



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

Atencio Land Co - Fred Atencio (Agent, Cody Whittier) requests a Conditional Use to allow wholesaling in the MX-M zone for Lot 7, Block 12, Clayton Heights, located at 2027 Yale Blvd SE, zoned MX-M [Section 14-16- 4-3(E)(20) & Table 4-2-1]

Special Exception No: **CU-2025-00003**
Project No: **PR-2025-020008**
Hearing Date: March 18, 2025
Closing of Public Record: March 18, 2025
Date of Decision: April 2, 2025

On March 18, 2025, Atencio Land Co - Fred Atencio (Agent, Cody Whittier) (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a conditional use to allow wholesaling in the MX-M zone (“Application”) upon the real property located at 2027 Yale Blvd SE (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a conditional use to allow wholesaling in MX-M zone.
2. The ZHE finds that the Applicant has authority to pursue this Application.
3. Applicant has duly authorized Agent to act on Applicant’s behalf regarding the Application.
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(J)(4).
6. The Subject Property is located in the MX-M zone.
7. Therefore, pursuant to IDO Table 4-2-1, wholesaling on the Subject Property requires a Conditional Use Approval pursuant to IDO Subsection 14-16-6-6(A).
8. The City of Albuquerque Code of Ordinances Integrated Development Ordinance (“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.”

9. 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).
10. 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).
11. Applicant appeared and gave evidence in support of the application.
12. 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. Based on evidence in the record, the Application would support Policies and Goals of the Comp. Plan regarding orderly development in appropriate zones and areas.
13. 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. Applicant established that the Subject Property would be developed in accordance with all IDO and other requirements.
14. 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. Applicant testified that the proposed use of the Subject Property would result in no significant adverse impact, because it would have appropriate site layout and buffering.
15. 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. Specifically, Applicant stated that no such negative impacts would result.
16. 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. Specifically, Applicant testified and confirmed in written submittals that non-residential activity will not increase in any prohibited manner.
17. 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 testified and confirmed in written submittals that no such negative impact would occur.

DECISION:

APPROVAL of a conditional use to allow wholesaling in MX-M zone.

APPEAL:

If you wish to appeal this decision, you must do so by April 17, 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 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.



Robert Lucero, Esq.
Zoning Hearing Examiner

cc: ZHE File
Zoning Enforcement
Cody Whittier, the377brewery.cody@gmail.com
Waldo Sandoval, 2027 Yale Blvd SE



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ZONING HEARING EXAMINER
NOTIFICATION OF DECISION

Atencio Land Co - Fred Atencio (Agent, Cody Whittier) requests a Conditional Use to allow wholesaling in the MX-M zone for Lot 13, Block 12, Clayton Heights, located at 2027 Yale Blvd SE, zoned MX-M [Section 14-16- 4-3(E)(20) & Table 4-2-1]

Special Exception No: **CU-2025-00004**
Project No: **PR-2025-020008**
Hearing Date: March 18, 2025
Closing of Public Record: March 18, 2025
Date of Decision: April 2, 2025

On March 18, 2025, Atencio Land Co - Fred Atencio (Agent, Cody Whittier) (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a conditional use to allow wholesaling in the MX-M zone (“Application”) upon the real property located at 2027 Yale Blvd SE (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a conditional use to allow wholesaling in MX-M zone.
2. The ZHE finds that the Applicant has authority to pursue this Application.
3. Applicant has duly authorized Agent to act on Applicant’s behalf regarding the Application.
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(J)(4).
6. The Subject Property is located in the MX-M zone.
7. Therefore, pursuant to IDO Table 4-2-1, wholesaling on the Subject Property requires a Conditional Use Approval pursuant to IDO Subsection 14-16-6-6(A).
8. The City of Albuquerque Code of Ordinances Integrated Development Ordinance (“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.”

9. 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).
10. 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).
11. Applicant appeared and gave evidence in support of the application.
12. 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. Based on evidence in the record, the Application would support Policies and Goals of the Comp. Plan regarding orderly development in appropriate zones and areas.
13. 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. Applicant established that the Subject Property would be developed in accordance with all IDO and other requirements.
14. 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. Applicant testified that the proposed use of the Subject Property would result in no significant adverse impact, because it would have appropriate site layout and buffering.
15. 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. Specifically, Applicant stated that no such negative impacts would result.
16. 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. Specifically, Applicant testified and confirmed in written submittals that non-residential activity will not increase in any prohibited manner.
17. 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 testified and confirmed in written submittals that no such negative impact would occur.

DECISION:

APPROVAL of a conditional use to allow wholesaling in MX-M zone.

APPEAL:

If you wish to appeal this decision, you must do so by April 17, 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 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.



