



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

Joes Properties, LLC (Agent, Consensus Planning) requests a conditional use to allow artisan manufacturing in an MX-T zone for Lot 232A Old Town Pk, MRGCD Map 38, located at 522 Romero ST NW, zoned MX-T [Section 14-16-4-3(E)(1)]

Special Exception No:..... **VA-2022-00157**
Project No: **Project#2021-006322**
Hearing Date: 09-20-22
Closing of Public Record: 09-20-22
Date of Decision: 10-05-22

On the 20th day of September, 2022, Consensus Planning, agent for property owners Joes Properties, LLC (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a conditional use to allow artisan manufacturing in an MX-T zone (“Application”) upon the real property located at 522 Romero ST NW (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a conditional use to allow artisan manufacturing in an MX-T zone.
2. The Application (together with its companion VA-2022-00229) is the third set of applications for approval of a conditional use for artisan manufacturing at the Subject Property that has come before the ZHE over the last few years:
 - a. VA-2019-00224, Project#2019-002679, was approved pursuant to the ZHE Notification of Decision (“NOD”) dated October 2, 2019 (the “2019 Approval”). This approval expired, because Applicant did not take requisite action in furtherance of the Application within one year of approval.
 - b. VA-2021-00382 and VA-2021-00383, both listed under Project#2021-002253, were denied pursuant to the ZHE NODs dated February 2, 2022. These denials were based, in part, on the changed circumstances since the 2019 approval and on the lack of mitigating circumstances addressing adverse impacts.
 - c. The current Application, VA-2022-00157 and its companion VA-2022-00229, both listed under Project#2021-006322, are the current submittals under review.
3. 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).
4. Applicant provided evidence that all property owners and neighborhood association entitled to notice were notified of the Application.
5. Applicant has authority to pursue this Application.
6. The Subject Property, like much of Old Town, is zoned MX-T.
7. The purpose of the MX-T zone is to provide a buffer between residential and surrounding commercial uses.

8. The IDO describes the MX-T zone's primary land uses as pedestrian-oriented commercial uses, low-density multifamily, and small-scale offices.
9. Currently, there is a mix of commercial/retail and residential uses surrounding the subject site.
10. The Subject Property is located within the Historic Old Town Overlay Zone (HPO-5) and in an Area of Consistency.
11. The Subject Property is part of the Old Town Activity Center, within 660 feet of the Rio Grande Major Transit Corridor, and within ¼ mile of Central Avenue Premium Transit Corridor.
12. IDO Table 4-2-1 specifies that Artisan Manufacturing is allowed as a conditional use in the MX-T Zone.
13. IDO Section 14-16-7-1 defines "Artisan Manufacturing" as:

Small-scale manufacturing and related processes or activities – including but not limited to application, assembling, compounding, design, fabrication, growing, making, packaging, processing, sculpting, teaching, treating of crafts or products, or welding – often by an artist, artisan, or crafts person working with ceramic, clay, electronics, metal, paper, plastic, stone, textiles, wood, or similar materials either by hand or with minimal automation or technology, including but not limited to 3D printing. This use includes incidental storage, wholesaling of products manufactured at the facility, and direct sales to consumers. This use also includes the production of beer, wine, or spirits associated with an approved Small Brewer's License as governed by Section 60-6A-26.1 NMSA 1978, an approved Winegrower's License as governed by Section 60-6A-11 NMSA 1978, or an approved Craft Distiller's License as governed by Section 60-6A-6.1 NMSA 1978. Annual production shall be limited by State statute. This use does not include alcohol sales. Alcohol sales associated with brewing on-site is regulated pursuant to the tap room or tasting room use. See Tap Room or Tasting Room and Cannabis Definitions for Cannabis-derived Products Manufacturing and Cannabis Cultivation.
14. The City of Albuquerque Integrated Development Ordinance (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 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, 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 impact.

- (e) *On a project site with existing uses, it will not increase non-residential activity within 300 feet 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.*
15. 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).
 16. 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).
 17. Several community members submitted written evidence and testimony, some in favor and some opposed to the Application.
 18. Regarding the IDO requirement that the requested Conditional Use Approval is consistent with the ABC Comp. Plan, as amended:
 - a. The Subject Property is part of the Central ABQ Community Planning Area. Design characteristics for the Central ABQ CPA are described by the ABC Comprehensive Plan as pedestrian-centered with storefronts that activate sidewalks, historic preservation of the structures and cultural relevance of the area, and public transit connectivity. The application is consistent with these policies, because the proposed use would provide a destination what encourages pedestrian traffic, restores architecturally sensitive structures, and promotes local business culturally relevant to the Old Town Area. Applicant submitted evidence that there is a long history of craft alcohol manufacturing in Albuquerque, including in Old Town, where San Felipe de Neri Catholic Church historically made and sold wine. The pastor of San Felipe de Neri submitted a letter of support for the Application.
 - b. Regarding Comp Plan Goal 4.1 “Character: Enhance, protect, and preserve distinct communities,” the proposed conditional use helps to enhance, protect, and preserve the unique character of Old Town by rehabilitating an existing vacant building consistent with the character of other properties in the Historic Old Town Overlay Zone (HPO-5). Applicant seeks to renovate the existing adobe structures in accordance with the overlay design standards to allow for new uses, including artisan manufacturing, and beautify the traditional architecture.
 - c. Regarding Comp Plan Policy 4.1.1 “Distinct Communities: Encourage quality development that is consistent with the distinct character of communities,” the proposed conditional use encourages quality development that is consistent with the distinct character of the Old Town community which is known for its historic and cultural value, as well as its local shops, restaurants, artisans, and galleries. The addition of artisan manufacturing will increase the economic vitality of the area while maintaining the distinct character of the community through the careful rehabilitation of a vacant existing building. The Old Town community is diverse with residents and a wide variety of commercial uses. Artisan manufacturing is consistent with and enhances what makes Old Town unique. While historic preservation submitted correspondence stating concerns for alcohol sales, it would

