



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

Archibeque Benny Trustee Archibeque LVT & Kiara Wilborn requests a Conditional Use to allow On-Site Cannabis Consumption for Lot 10, Block 8, University Heights, located at 138 Harvard Dr SE, zoned MX-L (K-16) [IDO §14-16-4-3(D)(35)(i)]

Special Exception No:..... **CU -2025-00017**  
Project No:..... **NONE**  
Hearing Date:..... 06-17-2025  
Closing of Public Record:.... 06-17-2025  
Date of Decision:..... 07-02-2025

On June 17, 2025, Archibeque Benny Trustee Archibeque LVT & Kiara Wilborn (“**Applicant**”) was scheduled to appear before the Zoning Hearing Examiner (the “**ZHE**”) requesting a Conditional Use Approval to allow for On-Site Cannabis Consumption (“**Application**”) upon the real property located at 138 Harvard Dr 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 On-Site Cannabis Consumption, 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 duly authorized Agent to act on Applicant’s behalf regarding the Application.
4. The Planning Director’s delegee has determined that the Application is complete, pursuant to IDO Section 14-16-6-4(G).
5. The content of the notice of the Application satisfies IDO Section 14-16-6-4(J)(1).
6. 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).
7. Applicant has sent mailed notice to all property owners within 100 feet of the subject property as required by IDO Section 14-16-6-4(J)(3).
8. Applicant has posted sign notice(s) as required by IDO Section 14-16-6-4(J)(4).
9. The Subject Property is located in the MX-L zone district, as to which the IDO use table states that the proposed cannabis consumption use is allowed as a conditional use.
10. Therefore, cannabis consumption the Subject Property requires a Conditional Use Approval pursuant to IDO Subsection 14-16-6-6(A).
11. 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.”*
12. 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).
  13. 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).
  14. Agent appeared at the June 17, 2025 ZHE hearing on the Application and gave evidence in support of the Application.
  15. 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 proposed use provides job opportunities and a variety of uses in the neighborhood of the Subject Property.
  16. 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. Evidence in the record establishes that the Applicant intends to operate the Subject Property in conformity with all applicable requirements.
  17. 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 submitted evidence that the proposed use would provide a healthy and educational space for adults to consume cannabis, which use is limited outside private residences. Applicant will monitor customers to ensure that intoxicated persons will not be served. The Application received the support of community members.

18. 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. The Subject Property is located near public transit and has sufficient parking for the proposed use. No evidence of material adverse impact from noise or vibration was submitted.
19. 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 proposed use will not operate during prohibited hours.
20. 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 evidence of negative impact to transit was submitted.
21. Applicant has demonstrated compliance with applicable use-specific standards in the IDO.
22. The City Traffic Engineer submitted a report stating no objection to the Application.

DECISION:

APPROVAL of a Conditional Use to allow for On-Site Cannabis Consumption.

APPEAL:

If you wish to appeal this decision, you must do so by July 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 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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cc: ZHE File  
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