



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

Carlisle /Rose Associates - Whole Foods (Agent, Modulus Architects) requests a conditional use to allow liquor retail within 500 feet of a residential zone for Lot A, Block 17, Carlisle & Indian School, located at 2100 Carlisle Blvd NE, zoned MX-M [Section 14-16-4-3(D)(38)(c)]

Special Exception No:..... **VA-2021-00025**
Project No: **Project#2019-002677**
Hearing Date: 03-16-21
Closing of Public Record: 03-16-21
Date of Decision: 03-31-21

On the 16th day of March, 2021, Modulus Architects, agent for property owner Carlisle /Rose Associates - Whole Foods (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a conditional use to allow liquor retail within 500 feet of a residential zone (“Application”) upon the real property located at 2100 Carlisle Blvd NE (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a conditional use to allow liquor retail within 500 feet of a residential zone.
2. The Subject Property is currently zoned MX-M under the City of Albuquerque Integrated Development Ordinance (“IDO”).
3. The MX-M zone lists liquor retail as a permissive use with use-specific standards as required under IDO Section 4-3(D)(38).
4. In turn, IDO Section 4-3(D)(38)(c) provides: “Notwithstanding other provisions in this Subsection 14-16-4-3(D)(38), this use requires a Conditional Use Approval pursuant to Subsection 14-16-6-6(A) when proposed within 500 feet of any Residential or NR-PO zone district or any group home use, as measured from the nearest edge of the building containing the use to the nearest Residential or NR-PO zone district or lot containing a group home.”
5. The Subject Property is located within 500 feet of a residential zone.
6. Therefore, liquor retail on the Subject Property requires a Conditional Use Approval pursuant to IDO Subsection 14-16-6-6(A).
7. The City of Albuquerque Integrated Development 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

8. 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(F)(2).
9. Applicant appeared at the ZHE hearing on this matter and gave evidence in support of the Application.
10. Applicant testified at the hearing that the proper "Notice of Hearing" signage was posted for the required time period as required by Section 14-16-6-4(K)(3).
11. Applicant testified at the hearing that all property owners and neighborhood association entitled to notice were notified of the Application.
12. 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 the following evidence supporting that the requested Conditional Use approval furthers the following goals and policies of the ABC Comp. Plan:

Policy 4.1.2 Identity and Design: Protect the identity and cohesiveness of neighborhoods by ensuring the appropriate scale and location of development, mix of uses, and character of building design.

Future development on the subject site under the MX-M zone would be subject to IDO requirements including Neighborhood Edges (14-16- 5-9), the mixed-use zone dimensional standards (Table 5-1-2), buffer landscaping (14-16-5- 6-(E)), and building design standards (14-16- 4-11). These would help ensure appropriate scale and location of development and character of building design.

Goal 5.1 Centers & Corridors: Grow as a community of strong Centers connected by a multi-modal network of Corridors

This request is consistent with Goal 5.1 because the subject site, although not designated as a Center, is nestled between two bustling Activity Centers. The American Square Activity Center just east of this site and the Nob Hill Activity Center just to the south, all three sites are connected by a Major Transit Corridor creating a strong community of Centers. The Comprehensive Plan designates Centers as areas of more intense development with a variety of uses that allow many different activities connected by Corridors that include a mix of uses and transportation connections within walking distance.

POLICY 5.1.1 Desired Growth: Capture regional growth in Centers and Corridors to help shape the built environment into a sustainable development pattern.

This request furthers this policy because this property is located in "Area of Change". This request would encourage employment density and redevelopment and would further this policy as this in an infill project within a Major Transit Corridor and in an area lacking investment and revitalization. This area is the most appropriate area to accommodate growth and discourage the need for development at the urban edge.

POLICY 5.1.1.4 Promote ongoing public-private cooperation necessary to create private market conditions that support intensified development of jobs and housing in Transit Corridors.

