



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

Sonata Trails, LLC / JL Murtagh (Agent, Consensus Planning, Jim Strozier) requests a conditional use to allow multi-family residential dwelling units on the ground floor of a building in the Volcano Heights Urban Center for Lot 3, The Trails Unit 4, located at 99999 Avenida De Jaimito NW, zoned MX-M [Section 14-16-4-3(B)(7)(d)]

Special Exception No:..... **VA-2020-00138**
Project No: **Project#2020-003904**
Hearing Date: 07-21-20
Closing of Public Record: 07-21-20
Date of Decision: 08-05-20

On the 21st day of July, 2020, Consensus Planning, Jim Strozier, agent for property owner Sonata Trails, LLC / JL Murtagh (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a conditional use to allow multi-family residential dwelling units on the ground floor of a building in the Volcano Heights Urban Center (“Application”) upon the real property located at 99999 Avenida De Jaimito NW (“Subject Property”). Below are the ZHE’s findings of fact and decision:

FINDINGS:

1. Applicant is requesting a conditional use to allow multi-family residential dwelling units on the ground floor of a building in the Volcano Heights Urban Center.
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;*
 - (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) *It will not increase non-residential activity within 300 feet of a lot in any residential zone district between the hours of 8:00 pm and 6:00 am;*
 - (f) *It will not negatively impact pedestrian or transit connectivity without appropriate mitigation*

3. The Applicant bears the burden of ensuring there is evidence in the record supporting a finding that the above criteria are met under Section 14-16-6-4(N)(1).
4. Jim Strozier of Consensus Planning, Inc., agent for property owner appeared and gave evidence in support of the application.
5. Applicant submitted a Proposed Site/Landscaping Plan in support of the Application.
6. All property owners within 100 feet and affected neighborhood association(s) were notified.
7. Westside Coalition of Neighborhood Associations is the affected NA.
8. Applicant provided evidence that the proper "Notice of Hearing" signage was posted for the required time period as required by Section 14-16-6-4(K)(3).
9. Applicant provided evidence that all property owners and neighborhood association entitled to notice were notified of the Application.
10. No written comments or other communications in support or opposition to the Application were received by the ZHE.
11. No request for meeting was submitted by the affected neighborhood association.
12. The address of the subject property is 99999 Avenida de Jaimito NW, Albuquerque, New Mexico 87114.
13. The subject property is located east of Universe Boulevard and north of the undeveloped Treeline Avenue.
14. The subject property is currently zoned MX-M.
15. The proposed project will comprise of townhouse style structures, as well as traditional apartments, which will be a maximum of 2 stories in height.
16. The subject property is comprised of three lots which are legally described as "*Tract 1, 2 and 3 Bulk Land Plat of the Trails Unit 4 (Being a replat of unplatted deed parcels) containing 29.9 acres.*".
17. The 3 Applications are for the 3 lots in the subject property.
18. Multi-family development is allowed in the Volcano Heights Urban Center however, ground floor dwelling units require a conditional Use Approval pursuant to the following provisions of the Integrated Development Ordinance (IDO):

14-16-4-3: Use Specific Standards: Subsection (B)(7) Dwellings, Multi-family: (d): This use shall require a Conditional Use Approval pursuant to Subsection 14-16-6-6(A) 9f located on the ground floor of any building in the Downtown or Volcano Heights Urban Center areas.

19. The proposed project will encompass 17.4 acres of the 29.9 total acres of the subject property.
20. Universe is designated as an Urban Minor Arterial.
21. The subject property is located within an Area of Change as designated by the ABC Comprehensive Plan.
22. The subject property is located within two IDO Overlays: Volcano Mesa Character Protection Overlay Zone (CPO-12) and the Northwest Mesa Escarpment – View Protection Overlay (VPO-2).
23. The Volcano Heights Urban Center is an Urban Center as designated by the ABC Comprehensive Plan.

24. Urban Centers are intended to be distinct, walkable districts that incorporate a mix of employment, service, and residential uses at a density and intensity lower than Downtown but higher than the neighborhood-oriented Activity Centers.
25. This is intended to be an area that supports a variety of activities, including higher density housing, commercial, business park and recreational uses.
26. This proposed multi-family development will be the first project with the Urban Center.
27. The area surrounding the subject property is zoned Residential-Low Density Multi-family (R-ML); Mixed-Use Moderate Intensity (MX-M); and Non-Residential Business Park (NR-BP).
28. The existing land uses adjacent to the subject property are residential and vacant.
29. The proposed plan is offering a housing option at a higher density and an intensity suitable for the area, which is currently undeveloped.
30. The eastern portion of the Volcano Heights Urban Center is anticipated to be utilized as a business park.
31. The proposed building design shows residential units facing adjacent public streets, Universe Boulevard and Treeline Avenue.
32. This design will add activity along the street and create a streetscape that will contribute to a distinct district identity for the Volcano Heights Urban Center.
33. The proposed project meets the intent of an Urban Center as defined in the ABC Comp. Plan.
34. The proposed project will be located along Universe Blvd, which is currently not served by ABQ Ride Bus routes.
35. It is anticipated that the proposed project will be a candidate for a future transit route that will connect the property to Unser Blvd to the east and Paseo del Norte to the north.
36. Currently, Universe Blvd. does contain a bike lane and connects to the Woodland and Oak Ridge Multi-Use Trails to the west.
37. There are several multi-use and bike lanes proposed for the Volcano Heights Urban Center, which will connect the proposed project to Paseo del Norte and Unser Blvd.
38. The proposed project will encourage growth as a community of strong centers will be connected by a multi-modal network of Corridors, which is consistent with ***ABC Comp. Plan, as amended, Land Use Policy 5.1.1: Centers and Corridors.***
39. The proposed project is providing development in an Urban Centers that will be connected by a multi-modal network of corridors.
40. The project is adjacent to Universe Blvd., an urban minor arterial, and is an ideal location to commence a sustainable development pattern in the Volcano Heights Urban Center.
41. This will capture regional growth in Centers and Corridors and will help shape the built environment into a sustainable development patterns which is consistent with ***ABC Comp. Plan, as amended, Land Use Policy 5.1.1: Desired Growth.***
42. The project will supply the Urban Center with higher-density housing options that will be accessible through Treeline Avenue on the south of the subject property.
43. Currently, there a no sidewalks on the west side of Universe Blvd. and Treeline Avenue does not extend east of universe Blvd.
44. The project will extend Treeline Ave. and street fronts will have improved landscaping and sidewalks.
45. These improvements will increase walkability in the area.

