



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

ARCP MD Albuquerque NM, LLC c/o CIM Group, LLC (Agent, Consensus Planning) requests a conditional use to allow for an outdoor animal run in an MX-L zone for Lot 3A, Ventura Place, located at 8850 Holly Ave NE, zoned MX-L [Section 14-16-4-3(F)(13)]

Special Exception No:..... **VA-2022-00002**
Project No: **Project#2022-006413**
Hearing Date: 02-15-22
Closing of Public Record: 02-15-22
Date of Decision: 03-02-22

On the 15th day of February, 2022, Consensus Planning, agent for property owner ARCP MD Albuquerque NM, LLC c/o CIM Group, LLC (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a conditional use to allow for an outdoor animal run in an MX-L zone (“Application”) upon the real property located at 8850 Holly Ave NE (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a conditional use to allow for an outdoor animal run in an MX-L zone.
2. The City of Albuquerque Code of Ordinances 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 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. A facilitated meeting was held, at which participants generally were supportive of the Application.
7. Applicant has met the burden of providing evidence that establishes that the requested Conditional Use approval is consistent with the ABC Comp. Plan, as amended. Specifically, among other things, Applicant's evidence that the community would benefit from access to comprehensive veterinary services in the neighborhood demonstrates that the requested Conditional Use approval would help "create healthy, sustainable communities with a mix of uses that are conveniently accessible from surrounding neighborhoods" as stated as a goal in ABC Comp. Plan Policy 5.2.1. Applicant also submitted evidence that the Application furthers Policies 5.3.1 and 5.6.3.
8. Applicant has met the 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.
9. Regarding the Use Specific Standards applicable to Outdoor Animal Run, the following Use-Specific Standards in IDO Section 4-3(F)(13) apply:
10. The Conditional Use of Outdoor Animal Run is subject to the Use-Specific Standards in IDO Section 4-3(F)(13), regarding which the following evidence was submitted:

- a. *4-3(F)(13)(a) This use may be operated outside of fully enclosed portions of a building.*

The proposed Outdoor Animal Run will be located outside of the veterinary hospital in an enclosed area that will only be accessible by employees. The area will be shade canopies and it will include a wall dividing two yards to maintain separation between animals, increase safety, and reduce barking. An opaque 6-foot wall and access gate will span the eastern open end of the space.

- b. *4-3(F)(13)(b) Where this use is allowed, the runs must be screened from any adjacent property in any Residential zone district or any lot containing a residential use in any Mixed-use zone district by an opaque wall, fence, or vegetative screen at least 6 feet in height, made of materials similar in color and materials to those used on the primary building.*

The Outdoor Animal Run will be screened from the adjacent residential zone district to the north by the existing 8-foot CMU wall. The additional 6-foot opaque fence will enclose the space on the east side.

- c. *4-3(F)(13)(c) No animals shall be allowed to occupy the outdoor run between 10:00 PM and 7:00 AM.*

There is a limited number of animals that will be at the VCA Hospital overnight between the hours of 10:00 PM and 7:00 AM. These will be patients recovering from surgery; no general boarding will be allowed. Only 1 or 2 animals will be allowed in the Outdoor Animal Run at a time and it is limited to very brief potty breaks. The patients will be double-leashed at all times with a staff member, who is trained to diffuse barking pets while outside.

11. The Applicable Use Specific Standards are satisfied.
12. Applicant has met the 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. This is further substantiated by the walls and distance buffers to adjacent residential properties.
13. Applicant has met the 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.
14. Applicant has met the burden of providing evidence that establishes that the requested Conditional Use approval 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. Specifically, Applicant testified that non-residential activity would not increase in any prohibited manner.
15. 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.
16. The City Traffic Engineering Division stated no objection.
17. The criteria within IDO Section 14-16-6-6(A)(3) are satisfied.

DECISION:

APPROVAL of a conditional use to allow for an outdoor animal run in an MX-L zone.

APPEAL:

If you wish to appeal this decision, you must do so by March 17, 2022 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". The signature is fluid and cursive, with the first name "Robert" and last name "Lucero" clearly distinguishable.

Robert Lucero, Esq.
Zoning Hearing Examiner

cc:

ZHE File

Zoning Enforcement

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