



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

7315 Central, LLC (Agent, Chris Lee) requests a conditional use to allow on-site cannabis consumption for Lot 9, Block 3, Clayton Heights, located at 1309 Yale BLVD SE, zoned MX-M [Section 14-16-4-3(D)(35)(i)]

Special Exception No: **VA-2023-00211**
Project No: **Project#2023-009043**
Hearing Date: 10-17-23
Closing of Public Record: 10-17-23
Date of Decision: 11-01-23

On the 17th day of October, 2023, Chris Lee, agent for property owner 7315 Central, LLC (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a conditional use to allow on-site cannabis consumption (“Application”) upon the real property located at 1309 Yale BLVD SE (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a conditional use to allow on-site cannabis consumption.
2. The ZHE finds that the Applicant has authority to pursue this Application.
3. All property owners within 100 feet and affected neighborhood association(s) were notified as required by the IDO.
4. 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).
5. The Subject Property is zoned MX-M.
6. 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;*
 - (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*

7. 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).
8. 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).
9. Agent and Applicant appeared and gave evidence in support of the Application.
10. Regarding IDO Section 14-16-6-6(A)(3)(c), based on substantial evidence in the record, the requested Conditional Use approval would create significant adverse impacts on adjacent properties, the surrounding neighborhood, or the larger community. Several neighbors, including owners and occupants of residential properties abounding and located in close proximity to the Subject Property, testified that the proposed use would create significant adverse impacts by increasing the frequency and likelihood of public cannabis consumption. This would cause odors to waft onto the next-door properties where families with young children live. Although Applicant testified that there would be an odor control plan, opponents expressed concerns that it would not be sufficient, would be difficult or impossible to police, and would not mitigate the potential of customers smoking outdoors. Neighbors expressed concerns that children and families walking to and from local schools and community centers would be put at risk by customers driving to and from the Subject Property impaired by cannabis use. Neighbors testified that they had already seen adverse impacts to the area since the retail cannabis use opened and expressed worried that the consumption use would only compound such adverse impacts.
11. Because all prongs of the variance test must be satisfied and, as stated above, the Application failed to satisfy Section 14-16-6-6(A)(3)(c), the Application must be denied.
12. Out of considerations of administrative and quasi-judicial economy, the ZHE will not summarize any analysis of the remaining prongs of the variance test in this Notification of Decision.

DECISION:

DENIAL of a conditional use to allow on-site cannabis consumption.

APPEAL:

If you wish to appeal this decision, you must do so by November 16, 2023 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:

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