



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

Eddy Burgarello (Agent, Scott Jeter) requests a conditional use to allow for a taproom in an MX-L zone for Lot X1, Brentwood Hills, located at 11500 Menaul BLVD NE, zoned MX-L [Section 14-16-4-2]

Special Exception No: **VA-2023-00257**
Project No: **Project#2023-009223**
Hearing Date: 11-21-23
Closing of Public Record: 11-21-23
Date of Decision: 12-06-23

On the 21st day of November, 2023, Scott Jeter, agent for property owner Eddy Burgarello (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a conditional use to allow for a tap room in an MX-L zone (“Application”) upon the real property located at 11500 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 for a tap room in an MX-L zone.
2. The 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).
3. The 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).
4. All property owners within 100 feet and affected neighborhood association(s) were notified.
5. 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)(4).
6. The ZHE finds that the Applicant has authority to pursue this Application.
7. 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 10:00 pm and 6:00 am;*

(f) It will not negatively impact pedestrian or transit connectivity without appropriate mitigation

8. Based on evidence submitted by the Applicant, the proposed use is consistent with the ABC Comp. Plan, as amended; specifically:
 - a. Policy 5.1.1 Desired Growth: *Capture regional growth in Centers and Corridors to help shape the built environment into a sustainable development pattern. (a) Create walkable places that provide opportunities to live, work, shop, and play.* The project furthers this policy by proposing the new taproom or tasting room in an area with easy and convenient access to bicycle routes and transit.
 - b. Policy 5.1.9 Main Streets: *Promote Main Streets that are lively, highly walkable streets lined with neighborhood-oriented businesses.* Applicant is requesting approval of a taproom / tasting room that is proposed as a lively, walkable, neighborhood-oriented business.
 - c. Policy 5.2.1 Land Uses: *Create healthy, sustainable, and distinct communities with a mix of uses that are conveniently accessible from surrounding neighborhoods.* This policy is furthered by encouraging reuse of the existing site on the property, which has been utilized for commercial businesses previously. It is an infill location that is conveniently accessible by walking and bicycling from the surrounding neighborhoods, and it will add to the diverse mix of uses found in the area.
 - d. 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. f) Minimize potential negative impacts of development on existing residential uses with respect to noise, stormwater runoff, contaminants, lighting, air quality, and traffic. g) Encourage development where adequate infrastructure and community facilities exist. h) Encourage development in areas with a highly connected street grid and frequent transit service.* The subject property is designated an Area of Change and furthers this policy by directing growth to an infill site that already has access to infrastructure and public facilities.
9. Based on evidence submitted by the Applicant, the proposed use 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.
10. Based on evidence submitted by the Applicant, the proposed use will comply with all applicable use-specific criteria under IDO Section 4-3(D)(8) for a Tap Room / Tasting Room, which states:
 - 4-3(D)(8)(a) *Alcohol sales for on-premises consumption is allowed, provided that the establishment complies with all New Mexico State law requirements, including but not limited to any required spacing from other uses or facilities.*
 - 4-3(D)(8)(b) *These uses must comply with stormwater quality requirements found in the DPM.*
 - 4-3(D)(8)(c) *These uses may include the retailing of related goods, such as shirts, caps, recipe books, mugs, and glasses as an incidental activity.*

4-3(D)(8)(d) *A restaurant use must comply with Part 9-10-1 of ROA 1994 (Solid Waste Collection), in particular the City's minimum specifications for waste enclosures for restaurant and food services to include a sanitary sewer drain.*

11. Based on evidence submitted by the Applicant, the proposed use will not create significant adverse impacts on adjacent properties, the surrounding neighborhood, or the larger community.
12. Based on evidence submitted by the Applicant, the proposed use 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. Although there may be an increase in traffic to the site, any impacts appear to be within what would be expected for a site within the Menaul Avenue corridor.
13. Based on evidence submitted by the Applicant, the proposed use will not increase non-residential activity within 300 feet of a lot in any residential zone between the hours of 10:00PM and 6:00AM as required by Section 14-16-6-6(A)(3)(e), based on the proposed hours of operation.
14. Based on evidence submitted by the Applicant, the proposed use will not negatively impact pedestrian or transit connectivity, as required by Section 14-16-6-6(A)(3)(f). Public sidewalks along the frontages of the site will remain. The site is also located near public transit, including along Menaul Avenue. The proposed use will complement the existing connections and create another destination and additional users of these services, while not interfering with said connections and services.

DECISION:

APPROVAL of a conditional use to allow for a taproom in an MX-L zone.

APPEAL:

If you wish to appeal this decision, you must do so by December 21, 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:

ZHE File
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