



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

Theresa Salas (Agent, Consensus Planning) requests a conditional use to allow a drive-through or drive-up facility for Lot 24A, Block 24, Buena Ventura, located at 301 Eubank BLVD NE, zoned MX-L [Section 14-16-4-2]

Special Exception No:..... **VA-2021-00259**  
Project No: ..... **Project#2021-005692**  
Hearing Date: ..... 08-17-21  
Closing of Public Record: ..... 08-17-21  
Date of Decision: ..... 09-01-21

On the 17th day of August, 2021, Consensus Planning, agent for property owner Theresa Salas (“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 301 Eubank BLVD NE (“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:*
  - 6-6(A)(3)(a) *It is consistent with the adopted ABC Comp Plan, as amended.*
  - 6-6(A)(3)(b) *It complies with all applicable provisions of this 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 a prior permit or approval affecting the property, or there is a condition of approval that any Variances or Waivers needed to comply with any of these provisions must be approved or the Conditional Use Approval will be invalidated pursuant to Subsection (2)(c)2 above.*
  - 6-6(A)(3)(c) *It will not create significant adverse impacts on adjacent properties, the surrounding neighborhood, or the larger community.*
  - 6-6(A)(3)(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.*
  - 6-6(A)(3)(e) *On a project site with existing uses, it will not increase non-residential activity within 300 feet in any direction of a lot in any Residential zone district between the hours of 10:00 P.M. and 6:00 A.M.*
  - 6-6(A)(3)(f) *It will not negatively impact pedestrian or transit connectivity without appropriate mitigation.*
3. The applicant bears the burden of providing a sound justification for the requested decision, based on substantial evidence, pursuant to IDO Section 14-16-6-4(E)(3).

4. The applicant bears the burden of showing compliance with required standards through analysis, illustrations, or other exhibits as necessary, pursuant to IDO Section 14-16-6-4(E)(4).
5. All property owners within 100 feet and affected neighborhood association(s) were timely notified.
6. The subject property is currently zoned MX-L.
7. City Transportation stated no objection to the Application.
8. Based on evidence submitted by the Applicant, the requested conditional use is consistent with the ABC Comp. Plan, as amended. Specifically, applicant cited that the Subject Property is located along a major corridor and an area of change, where development is encouraged. Further, Applicant submitted evidence that the proposed conditional use furthers the following policies of the ABC Comp Plan:
  - a. Policy 2.4.2: *Growing Inward: Encourage infill development in appropriate places.* The proposed use of this property as a restaurant with a drive-through is appropriate at this infill site because it is located on Eubank Boulevard in a highly commercial area. The Applicant proposes to replace the existing restaurant with a new, modern, and more attractive building that will meet the IDO requirements for landscape buffers, parking, circulation, and façade treatments in Section 5-11(E)(2) Mixed-use and Non-residential Zone Districts Façade Design. The proposed development will complement the surrounding development and will adhere to the IDO Development Standards for Drive-Through within the MX-L zone and Neighborhood Edge requirements per IDO Section 5-5(I) Vehicle Stacking and Drive-through or Drive-up Facilities and Section 5-6(E)(2) Development Next to Low-density Residential Zone Districts.
  - b. Policy 5.3.1: *Infill Development: Support additional growth in areas with existing infrastructure and public facilities.* The proposed development furthers this policy by redeveloping the site that is served by existing infrastructure (water, sewer and major roadway network) and public facilities, including Hawthorne Elementary School and Park, sidewalks along Eubank Boulevard and Chico Road, a future bike lane on Eubank Boulevard, and a bicycle boulevard on Chico Road.
  - c. Policy 5.5.5.g: *Accommodate new growth through infill and compact development in areas where vacant land is contiguous to existing or programmed urban facilities and services and where the integrity of existing neighborhoods can be ensured.* The subject property is surrounded by commercial services and retail to the east, north, and south. The drive-through will not infringe on these commercial developments since it is located on a corner lot currently developed as a restaurant. The proposed use of a restaurant with a drive-through on the property is consistent with surrounding non-residential uses. The property redevelopment will comply with IDO standards and include a 15-foot landscape buffer along the west edge of the property, adjacent to the alley and ensuring the protection of the residential properties..
9. Based on evidence submitted by the Applicant, the requested conditional 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; and any conditions specifically applied to development of the property in any

prior permit or approval affecting the property, as demonstrated in the revised site plan submitted by Applicant.

