



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

Quik Trip, LLC/ Eagle Investors, Inc. (Agent,
Michael Cadigan, Cadigan Law Firm) requests a
Conditional Use to allow Nicotine retail in the NR-
BP zone district for Lot A2C2, Clifford West Bus.
Park Unit 3, located at 521 Unser Blvd NW, zoned
NR-BP [Section 14-16-4 Table 4-2-1]

Special Exception No: **VA-2024-00306**
Project No: **PR-2024-011181**
Hearing Date: 01-21-25
Closing of Public Record: 01-21-25
Date of Decision: 02-05-25

On the 21st day of January, 2025, Michael Cadigan, Cadigan Law Firm, agent for property owner, Quik Trip, LLC/ Eagle Investors, Inc. (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a conditional use to allow Nicotine retail in the NR-BP zone district (“Application”) upon the real property located at 521 Unser Blvd NW (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a conditional use to allow Nicotine retail in the NR-BP zone district.
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, 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*
3. 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).

4. 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).
5. All property owners within 100 feet and affected neighborhood association(s) were notified.
6. 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(J)(4).
7. The ZHE finds that the Applicant has authority to pursue this Application.
8. Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval is consistent with the ABC Comp. Plan, as amended. Applicant submitted evidence supporting that the requested Conditional Use approval furthers the goals and policies of the ABC Comp. Plan by helping to ensure appropriate scale and location of development and character of design, placing development along corridors, and providing employment and services for the area.
9. Applicant has met its 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. Applicant testified and confirmed in written submittals that the requested Conditional Use approval would comport with all applicable requirements.
10. Applicant has met its 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. Applicant testified and confirmed in written submittals that the requested Conditional Use approval would not create any adverse impact.
11. Applicant has met its 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. Applicant confirmed in written submittals that the requested Conditional Use approval would not create any adverse impact and would not increase traffic congestion, parking, congestion, noise, or vibration without sufficient mitigation.
12. Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval 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. Applicant confirmed in written submittals that non-residential activity would not increase in any prohibited manner.
13. Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval will not negatively impact pedestrian or transit connectivity without appropriate mitigation. Applicant confirmed in written submittals that no negative impact on pedestrian or transit connectivity would result.
14. The City Traffic Engineer submitted a report stating no objection to the Application, provided that a TCL is approved for the Subject Property.

DECISION:

APPROVAL WITH CONDITION of a conditional use to allow Nicotine retail in the NR-BP zone district.

CONDITION:

Per City Transportation Development Review Services Section, a TCL must be approved for the Subject Property.

APPEAL:

If you wish to appeal this decision, you must do so by February 20th, 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 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.



Robert Lucero, Esq.
Zoning Hearing Examiner

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

Quik Trip, LLC/ Eagle Investors, Inc. (Agent, Michael Cadigan, Cadigan Law Firm) requests a Variance of 640 ft to the required 1000 ft separation for a lot containing nicotine retail for Lot A2C2, Clifford West Bus, Park Unit 3, located at 521 Unser Blvd NW, zoned NR-BP [14-16-4-3(D)(40)(b)]

Special Exception No: **VA-2024-00307**
Project No: **PR-2024-011181**
Hearing Date: 01-21-25
Closing of Public Record: 01-21-25
Date of Decision: 02-05-25

On the 21st day of January, 2025, Michael Cadigan, Cadigan Law Firm, agent for property owner, Quik Trip, LLC/ Eagle Investors, Inc. (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 640 ft to the required 1000 ft separation for a lot containing nicotine retail (“Application”) upon the real property located at 521 Unser Blvd NW (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 640 ft to the required 1000 ft separation for a lot containing nicotine retail.
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.
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(J)(4).
5. The City of Albuquerque Integrated Development Ordinance (“IDO”), Section 14-16-6-6(O)(3)(a) (Variance-Review and Decision Criteria) reads: “... *an application for a Variance-ZHE shall be approved if it meets all of the following criteria:*
 1. *There are special circumstances applicable to a single lot that are not self-imposed and that do not apply generally to other property in the same zone district and vicinity, including but not limited to size, shape, topography, location, surroundings, physical characteristics, natural forces, or by government actions for which no compensation was paid. Such special circumstances of the lot either create an extraordinary hardship in the form of a substantial and unjustified limitation on the reasonable use or economic return on the property, or practical difficulties result from strict compliance with the minimum standards.*
 2. *The Variance will not be materially contrary to the public safety, health, or welfare.*
 3. *The Variance does not cause significant material adverse impacts on surrounding properties or infrastructure improvements in the vicinity.*
 4. *The Variance will not materially undermine the intent and purpose of this IDO, the applicable zone district, or any applicable Overlay Zone.*
 5. *The Variance approved is the minimum necessary to avoid extraordinary hardship or practical difficulties.”*

