



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

Sonata Green, LLC/ John Murtagh (Agent, Consensus Planning) requests a conditional use to locate dwelling units on the ground floor in the Volcano Heights Urban Center for Lot 4, The Trails Unit 4, located at 99999 Avenida de Jaimito NW, zoned MX-M [Section 14-16-4-3(B)(7)(g)]

Special Exception No:..... **VA-2022-00006**  
Project No: ..... **Project#2020-003904**  
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 Sonata Green, LLC/ John Murtagh (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a conditional use to locate dwelling units on the ground floor in the Volcano Heights Urban Center (“Application”) upon the real property located at 99999 Avenida de Jaimito NW (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a conditional use to locate dwelling units on the ground floor in the Volcano Heights Urban Center.
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:*
  - (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*
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. Charlene Johnson and Jim Strozier for Consensus Planning, agent for property owner Sonata Green, LLC, owner appeared and gave evidence in support of the application.
5. The affected neighborhood association is the Westside Coalition of Neighborhood Associations.
6. All property owners within 100 feet and affected neighborhood association(s) were notified.
7. No written objections nor request for a meeting were submitted on the Application.
8. The subject property, Lot 4 is currently zoned MX-M.
9. The purpose of the MX-M zone district 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.
10. The subject property is in an Area of Change as designated in the Albuquerque/ Bernalillo County Comprehensive Plan.
11. Various documents were submitted in support of the Application, including, aerial photographs, photographs of the existing site, surrounding neighborhoods, conceptual site plans, conceptual elevation drawings, IDO zone atlas and a justification letter.
12. The subject property is located in the Volcano Heights Urban Center and multi-family development is allowed, however, ground dwelling units require a Conditional Use Approval pursuant to specific use standards of the Integrated Development Ordinance (IDO).
13. Specific Use Standard 14-16-4-3(B)(7)(g) requires a Conditional Use Approval pursuant to Subsection 14-16-6-6(A) if located on the ground floor of any building in the Downtown Center in any zone district other than MX-FB-ID or in the Volcano Heights Urban Center.
14. The subject property is currently vacant and located east of Universe Boulevard and north of Avenida de Jaimito.
15. Universe is designated an Urban Minor Arterial.
16. The subject property is also within two IDO overlays; Volcano Mesa – Character Overlay Zone (CPO)-12 and the Northwest Mesa Escarpment – View Protection Overlay Zone (VPO)-2.
17. The Volcano Heights Urban Center was designated through the ABC Comprehensive Plan to be an area that is intended to be an area that supports a variety of activities including higher density housing, commercial, business park and recreational uses.
18. To the north of the subject property, on Tracts 1 and 2, construction has begun on multi-family, townhouse style development, which received approval for Conditional Use for Ground-floor Dwelling Units in 2020.
19. Tract (Lot) 3 was included in a previously approved Conditional Use for Ground-floor Dwelling Units was approved for Tract 1, 2 and 3 (VA-2020-00136, PR#2020-003904).
20. The Conditional Use for Tract 3 expired and is being re-requested with Tract (Lot) 4.
21. The Applicant proposes to develop a multi-family development on the two parcels.
22. The proposed development will include 228 units, 180 on Tract 3 and 48 units on the MX-M zoned portion of Tract 4.
23. The area around the subject property is zoned MX-M, R-1A and R-1D.
24. Land use is vacant to the north, south and east and single-family (small lot) to the west.
25. The proposed development offers housing options as a higher density and intensity suitable for this area, which is presently largely undeveloped.