10. 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. The proposed development is located at the corner of a busy intersection with adequate capacity for this type of development. Surrounding non-residential properties are primarily commercial or light industrial and will not experience disruption with the addition of a drive-through on this property. Any impact to adjacent residential properties would be mitigated with the provision of a 50-foot buffer, including a 15-foot landscape buffer, which improves on current conditions of the existing restaurant.
11. 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. The City Traffic engineer did not object to the Application. Further, the Applicant proposed to take steps to mitigate any material adverse impact; namely, by providing vehicle stacking in excess of IDO requirements, as well as a bypass lane.
12. 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 10:00 pm and 6:00 am, because the restaurant will not be open during those hours.
13. 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). Agent submitted evidence that The subject property is served by ABQ Ride Bus Route 2 – Eubank. The nearest southbound bus stop is located approximately 264 feet from the subject property and the nearest northbound bus stop is located approximately 240 feet. The proposed development will not impact either bus stop. The proposed development will strengthen pedestrian connectivity with the streetscape improvements. Currently, there is no buffer along the alley, causing traffic to flow uninhibited. The proposed site design will provide buffers along the sidewalks and define traffic circulation creating a safer and more walkable street. The existing driveway on Eubank Boulevard will be moved approximately 24 feet to the north.
14. 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).
15. The ZHE finds that the Applicant has authority to pursue this Application.

#### DECISION:

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

#### APPEAL:

If you wish to appeal this decision, you must do so by September 16, 2021 pursuant to Section 14-16-6-4(V), 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.

A handwritten signature in black ink, appearing to read "Robert Lucero".

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Robert Lucero, Esq.  
Zoning Hearing Examiner

cc:

ZHE File  
Zoning Enforcement  
Consensus Planning, [fishman@consensusplanning.com](mailto:fishman@consensusplanning.com)



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

Theresa Salas (Agent, Consensus Planning) requests a conditional use to allow a drive-through or drive-up facility for Lot 22, Block 24, Buena Ventura, located at 309 Eubank BLVD NE, zoned MX-L [Section 14-16-4-2]

Special Exception No:..... **VA-2021-00261**  
Project No: ..... **Project#2021-005692**  
Hearing Date: ..... 08-17-21  
Closing of Public Record: ..... 08-17-21  
Date of Decision: ..... 09-01-21

On the 17th day of August, 2021, Consensus Planning, agent for property owner Theresa Salas (“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 309 Eubank BLVD NE (“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:*
  - 6-6(A)(3)(a) *It is consistent with the adopted ABC Comp Plan, as amended.*
  - 6-6(A)(3)(b) *It complies with all applicable provisions of this 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 a prior permit or approval affecting the property, or there is a condition of approval that any Variances or Waivers needed to comply with any of these provisions must be approved or the Conditional Use Approval will be invalidated pursuant to Subsection (2)(c)2 above.*
  - 6-6(A)(3)(c) *It will not create significant adverse impacts on adjacent properties, the surrounding neighborhood, or the larger community.*
  - 6-6(A)(3)(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.*
  - 6-6(A)(3)(e) *On a project site with existing uses, it will not increase non-residential activity within 300 feet in any direction of a lot in any Residential zone district between the hours of 10:00 P.M. and 6:00 A.M.*
  - 6-6(A)(3)(f) *It will not negatively impact pedestrian or transit connectivity without appropriate mitigation.*

