



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

Public House ABQ, LLC (Agent, Consensus Planning) requests a conditional use to allow a tap room/tasting room for Lot A, Block 1, College View Addn, located at 3619 Copper Ave NE, zoned MX-L [Section 14-16-4-2]

Special Exception No:..... **VA-2021-00284**  
Project No: ..... **Project#2021-005724**  
Hearing Date: ..... 08-17-21  
Closing of Public Record: ..... 08-17-21  
Date of Decision: ..... 09-01-21

On the 17th day of August, 2021, Consensus Planning, agent for property owner Public House ABQ, LLC (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a conditional use to allow a tap room/tasting room (“Application”) upon the real property located at 3619 Copper Ave NE (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a conditional use to allow a tap room/tasting room.
2. 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).
3. The ZHE finds that the Applicant has authority to pursue this Application.
4. Agent for Applicant appeared and gave evidence in support of the application.
5. All property owners within 100 feet and affected neighborhood association(s) were notified.
6. The subject property is currently zoned MX-T, in which zone a tap room/tasting room requires a conditional use approval.
7. 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.*

8. 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).

9. Based on evidence submitted by the Applicant, the proposed use is consistent with the ABC Comp. Plan, as amended; specifically:

A. Policy 5.1.1 Desired Growth: *Capture regional growth in Centers and Corridors to help shape the built environment into a sustainable development pattern. (a) Create walkable places that provide opportunities to live, work, shop, and play.*

The project furthers this policy by proposing the new taproom or tasting room in a walkable neighborhood, Nob Hill, which has easy and convenient access to bicycle routes and transit. The site is within the Nob Hill Activity Center, Central Avenue Main Street Corridor, and the Solano ART Station Premium Transit Area. Approval of this request would add to the diverse mix of businesses in Nob Hill and enhance the area with another opportunity for residents to relax, eat, and play within the neighborhood.

B. Policy 5.1.6 Activity Centers: *Foster mixed-use centers of activity with a range of services and amenities that support healthy lifestyles and meet the needs of nearby residents and businesses. b) Provide neighborhood-oriented commercial, retail, institutional, and public services. c) Encourage gathering spaces for festivals, markets, and street fairs. d) Ensure that Activity Centers are pedestrian-friendly and provide convenient pedestrian connections to nearby residential areas.* The proposed taproom furthers this policy and several sub-policies by providing a neighborhood-oriented establishment that will be conveniently accessible to nearby residents and provide a gathering space for the community, which is especially appropriate within an Activity Center.

C. Policy 5.1.8 Premium Transit Corridors: *Foster corridors that prioritize high-capacity, high-frequency transit service, with mixed-use, transit-oriented development within walking distance of transit stations. c) Encourage active public spaces and plazas within 660 feet of identified transit station locations and balconies and decks overlooking transit station areas.* The project site is located within 660 feet of the Solano ART Station and approval of the requested Conditional Use would help activate the site with another pedestrian-friendly use within walking distance of a transit station. Applicant is proposing to renovate the building primarily through the addition of a patio and deck on the south side of the building. This space will provide a gathering space for neighbors and add eyes to the street that will improve the vitality and safety of the surrounding Premium Transit Area. The patio area has been restricted to the south side of the building to mitigate any potential noise impacts to the neighbors on Hermosa.

D. Policy 5.1.9 Main Streets: *Promote Main Streets that are lively, highly walkable streets lined with neighborhood-oriented businesses.* Applicant is requesting

approval of a taproom / tasting room that is proposed as a lively, walkable, neighborhood-oriented business. With a focus on wine and lunch and dinner with the adjacent restaurant, the proposed taproom will further this policy for its location within the Central Avenue Main Street Corridor and complement the other surrounding businesses and walkable neighborhoods.

- E. Policy 5.2.1 Land Uses: *Create healthy, sustainable, and distinct communities with a mix of uses that are conveniently accessible from surrounding neighborhoods.* This policy is furthered by encouraging reuse of the existing building on the property, which has been utilized for commercial businesses since prior to the first valid zoning ordinance in the City of Albuquerque. It is an infill location within an Activity Center that is conveniently accessible by walking and bicycling from the surrounding neighborhoods, and it will add to the diverse mix of uses found in Nob Hill. While the main access doors are oriented to the south, there is a secondary access on Hermosa designed to facilitate pedestrian traffic from the neighborhood to the north and east.
- F. Policy 5.6.2 Areas of Change: *Direct growth and more intense development to Centers, Corridors, industrial and business parks, and Metropolitan Redevelopment Areas where change is encouraged. f) Minimize potential negative impacts of development on existing residential uses with respect to noise, stormwater runoff, contaminants, lighting, air quality, and traffic. g) Encourage development where adequate infrastructure and community facilities exist. h) Encourage development in areas with a highly connected street grid and frequent transit service.* The subject property is designated an Area of Change and furthers this policy by directing growth to an infill site that already has access to infrastructure and public facilities. The site is within an Activity Center, a Main Street, and a Premium Transit Station Area with a highly connected street grid and transit service with 15-minute or better frequency, which is the most frequent service in Albuquerque. The property includes a parking lot, which contains 17 parking spaces, and the Applicant is exploring other opportunities for shared parking in the area, which will minimize the impacts of parking and traffic on nearby residents. The combined size of the buildings on the site is approximately 3,500 square feet and due to the site's location near transit only requires approximately 14 parking spaces, so more parking is provided than required. On-street parking is also available along the north side of Copper Avenue, and the proposed renovation will direct patrons through entrances to the proposed patio off Copper Avenue, which will further minimize impacts to the neighbors along Hermosa.