appear that those concerns would pertain more to retail sales of alcohol either for off-site consumption or in a setting such as a tap-room. This is different from the Artisan Manufacturing proposed in the Application.

- d. Regarding Comp Plan Policy 4.1.2 “Identity and Design: Protect the identity and cohesiveness of neighborhoods by ensuring the appropriate scale and location of development, mixed uses, and character of building design,” Applicant submits that the proposed site plan for the subject property indicates the existing adobe structures will be renovated and used for the proposed artisan manufacturing use. The renovations and use of the existing building will help to ensure the proposed conditional use is the appropriate scale for the neighborhood as well as in accordance with the character of the building design for the area. The appropriateness of location is further emphasized by a multitude of mixed-uses previously established at the subject property consisting of a coffee shop, art gallery, barter club, and visitor center. The identity of Old Town is primarily a tourist destination with some residents, having the church and plaza as the focal point. While some neighbors complained of the several alcohol-serving establishments that have located in Old Town in recent years, it appears that the use proposed in the Application is of a different character and scope, which is appropriately sited in the Subject Property and its surroundings. The blend of offerings described in the Application establish that alcohol sales is not the only focus of the proposed use.
- e. Regarding Comp Plan Policy 4.1.3 “Placemaking: Protect and enhance special places in the built environment that contribute to distinct identity and sense of place,” Applicant submits that food and beverage establishments play a key role in placemaking initiatives by providing a place for community connection and socialization centered around a shared experience. Food and beverage establishments help to activate sidewalks and increase pedestrian use. The proposed conditional use protects and enhances special places in Old Town that contribute to the distinct identity and sense of place by showcasing local artisan manufacturing in a pedestrian-oriented environment that will contribute to the character of Old Town.
- f. Regarding Comp Plan Policy 5.1.6 “Activity Centers: Foster mixed-use centers of activity with a range of services and amenities that support healthy lifestyles and meet the needs of nearby residents and businesses,” Sub policy b) “Provide neighborhood-oriented commercial, retail, institutional, and public services,” and Sub policy d) “Ensure Activity Centers are pedestrian-friendly and provide convenient pedestrian connections to nearby residential areas,” Applicant submits that the proposed artisan manufacturing use fosters mixed-use activity centers with a range of services and amenities that support healthy lifestyles and meet the needs of nearby residents and businesses by creating a unique business model that will offer several products including coffee, ice cream, food, and spirits, in addition to an indoor/outdoor dining space for patrons. The multiple products being offered help meet the needs of potential patrons and create a fun family-friendly environment. The proposed conditional use meets sub policy b) by providing a neighborhood-oriented commercial/retail use that is in line with the scale, character, and design standards for the area. The proposed conditional use

meets sub policy d) ensuring Activity Centers are pedestrian-friendly by activating the vacant lot with an indoor/outdoor neighborhood amenity, highlighting local business, and stimulating pedestrian circulation in and around the site.

- g. Regarding Comp Plan Goal 5.2 “Complete Communities: Foster communities where residents can live, work, learn, shop, and play together,” Applicant submits that the proposed artisan manufacturing use helps to foster communities where residents can live, work, learn, shop, and play together by activating an unused building with an experiential community amenity that will provide a platform for socializing, play, and shopping, in addition to creating new jobs. This unique mix of uses encourages interaction and dialogue as patrons can watch and learn about the artisan manufacturing process while sharing a meal and enjoying the ambiance created by the establishment.
- h. Regarding Comp Plan Policy 5.2.1 Sub Policy a) “Encourage development and redevelopment that brings goods, services, and amenities within walking and biking distance of neighborhoods and promotes good access for all residents,” Applicant submits that the proposed conditional use encourages development and redevelopment that brings goods, services, and amenities within walking and biking distance of neighborhoods and promotes good access for all residents. The proposed artisan manufacturing helps to bring highly sought-after products to the Old Town area which will be centrally located and easily accessible through multi-modal transportation including pedestrians, cars, bikes, and buses. The subject property is located along an existing bike boulevard on Mountain and there is a proposed bike lane on Rio Grande providing bike connectivity. The site is situated in a pedestrian-focused (park once and walk) area with existing infrastructure including sidewalks as well as bus stops and parking lots.
- i. Regarding Comp Plan Policy 5.3.1 “Infill Development: Support additional growth in areas with existing infrastructure and public facilities,” Applicant submits that the proposed conditional use supports additional growth in areas with existing infrastructure and public facilities as the proposed site plan seeks to renovate the existing structures on the subject property.
- j. Regarding Comp Plan Policy 5.3.7 “Locally Unwanted Land Uses: Ensure that land uses that are objectionable to immediate neighbors but may be useful to society are located carefully and equitably to ensure that social assets are distributed evenly and social responsibilities are borne fairly across the Albuquerque area,” Applicant submits that the American Planning Association defines a locally unwanted land use (LULU) as a term “referring to such land uses as prisons, hazardous waste facilities, landfills, power plants, and other uses perceived by the public as posing a health or safety risk.” However, the Comp Plan in Action 5.3.7.3 (regarding implementation of the above-cited Policy 5.7.3) Directs Coty Council Services to “[c]oordinate with New Mexico Regulation and Licensing Department to include public health criteria in the alcohol licensing process,” which indicates that alcohol sales can be a LULU. Still, a local artisan manufacturing business that features a community-centered family-oriented environment offering food, drinks, ice cream, and indoor/outdoor dining can hardly be conceived of as posing a major health or safety concern for the

