



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

Kinsella Investment Company, LLC. (Agent, Matt Chadwick) requests a conditional use to allow cannabis retail within 600 feet of another cannabis retail for Lot A, Block 14, Miramontes Park Unit 1, located at 5715 Menaul BLVD NE, zoned MX-M [Section 14-16-4-3(D)(35)(c)]

Special Exception No:..... **VA-2022-00082**
Project No: **Project#2022-006817**
Hearing Date: 05-17-22
Closing of Public Record: 05-17-22
Date of Decision: 06-01-22

On the 17th day of May, 2022, Matt Chadwick, agent for property owner Kinsella Investment Company, LLC (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a conditional use to allow cannabis retail within 600 feet of another cannabis retail (“Application”) upon the real property located at 5715 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 cannabis retail within 600 feet of another cannabis retail.
2. 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*
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(F)(2).
4. Agent appeared at the ZHE hearing on this matter and gave evidence in support of the Application.

5. Applicant submitted 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).
6. Applicant submitted evidence that all property owners and neighborhood association entitled to notice were notified of the Application.
7. The City Traffic Engineering Division stated no objection to the Application
8. 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 goals and policies of the ABC Comp. Plan by helping to ensure appropriate scale and location of development and character of design, placing new development along corridors, and providing employment and services for the area.
9. 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.
10. 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 located on along a corridor and will have appropriate buffering between it and residential uses.
11. 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.
12. 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.
13. However, questions remain regarding whether 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.
 - a. Several community members raised objections regarding the potential of a concentration of cannabis retail establishments creating a "green mile" that may become blighted with failed businesses, as well as other concerns.
 - b. Applicant and the public should be allowed additional time to provide evidence on whether the requested Conditional Use approval will create significant adverse

impacts on adjacent properties, the surrounding neighborhood, or the larger community.

- c. Applicant and the public are encouraged to submit written evidence in support of their arguments, and the evidence should focus on any significant adverse impacts or why none exist.

DECISION:

CONTINUANCE of this matter, to be heard at the ZHE Hearing of June 21, 2022, beginning at 9:00 a.m.

APPEAL:

If you wish to appeal this decision, you must do so by June 16, 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.



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Zoning Hearing Examiner

cc:

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