- 10. Based on evidence submitted by the Applicant, the proposed 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.
- 11. Based on evidence submitted by the Applicant, the proposed use will comply with all use-specific criteria under IDO Section 4-3(D)(8) for a Tap Room / Tasting Room, namely:
  - 4-3(D)(8)(a) *Alcohol sales for on-premises consumption is 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.*

4-3(D)(8)(b) *These uses must comply with stormwater quality requirements found in the DPM.*

4-3(D)(8)(c) *These uses may include the retailing of related goods, such as shirts, caps, recipe books, mugs, and glasses as an incidental activity.*

4-3(D)(8)(d) *A restaurant use must comply with Part 9-10-1 of ROA 1994 (Solid Waste Collection), in particular the City's minimum specifications for waste enclosures for restaurant and food services to include a sanitary sewer drain.*

12. Based on evidence submitted by the Applicant, the proposed use will not create significant adverse impacts on adjacent properties, the surrounding neighborhood, or the larger community. Although many concerns were expressed by neighbors at facilitated meetings and in written correspondence, the Application also received formal letters of support from neighbors, the nearby Immanuel Presbyterian Church, Nob Hill Main Street Property Owners Association and from neighboring business owners and residents.
13. Based on evidence submitted by the Applicant, the proposed 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. Although there will likely be an increase in traffic to the site, any impacts appear to be within what would be expected for a site within the Nob Hill Activity Center, Central Avenue Main Street Corridor, and the Solano ART Station Premium Transit Area. Neighbors and the Nob Hill Neighborhood Association raised concerns centered on noise from an outdoor deck on Hermosa Dr., activity around an entrance on Hermosa Dr., hours of business, broadcast of music, increased traffic on Hermosa Dr., and employee and customer parking on Hermosa Dr. After two facilitated meetings and consulting with neighbors and neighborhood association representatives, Applicant has committed to several measures to mitigate any adverse impacts that may occur. In particular:
  - A. Outdoor patio space is limited to the south side of the building along Copper Avenue. The patio will not be extended to Hermosa Dr. side of the Subject Property in the future.
  - B. The primary access to the Public House and the Restaurant will be from the south (Copper Avenue). Signage and architectural detailing will help communicate that the south side of the building is the primary entrance. Both access points are conveniently located for customers parking in the existing lot on the west side of the property and the on-street parking on Copper Avenue.
  - C. A secondary access door is located on Hermosa Dr. to serve pedestrians travelling from Central Avenue and the neighborhood to the north and east. However, neither the Hermosa frontage nor the door opening onto Hermosa may have any signage other than as required by the Americans with Disabilities Act, fire code, and other applicable law.
  - D. Business hours will not exceed 10pm.
  - E. No amplified music after 9 PM M-Th, 10 PM Fri-Sat, and 8 PM Sun.
  - F. Outdoor patio speakers will be directed to the south side of the property only and shall be compliant with the City Noise Ordinance.

- G. Even though the Application exceeds IDO parking requirements, Applicant commits to pursuing an off-site parking agreement with the surrounding businesses.
- H. Applicant will work with the City and Neighborhood to determine the best use of the existing parking on the Hermosa side of the Subject Property. It is anticipated that this could include a combination of compact car spaces, a motorcycle space, and/or bicycle parking.
- I. Applicant will schedule trash pickup for a minimum of two times a week (most likely Friday and Monday) to ensure that trash is always stored in the dumpster and is not a nuisance for the neighborhood.
- J. Applicant will work with the neighbors and support any reasonable traffic calming projects that the neighborhood promotes with the city including speed humps, small round-a-bouts, bump outs, signage, etc.
- K. Applicant will design and install a sign at the Hermosa intersection that states: "Please respect our neighborhood streets – no commercial traffic or parking." This sign could be replicated and installed by the NHNA in other locations that are experiencing commercial parking and cut through traffic.

Moreover, Applicant submitted evidence that the civic and environmental impacts of placing the proposed use on the Subject Property are significant, because of its location within the Nob Hill Activity Center, Central Avenue Main Street Corridor, and the Solano ART Station Premium Transit Area.

- 14. Based on evidence submitted by the Applicant, the 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), because all proposed uses would not occur during prohibited hours.
- 15. Based on evidence submitted by the Applicant, the proposed use will not negatively impact pedestrian or transit connectivity, as required by Section 14-16-6-6(A)(3)(f). Public sidewalks along the frontages of the site will remain. The site is also located near public transit, including the Route 66 and Albuquerque Rapid Transit along Central Avenue. The proposed use will complement the existing connections and create another destination and additional users of these services, while not interfering with said connections and services. The main access is oriented to the south and Copper and Central Avenues, while the secondary access on Hermosa will have limited signage while providing a discrete connection to pedestrians coming to and from the neighborhood to the north and east.

DECISION:

APPROVAL WITH CONDITIONS of a conditional use to allow a tap room/tasting room.

CONDITIONS:

- A. Outdoor patio areas (as a part of the liquor license premises) shall be limited to the south side of the building away from the neighbors on Hermosa and will not be allowed to expand to the Hermosa side in the future.
- B. Applicant cannot have amplified music after 9 PM on Monday-Thursday, after 10 PM on Friday-Saturday, or after 8 PM on Sunday.

- C. Outdoor patio speakers must be directed to the south side of the property, only, and shall be compliant with the City Noise Ordinance.
- D. Business hours shall not exceed 10pm.
- E. Neither the Hermosa frontage nor the door opening onto Hermosa may have any signage other than as required by the Americans with Disabilities Act, fire code, and other applicable law.

APPEAL:

If you wish to appeal this decision, you must do so by September 16, 2021 pursuant to Section 14-16-6-4(V), 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.



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