community. Applicant submits that, although there are restaurants, coffee shops, breweries, and wineries in Old Town, presently there are no businesses that feature the specific combination of uses proposed by the artisan manufacturing request which will help to create an equitable distribution of services across the Central Albuquerque Planning Area. Elsewhere in the city and Central ABQ CPA, the proposed business model has flourished creating a sought-after community amenity offering a highly popular product and experience to both residents and tourists, such as Marble Brewing, Safe House Distillery, Sidetrack Brewing Company, Hollow Spirits Distillery, Red Door Brewing Company, Boese Brothers Brewing, and Still Spirits. Further, the Visit Albuquerque website promotes the Old Town area as a culturally and historically significant place to eat and drink at local restaurants as well as shop and view local art.

- k. Regarding Comp Plan Policy 5.6.3 Sub policy b) “Ensure that development reinforces the scale, intensity, and setbacks of the immediately surrounding context,” Applicant submits that the proposed conditional use ensures that the development reinforces the scale, intensity, and setbacks of the immediately surrounding context by renovating the existing adobe structures which will house the artisan manufacturing use. The proposed site plan depicts human-scale buildings that are in accordance with the setbacks and design standards of the MX-T zone as well as the HPO overlay for Old Town. The existing buildings are set back from the street and there is a large courtyard area in the center of the site that allows pedestrian circulation and is in keeping with the intensity of uses and character in the Old Town area, in which other similar courtyards or mini-plazas exist.
- l. Regarding Comp Plan Policy 6.2.4 “Pedestrian Network: Prioritize pedestrian travel, safety, and amenities above all other transportation modes on Main Street Corridors and streets within Downtown, Urban Centers, and Activity Centers,” Applicant submits that the subject site is within the Old Town Activity Center; therefore, the proposed conditional use helps to prioritize pedestrian travel, safety, and amenities above all other transportation modes by activating the unused lot with a neighborhood human scale amenity that invigorates the streetscape and sidewalk through the outdoor courtyard which will invite pedestrians into the property. The artisan manufacturing use contributes to the pedestrian-friendly environment of Old Town by beautifying the unused lot with the addition of a local business that will provide a place for socialization and neighborhood connection as well as increase foot traffic in the greater Old Town area.
- m. Regarding Comp Plan Goal 7.1 “Streetscapes and Development Form: Design streetscapes and development forms to create a range of environments and experiences for residents and visitors,” Applicant submits that the proposed conditional use helps to work with the existing buildings and development forms to create a new experience for residents and visitors. The artisan manufacturing use will create a unique experience offering family-friendly services ranging from ice cream, food, coffee, and spirits in addition to an indoor/outdoor dining area and a walk-up window. The proposed use will activate the streetscape and create an inviting environment, highlighting the local culture and history of the area while showcasing local businesses to visitors and residents.

- n. Regarding Comp Plan Goal 7.2 “Pedestrian-Accessible Design: Increase walkability in all environments, promote pedestrian-oriented development in urban contexts, and increase pedestrian safety in auto-oriented contexts,” Applicant submits that the proposed conditional use increases walkability and promotes pedestrian-oriented development by activating a currently unused lot through artisan manufacturing use. The proposed site plan allows pedestrians to easily access the property as part of their stroll in the Old Town area. The open courtyard creates an inviting atmosphere that will welcome pedestrians into the space. The subject property has existing sidewalk infrastructure and the addition of the proposed conditional use will help to further activate the existing sidewalks.
 - o. Regarding Comp Plan Policy 8.1.2 Sub policy b) “Encourage the production, local sale, and export of locally-grown and made goods,” Applicant submits that the proposed artisan manufacturing use encourages the production, local sale, and export of locally-grown and made goods by allowing the applicant to produce locally distilled spirits and coffee.
 - p. Regarding Comp Plan Policy 8.1.3 Economic Base: “Strengthen and diversify the economic base to help reduce reliance on government spending,” Applicant submits that the proposed artisan manufacturing use helps to strengthen and diversify the economic base by allowing a highly sought offer product to be offered in the Old Town area which will increase the revenue produced by the gross sales receipt tax in the city.
 - q. Regarding Comp Plan Policy 8.2.1 Local Business: “Emphasize local business development,” the proposed conditional use helps to emphasize local business development as the applicant is a local business owner. Applicant’s principal has an existing business in the Old Town, Church Street Café, and the addition of the artisan manufacturing use at the proposed subject site will help to further emphasize local and unique businesses in the Old Town area.
 - r. Regarding Comp Plan Policy 11.2.3 “Distinct Built Environments: Preserve and enhance the social, cultural, and historical features that contribute to the identities of distinct communities, neighborhoods, and districts,” the proposed conditional use preserves and enhances the social, cultural, and historical features that contribute to the identities of distinct communities, neighborhoods, and districts as the existing adobe structures on the subject site which were built in 1901 will be renovated in accordance with the HPO-5 overlay for the area and house the proposed use. This will reinforce the character of Old Town while reinvigorating the space and providing a pedestrian- oriented business.
 - s. On balance, Applicant has met the burden of providing evidence that established that the requested Conditional Use Approval is consistent with the ABC Comp. Plan, as amended.
19. Regarding the requirement 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. 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.

