



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

Sheedon Mozoon requests a Conditional Use Approval to allow for Nicotine Retail (Section 14-16-4-3(D)(41)) for Lot 19, Block 0000, Interstate Industrial Tract Unit No. 4, located at 3762 Hawkins St NE, zoned NR-LM.

Special Exception No:	CU-2026-00024
Project No:	CU-2026-00024
Hearing Date:	September 15, 2026
Closing of Public Record:	September 15, 2026
Date of Decision:	September 30, 2026

On September 15, 2026, Sheedon Mozoon (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a Conditional Use Approval to allow Nicotine Retail at 3762 Hawkins St NE (“Subject Property”). HBC Partners LLC is the owner of the Subject Property, and Enchantment Wholesale LLC d/b/a Duke City Distributors is the operator of the proposed use.

FINDINGS:

1. Applicant requests a Conditional Use Approval to allow Nicotine Retail pursuant to IDO Sections 14-16-4-3(D)(41) and 14-16-6-6(A) on Lot 19, Block 0000, Interstate Industrial Tract Unit No. 4, located at 3762 Hawkins St NE, zoned NR-LM. Although a Bernalillo County property record included in the packet lists 3852 Hawkins NE for the larger parcel, substantial evidence in the record, including the application, site plan, and Applicant's hearing testimony, establishes that the premises at issue are 3762 Hawkins St NE.
2. HBC Partners LLC owns the Subject Property. The owner authorization in the application materials and Applicant's hearing testimony constitute substantial evidence that Applicant has authority to pursue the Application pursuant to IDO Section 14-16-6-4(D).
3. Applicant appeared on his own behalf and as Owner/CEO of Enchantment Wholesale LLC d/b/a Duke City Distributors; no separate agent was designated.
4. An offered meeting with Indian Nations, Tribes, and Pueblos was not required for this Application under IDO Section 14-16-6-4(B).
5. The Planning Director's delegee determined that the Application was 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 not required for this Application.
7. The Application was forwarded to commenting agencies pursuant to IDO Section 14-16-6-4(I).
8. The staff report and Applicant's hearing testimony constitute substantial evidence that the content of the notice satisfied all applicable requirements of IDO Section 14-16-6-4(J)(1).
9. The staff report and Applicant's hearing testimony constitute substantial evidence that electronic mail notice was provided to each pertinent Neighborhood Association as required by IDO Section 14-16-6-4(J)(2).
10. The staff report and Applicant's hearing testimony constitute substantial evidence that mailed notice was provided to property owners within 100 feet of the Subject Property as required by IDO Section 14-16-6-4(J)(3).

11. The staff report and Applicant's hearing testimony constitute substantial evidence that sign notice was posted as required by IDO Section 14-16-6-4(J)(4). The staff report further documents publication of the legal notice on August 31, 2026, and web posting on September 3, 2026.
12. Table 4-2-1 classifies Nicotine Retail as a conditional primary use in the NR-LM zone district.
13. Therefore, Nicotine Retail on the Subject Property requires Conditional Use Approval pursuant to IDO Section 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 adopted 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 § 14-16-4-3; the DPM; other adopted City regulations; and any conditions specifically applied to development of the property in a 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 P.M. and 6:00 A.M.*
 - (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. The Application must also satisfy the general review and decision criteria in IDO Section 14-16-6-4(M).
18. Applicant appeared at the September 15, 2026, ZHE hearing and gave testimony in support of the Application.
19. Substantial evidence in the record establishes that the Application is consistent with the ABC Comp. Plan as required by IDO Section 14-16-6-6(A)(3)(a). The staff report and Applicant's justification letter establish that the Subject Property is in an Area of Consistency, outside a designated Center or Corridor, and is surrounded principally by industrial, warehouse, distribution, commercial-service, and drainage uses. The proposal will occupy an existing building without expansion or new construction. The staff report, justification letter, site plan, and Applicant's hearing testimony establish consistency with Comp Plan Goal 4.1 and Policies 4.1.1, 5.3.7, and 5.6.3.
20. Substantial evidence in the record establishes compliance with IDO Section 14-16-6-6(A)(3)(b). The staff report, application materials, site plan, agency comments, and Applicant's hearing testimony establish compliance with the IDO, the DPM, other applicable City regulations, and applicable prior approvals. No Variance or Waiver is required.
21. Substantial evidence in the record establishes compliance with IDO Section 14-16-6-6(A)(3)(c). The staff report, justification letter, site plan, and Applicant's hearing testimony establish that the use will operate indoors in an existing building, without expansion or increased intensity, in an

industrial and warehouse setting. The use will not create significant adverse impacts on adjacent properties, the surrounding neighborhood, or the larger community.