6. 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).
7. 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).
8. Applicant appeared and gave evidence in support of the application.
9. The subject property is currently zoned NR-BP.
10. Based on evidence submitted by or on behalf of Applicant, it appears that there are special circumstances applicable to the Subject Property that are not self-imposed and that do not apply generally to other property in the same zone and vicinity such as size, shape, topography, location, surroundings, or physical characteristics created by natural forces or government action for which no compensation was paid, as required by Section 14-16-6-6(N)(3)(a)(1). Applicant submitted evidence that the location, surroundings and physical characteristics of the Subject Property create special circumstances that result in practical difficulties in complying strictly with IDO requirements without the requested variance.
11. Based on evidence submitted by or on behalf of Applicant, the variance will not be contrary to the public safety, health and welfare of the community as required by Section 14-16-6-6(N)(3)(a)(2). Specifically, Applicant stated that no negative impacts would result. Although a letter from a neighbor was received stating objections to the Application, the objections centered on the perceived use of the Subject Property as a truck stop, which is not what the Application seeks.
12. Based on evidence submitted by or on behalf of Applicant, the variance will not cause significant adverse material impacts on surrounding properties or infrastructure improvements in the vicinity as required by Section 14-16-6-6(N)(3)(a)(3). Specifically, Applicant stated that it would cause no visual or other negative impact. Although a letter from a neighbor was received stating objections to the Application, the objections centered on the perceived use of the Subject Property as a truck stop, which is not what the Application seeks.
13. Based on evidence submitted by or on behalf of Applicant, the variance will not materially undermine the intent and purpose of the IDO or applicable zone district as required by Section 14-16-6-6(N)(3)(a)(4). Applicant intends to comply with all IDO requirements and develop the Subject Property consistent with the intent and purpose of the IDO.
14. Based on evidence submitted by or on behalf of Applicant, the variance is the minimum necessary to avoid extraordinary hardship or practical difficulties as required by Section 14-16-6-6(N)(3)(a)(5). Specifically, Applicant testified that any lesser variance would be impracticable.
15. After inquiry from the ZHE as to whether the proposed variance could be construed as a “use” variance, Applicant made clear that the proposed variance is one to density, which is allowable under New Mexico case law. “An example of a use variance is a commercial establishment, such as a garage used to repair vehicles that is located in a residential zone. An area variance allows exceptions from restrictions on such matters as setback, height limitation, lot size restrictions, and **density requirements.**” Gould v. Santa Fe Cnty., 2001-NMCA-107, ¶ 12, 131 N.M. 405, 131, 37 P.3d 122, 126, overruled on other grounds by Rio Grande Chapter of Sierra Club v. New Mexico Mining Comm'n, 2003-NMSC-005, ¶ 12, 133 N.M. 97, 61 P.3d 806; see also Paule v. Santa Fe Cnty. Bd. of Cnty. Comm'rs, 2005-NMSC-021, ¶¶ 42-43, 138 N.M. 82, 94–95, 117 P.3d 240, 252–53 (variance from communications tower ordinance was appropriate because denial would have required owner to expend significant funds to excavate land to meet requirement).

16. The City Traffic Engineer submitted a report stating no objection to the Application, provided that a TCL is approved for the Subject Property.

DECISION:

APPROVAL WITH CONDITION of a variance of 640 ft to the required 1000 ft separation for a lot containing nicotine retail.

CONDITION:

Per City Transportation Development Review Services Section, a TCL must be approved for the Subject Property.

APPEAL:

If you wish to appeal this decision, you must do so by February 20th, 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 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.



Robert Lucero, Esq.
Zoning Hearing Examiner

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

Quik Trip, LLC/ Eagle Investors, Inc. (Agent, Michael Cadigan, Cadigan Law Firm) requests a Conditional Use to allow Heavy Vehicle and Equipment Sales, Rental, Fueling, and Repair in the NR-BP zone district for Lot A2C2, Clifford West Bus. Park Unit 3, located at 521 Unser Blvd NW, zoned NR-BP [Section 14-16-4 Table 4-2-1]

Special Exception No: **VA-2025-00004**
Project No: **PR-2024-011181**
Hearing Date: 01-21-25
Closing of Public Record: 01-21-25
Date of Decision: 02-05-25