20. Further, IDO Section 14-16-4-3(E) requires the following Use-Specific Standards for Artisan Manufacturing:

4-3(E)(1)(a) All activities must be conducted within the fully enclosed portions of a building.

4-3(E)(1)(b) If located in any Mixed-use zone district, this use shall not exceed 10,000 square feet of gross floor area.

21. Applicant has met its burden of providing evidence that establishes that all Artisan Manufacturing activities must be conducted within the fully enclosed portions of a building. Applicant/Agent testified and confirmed in written submittals the same.
22. Applicant has met its burden of providing evidence that establishes that, if located in any Mixed-use zone district (the Subject Property is zoned MX-T), this use shall not exceed 10,000 square feet of gross floor area. The site plan and other written submittals and testimony establish that the areas to house the requested use will be less than 10,000 square feet of gross floor area.
23. 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. Given the discussion, above, regarding the Application's consistency with the Comp Plan, it appears that any perceived adverse impacts do not rise to the level of a "significant" adverse impact and are outweighed by the multitude of ABC Comp Plan goals and policies this proposed use aligns with or furthers. Although neighbors complained of potential impacts to traffic and parking, Applicant provided evidence demonstrating that there is adequate roadway capacity and parking to serve this property as well as Old Town in general, particularly given the policies of fostering a situation where visitors park once and walk to as many Old Town destinations as they wish to visit. Neighbors complained that the proposed walk-up window facing Charlevoix Street would negatively impact adjacent properties, but it appears from evidence in the record that Applicant has agreed to locate any walk-up window away from and not facing Charlevoix Street.
24. 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. The City Traffic Engineering Division submitted its evaluation of the Application and stated no objection. There is a bike boulevard that connects to the site along Mountain Road and a proposed bike lane on Rio Grande Boulevard. There are two bus stops adjacent to the site that service routes 36 and 37. There is a transit station near the southwest corner of Old Town at Central Avenue and Romero Street that services rapid route 790, and regular routes 37 and 66. There are two large-scale public paid parking lots, in addition to three smaller parking lots in the Old Town area. The small parking lots consist of one adjacent to the subject site with over 40 public paid spaces available, one behind the museum parking on the west side with over 80 available spaces, and one next to the city-owned lot on the west side with over 25 spaces available. The large parking lots consist of one near the southwest corner of Old Town at Central and Romero Street with a parking capacity of 125 public spaces. The second large parking lot is near the southeast

corner of the museum at Old Town Road and 19th Street and has a capacity of over 300 public spaces. Additionally, street parking in the area is free, limited to two hours in the Old Town area. There is additional street parking off Mountain Road. Applicant may mitigate any noise or sound impact by making sure that any outdoor speakers at the Subject Property are not directed toward any property used for residential purposes. Having the proposed Artisan Manufacturing use end its hours of operation by 9:00 p.m., as applicant has agreed, further mitigates the risk of nighttime noise. These mitigating factors sufficiently address potential negative impacts, and the positive civic and environmental impacts discussed in this NOD outweigh any expected impacts.

25. 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 confirmed in written submittals that the Artisan Manufacturing use would open after 6:00 a.m. and close at 9:00 p.m.
26. 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. The pedestrian and transit infrastructure discussed, above, is not negatively impacted by the proposed use. Rather, the proposed use may create a destination that encourages the public's use of pedestrian walkways, bike lanes, and public transit.
27. The criteria within IDO Section 14-16-6-6(A)(3) are satisfied.

DECISION:

APPROVAL WITH CONDITIONS of a conditional use to allow artisan manufacturing in an MX-T zone.

CONDITIONS:

1. Any walk-up window cannot face Charlevoix Street.
2. Any outdoor speakers at the Subject Property must not be directed toward any property used for residential purposes.
3. The proposed Artisan Manufacturing business must end its hours of operation by 9:00 p.m. each evening.

APPEAL:

If you wish to appeal this decision, you must do so by October 20, 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.



