



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

Girard & Silver LLC and Austin Wolff request a Conditional Use for a Restaurant for Lot 6, Block 32, University Heights Addition, located at 122 Girard Boulevard SE, zoned MX-T [IDO Sections 14-16-4-3(D)(8), Table 4-2-1; 14-6-6(A)(3)]	Special Exception No:.....	CU-2025-00036
	Project No:	None
	Hearing Date:	11-18-2025
	Closing of Public Record:	11-18-2025
	Date of Decision:.....	12-03-2025

On November 18, 2025, Girard & Silver LLC and Austin Wolff (“**Applicant**”) was scheduled to appear before the Zoning Hearing Examiner (the “**ZHE**”) requesting a Conditional Use Approval to allow for a Restaurant (“**Application**”) upon the real property located at 122 Girard Boulevard SE (the “**Subject Property**”). Below are the ZHE’s findings of fact and decision:

FINDINGS:

1. Applicant is requesting a Conditional Use Approval to allow for a Restaurant, pursuant to City of Albuquerque Code of Ordinances Integrated Development Ordinance (“**IDO**”) Section 14-16-6-6(A).
2. Applicant has authority to pursue this Application, pursuant to 14-16-6-4(D).
3. Applicant has not duly authorized Agent to act on Applicant’s behalf regarding the Application.
4. Applicant is not required to offer a meeting to Indian Nations, Tribes, and Pueblos before filing the application, pursuant to IDO Section 14-16-6-4(B).
5. The Planning Director’s delegee has determined that the Application is complete, pursuant to IDO Section 14-16-6-4(G).
6. The analyses and studies listed in IDO Section 14-16-6-4(H) were delivered.
7. The Application was forwarded to commenting agencies pursuant to IDO Section 14-16-6-4(I).
8. The content of the notice of the Application satisfies IDO Section 14-16-6-4(J)(1).
9. Applicant has sent an electronic mail notice to the email addresses on file with the Office of Neighborhood Coordination for each pertinent Neighborhood Association as required by IDO Section 14-16-6-4(J)(2).
10. Applicant has sent a mailed notice to all property owners within 100 feet of the subject property as required by IDO Section 14-16-6-4(J)(3).
11. Applicant has posted sign notice(s) as required by IDO Section 14-16-6-4(J)(4).
12. The Subject Property is located at 122 Girard Boulevard SE in an MX-T zone district.
13. Therefore, a Restaurant on the Subject Property requires a Conditional Use Approval pursuant to IDO Subsection 14-16-6-6(A).

14. 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 this 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 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.”*
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. Applicant appeared at the ZHE hearing on the Application and gave evidence in support of the Application.
18. 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. The Subject Property is located in an Activity Center off a designated bike route, providing for walkability and bikeability consistent with the Comp Plan. Guiding Principles of strong neighborhoods with vibrance, character, economic vitality for local business are furthered by this request.
19. Applicant has met the burden of providing evidence that establishes 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. Substantial evidence exists to satisfy this prong, because Applicant will develop and operate the property consistent with applicable provisions, and the use specific standards for a restaurant are satisfied.

20. 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. The use is consistent with prior commercial uses of the property dating back to the 1990s. Hours of operation are conducive to neighborhood tranquility in the surrounding area.
21. 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. Although there was a letter presented in opposition citing potential concerns, the location of the Subject Property along Girard in proximity to transit and bike corridors in an activity center appear to mitigate against any potential negative impacts from traffic or congestion.
22. 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. Evidence establishes that the business will not operate during proscribed hours.
23. Applicant has met their burden of providing evidence that establishes that the requested Conditional Use Approval will not negatively impact pedestrian or transit connectivity without appropriate mitigation. No alteration or interference with pedestrian or transit activity is proposed.
24. IDO Section 14-16-4-3(D)(8) requires the following Use-Specific Standards for a Restaurant:
 - 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.*
 - b) *These uses must comply with stormwater quality requirements found in the DPM.*
 - c) *These uses may include the retailing of related goods, such as shirts, caps, recipe books, mugs, and glasses as an incidental activity.*
 - d) *A restaurant use must comply with Part 9-10-1, 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.*
 - e) *In the MX-T zone district, these uses are limited to 10,000 square feet of gross floor area.*
 - f) *In the Old Town – HPO-6, the following standard apply.*
 1. *Bars and nightclubs are prohibited.*
 2. *Restaurants are permissive in any Mixed-use zone district regardless of whether the use is permissive in the zone district citywide.*
 3. *Where allowed, tap rooms or tasting rooms require a Conditional Use Approval pursuant to Subsection 14-16-6-6(A), unless accessory to a restaurant.*
25. Applicant has demonstrated compliance with these use-specific standards.
26. The City Traffic Engineer submitted a report stating no objection to the Application

DECISION:

APPROVAL of a Conditional Use to allow for a Restaurant.

APPEAL:

If you wish to appeal this decision, you must do so by December 18, 2025 pursuant to Section 14-16-6-4-(U), 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 Notice of Decision does not constitute approval of plans for a building permit. If your Application is approved, bring this Notice of Decision with you when you apply for any related building permit or occupation tax number. Approval of a Conditional Use is void after two (2) years from date of approval if the rights and privileges granted thereby have not been executed or utilized. Approval of a Variance is void after one (1) year from date of approval if the rights and privileges granted thereby have not been executed or utilized.



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