) (Cumulative Impacts Analysis Requirements).).*

14. Applicant testified that these Use-Specific Standards would be followed.

15. The criteria for a conditional use within IDO Section 14-16-6-6(A)(3) are satisfied.

DECISION:

APPROVAL of a conditional use to allow heavy vehicle and equipment sales, rental, fueling, and repair.

APPEAL:

If you wish to appeal this decision, you must do so by May 20, 2021 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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cc:

ZHE File
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