The Property is located within a Major Transit Corridor adjacent to Interstate 40. The ability to redevelop the Property, which this request will help make possible, is crucial in maintaining its commercial viability in order to continue to provide employment and services necessary to create opportunities to live, learn and work. The location is most appropriate to accommodate development and encourage employment density in an infill location, in a Transit Corridor, and thus, discourage the need for development at the urban edge.

Policy 5.1.2-Development Areas: Direct more intense growth to Centers and Corridors and use Development Areas to establish and maintain appropriate density and scale of development within areas that should be more stable.

The subject site is located in a designated Transit Corridor and in an Area of Change that is intended to develop. The purpose of the MX-M zone is to provide for a wide array of moderate intensity retail, commercial, institutional and moderate density residential uses, with taller, multi-story buildings encouraged in Centers and Corridors. Relative to the surrounding area, the more-intense development that the request would make possible would be along this Major Transit Corridor.

POLICY 5.1.10 Major Transit Corridor: Foster corridors that prioritize high frequency transit service with pedestrian-oriented development

This request is consistent with Policy 5.1.10 because the subject site is located along a Major Transit Corridor fostering high frequency transit service with pedestrian-oriented development minimizing negative impacts on nearby neighborhoods by providing transitions between development along Transit Corridors and residential areas. The redevelopment of this site will also require additional public improvements and upgrades to the infrastructure including new bike lanes which will add to the pedestrian travel in the area.

GOAL 5.2 Complete Communities: Foster communities where residents can live, work, learn, shop and play together.

POLICY 5.2.1 Land Uses: Create healthy, sustainable, and distinct communities with a mix of uses that are conveniently accessible from surrounding neighborhoods.

This request furthers Goal 5.2 and Policy 5.2.1 because the proposed Conditional Use request would allow for a mix of goods and services to be available/accessible that could help create a healthy, sustainable and distinct community in an Area of Change. The request would make possible development of commercial uses along 1-40, Indian School and Carlisle and close to the surrounding neighborhoods on the north, east, south and west sides of this corridor. The subject site is conveniently accessible to the surrounding neighborhoods. This will encourage redevelopment that brings goods and services within walking and biking distance of neighborhoods. The location within a transit corridor offers choice transportation to services and employment. Characteristics of the community will be maintained since the requested CUP for liquor retail is virtually equivalent to the historic use. This redevelopment will be the beginning of many more viable projects in this area. The continued commercial viability of the site is necessary to maintain productive use of the property and avoid the continued existence of a shuttered under-utilized piece of land.

POLICY 5.3.1 Infill Development: Support additional growth In areas with existing infrastructure and public facilities.

This request furthers Policy 5.3.1 because the proposed Conditional Use will support additional growth in an Area of Change with existing infrastructure and public facilities.

POLICY 5.3.7: Locally Unwanted Land Uses: Ensure that land uses that are objectionable to immediate neighbors but may be useful to society are located carefully and equitably to ensure that social assets are distributed evenly and social responsibilities are borne fairly across the Albuquerque area.

a) Encourage development and redevelopment that brings goods, services, and amenities within walking and biking distance of neighborhoods and promotes good access for all residents.

b) Maintain the characteristics of distinct communities through zoning and design standards that are consistent with long-established residential development patterns.

c) Ensure appropriate setbacks, buffers, and/or design standards to minimize offsite impacts.

d) See Policy 5.2.1 for desired land uses to support complete communities.

POLICY 5.2.1 -- Land Uses: Create healthy, sustainable, and distinct communities with a mix of uses that are conveniently accessible from surrounding neighborhoods.

This request furthers Policy 5.3.7 because the request Special Exception for Conditional Use which may be objectionable to immediate neighbors, no neighborhood associations objected this liquor retail request, may be useful to society and will be equitable to ensure that social assets are distributed evenly and social responsibilities are borne fairly across the Albuquerque Area. Furthermore, this request maintains the zoning designation adopted with the IDO that permits liquor retail under the MX-M zone district as long as it is an accessory to a grocery store. The sale of alcoholic beverages is both complementary and SECONDARY to WFM primary business but something customers appreciate having the opportunity to purchase if so desired. Whole Foods Market has a long-proven track record of strong enforcement of liquor sales regulations as well as being a great operator.