3. The applicant bears the burden of providing a sound justification for the requested decision, based on substantial evidence, pursuant to IDO Section 14-16-6-4(E)(3).
4. The applicant bears the burden of showing compliance with required standards through analysis, illustrations, or other exhibits as necessary, pursuant to IDO Section 14-16-6-4(E)(4).
5. All property owners within 100 feet and affected neighborhood association(s) were timely notified.
6. The subject property is currently zoned MX-L.
7. City Transportation stated no objection to the Application.
8. Based on evidence submitted by the Applicant, the requested conditional use is consistent with the ABC Comp. Plan, as amended. Specifically, applicant cited that the Subject Property is located along a major corridor and an area of change, where development is encouraged. Further, Applicant submitted evidence that the proposed conditional use furthers the following policies of the ABC Comp Plan:
  - a. Policy 2.4.2: *Growing Inward: Encourage infill development in appropriate places.* The proposed use of this property as a restaurant with a drive-through is appropriate at this infill site because it is located on Eubank Boulevard in a highly commercial area. The Applicant proposes to replace the existing restaurant with a new, modern, and more attractive building that will meet the IDO requirements for landscape buffers, parking, circulation, and façade treatments in Section 5-11(E)(2) Mixed-use and Non-residential Zone Districts Façade Design. The proposed development will complement the surrounding development and will adhere to the IDO Development Standards for Drive-Through within the MX-L zone and Neighborhood Edge requirements per IDO Section 5-5(I) Vehicle Stacking and Drive-through or Drive-up Facilities and Section 5-6(E)(2) Development Next to Low-density Residential Zone Districts.
  - b. Policy 5.3.1: *Infill Development: Support additional growth in areas with existing infrastructure and public facilities.* The proposed development furthers this policy by redeveloping the site that is served by existing infrastructure (water, sewer and major roadway network) and public facilities, including Hawthorne Elementary School and Park, sidewalks along Eubank Boulevard and Chico Road, a future bike lane on Eubank Boulevard, and a bicycle boulevard on Chico Road.
  - c. Policy 5.5.5.g: *Accommodate new growth through infill and compact development in areas where vacant land is contiguous to existing or programmed urban facilities and services and where the integrity of existing neighborhoods can be ensured.* The subject property is surrounded by commercial services and retail to the east, north, and south. The drive-through will not infringe on these commercial developments since it is located on a corner lot currently developed as a restaurant. The proposed use of a restaurant with a drive-through on the property is consistent with surrounding non-residential uses. The property redevelopment will comply with IDO standards and include a 15-foot landscape buffer along the west edge of the property, adjacent to the alley and ensuring the protection of the residential properties..
9. Based on evidence submitted by the Applicant, the requested conditional 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; and any conditions specifically applied to development of the property in any prior permit or approval affecting the property, as demonstrated in the revised site plan submitted by Applicant.

10. 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. The proposed development is located at the corner of a busy intersection with adequate capacity for this type of development. Surrounding non-residential properties are primarily commercial or light industrial and will not experience disruption with the addition of a drive-through on this property. Any impact to adjacent residential properties would be mitigated with the provision of a 50-foot buffer, including a 15-foot landscape buffer, which improves on current conditions of the existing restaurant.
11. 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. The City Traffic engineer did not object to the Application. Further, the Applicant proposed to take steps to mitigate any material adverse impact; namely, by providing vehicle stacking in excess of IDO requirements, as well as a bypass lane.
12. 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 10:00 pm and 6:00 am, because the restaurant will not be open during those hours.
13. 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). Agent submitted evidence that The subject property is served by ABQ Ride Bus Route 2 – Eubank. The nearest southbound bus stop is located approximately 264 feet from the subject property and the nearest northbound bus stop is located approximately 240 feet. The proposed development will not impact either bus stop. The proposed development will strengthen pedestrian connectivity with the streetscape improvements. Currently, there is no buffer along the alley, causing traffic to flow uninhibited. The proposed site design will provide buffers along the sidewalks and define traffic circulation creating a safer and more walkable street. The existing driveway on Eubank Boulevard will be moved approximately 24 feet to the north.
14. 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).
15. The ZHE finds that the Applicant has authority to pursue this Application.

#### DECISION:

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

#### APPEAL:

If you wish to appeal this decision, you must do so by September 16, 2021 pursuant to Section 14-16-6-4(V), 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.

A handwritten signature in black ink, appearing to read "Robert Lucero".

