



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

Nouraldin Bartaa and Hadeel Dahdul request a conditional use to allow light vehicle sales and vehicle rentals on Lot 1 and 2, Block J, Eastern Addn, located on 1301 Broadway Blvd SE, zoned MX-L [Section 14-16-4-2-1]

Special Exception No:.....**VA-2018-00028**
Project No:**Project#2018-001261**
Hearing Date:09-18-18
Closing of Public Record:09-18-18
Date of Decision:10-03-18

On the 18th day of September, 2018, property owners Nouraldin Bartaa and Hadeel Dahdul (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a conditional use to allow light vehicle sales and vehicle rentals (“Application”) upon the real property located at 1301 Broadway Blvd SE (“Subject Property”). Below are the ZHE’s findings of fact and decision:

FINDINGS:

1. Applicant is requesting a conditional use to allow light vehicle sales and vehicle rentals.
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-(F)(2).
4. Nouraldin Bartaa and Hadeel Dahdul, owners appeared and gave evidence in support of the application.
5. All property owners within 100 feet and the affected neighborhood association were notified of the application.

6. The subject property is currently zoned MX-L.
7. South Broadway Neighborhood Association is the affected NA.
8. Applicant's originally appeared at the August 21, 2018 agenda.
9. ZHE determined that Applicant's had not contacted nor met with the affected neighborhood association.
10. ZHE ordered a facilitated meeting between applicants and the affected neighborhood association.
11. The meeting was conducted at the South Broadway Cultural Center on September 6, 2018.
12. A report from the facilitated meeting was submitted.
13. Primary concerns raised by the neighborhood include; increased traffic congestion, negative impact on the surrounding neighborhood resulting from off-hours drop-offs of returned rented vehicles; a lack of a site plan indicating parking locations and restrictions, and lack of procedures on drop-offs.
14. No compromises were reached as a result of the facilitated meeting.
15. Frances Armijo, President of the South Broadway NA, appeared and gave evidence in opposition to the proposed use.
16. She submitted photographic evidence that the sign posting of the notice of the hearing was displayed on a window of the business in violation of the sign posting ordinance.
17. Gwen Colonel appeared and gave evidence in opposition to the proposed use.
18. John Lancaster appeared and gave evidence in opposition to the proposed use.
19. Adjacent neighbors have complained of returned rental vehicles being parked on public streets in the surrounding neighborhood.
20. Neighbors have complained of returned rental vehicles being returned late at night, with resulting noise.
21. Evidence was submitted that showed Applicants have been doing business on the proposed use for at least six months prior to the application.
22. Increased traffic congestion has resulted from that use.
23. Applicant's response to these complaints of injury to the neighborhood, stated they did not have control over renter's behavior and proposed no plans to mitigate this problem.
24. Applicants responded that U-Haul Corporation did not have rules on rental returns and that they had no control over that issue.
25. Applicants stated they might be willing to put up a fence to mitigate some of the problems, but no site plan was submitted with the application or submitted in evidence showing plans to mitigate the injury to the surrounding neighborhood.
26. Site plan submitted with the application shows no detail, other than property line measurements of the subject property.
27. The proposed use will create significant adverse impacts on the adjacent properties, the surrounding neighborhood or the larger community and Applicants have failed to present any plans to mitigate the injury to the neighborhood.
28. The proposed use will create material adverse impacts on other land in the surrounding area through increases in traffic congestion, parking congestion, noise or vibration and Applicants have failed to present any plans to mitigate the injury to the neighborhood.

29. The proposed use has the potential to increase non-residential activity within 300 feet of a lot in any residential zone between the hours of 8:00pm and 6:00am, and Applicants have failed to present any plans to mitigate the injury to the neighborhood.

DECISION:

DENIAL of a conditional use to allow light vehicle sales and vehicle rentals.

If you wish to appeal this decision, you must do so by October 18, 2018 in the manner described below. A non-refundable filing fee will be calculated at the Planning Department's Land Development Coordination counter and is required at the time the Appeal is filed.

Appeal must be filed with the Planning Department within 15 days after the decision. The appeal shall specifically state the section of the Integrated Development Ordinance, City regulation, or condition attached to a decision that has not been interpreted correctly, as required by Section 14-16-6-4(U)(3)(a)(3) of the Integrated Development Ordinance. Appeals are taken at 600 2nd Street, Plaza Del Sol Building, Ground Level, Planning Application Counter located on the west side of the lobby. **Please present this letter of notification when filing an appeal.** When an application is withdrawn, the fee shall not be refunded.

Once an appeal is accepted by the Planning Department, it shall prepare and transmit a record of the appeal together with all appeal material received from the appellant to impacted parties and to the Land Use Hearing Officer (LUHO) through the Clerk of the City Council.

The LUHO shall then schedule a hearing on the matter within 30 consecutive days of receipt and notify the parties, pursuant to Section 14-16-6-4(U)(3)(d). The Planning Department shall give written notice of an appeal, together with a notice of the date, time and place of the hearing to the applicant, a representative of the opponents, if any are known, and the appellant.

Please note that 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.

You will receive notice if any other person files an appeal. If there is no appeal, you can receive building permits any time after the appeal deadline quoted above; provided all conditions imposed at the time of approval have been met. However, the Zoning Hearing Examiner may allow issuance of building permits if the public hearing produces no objection of any kind to the approval of an application. To receive this approval, the applicant agrees in writing to return the building permit or occupation tax number.

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: Zoning Enforcement
ZHE File
Nouraldin Bartaa and Hadeel Dahdul, 1301 Broadway Blvd SE, 87102
Frances Armijo, 915 Williams SE, 87102
Gwen Colonel, 900 John St SE, 87102
John Lancaster, 1201 High St SE, 87102