Robert Lucero, Esq.
Zoning Hearing Examiner

cc:

ZHE File
Zoning Enforcement
Consensus Planning, cp@consensusplanning.com, frank@consensusplanning.com
William Simon, 524 ½ Romero NW, 87104
Robert Simon, 1415 Park Ave SW, 87104
Carla Villa, carla@highnoonrestaurant.com
Sylvia Ramos Cruz, smrcmd@hotmail.com
Jesse Ehrenberg, JDEhrenberg@outlook.com
Judy Heiss, 3107 Beach RD NW, 87104
Marie Coleman, marie@churchstreetcafe.com
Angel Aguilar, 3006 Barstalona PL NW, 87121
Kathy Hiatt, kathy@bottger.com
Eileen P. Sandoval, ggsandoval@zoho.com



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

Joes Properties, LLC (Agent, Consensus Planning) requests a conditional use to allow artisan manufacturing in an MX-T zone for Lot 231 Old Town Pk, MRGCD Map 38, located at 522 Romero ST NW, zoned MX-T [Section 14-16-4-3(E)(1)]

Special Exception No:..... **VA-2022-00229**
Project No: **Project#2021-006322**
Hearing Date: 09-20-22
Closing of Public Record: 09-20-22
Date of Decision: 10-05-22

On the 20th day of September, 2022, Consensus Planning, agent for property owner Joes Properties, LLC (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a conditional use to allow artisan manufacturing in an MX-T zone (“Application”) upon the real property located at 522 Romero ST NW (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a conditional use to allow artisan manufacturing in an MX-T zone.
2. The Application (together with its companion VA-2022-00157) is the third set of applications for approval of a conditional use for artisan manufacturing at the Subject Property that has come before the ZHE over the last few years:
 - a. VA-2019-00224, Project#2019-002679, was approved pursuant to the ZHE Notification of Decision (“NOD”) dated October 2, 2019 (the “2019 Approval”). This approval expired, because Applicant did not take requisite action in furtherance of the Application within one year of approval.
 - b. VA-2021-00382 and VA-2021-00383, both listed under Project#2021-002253, were denied pursuant to the ZHE NODs dated February 2, 2022. These denials were based, in part, on the changed circumstances since the 2019 approval and on the lack of mitigating circumstances addressing adverse impacts.
 - c. The current Application, VA-2022-00229 and its companion VA-2022-00157, both listed under Project#2021-006322, are the current submittals under review.
3. 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).
4. Applicant provided evidence that all property owners and neighborhood association entitled to notice were notified of the Application.
5. Applicant has authority to pursue this Application.
6. The Subject Property, like much of Old Town, is zoned MX-T.
7. The purpose of the MX-T zone is to provide a buffer between residential and surrounding commercial uses.

8. The IDO describes the MX-T zone's primary land uses as pedestrian-oriented commercial uses, low-density multifamily, and small-scale offices.
9. Currently, there is a mix of commercial/retail and residential uses surrounding the subject site.
10. The Subject Property is located within the Historic Old Town Overlay Zone (HPO-5) and in an Area of Consistency.
11. The Subject Property is part of the Old Town Activity Center, within 660 feet of the Rio Grande Major Transit Corridor, and within ¼ mile of Central Avenue Premium Transit Corridor.
12. IDO Table 4-2-1 specifies that Artisan Manufacturing is allowed as a conditional use in the MX-T Zone.
13. IDO Section 14-16-7-1 defines "Artisan Manufacturing" as:

Small-scale manufacturing and related processes or activities – including but not limited to application, assembling, compounding, design, fabrication, growing, making, packaging, processing, sculpting, teaching, treating of crafts or products, or welding – often by an artist, artisan, or crafts person working with ceramic, clay, electronics, metal, paper, plastic, stone, textiles, wood, or similar materials either by hand or with minimal automation or technology, including but not limited to 3D printing. This use includes incidental storage, wholesaling of products manufactured at the facility, and direct sales to consumers. This use also includes the production of beer, wine, or spirits associated with an approved Small Brewer's License as governed by Section 60-6A-26.1 NMSA 1978, an approved Winegrower's License as governed by Section 60-6A-11 NMSA 1978, or an approved Craft Distiller's License as governed by Section 60-6A-6.1 NMSA 1978. Annual production shall be limited by State statute. This use does not include alcohol sales. Alcohol sales associated with brewing on-site is regulated pursuant to the tap room or tasting room use. See Tap Room or Tasting Room and Cannabis Definitions for Cannabis-derived Products Manufacturing and Cannabis Cultivation.
14. The City of Albuquerque Integrated Development Ordinance (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 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, 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 impact.

- (e) *On a project site with existing uses, it will not increase non-residential activity within 300 feet 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.*
15. 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).
 16. 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).
 17. Several community members submitted written evidence and testimony, some in favor and some opposed to the Application.
 18. Regarding the IDO requirement that the requested Conditional Use Approval is consistent with the ABC Comp. Plan, as amended:
 - a. The Subject Property is part of the Central ABQ Community Planning Area. Design characteristics for the Central ABQ CPA are described by the ABC Comprehensive Plan as pedestrian-centered with storefronts that activate sidewalks, historic preservation of the structures and cultural relevance of the area, and public transit connectivity. The application is consistent with these policies, because the proposed use would provide a destination what encourages pedestrian traffic, restores architecturally sensitive structures, and promotes local business culturally relevant to the Old Town Area. Applicant submitted evidence that there is a long history of craft alcohol manufacturing in Albuquerque, including in Old Town, where San Felipe de Neri Catholic Church historically made and sold wine. The pastor of San Felipe de Neri submitted a letter of support for the Application.
 - b. Regarding Comp Plan Goal 4.1 “Character: Enhance, protect, and preserve distinct communities,” the proposed conditional use helps to enhance, protect, and preserve the unique character of Old Town by rehabilitating an existing vacant building consistent with the character of other properties in the Historic Old Town Overlay Zone (HPO-5). Applicant seeks to renovate the existing adobe structures in accordance with the overlay design standards to allow for new uses, including artisan manufacturing, and beautify the traditional architecture.
 - c. Regarding Comp Plan Policy 4.1.1 “Distinct Communities: Encourage quality development that is consistent with the distinct character of communities,” the proposed conditional use encourages quality development that is consistent with the distinct character of the Old Town community which is known for its historic and cultural value, as well as its local shops, restaurants, artisans, and galleries. The addition of artisan manufacturing will increase the economic vitality of the area while maintaining the distinct character of the community through the careful rehabilitation of a vacant existing building. The Old Town community is diverse with residents and a wide variety of commercial uses. Artisan manufacturing is consistent with and enhances what makes Old Town unique. While historic preservation submitted correspondence stating concerns for alcohol sales, it would

