



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

Mountain Run Partners, LTD (Agent, QT South LLC) requests a conditional use to allow for a heavy vehicle fueling station in IDO zone NR-BP for Lot 78A, MRGCD Map 36, located at 1701 12TH ST NW, zoned NR-BP [Section 14-16-4-2]

Special Exception No: **VA-2023-00294**
Project No: **Project#2023-009345**
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, QT South, LLC, agent for property owner Mountain Run Partners, LTD (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a conditional use to allow for a heavy vehicle fueling station in IDO zone NR-BP (“Application”) upon the real property located at 1701 12TH ST NW (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a conditional use to allow for a heavy vehicle fueling station in IDO zone NR-BP.
2. Applicant bears the burden of providing a sound justification for the required decision, based on substantial evidence, pursuant to IDO Section 14-16-6-4(E)(3).
3. 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. Applicant established that the proper “Notice of Hearing” signage was posted for the required time period.
5. Applicant established that all property owners and neighborhood association entitled to notice were notified of the Application.
6. The subject property is currently zoned NR-BP.
7. The Applicant has authority to pursue this Application.
8. 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, 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 impacts;*
 - (e) *On a project site with existing uses, it 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.;*
 - (f) *It will not negatively impact pedestrian or transit connectivity without appropriate mitigation*
9. Applicant's agent appeared at the ZHE hearing on this matter and gave evidence in support of the Application.
 10. Applicant has not met the burden of providing evidence that establishes that the requested Conditional Use approval is consistent with the ABC Comp. Plan, as amended. Specifically, POLICY 5.3.7 provides: "*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.*" Opponents pointed out that the heavy vehicle fueling, nicotine retail, and liquor retail uses requested for the Subject Property are locally unwanted uses, and sufficient uses of these types already exist within the neighborhood. Siting additional uses of these types would inequitable concentrate such locally unwanted land uses in the vicinity of the Subject Property.
 11. Applicant has not 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. Opponents pointed out that the proposed uses on the Subject Property would be in conflict with the City's Metropolitan Redevelopment Agency plans and other work toward developing trail systems, open space and other amenities in the area.
 12. Applicant has not 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. Further, large vehicles exiting the site after heavy fueling or making commercial deliveries would either have to make an unsignalized left turn onto busy 12th Street or make a right turn onto 12th Street and toward a residential area where 12th Street narrows. The Application does not demonstrate how any of these negative impacts would be mitigated sufficiently.
 13. Because all prongs of the conditional use test must be satisfied and, as stated above, the Application failed to satisfy several prongs of the test, the Application must be denied.
 14. 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 for a heavy vehicle fueling station in IDO zone NR-BP.

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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CITY OF ALBUQUERQUE
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ZONING HEARING EXAMINER
NOTIFICATION OF DECISION

Mountain Run Partners, LTD (Agent, QT South LLC) requests a conditional use to allow for nicotine retail in an NR-BP zone for Lot 78A, MRGCD Map 36, located at 1701 12TH ST NW, zoned NR-BP [Section 14-16-4-2]

Special Exception No: **VA-2023-00295**
Project No: **Project#2023-009345**
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, QT South, LLC, agent for property owner Mountain Run Partners, LTD (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a conditional use to allow for nicotine retail in an NR-BP zone (“Application”) upon the real property located at 1701 12TH ST NW (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a conditional use to allow for nicotine retail in an NR-BP zone.
2. Applicant bears the burden of providing a sound justification for the required decision, based on substantial evidence, pursuant to IDO Section 14-16-6-4(E)(3).
3. 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. Applicant established that the proper “Notice of Hearing” signage was posted for the required time period.
5. Applicant established that all property owners and neighborhood association entitled to notice were notified of the Application.
6. The subject property is currently zoned NR-BP.
7. The Applicant has authority to pursue this Application.
8. 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, 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 impacts;*
 - (e) *On a project site with existing uses, it 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.;*
 - (f) *It will not negatively impact pedestrian or transit connectivity without appropriate mitigation*
9. Applicant's agent appeared at the ZHE hearing on this matter and gave evidence in support of the Application.
 10. Applicant has not met the burden of providing evidence that establishes that the requested Conditional Use approval is consistent with the ABC Comp. Plan, as amended. Specifically, POLICY 5.3.7 provides: "*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.*" Opponents pointed out that the heavy vehicle fueling, nicotine retail, and liquor retail uses requested for the Subject Property are locally unwanted uses, and sufficient uses of these types already exist within the neighborhood. Siting additional uses of these types would inequitable concentrate such locally unwanted land uses in the vicinity of the Subject Property.
 11. Applicant has not 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. Opponents pointed out that the proposed uses on the Subject Property would be in conflict with the City's Metropolitan Redevelopment Agency plans and other work toward developing trail systems, open space and other amenities in the area.
 12. Applicant has not 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. Further, large vehicles exiting the site after heavy fueling or making commercial deliveries would either have to make an unsignalized left turn onto busy 12th Street or make a right turn onto 12th Street and toward a residential area where 12th Street narrows. The Application does not demonstrate how any of these negative impacts would be mitigated sufficiently.
 13. Because all prongs of the conditional use test must be satisfied and, as stated above, the Application failed to satisfy several prongs of the test, the Application must be denied.
 14. 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 for nicotine retail in an NR-BP 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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NOTIFICATION OF DECISION

Mountain Run Partners, LTD (Agent, QT South LLC) requests a conditional use to allow for liquor retail in an NR-BP zone for Lot 78A, MRGCD Map 36, located at 1701 12TH ST NW, zoned NR-BP [Section 14-16-4-2]

Special Exception No: **VA-2023-00296**
Project No: **Project#2023-009345**
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, QT South, LLC, agent for property owner Mountain Run Partners, LTD (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a conditional use to allow for liquor retail in an NR-BP zone (“Application”) upon the real property located at 1701 12TH ST NW (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a conditional use to allow for liquor retail in an NR-BP zone.
2. Applicant bears the burden of providing a sound justification for the required decision, based on substantial evidence, pursuant to IDO Section 14-16-6-4(E)(3).
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 - (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;*
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 13. Because all prongs of the conditional use test must be satisfied and, as stated above, the Application failed to satisfy several prongs of the test, the Application must be denied.
 14. 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 for liquor retail in an NR-BP 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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