22. Substantial evidence in the record establishes compliance with IDO Section 14-16-6-6(A)(3)(d). The site plan and traffic scoping form show existing access, loading, and parking, three employees, and operating hours of Monday through Friday, 9:00 A.M. to 5:00 P.M. The staff report, traffic scoping form, and Applicant's hearing testimony establish the expected customer visits, deliveries, parking, loading, noise, and vibration and establish that the proposal will not materially increase traffic congestion, parking congestion, noise, or vibration.
23. Substantial evidence in the record establishes compliance with IDO Section 14-16-6-6(A)(3)(e). The staff report's residential measurement map identifies the nearest Residential zone district as approximately 1,148 feet from the Subject Property. Applicant's hearing testimony confirms that no lot in a Residential zone district is within 300 feet and that the Application will not increase non-residential activity within 300 feet of such a lot between 10:00 P.M. and 6:00 A.M.
24. Substantial evidence in the record establishes compliance with IDO Section 14-16-6-6(A)(3)(f). The site plan, justification letter, and Applicant's hearing testimony establish that no changes to existing driveways, sidewalks, or transit facilities are proposed and that the use will not negatively impact pedestrian or transit connectivity.
25. IDO Section 14-16-4-3(D)(41) contains the Use-specific Standards for Nicotine Retail:
 - (a) *Nicotine sales are 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) *If allowed as a conditional primary use in Table 4-2-1 (i.e., specified as "C" in the table), this use is considered a primary use for the purposes of this IDO, regardless of the use, area, or purpose of any other primary uses on the same premises and shall meet all of the following requirements, except where it is allowed as a permissive accessory use pursuant to IDO Subsection (c) below. 1. This use is prohibited on a lot within 1,000 feet in any direction of a lot containing any other primary nicotine retail use. 2. If this use is within 500 feet in any direction of any Residential zone district or lot containing a residential use in any Mixed-use zone district, customer visits and deliveries are prohibited between 10:00 P.M. and 7:00 A.M.*
 - (c) *In the MX-M, MX-H, and NR-C zone districts, this use does not require a Conditional Use Approval pursuant to § 14-16-6-6(A) if accessory to general retail or a grocery store, in which case it is allowed as a permissive accessory use.*
 - (d) *If allowed as an accessory use in Table 4-2-1 (i.e., specified as either "A" or "CA" in the table), this use is prohibited unless accessory to and part of the same establishment as a general retail or grocery store use, in which case this use is limited to no more than 50 percent of the gross floor area.*
 - (e) *In the MX-T and MX-L zone districts, the use is limited to 10,000 square feet of gross floor area.*
26. The City Traffic Engineer submitted a report stating no objection to the Application.
27. Historic Preservation Staff submitted a report stating no objection to the Application.
28. Substantial evidence in the record establishes compliance with IDO Section 14-16-4-3(D)(41)(a). The application materials identify Business License NICO-2026-006084, and Applicant's hearing testimony establishes compliance with all applicable New Mexico law, including applicable licensing and spacing requirements.
29. Substantial evidence in the record establishes compliance with IDO Section 14-16-4-3(D)(41)(b)(1). Table 4-2-1 classifies the proposed use as a conditional primary use in NR-LM. The application materials and Applicant's hearing testimony establish that no lot containing another primary Nicotine Retail use, including within the multi-tenant development, is located within 1,000 feet of the Subject Property.
30. Substantial evidence in the record establishes compliance with IDO Section 14-16-4-3(D)(41)(b)(2). The residential measurement map and Applicant's hearing testimony establish that the use is not within 500 feet of a Residential zone district or a lot containing a residential use in a

Mixed-use zone district. The restriction on customer visits and deliveries between 10:00 P.M. and 7:00 A.M. therefore is not triggered; the traffic scoping form also identifies operating hours of 9:00 A.M. to 5:00 P.M.

31. IDO Sections 14-16-4-3(D)(41)(c), (d), and (e) are not applicable. The Subject Property is zoned NR-LM; the requested Nicotine Retail use is a conditional primary use, not an accessory use; and the Subject Property is not zoned MX-T or MX-L. The zoning map, staff report, and Applicant's hearing testimony establish these facts.
32. The Application satisfies IDO Section 14-16-6-4(M). The application materials, staff report, agency comments, exhibits, and Applicant's hearing testimony provide sound justification based on substantial evidence, and the Application satisfies the specific criteria in IDO Sections 14-16-6-6(A)(3) and 14-16-4-3(D)(41). Section 14-16-6-4(M)(3) is not applicable because specific review and decision criteria govern. Substantial evidence in the record, including Applicant's hearing testimony, establishes no basis for denial under IDO Section 14-16-6-4(M)(4).

DECISION:

APPROVAL of a Conditional Use to allow for Nicotine Retail.

CONDITIONS: None.

APPEAL:

If you wish to appeal this decision, you must do so by October 16, 2026 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.



Robert Lucero, Esq.
Zoning Hearing Examiner

cc: Sheedon Mozoom, Applicant; HBC Partners LLC, Owner
Enchantment Wholesale LLC d/b/a Duke City Distributors
City Traffic Engineer; Historic Preservation Staff; ZHE File; Zoning Enforcement