appear that those concerns would pertain more to retail sales of alcohol either for off-site consumption or in a setting such as a tap-room. This is different from the Artisan Manufacturing proposed in the Application.

- d. Regarding Comp Plan Policy 4.1.2 “Identity and Design: Protect the identity and cohesiveness of neighborhoods by ensuring the appropriate scale and location of development, mixed uses, and character of building design,” Applicant submits that the proposed site plan for the subject property indicates the existing adobe structures will be renovated and used for the proposed artisan manufacturing use. The renovations and use of the existing building will help to ensure the proposed conditional use is the appropriate scale for the neighborhood as well as in accordance with the character of the building design for the area. The appropriateness of location is further emphasized by a multitude of mixed-uses previously established at the subject property consisting of a coffee shop, art gallery, barter club, and visitor center. The identity of Old Town is primarily a tourist destination with some residents, having the church and plaza as the focal point. While some neighbors complained of the several alcohol-serving establishments that have located in Old Town in recent years, it appears that the use proposed in the Application is of a different character and scope, which is appropriately sited in the Subject Property and its surroundings. The blend of offerings described in the Application establish that alcohol sales is not the only focus of the proposed use.
- e. Regarding Comp Plan Policy 4.1.3 “Placemaking: Protect and enhance special places in the built environment that contribute to distinct identity and sense of place,” Applicant submits that food and beverage establishments play a key role in placemaking initiatives by providing a place for community connection and socialization centered around a shared experience. Food and beverage establishments help to activate sidewalks and increase pedestrian use. The proposed conditional use protects and enhances special places in Old Town that contribute to the distinct identity and sense of place by showcasing local artisan manufacturing in a pedestrian-oriented environment that will contribute to the character of Old Town.
- f. Regarding Comp Plan Policy 5.1.6 “Activity Centers: Foster mixed-use centers of activity with a range of services and amenities that support healthy lifestyles and meet the needs of nearby residents and businesses,” Sub policy b) “Provide neighborhood-oriented commercial, retail, institutional, and public services,” and Sub policy d) “Ensure Activity Centers are pedestrian-friendly and provide convenient pedestrian connections to nearby residential areas,” Applicant submits that the proposed artisan manufacturing use fosters mixed-use activity centers with a range of services and amenities that support healthy lifestyles and meet the needs of nearby residents and businesses by creating a unique business model that will offer several products including coffee, ice cream, food, and spirits, in addition to an indoor/outdoor dining space for patrons. The multiple products being offered help meet the needs of potential patrons and create a fun family-friendly environment. The proposed conditional use meets sub policy b) by providing a neighborhood-oriented commercial/retail use that is in line with the scale, character, and design standards for the area. The proposed conditional use

meets sub policy d) ensuring Activity Centers are pedestrian-friendly by activating the vacant lot with an indoor/outdoor neighborhood amenity, highlighting local business, and stimulating pedestrian circulation in and around the site.

- g. Regarding Comp Plan Goal 5.2 “Complete Communities: Foster communities where residents can live, work, learn, shop, and play together,” Applicant submits that the proposed artisan manufacturing use helps to foster communities where residents can live, work, learn, shop, and play together by activating an unused building with an experiential community amenity that will provide a platform for socializing, play, and shopping, in addition to creating new jobs. This unique mix of uses encourages interaction and dialogue as patrons can watch and learn about the artisan manufacturing process while sharing a meal and enjoying the ambiance created by the establishment.
- h. Regarding Comp Plan Policy 5.2.1 Sub Policy a) “Encourage development and redevelopment that brings goods, services, and amenities within walking and biking distance of neighborhoods and promotes good access for all residents,” Applicant submits that the proposed conditional use encourages development and redevelopment that brings goods, services, and amenities within walking and biking distance of neighborhoods and promotes good access for all residents. The proposed artisan manufacturing helps to bring highly sought-after products to the Old Town area which will be centrally located and easily accessible through multi-modal transportation including pedestrians, cars, bikes, and buses. The subject property is located along an existing bike boulevard on Mountain and there is a proposed bike lane on Rio Grande providing bike connectivity. The site is situated in a pedestrian-focused (park once and walk) area with existing infrastructure including sidewalks as well as bus stops and parking lots.
- i. Regarding Comp Plan Policy 5.3.1 “Infill Development: Support additional growth in areas with existing infrastructure and public facilities,” Applicant submits that the proposed conditional use supports additional growth in areas with existing infrastructure and public facilities as the proposed site plan seeks to renovate the existing structures on the subject property.
- j. Regarding Comp Plan Policy 5.3.7 “Locally Unwanted Land Uses: Ensure that land uses that are objectionable to immediate neighbors but may be useful to society are located carefully and equitably to ensure that social assets are distributed evenly and social responsibilities are borne fairly across the Albuquerque area,” Applicant submits that the American Planning Association defines a locally unwanted land use (LULU) as a term “referring to such land uses as prisons, hazardous waste facilities, landfills, power plants, and other uses perceived by the public as posing a health or safety risk.” However, the Comp Plan in Action 5.3.7.3 (regarding implementation of the above-cited Policy 5.7.3) Directs Coty Council Services to “[c]oordinate with New Mexico Regulation and Licensing Department to include public health criteria in the alcohol licensing process,” which indicates that alcohol sales can be a LULU. Still, a local artisan manufacturing business that features a community-centered family-oriented environment offering food, drinks, ice cream, and indoor/outdoor dining can hardly be conceived of as posing a major health or safety concern for the