Robert Lucero, Esq.
Zoning Hearing Examiner

cc: ZHE File
Zoning Enforcement
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Waldo Sandoval, 2027 Yale Blvd SE



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NOTIFICATION OF DECISION

Atencio Land Co - Fred Atencio (Agent, Cody Whittier) requests a Conditional Use to allow wholesaling in the MX-M zone for Lot 12, Block 12, Clayton Heights, located at 2027 Yale Blvd SE, zoned MX-M [Section 14-16- 4-3(E)(20) & Table 4-2-1]

Special Exception No: **CU-2025-00005**
Project No: **PR-2025-020008**
Hearing Date: March 18, 2025
Closing of Public Record: March 18, 2025
Date of Decision: April 2, 2025

On March 18, 2025, Atencio Land Co - Fred Atencio (Agent, Cody Whittier) (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a conditional use to allow wholesaling in the MX-M zone (“Application”) upon the real property located at 2027 Yale Blvd SE (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a conditional use to allow wholesaling in MX-M zone.
2. The ZHE finds that the Applicant has authority to pursue this Application.
3. Applicant has duly authorized Agent to act on Applicant’s behalf regarding the Application.
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(J)(4).
6. The Subject Property is located in the MX-M zone.
7. Therefore, pursuant to IDO Table 4-2-1, wholesaling on the Subject Property requires a Conditional Use Approval pursuant to IDO Subsection 14-16-6-6(A).
8. The City of Albuquerque Code of Ordinances Integrated Development Ordinance (“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.”

9. 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).
10. 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).
11. Applicant appeared and gave evidence in support of the application.
12. 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. Based on evidence in the record, the Application would support Policies and Goals of the Comp. Plan regarding orderly development in appropriate zones and areas.
13. 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. Applicant established that the Subject Property would be developed in accordance with all IDO and other requirements.
14. 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. Applicant testified that the proposed use of the Subject Property would result in no significant adverse impact, because it would have appropriate site layout and buffering.
15. 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. Specifically, Applicant stated that no such negative impacts would result.
16. 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. Specifically, Applicant testified and confirmed in written submittals that non-residential activity will not increase in any prohibited manner.
17. 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 testified and confirmed in written submittals that no such negative impact would occur.

DECISION:

APPROVAL of a conditional use to allow wholesaling in MX-M zone.

APPEAL:

If you wish to appeal this decision, you must do so by April 17, 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 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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Waldo Sandoval, 2027 Yale Blvd SE



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NOTIFICATION OF DECISION

Atencio Land Co - Fred Atencio (Agent, Cody Whittier) requests a Conditional Use to allow wholesaling in the MX-M zone for Lot 8, Block 12, Clayton Heights, located at 2027 Yale Blvd SE, zoned MX-M [Section 14-16- 4-3(E)(20) & Table 4-2-1]

Special Exception No: **CU-2025-00006**
Project No: **PR-2025-020008**
Hearing Date: March 18, 2025
Closing of Public Record: March 18, 2025
Date of Decision: April 2, 2025

On March 18, 2025, Atencio Land Co - Fred Atencio (Agent, Cody Whittier) (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a conditional use to allow wholesaling in the MX-M zone (“Application”) upon the real property located at 2027 Yale Blvd SE (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a conditional use to allow wholesaling in MX-M zone.
2. The ZHE finds that the Applicant has authority to pursue this Application.
3. Applicant has duly authorized Agent to act on Applicant’s behalf regarding the Application.
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(J)(4).
6. The Subject Property is located in the MX-M zone.
7. Therefore, pursuant to IDO Table 4-2-1, wholesaling on the Subject Property requires a Conditional Use Approval pursuant to IDO Subsection 14-16-6-6(A).
8. The City of Albuquerque Code of Ordinances Integrated Development Ordinance (“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;

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9. 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).
10. 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).
11. Applicant appeared and gave evidence in support of the application.
12. 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. Based on evidence in the record, the Application would support Policies and Goals of the Comp. Plan regarding orderly development in appropriate zones and areas.
13. 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. Applicant established that the Subject Property would be developed in accordance with all IDO and other requirements.
14. 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. Applicant testified that the proposed use of the Subject Property would result in no significant adverse impact, because it would have appropriate site layout and buffering.
15. 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. Specifically, Applicant stated that no such negative impacts would result.
16. 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. Specifically, Applicant testified and confirmed in written submittals that non-residential activity will not increase in any prohibited manner.
17. 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 testified and confirmed in written submittals that no such negative impact would occur.

DECISION:

APPROVAL of a conditional use to allow wholesaling in MX-M zone.

APPEAL:

If you wish to appeal this decision, you must do so by April 17, 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.

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