26. The eastern portion of the Volcano Heights Urban Center is anticipated to be used as a business park.
27. The project will provide housing for a population that will support future commercial and business park uses and will locate residential close to future services and amenities.
28. There is a 76-foot electrical easement that runs across the west portion of the subject property along Universe Boulevard.
29. The easement prohibits construction of buildings at the street frontage.
30. The design of this multi-family development protects the easement while also supporting the intent of the Urban Center by adding activity along the street and creating an appealing streetscape that will contribute to a distinct identity for the Volcano Heights Urban Center.
31. This multi-family development will be located along Universe Blvd., which is currently not served by ABQ Ride Bus Routes.
32. As development in this area progresses, Universe Boulevard should become a candidate for a future transit route that will connect the property to Unser Boulevard to the east and Paseo del Norte to the north.
33. The extension of Woodmont Avenue as part of the development will bring the Woodmont Multi-Use Trail into the Urban Center.
34. This will satisfy the **ABC Comprehensive Plan, Land-Use Policy 5.1.1; Centers and Corridors: Grow as a community of strong Centers connected by a multi-modal network of Corridors.**
35. The proposed project provides development in an Urban Center that will be connected by a multi-modal network of corridors and will provide higher density housing to support future commercial development in the Urban Center, which will satisfy ABC Comprehensive Plan, Land Use Policy 5.1.1, *Desired Growth: Capture regional growth in Centers and Corridors to help shape the built environment into a sustainable development pattern.*
36. The proposed project will extend Woodmont Avenue and Woodmont Trail east of Universe Boulevard, developing street fronts along Universe with improved landscaping and sidewalks, increasing walkability in the area.
37. The proposed project design will provide direct access from residential units to the street, the allowance of ground floor residential will satisfy and promote **ABC Comprehensive Plan, Land Use Policy 5.1.4 Urban Centers: Create highly accessible and walkable Urban Centers that provides a range of employment opportunities and higher-density housing options.**
38. Approval of ground-floor residential units will allow activity along the street frontage and create a vibrant streetscape, will satisfy and promote **ABC Comprehensive Plan, Land Use 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.**
39. The proposed development as a higher density, multi-unit housing project within an Urban Center will be a catalyst for capturing growth on the west side of Albuquerque in a high activity Urban Center, will satisfy and promote the **ABC Comprehensive Plan, Housing Policy 9.3.1, Center and Corridors: Encouraging higher density, multi-unit housing and mixed use development in Downtown, Urban, Activity, and Village Centers, and along Premium and Major Transit Corridors to capture growth, relieve development pressure at the edge of the urban footprint, and maintain low densities in rural areas.** Low-density
40. The proposed use is consistent with the adopted ABC Comprehensive Plan, as amended.

41. The standards required by Volcano Mesa CPO-12 are not applicable as they apply to low-density residential zone districts.
42. The proposed project will comply with the following provisions of VPO-2: 3-6(E)(4) Colors; (5) Reflectivity and (6) Roof-mounted equipment.
43. The proposed use will comply 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 required by Section 14-16-6-6(A)(3)(b).
44. The proposed use will improve the area, and by providing residential activity at the street front, installing landscaping and improving the streetscape with sidewalks, will create a more vibrant streetscape and promote development of surrounding vacant properties and will not create adverse impacts on adjacent properties, the surrounding neighborhood, or the larger community, as required by Section 14-16-6-6(A)(3)(c).
45. The subject property is surrounded by vacant land on the south and east, the entrance to the proposed development will be on Woodmont Avenue, which will feed onto Universe Boulevard, an urban minor arterial capable of handling traffic from the development, and the units will be buffered to the street by landscaping and a view fence, reducing potential for noise affecting adjacent properties, and 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, as required by Section 14-16-6-6(A)(3)(d).
46. The proposed development and all ground floor units are residential will not increase non-residential activity within 300 feet of a lot in any residential zone between the hours of 8:00PM and 6:00AM and is not subject to Section 14-16-6-6(A)(3)(e).
47. The proposed development will not negatively impact transit connectivity as there are currently no direct transit options available to the subject property, and is not subject to Section 14-16-6-6(A)(3)(f).
48. The ZHE finds that the proper “Notice of Hearing” signage was posted for the required time proposed units will be buffered period as required by Section 14-16-6-4(K)(3).
49. The ZHE finds that the Applicant has authority to pursue this Application.

#### CONCLUSIONS OF LAW:

Applicant has met the criteria required by Section 14-16-6-6(A)(3) (Review and Decision Criteria– Conditional Use).

#### DECISION:

APPROVAL of a conditional use to locate dwelling units on the ground floor in the Volcano Heights Urban Center.

#### 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.



---

Stan Harada, Esq.  
Zoning Hearing Examiner

cc:

ZHE File  
Zoning Enforcement  
Charlene Johnson [Johnson@consensusplanning.com](mailto:Johnson@consensusplanning.com)  
Jim Strozier [cp@consensusplanning.com](mailto:cp@consensusplanning.com)  
Lorrie Deloach, [lorriedeloach@yahoo.com](mailto:lorriedeloach@yahoo.com)