community. Applicant submits that, although there are restaurants, coffee shops, breweries, and wineries in Old Town, presently there are no businesses that feature the specific combination of uses proposed by the artisan manufacturing request which will help to create an equitable distribution of services across the Central Albuquerque Planning Area. Elsewhere in the city and Central ABQ CPA, the proposed business model has flourished creating a sought-after community amenity offering a highly popular product and experience to both residents and tourists, such as Marble Brewing, Safe House Distillery, Sidetrack Brewing Company, Hollow Spirits Distillery, Red Door Brewing Company, Boese Brothers Brewing, and Still Spirits. Further, the Visit Albuquerque website promotes the Old Town area as a culturally and historically significant place to eat and drink at local restaurants as well as shop and view local art.

- k. Regarding Comp Plan Policy 5.6.3 Sub policy b) “Ensure that development reinforces the scale, intensity, and setbacks of the immediately surrounding context,” Applicant submits that the proposed conditional use ensures that the development reinforces the scale, intensity, and setbacks of the immediately surrounding context by renovating the existing adobe structures which will house the artisan manufacturing use. The proposed site plan depicts human-scale buildings that are in accordance with the setbacks and design standards of the MX-T zone as well as the HPO overlay for Old Town. The existing buildings are set back from the street and there is a large courtyard area in the center of the site that allows pedestrian circulation and is in keeping with the intensity of uses and character in the Old Town area, in which other similar courtyards or mini-plazas exist.
- l. Regarding Comp Plan Policy 6.2.4 “Pedestrian Network: Prioritize pedestrian travel, safety, and amenities above all other transportation modes on Main Street Corridors and streets within Downtown, Urban Centers, and Activity Centers,” Applicant submits that the subject site is within the Old Town Activity Center; therefore, the proposed conditional use helps to prioritize pedestrian travel, safety, and amenities above all other transportation modes by activating the unused lot with a neighborhood human scale amenity that invigorates the streetscape and sidewalk through the outdoor courtyard which will invite pedestrians into the property. The artisan manufacturing use contributes to the pedestrian-friendly environment of Old Town by beautifying the unused lot with the addition of a local business that will provide a place for socialization and neighborhood connection as well as increase foot traffic in the greater Old Town area.
- m. Regarding Comp Plan Goal 7.1 “Streetscapes and Development Form: Design streetscapes and development forms to create a range of environments and experiences for residents and visitors,” Applicant submits that the proposed conditional use helps to work with the existing buildings and development forms to create a new experience for residents and visitors. The artisan manufacturing use will create a unique experience offering family-friendly services ranging from ice cream, food, coffee, and spirits in addition to an indoor/outdoor dining area and a walk-up window. The proposed use will activate the streetscape and create an inviting environment, highlighting the local culture and history of the area while showcasing local businesses to visitors and residents.

- n. Regarding Comp Plan Goal 7.2 “Pedestrian-Accessible Design: Increase walkability in all environments, promote pedestrian-oriented development in urban contexts, and increase pedestrian safety in auto-oriented contexts,” Applicant submits that the proposed conditional use increases walkability and promotes pedestrian-oriented development by activating a currently unused lot through artisan manufacturing use. The proposed site plan allows pedestrians to easily access the property as part of their stroll in the Old Town area. The open courtyard creates an inviting atmosphere that will welcome pedestrians into the space. The subject property has existing sidewalk infrastructure and the addition of the proposed conditional use will help to further activate the existing sidewalks.
 - o. Regarding Comp Plan Policy 8.1.2 Sub policy b) “Encourage the production, local sale, and export of locally-grown and made goods,” Applicant submits that the proposed artisan manufacturing use encourages the production, local sale, and export of locally-grown and made goods by allowing the applicant to produce locally distilled spirits and coffee.
 - p. Regarding Comp Plan Policy 8.1.3 Economic Base: “Strengthen and diversify the economic base to help reduce reliance on government spending,” Applicant submits that the proposed artisan manufacturing use helps to strengthen and diversify the economic base by allowing a highly sought offer product to be offered in the Old Town area which will increase the revenue produced by the gross sales receipt tax in the city.
 - q. Regarding Comp Plan Policy 8.2.1 Local Business: “Emphasize local business development,” the proposed conditional use helps to emphasize local business development as the applicant is a local business owner. Applicant’s principal has an existing business in the Old Town, Church Street Café, and the addition of the artisan manufacturing use at the proposed subject site will help to further emphasize local and unique businesses in the Old Town area.
 - r. Regarding Comp Plan Policy 11.2.3 “Distinct Built Environments: Preserve and enhance the social, cultural, and historical features that contribute to the identities of distinct communities, neighborhoods, and districts,” the proposed conditional use preserves and enhances the social, cultural, and historical features that contribute to the identities of distinct communities, neighborhoods, and districts as the existing adobe structures on the subject site which were built in 1901 will be renovated in accordance with the HPO-5 overlay for the area and house the proposed use. This will reinforce the character of Old Town while reinvigorating the space and providing a pedestrian- oriented business.
 - s. On balance, Applicant has met the burden of providing evidence that established that the requested Conditional Use Approval is consistent with the ABC Comp. Plan, as amended.
19. Regarding the requirement 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. 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.