46. A walking trail will line the street front adjacent to residential units, which provides for additional activity along adjacent streets.
47. The design provides for direct access from the residential use to the street, the application will further this policy.
48. Kean Thomas, 27401 Los Altos, Suite 310, Mission Vellejo, California. appeared and gave statements in opposition to the Application.
49. He is a representative of the property owners and developers of the residential development presently existing west of the subject property.
50. They believe that the request would be detrimental to their adjacent property, since it is already residential, and that there is not enough retail development within a reasonable drive from their project.
51. He testified that the nearest retail/commercial shopping center is 10 minutes away from this area.
52. He believes that granting the request would eliminate the possibility of future retail development within a close driving distance of their project.
53. Agent responded that the Urban Center designation does allow for the requested residential use, that Applicant has satisfied the Conditional Use criteria, as required by the IDO, and that additional residential uses are needed in this area.
54. Additionally, Agent stated a retail shopping center was already in development to the north, approximately 1,000 feet from the subject property.
55. Em Ward, 3301 Coors Blvd. NW, Albuquerque, NM, appeared and gave statements in opposition to the request.
56. She testified that there is a known jobs/housing imbalance on the entire Westside, that granting the request would make this imbalance worse and is against the mixed-use zoning and that it is important not to grant exceptions to this first project in the Urban Center.
57. Agent responded that currently the properties east of Universe are currently vacant, with hundreds of acres of existing commercial, business and retail properties are available for future development.
58. Agent stated granting of this request provides a logical transition from this residential area to the east, where much of the property is currently zoned MX-H, mixed-use high intensity use.
59. Daniel Gaillour, 1757 Cliffside Dr. NW, Albuquerque, NM, appeared and gave statements in support of the request.
60. He is an Albuquerque realtor and gave statistics for the Westside.
61. He testified that there is a huge existing demand for residential properties on the Westside, and that the shortage is worsening.
62. By creating a highly accessible and walkable Urban Center that provides a range of employment opportunities and higher-density housing options, the project is consistent with ***ABC Comp. Plan, as amended, Land Use Policy 5.1.4: Urban Centers.***
63. The project is a higher intensity residential project, located in an Area of Change and an Urban Center, which will encourage and is consistent with ***ABC Comp. Plan, as amended, Land Use Policy 5.6.2: Areas of Change: Direct Growth and more intense development to Centers, Corridors, industrial and business parks, and Metropolitan Development Areas where change is encouraged.***
64. The project as a higher density, multi-family housing project in an Urban Center, will be a catalyst for capturing growth on the Westside of Albuquerque.

65. This is consistent with ***ABC Comp. Plan, as amended: Housing Policy 9.3.1: Centers and Corridors: Encourage higher density, multi-unit housing and mixed-use development in Downtown, Urban, Activity and Village Centers, and along premium and Major Transit Corridors to capture growth, relieve development pressure at the edge of the urban footprint, and maintain low densities in rural areas.***
66. 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. Specifically, Applicant's testimony that the proposed use is consistent with neighboring uses and the MX-M zoning demonstrate that the use would be consistent with the ABC Comp Plan. Further, the subject property is located in an Area of Change in which the proposed use would be appropriate.
67. 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. Specifically, Applicant testified and confirmed in written submittals that the requested Conditional Use approval would comport with all applicable requirements.
68. Although opposing statements were submitted by Speakers Thomas and Ward, raising residential/job imbalance on the Westside, which they contend would be worsened and result in an adverse impact to existing adjacent projects, Applicant and Speaker Gaillour pointed out that there is actually an imbalance toward a lack of available housing and the request would not create an adverse impact on surrounding and adjacent properties.
69. Agent also responded that a shopping center project was nearing completion, less than 1,000 feet to the north of the subject property, and there were numerous vacant and presently undeveloped MX-M and MX-H zone district in close proximity to the proposed project. -insert].
70. 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. Specifically, Applicant testified and confirmed in written submittals that the requested Conditional Use approval would not create any adverse impact
71. 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 8:00 pm and 6:00 am. Specifically, Applicant testified that since proposed project is a residential project, there is no increase of non-residential activity.
72. 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. Specifically, Applicant testified that no negative impact on pedestrian or transit connectivity would result.
73. The City Traffic Engineering Division stated no objection.
74. The criteria within IDO Section 14-16-6-6(A)(3) are satisfied.

DECISION:

APPROVAL of a conditional use to allow multi-family residential dwelling units on the ground floor of a building in the Volcano Heights Urban Center.

APPEAL:

If you wish to appeal this decision, you must do so by August 20, 2020 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.



Stan Harada, Esq.
Zoning Hearing Examiner

cc:

ZHE File
Zoning Enforcement
Consensus Planning, Jim Strozier, cp@consensusplanning.com