GOAL 5.6 City Development Areas -- Encourage and direct growth to Areas of Change where it is expected and desired and ensure that development Is and near Areas of Consistency reinforces the character and intensity of the surrounding area.

POLICY 5.6.2 -- Areas of Change: Direct growth and more Intense development to Centers, Corridors, Industrial and business parks, and Metropolitan Redevelopment Areas where change Is encouraged.

The subject Property is located in an Area of Change and will direct growth and more intense development to this corridor where change is encouraged. The proposed request will encourage growth and high-quality future redevelopment in accordance with this policy in a Major Transit Corridor and within an area with adequate infrastructure. The IDO and DPM will ensure that the character and intensity of the surrounding area will be reinforced. This will happen through the enforced design standards such as neighborhood edges (14-16- 5-9), the mixed-use zone dimensional standards (Table 5-1-2), buffer landscaping (14-16-5- 6-(E)), and building design standards 14-16-4-11).

POLICY 6.1.3 — Auto Demand: Reduce the need for automobile traveling by Increasing mixed-use development, infill development within Centers and travel demand management (TDM) programs.

The request could increase mixed-use development and infill development within the community, which would reduce the need for automobile traveling. Because Carlisle Blvd. Is a Major Transit Corridor. Fixed Route 5 (on Carlisle) and Commuter Route 6 on Indian School. Route 5 has the second highest ridership in the Transit Department's system. It is one of the longest routes, going from Tramway and Montgomery to the Alvarado Transit Center. Commuter Route 6 runs from Tramway and Rover to the Alvarado Transportation Center. There are stop pairs for both routes on either side of the Indian School / Carlisle intersection.

GOAL 8.1 Placemaking --Create places where business and talent will stay and thrive

POLICY 8.1.1 Diverse Places -- Diverse Places: Foster a range of interesting places and contexts with different development intensities, densities, uses, and building scale to encourage economic development opportunities.

a) Invest in Centers and Corridors to concentrate a variety of employment opportunities for a range of occupational skills and salary levels.

This request furthers Goal 8.1 and Policy 8.1.1 because this request will be the start of many other uses developing on the property that will foster a range of opportunities for different densities and uses in a location highly visible, accessible and central to all of Albuquerque for a rare opportunity to create a sense of "place" and encourage a diverse range of economic development opportunities in an Area of Change nestled between two Activity Centers and adjacent to a Major Transit Corridor. Whole Foods Market will be able to stay and thrive at this location.

POLICY 8.1.2 -- Resilient Economy: Encourage economic development efforts that improve quality of life for new and existing residents and foster a robust, resilient, and diverse economy.

This request furthers this policy because the proposed project will encourage economic development that will provide jobs, goods, and services which improve the life for new and existing residents and contribute to a diverse and vibrant economy by revitalizing a developed area with growth that is consistent with and enhances the established character of existing development. This type of economic development is best suited for infill locations supported by commercial corridors. This subject site encompasses all aspects of successful economic development and furthers Policy 8.1.2.

13. 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.
14. 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 other than as would be effectively limited by the use-specific standards and other requirements of the IDO, with which Applicant will comply.
15. 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, given that the proposed use is incidental to the underlying permissive grocery use.

16. 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. No evidence was submitted to the contrary.
17. 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. No evidence was submitted to the contrary.
18. The City Traffic Engineering Division stated no objection.
19. The criteria within IDO Section 14-16-6-6(A)(3) are satisfied.
20. Applicant has demonstrated compliance with the use-specific standards in IDO Section 14-16-4-3(D)(38).

DECISION:

APPROVAL of a conditional use to allow liquor retail within 500 feet of a residential zone.

APPEAL:

If you wish to appeal this decision, you must do so by April 15, 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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