20. Further, IDO Section 14-16-4-3(E) requires the following Use-Specific Standards for Artisan Manufacturing:

4-3(E)(1)(a) All activities must be conducted within the fully enclosed portions of a building.

4-3(E)(1)(b) If located in any Mixed-use zone district, this use shall not exceed 10,000 square feet of gross floor area.

21. Applicant has met its burden of providing evidence that establishes that all Artisan Manufacturing activities must be conducted within the fully enclosed portions of a building. Applicant/Agent testified and confirmed in written submittals the same.
22. Applicant has met its burden of providing evidence that establishes that, if located in any Mixed-use zone district (the Subject Property is zoned MX-T), this use shall not exceed 10,000 square feet of gross floor area. The site plan and other written submittals and testimony establish that the areas to house the requested use will be less than 10,000 square feet of gross floor area.
23. 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. Given the discussion, above, regarding the Application's consistency with the Comp Plan, it appears that any perceived adverse impacts do not rise to the level of a "significant" adverse impact and are outweighed by the multitude of ABC Comp Plan goals and policies this proposed use aligns with or furthers. Although neighbors complained of potential impacts to traffic and parking, Applicant provided evidence demonstrating that there is adequate roadway capacity and parking to serve this property as well as Old Town in general, particularly given the policies of fostering a situation where visitors park once and walk to as many Old Town destinations as they wish to visit. Neighbors complained that the proposed walk-up window facing Charlevoix Street would negatively impact adjacent properties, but it appears from evidence in the record that Applicant has agreed to locate any walk-up window away from and not facing Charlevoix Street.
24. 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. The City Traffic Engineering Division submitted its evaluation of the Application and stated no objection. There is a bike boulevard that connects to the site along Mountain Road and a proposed bike lane on Rio Grande Boulevard. There are two bus stops adjacent to the site that service routes 36 and 37. There is a transit station near the southwest corner of Old Town at Central Avenue and Romero Street that services rapid route 790, and regular routes 37 and 66. There are two large-scale public paid parking lots, in addition to three smaller parking lots in the Old Town area. The small parking lots consist of one adjacent to the subject site with over 40 public paid spaces available, one behind the museum parking on the west side with over 80 available spaces, and one next to the city-owned lot on the west side with over 25 spaces available. The large parking lots consist of one near the southwest corner of Old Town at Central and Romero Street with a parking capacity of 125 public spaces. The second large parking lot is near the southeast

corner of the museum at Old Town Road and 19th Street and has a capacity of over 300 public spaces. Additionally, street parking in the area is free, limited to two hours in the Old Town area. There is additional street parking off Mountain Road. Applicant may mitigate any noise or sound impact by making sure that any outdoor speakers at the Subject Property are not directed toward any property used for residential purposes. Having the proposed Artisan Manufacturing use end its hours of operation by 9:00 p.m., as applicant has agreed, further mitigates the risk of nighttime noise. These mitigating factors sufficiently address potential negative impacts, and the positive civic and environmental impacts discussed in this NOD outweigh any expected impacts.

25. 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 confirmed in written submittals that the Artisan Manufacturing use would open after 6:00 a.m. and close at 9:00 p.m.
26. 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. The pedestrian and transit infrastructure discussed, above, is not negatively impacted by the proposed use. Rather, the proposed use may create a destination that encourages the public's use of pedestrian walkways, bike lanes, and public transit.
27. The criteria within IDO Section 14-16-6-6(A)(3) are satisfied.

DECISION:

APPROVAL WITH CONDITIONS of a conditional use to allow artisan manufacturing in an MX-T zone.

CONDITIONS:

1. Any walk-up window cannot face Charlevoix Street.
2. Any outdoor speakers at the Subject Property must not be directed toward any property used for residential purposes.
3. The proposed Artisan Manufacturing business must end its hours of operation by 9:00 p.m. each evening.

APPEAL:

If you wish to appeal this decision, you must do so by October 20, 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.



Robert Lucero, Esq.
Zoning Hearing Examiner

cc:

ZHE File
Zoning Enforcement
Consensus Planning, cp@consensusplanning.com, frank@consensusplanning.com
William Simon, 524 ½ Romero NW, 87104
Robert Simon, 1415 Park Ave SW, 87104
Carla Villa, carla@highnoonrestaurant.com
Sylvia Ramos Cruz, smrcmd@hotmail.com
Jesse Ehrenberg, JDEhrenberg@outlook.com
Judy Heiss, 3107 Beach RD NW, 87104
Marie Coleman, marie@churchstreetcafe.com
Angel Aguilar, 3006 Barstalona PL NW, 87121
Kathy Hiatt, kathy@bottger.com
Eileen P. Sandoval, ggsandoval@zoho.com