On the 21st day of January, 2025, Michael Cadigan, Cadigan Law Firm, agent for property owner, Quik Trip, LLC/ Eagle Investors, Inc. (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a conditional use to allow Heavy Vehicle and Equipment Sales, Rental, Fueling, and Repair in the NR-BP zone district (“Application”) upon the real property located at 521 Unser Blvd NW (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a conditional use to allow Heavy Vehicle and Equipment Sales, Rental, Fueling, and Repair in the NR-BP zone district.
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, 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*

3. 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).
4. 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).
5. All property owners within 100 feet and affected neighborhood association(s) were notified.
6. 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(J)(4).
7. The ZHE finds that the Applicant has authority to pursue this Application.
8. Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval is consistent with the ABC Comp. Plan, as amended. Applicant submitted evidence supporting that the requested Conditional Use approval furthers the goals and policies of the ABC Comp. Plan by helping to ensure appropriate scale and location of development and character of design, placing development along corridors, and providing employment and services for the area.
9. Applicant has met its 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. Applicant testified and confirmed in written submittals that the requested Conditional Use approval would comport with all applicable requirements.
10. Applicant has met its 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. Applicant testified and confirmed in written submittals that the requested Conditional Use approval would not create any adverse impact.
11. Applicant has met its 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. Applicant confirmed in written submittals that the requested Conditional Use approval would not create any adverse impact and would not increase traffic congestion, parking, congestion, noise, or vibration without sufficient mitigation.
12. Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval 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. Applicant confirmed in written submittals that non-residential activity would not increase in any prohibited manner.
13. Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval will not negatively impact pedestrian or transit connectivity without appropriate mitigation. Applicant confirmed in written submittals that no negative impact on pedestrian or transit connectivity would result.
14. The City Traffic Engineer submitted a report stating no objection to the Application, provided that a TCL is approved for the Subject Property.

DECISION:

APPROVAL WITH CONDITION of a conditional use to allow Heavy Vehicle and Equipment Sales, Rental, Fueling, and Repair in the NR-BP zone district.

CONDITION:

Per City Transportation Development Review Services Section, a TCL must be approved for the Subject Property.

APPEAL:

If you wish to appeal this decision, you must do so by February 20th, 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 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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Zoning Hearing Examiner

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

Quik Trip, LLC/ Eagle Investors, Inc. (Agent, Michael Cadigan, Cadigan Law Firm) requests a Conditional Use to allow Liquor retail in the NR-BP zone district for Lot A2C2, Clifford West Bus. Park Unit 3, located at 521 Unser Blvd NW, zoned NR-BP [Section 14-16-4 Table 4-2-1]

Special Exception No: **VA-2025-00005**
Project No: **PR-2024-011181**
Hearing Date: 01-21-25
Closing of Public Record: 01-21-25
Date of Decision: 02-05-25

On the 21st day of January, 2025, Michael Cadigan, Cadigan Law Firm, agent for property owner, Quik Trip, LLC/ Eagle Investors, Inc. (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a conditional use to allow Liquor retail in the NR-BP zone district (“Application”) upon the real property located at 521 Unser Blvd NW (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a conditional use to allow Liquor retail in the NR-BP zone district.
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, 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*
3. 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).

4. 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).
5. All property owners within 100 feet and affected neighborhood association(s) were notified.
6. 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(J)(4).
7. The ZHE finds that the Applicant has authority to pursue this Application.
8. Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval is consistent with the ABC Comp. Plan, as amended. Applicant submitted evidence supporting that the requested Conditional Use approval furthers the goals and policies of the ABC Comp. Plan by helping to ensure appropriate scale and location of development and character of design, placing development along corridors, and providing employment and services for the area.
9. Applicant has met its 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. Applicant testified and confirmed in written submittals that the requested Conditional Use approval would comport with all applicable requirements.
10. Applicant has met its 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. Applicant testified and confirmed in written submittals that the requested Conditional Use approval would not create any adverse impact.
11. Applicant has met its 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. Applicant confirmed in written submittals that the requested Conditional Use approval would not create any adverse impact and would not increase traffic congestion, parking, congestion, noise, or vibration without sufficient mitigation.
12. Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval 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. Applicant confirmed in written submittals that non-residential activity would not increase in any prohibited manner.
13. Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval will not negatively impact pedestrian or transit connectivity without appropriate mitigation. Applicant confirmed in written submittals that no negative impact on pedestrian or transit connectivity would result.
14. The City Traffic Engineer submitted a report stating no objection to the Application, provided that a TCL is approved for the Subject Property.

DECISION:

APPROVAL WITH CONDITION of a conditional use to allow Liquor retail in the NR-BP zone district.

CONDITION:

Per City Transportation Development Review Services Section, a TCL must be approved for the Subject Property.

APPEAL:

If you wish to appeal this decision, you must do so by February 20th, 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.

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