



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

Martin Gerald A & Victoria E Co-Trustees
Martin RVT (Agent, Consensus Planning)
requests a conditional use to allow a high
school in the R-ML zone district for Lot A2,
Ventana Ranch, located at 99999 Ventana RD
NW, zoned R-ML [Section 14-16-4-2]

Special Exception No:..... **VA-2021-00339**
Project No: **Project#2021-005566**
Hearing Date: 10-19-21
Closing of Public Record: 10-19-21
Date of Decision: 11-03-21

On the 19th day of October, 2021, Consensus Planning, agent for property owner Martin Gerald A & Victoria E Co-Trustees Martin RVT (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a conditional use to allow a high school in the R-ML zone district (“Application”) upon the real property located at 99999 Ventana 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 high school in the R-ML zone district.
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. Applicant appeared and gave evidence in support of the application.
4. All property owners within 100 feet and affected neighborhood association(s) were notified.
5. 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, it appears from Applicant's testimony and evidence that the community would benefit from having a high school in an area underserved by schools Applicant cited numerous policies from the ABC Comp. Plan that would be furthered by the Application, including the following:

Goal 4.1 Character: Enhance, protect, and preserve distinct communities.

Applicant Response: This conditional use approval will help to enhance, protect, and preserve this residential community on the West Side by adding an additional educational institution that will serve a variety of ages. Allowing the development of a middle and high school on this site will be a more productive use of vacant land that is adjacent to a residential neighborhood. Developing this property will create new opportunity in the area and will better serve the surrounding neighborhood. This goal is further articulated by the policies below.

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.

Applicant Response: This conditional use approval will enhance the development of a currently vacant parcel as a charter school for middle and high school students. A school use in this R-ML zone will protect the character of the existing neighborhood by adding an educational institution on a currently vacant parcel. This is an appropriate development scale for this neighborhood and adding a school within close proximity to several public parks ensures an appropriate mix of uses for this neighborhood. Additionally, the Site Plan – DRB process that is being concurrently pursued, as well as the application for building permit, will ensure the character of the building design is appropriate and abides by IDO standards.

Policy 4.1.4: Neighborhoods: Enhance, protect, and preserve neighborhoods and traditional communities as key to our long-term health and vitality.

Applicant Response: This conditional use request facilitates this policy by bringing needed development to a large vacant parcel that is appropriate for the neighborhood scale of the West Side and adds an educational amenity to the community. The allowance of high school students in addition to the permissive middle school use will further enhance the development of the site to serve a broader range of students.

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

Applicant Response: This request will help facilitate complete communities by adding an educational institution in a residential neighborhood on a parcel that is currently vacant. The allowance of high school students as a conditional use will help enhance the development of a school on this site to serve a broader population of students. Adding educational opportunity to a residential neighborhood helps enhance this west side community's opportunities to live, work, learn, and play together. This goal is further articulated by the policy below.

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

Applicant Response: This policy is facilitated by this Conditional Use Approval because the allowance of high school students on this site will help enhance the overall charter school. The development of this school will help create a more sustainable community with a broader mix of uses that are conveniently accessible. The mix of uses for this area will now include residential, an educational institution, and a variety of public parks.

Goal 5.3 Efficient Development Patterns: Promote development patterns that maximize the utility of existing infrastructure and public facilities and the efficient use of land to support the public good.

Applicant Response: This conditional use request will help promote an efficient development pattern that maximizes the utility of the existing infrastructure in the area to create an educational use that will benefit the community. The allowance of high school students on this property as part of the middle school is a more efficient use of land, as it creates an opportunity to support a broader range of students.

Policy 5.3.1: Infill Development: Support additional growth in areas with existing infrastructure and public facilities.

Applicant Response: The development of this currently vacant property as a middle and high school will add appropriate growth in an area that is already served by City infrastructure and public facilities. Adding a high school use as the subject of this Conditional Use Approval will maximize the potential of this site to fully serve the community.

Policy 5.3.5 School Capacity: Discourage zone changes from non-residential to residential or mixed-use zones when affected public schools have insufficient capacity to support the anticipated increase of students based on proposed dwelling units.

Applicant Response: This Conditional Use request supports this ABC Comp Plan policy because it provides an educational facility on a currently vacant parcel, that will help serve the continuously developing residential area on the West Side. Of the schools that serve this residential area, James Monroe Middle School and Cibola High School have limited capacity, Tony Hillerman Middle School is over capacity, and Volcano Vista High School is near capacity (see attached APS comments on other recent development applications). This request will add middle and high school availability for students in this area. Additionally, instead of seeking a zone change for this property the developer is building an educational facility and seeking this Conditional Use Approval as a way of expanding the offering on the site not just to the permissive middle school use, but to the high school use as well.

Policy 5.6.3: Areas of Consistency: Protect and enhance the character of existing single-family neighborhoods, areas outside of Centers and Corridors, parks, and Major Public Open Space.

Applicant Response: This Conditional Use Approval helps support and enhance the character of the existing single-family neighborhood located around the subject site. This request is for an Area of Consistency that is outside of a Center and Corridor, and that is located near Major Public Open Space and parks. A middle and high school is an appropriate use for a vacant lot of this size and will help protect the neighborhood character and create a more vibrant community by providing additional school capacity near single-family residential and recreational amenities.

Goal 12.2 Community Facilities: Provide community facilities that have convenient access and a wide range of programs for residents from all cultural, age, geographical, and educational groups to enhance quality of life and promote community involvement.

Applicant Response: The allowance of high school students on this property as part of a Conditional Use Approval for the R-ML zone will help create an educational institution that serves a broader range of ages. Development of this site as a middle and high school will enhance the quality of life for the area and promote community involvement through the educational offerings and programs.

6. 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, Agent testified and confirmed in written submittals that the requested Conditional Use approval would comport with all applicable requirements. No prior permits or approvals apply.

7. 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, Agent testified and confirmed in written submittals that the requested Conditional Use approval would not create any adverse impact and would in fact enhance property values of the subject site and thereby to the neighboring parcels.
8. 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, Agent testified and confirmed in written submittals that the requested Conditional Use approval would not create any adverse impact and would not increase traffic congestion, parking, congestion, noise, or vibration.
9. 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. Specifically, Agent testified that the Subject Property has no existing uses, and that nevertheless non-residential activity would not increase in any prohibited manner.
10. 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, Agent testified that no negative impact on pedestrian or transit connectivity would result.
11. Applicable Use-Specific Standards are listed in IDO Section 13-16-4-3(F)(5).
12. Applicant testified that the requested Conditional Use approval would comport with all Use-Specific standards.

DECISION:

APPROVAL of a conditional use to allow a high school in the R-ML zone district.

APPEAL:

If you wish to appeal this decision, you must do so by November 18, 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.



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cc:

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