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Robert Lucero, Esq.  
Zoning Hearing Examiner

cc:

ZHE File  
Zoning Enforcement  
Consensus Planning, [fishman@consensusplanning.com](mailto:fishman@consensusplanning.com)





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

Theresa Salas (Agent, Consensus Planning) requests a conditional use to allow a drive-through or drive-up facility for Lot 21, Block 24, Buena Ventura, located at 313 Eubank BLVD NE, zoned MX-L [Section 14-16-4-2]

Special Exception No:..... **VA-2021-00263**  
Project No: ..... **Project#2021-005692**  
Hearing Date: ..... 08-17-21  
Closing of Public Record: ..... 08-17-21  
Date of Decision: ..... 09-01-21

On the 17th day of August, 2021, Consensus Planning, agent for property owner Theresa Salas (“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 313 Eubank BLVD NE (“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:*”
  - 6-6(A)(3)(a) *It is consistent with the adopted ABC Comp Plan, as amended.*
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3. The applicant bears the burden of providing a sound justification for the requested decision, based on substantial evidence, pursuant to IDO Section 14-16-6-4(E)(3).
4. The applicant bears the burden of showing compliance with required standards through analysis, illustrations, or other exhibits as necessary, pursuant to IDO Section 14-16-6-4(E)(4).
5. All property owners within 100 feet and affected neighborhood association(s) were timely notified.
6. The subject property is currently zoned MX-L.
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8. Based on evidence submitted by the Applicant, the requested conditional use is consistent with the ABC Comp. Plan, as amended. Specifically, applicant cited that the Subject Property is located along a major corridor and an area of change, where development is encouraged. Further, Applicant submitted evidence that the proposed conditional use furthers the following policies of the ABC Comp Plan:
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  - b. Policy 5.3.1: *Infill Development: Support additional growth in areas with existing infrastructure and public facilities.* The proposed development furthers this policy by redeveloping the site that is served by existing infrastructure (water, sewer and major roadway network) and public facilities, including Hawthorne Elementary School and Park, sidewalks along Eubank Boulevard and Chico Road, a future bike lane on Eubank Boulevard, and a bicycle boulevard on Chico Road.
  - c. Policy 5.5.5.g: *Accommodate new growth through infill and compact development in areas where vacant land is contiguous to existing or programmed urban facilities and services and where the integrity of existing neighborhoods can be ensured.* The subject property is surrounded by commercial services and retail to the east, north, and south. The drive-through will not infringe on these commercial developments since it is located on a corner lot currently developed as a restaurant. The proposed use of a restaurant with a drive-through on the property is consistent with surrounding non-residential uses. The property redevelopment will comply with IDO standards and include a 15-foot landscape buffer along the west edge of the property, adjacent to the alley and ensuring the protection of the residential properties..
9. Based on evidence submitted by the Applicant, the requested conditional 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; and any conditions specifically applied to development of the property in any prior permit or approval affecting the property, as demonstrated in the revised site plan submitted by Applicant.

10. 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. The proposed development is located at the corner of a busy intersection with adequate capacity for this type of development. Surrounding non-residential properties are primarily commercial or light industrial and will not experience disruption with the addition of a drive-through on this property. Any impact to adjacent residential properties would be mitigated with the provision of a 50-foot buffer, including a 15-foot landscape buffer, which improves on current conditions of the existing restaurant.
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13. 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). Agent submitted evidence that The subject property is served by ABQ Ride Bus Route 2 – Eubank. The nearest southbound bus stop is located approximately 264 feet from the subject property and the nearest northbound bus stop is located approximately 240 feet. The proposed development will not impact either bus stop. The proposed development will strengthen pedestrian connectivity with the streetscape improvements. Currently, there is no buffer along the alley, causing traffic to flow uninhibited. The proposed site design will provide buffers along the sidewalks and define traffic circulation creating a safer and more walkable street. The existing driveway on Eubank Boulevard will be moved approximately 24 feet to the north.
14. 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).
15. The ZHE finds that the Applicant has authority to pursue this Application.

#### DECISION:

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

#### APPEAL:

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A handwritten signature in black ink, appearing to read "Robert Lucero". The signature is fluid and cursive, written in a professional style.

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Robert Lucero, Esq.  
Zoning Hearing Examiner

cc:

ZHE File  
Zoning Enforcement  
Consensus Planning, [fishman@consensusplanning.com](mailto:fishman@consensusplanning.com)