



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

Alan and Dorothea Spafford (Agent, Tripp Steele) requests a conditional use to allow auto sales for Lot 7A, Block 5, Enchanted Mesa, located at 11715 Menaul Blvd NE, zoned MX-L [Section 14-16-4-2]

Special Exception No:..... **VA-2021-00307**
Project No: **Project#2021-005808**
Hearing Date: 09-21-21
Closing of Public Record: 09-21-21
Date of Decision: 10-06-21

On the 21st day of September, 2021, Tripp Steele, agent for property owner Alan and Dorothea Spafford (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a conditional use to allow auto sales (“Application”) upon the real property located at 11715 Menaul Blvd NE (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a conditional use to allow auto sales.
2. IDO 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 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.*
 - (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) *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.*
 - (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, the Application furthers the following policies of the ABC Comp Plan by encouraging mixed-use areas with compatible residential and non-residential uses within walking distance of one another, which the Application would provide. Further, the Comp Plat promotes an appropriate mix of land uses to protect and enhance neighborhood character and vitality and thus create a strong neighborhood, and the proposed use of the Subject Site would further these goals by providing a scope-appropriate use different from and compatible with surrounding uses.
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 schematics submitted by Applicant. Applicant testified that the use-specific standards are satisfied, because there will be no retail activity within 50 feet of the residentially zoned property located to the rear of the Subject Property.
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 on a large lot with adequate capacity for this type of development. Surrounding properties will not experience disruption with the addition of the requested use on this property, because any impact to adjacent properties would be mitigated with the provision of appropriate walls and buffers, as well as a planted treescape. A neighbor complained that the proposed use would devalue her property, but no supporting evidence was submitted to substantiate that assertion. A different neighbor complained that there could be safety concerns based on increased traffic; however, the City Traffic Engineer submitted a report stating they do not object to the Application.
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 appropriate walls and buffers.
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 business 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).
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 auto sales.

APPEAL:

If you wish to appeal this decision, you must do so by October 21, 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:

ZHE File
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