



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

Alfredo Barrenechea (Agent, Bryant Gifford)
request a conditional use to allow cannabis retail
within 600 ft of an existing cannabis retail for Lot
12, Block 31, Heights Reservoir Addn Tr 32,
located at 4602 Lomas BLVD NE, zoned MX-M
[Section 14-16-4-3(D)(35)(c)]

Special Exception No: **VA-2023-00329**
Project No: **Project#2023-009522**
Hearing Date: 12-19-23
Closing of Public Record: 12-19-23
Date of Decision: 01-03-24

On the 19th day of December, 2023, Bryant Gifford, agent for property owner Alfredo Barrenechea (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a conditional use to allow cannabis retail within 600 ft of an existing cannabis retail (“Application”) upon the real property located at 4602 Lomas 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 ft of an existing cannabis retail.
2. 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 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(N)(1).
4. The address of the application for this conditional use is 4602 Lomas Blvd. NE, Albuquerque, New Mexico 87108.
5. 4602 Lomas LLC, Alfredo Barrenechea, member is the owner of the subject property, and a Letter of Authorization to Bryant Gifford is filed in the record.

6. Bryant Gifford, agent for property owner appeared and gave evidence in support of the application.
7. Gifford is the Director of Operations of Roadrunner Organics, LLC and is the intended lessor of the subject property.
8. Subject applicant complies with all New Mexico state law requirements and shall be licensed as a licensed premise as defined by Sections 26-2C-1 to 26-2C-42 NMSA 1978. as required by Section 14-16-4(D)(35)(a).
9. All property owners within 100 feet and affected neighborhood association(s) were notified.
10. District 6 Coalition of Neighborhood Associations and Highland Business and Neighborhood Association, Inc. are the affected neighborhood associations.
11. No requests for a meeting were submitted from any individual property owner nor from any neighborhood association.
12. No one has submitted any statement in opposition nor in support of the application.
13. A written report from Matt Grush, P.E. Senior Engineer indicates the Transportation Development Review Services Section has reviewed the request and indicates Transportation as no objection to the request for a conditional use.
14. The subject property is not subject to any Protection Overlay Zones under **§14-16-3: OVERLAY ZONES**, except Section 14-16-4-3(D)(35)(k) specifically prohibits this activity in Old Town-**HPO-6**.
15. The subject property is currently zoned MX-M as evidenced by IDO Zone Atlas Page J-17-Z submitted and part of the record.
16. The purpose of the MX-M zone district as stated in **§14-16-2 ZONE DISTRICTS**, and **§16-16-2-4(C) Mixed-Use-Medium Intensity Zone District (MX-M)**
“is to provide for a wide array of moderate-intensity retail, commercial, institutional and moderate-density residential uses, with taller, multi-story buildings encouraged in Centers and Corridors.”
17. Cannabis Retail is a permissible use in the MX-M zone district as shown in **Table 4-2-1: Allowable Uses, IDO §14-16-4: Use Regulations**.
18. This activity is controlled by **IDO §14-16-4-3: USE SPECIFIC STANDARDS; CANNABIS RETAIL: §4-3(D)(35)(a) through (35)(k)**.
19. **Use-Specific Standard § 4-3-(D)(35)(c)** states:
“If located within 600 feet of any other cannabis retail establishment, this use shall require a Conditional Use Approval pursuant to Subsection 14-16-6-6(A), unless associated with an establishment licensed by the State as a cannabis microbusiness. Nothing herein prohibits multiple licenses from operating from a single “licensed premises” as defined by Sections 26-2C-1 to 26-2C-42 NMSA 1978.”
20. The subject business is not licensed as a cannabis microbusiness by the state.
21. Applicant is requesting a Conditional Use Approval as required by 4-3(D)(35)(c) in Use-Specific Standard applicable to this application.
22. Applicant stated the established cannabis retail business is Flower and Leaf on San Mateo and is located within 600 feet of the subject property.
23. The Albuquerque & Bernalillo County Comprehensive Plan designates the subject property location as an Area of Change and in the Lomas Major Transit Corridor (MT).
24. Applicant testified that Roadrunner Organics, LLC is a small, family owned cannabis company operating out of Los Lunas/Tome, New Mexico.

25. They were an early approved medical cannabis provider and have provided this service for 15 years.
26. The application states approval of the request will help them provide new jobs, growth and career advancement for employees of the business and help provide economic stability in an area of Change. This will provide workforce training and help job-seekers develop skills that match market demand.
27. This focused economic development in Corridors will promote infill and help preserve open space and agricultural land.
28. These goals are consistent with the ABC Comp. Plan, as amended; as required by Section 14-16-6-6(A)(3)(a),
29. The application shows that Roadrunner Organics LLC has already complied with all, required state statutes and regulations governing this business. It complies with all existing standards contained in the Use-Specific Standards governing this use, and therefore 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; as required by Section 14-16-6-6(A)(3)(b).
30. The site plan shows ample parking for the business and it has indicated it will not allow loitering on the premises, and therefore will not create significant adverse impacts on adjacent properties, the surrounding neighborhood, or the larger community; as required by Section 14-16-6-6(A)(3)(c).
31. The Applicant has testified there will not be any congestion, increases in traffic impact as a result of the business and no heavy truck traffic or loud music that would cause adverse vibration to the adjacent and surrounding neighborhood and therefore 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; as required by Section 14-16-6-6(A)(3)(d).
32. The business will be closed from 10:00 pm until 8:00 am each business day and therefore 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; as required by Section 14-16-6-6(A)(3)(e).
33. The business location is not in an area which negatively impact pedestrian or transit connectivity without appropriate mitigation as required by Section 14-16-6-6(A)(3)(f).
34. No one signed up to make statements in opposition to nor in support of the requested conditional use.
35. 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).
36. The ZHE finds that the Applicant has authority to pursue this Application.

CONCLUSIONS OF LAW:

The Applicant has submitted substantial evidence to support the application for the requested use.

DECISION:

APPROVAL of a conditional use to allow cannabis retail within 600 ft of an existing cannabis retail.

CONDITIONS:

The subject establishment shall comply with and continuously maintain its status as a “licensed premise” as defined by Sections 26-2C-1 to 26-2C-42 NMSA 1978.

The subject establishment shall maintain all storage and display areas within the fully enclosed portions of the establishment.

Cannabis products and cannabis paraphernalia shall not be displayed within 5 feet of a window or door.

A locked vault of safe or other secured storage structure shall be installed in the building bolted to the floor or walls, to store cash and cannabis products overnight

The subject establishment shall not provide a drive-through or drive-up facility as an accessory to the cannabis establishment.

APPEAL:

If you wish to appeal this decision, you must do so by January 18, 2024 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.



Stan Harada, Esq.
Zoning Hearing Examiner

cc:

ZHE File
Zoning Enforcement