



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

Keith Griego (Agent, Consensus Planning) requests a conditional use to allow a drive-through or drive-up facility for Lot A3, Unser and Sage Marketplace, located at 1300 Unser BLVD SW, zoned MX-L [Section 14-16-4-2]

Special Exception No:..... **VA-2021-00080**
Project No: **Project#2021-005297**
Hearing Date: 05-18-21
Closing of Public Record: 05-18-21
Date of Decision: 06-02-21

On the 18th day of May, 2021, Consensus Planning, agent for property owner Keith Griego (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a conditional use to allow a drive-through or drive-up facility (“Application”) upon the real property located at 1300 Unser BLVD SW (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a conditional use to allow a drive-through or drive-up facility.
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:*”
 - 6-6(A)(3)(a) *It is consistent with the adopted ABC Comp Plan, as amended.*
 - 6-6(A)(3)(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 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.*
 - 6-6(A)(3)(c) *It will not create significant adverse impacts on adjacent properties, the surrounding neighborhood, or the larger community.*
 - 6-6(A)(3)(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.*
 - 6-6(A)(3)(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.*
 - 6-6(A)(3)(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. All property owners within 100 feet and affected neighborhood association(s) were timely notified.
5. The subject property is currently zoned MX-L.
6. Based on evidence submitted by the Applicant, the requested conditional use is consistent with the ABC Comp. Plan, as amended.
7. Based on evidence submitted by the Applicant, the requested conditional use 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.
8. Based on evidence submitted by the Applicant, the requested conditional use will not create significant adverse impacts on adjacent properties, the surrounding neighborhood, or the larger community.
9. Based on evidence submitted by the Applicant, the requested conditional use 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.
10. Based on evidence submitted by the Applicant, the requested conditional use proposed use will not increase non-residential activity within 300 feet of a lot in any residential zone between the hours of 10:00PM and 6:00AM as required by Section 14-16-6-6(A)(3)(e).
11. Based on evidence submitted by the Applicant, the requested conditional use proposed use will not negatively impact pedestrian or transit connectivity, as required by Section 14-16-6-6(A)(3)(f).
12. City Transportation stated no objection to the application.
13. 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(K)(3).
14. The ZHE finds that the Applicant has authority to pursue this Application.
15. Agent and Applicant testified that the conditional use approval for drive-through / drive-up facility applies only to the coffee shop shown on the site plan attached to this Notification of Decision as **Exhibit A**. No conditional use for drive-through or drive-up is requested or granted as to any other portion of the Subject Property.

DECISION:

APPROVAL WITH CONDITION of a conditional use to allow a drive-through or drive-up facility.

CONDITIONS:

The conditional use approval for drive-through / drive-up facility applies only to the coffee shop shown on the site plan attached to this Notification of Decision as **Exhibit A**. No conditional use for drive-through or drive-up is requested or granted as to any other portion of the Subject Property.

APPEAL:

If you wish to appeal this decision, you must do so by June 17, 2021 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.

A handwritten signature in black ink, appearing to read "Robert Lucero". The signature is fluid and cursive, written in a professional style.

Robert Lucero, Esq.
Zoning Hearing Examiner

cc:

ZHE File
Zoning Enforcement
Consensus Planning, Vos@consensusplanning.com