



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

CASA BLANCA MHP, LLC (P. LORRAINE SANCHEZ OR JOSEPH GAMBLE, AGENT) requests a special exception to Section 14-16-3-4(B)(4): To expand the NON CONFORMING USE of a mobile home park by 9.1% to not exceed the 25% allowance for all or a portion of Lot 31-32, Block 10, East Central Business Addn zoned SU-2 C-3, located on 11001 ACOMA RD SE (L-21)

Special Exception No:..... **18ZHE-80045**
Project No:..... **Project# 1011535**
Hearing Date: 05-15-2018
Closing of Public Record: 05-15-2018
Date of Decision: 05-30-2018

On the 15th day of May, 2018, P. LORRAINE SANCHEZ OR JOSEPH GAMBLE (“Agent”) acting as agent on behalf of the property owner CASA BLANCA MHP, LLC (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting to expand the NON CONFORMING USE of a mobile home park by 9.1% to not exceed the 25% allowance (“Application”) upon the real property located at 11001 ACOMA RD SE (“Subject Property”). Below are the ZHE’s findings of fact and decision:

FINDINGS:

1. Applicant is requesting to expand the NON CONFORMING USE of a mobile home park by 9.1% to not exceed the 25% allowance.
2. The specific proposal would permit two additional manufactured or mobile homes at the Casa Blanca Mobile Home Park, located on two currently vacant parcels zoned C-3.
3. The City of Albuquerque Zoning Code of Ordinances Section 14-16-4-2(C) reads: *Criteria for Decision. The city shall approve a special exception if the evidence presented to the record shows that the following criteria are met. Although others may submit evidence, it is the burden of the applicant to ensure that there is such evidence in the record.*

(3) The expansion of a nonconforming use, including the expansion of a building to accommodate such expanded nonconforming use, shall be approved if and only if, in the circumstances of the particular case and under conditions imposed:

(a) The expanded use will not significantly interfere with the enjoyment of other land in the vicinity;

(b) The expanded use will not be significantly damaged by surrounding structures or activities;

(c) The expanded use is consistent with the spirit of this Zoning Code, substantial justice, and the general public interest;

(d) The owner will experience unnecessary hardship and in addition will be denied a continued reasonable use of the property if the expansion is not approved;

(e) The expansion does not exceed 25% of the floor or ground area in nonconforming uses on the site at the time it became nonconforming; and

(f) The owner covenants that the use of the entire premises will be ceased or made conforming at the time specified by this Zoning Code for termination of the original nonconforming use on the premises.

4. The Applicant bears the burden of ensuring there is evidence in the record supporting a finding that the above criteria are met under Section 14-16-4-2(C).
5. The Casa Blanca Mobile Home Park is a 60 year old, family owned facility.
6. The existing park is ~2.7 acres and the proposed expansion is ~.25 acres, resulting in an allowable expansion of under 10%, subject to the requirements of the code.
7. Applicant states that denial of the Application would work an unnecessary hardship and deny a continued reasonable use of the Subject Property. Applicant's predecessor purchased the Subject Property with the intent to use it to expand the mobile home park. Applicant has not been able to secure a tenant interested in using it for any of the permissive C-3 uses, nor is there agreement among the Applicant and concerned parties about what a reasonable and appropriate permissive use might be. Therefore, Applicant's position is that expansion of the mobile home park is both appropriate and reasonable, and necessary to avoid an unnecessary hardship.
8. There is no time specified by the code for termination of the use.
9. The surrounding structures and activities are consistent with the proposed expansion and will not significantly damage the proposed use.
10. Therefore, the primary issue the ZHE must address is whether the proposed use will "significantly interfere with the enjoyment of other land in the vicinity."
11. Applicant's position is that the existing park has not presented an injurious condition and the proposed expansion is consistent with the existing use and will provide needed housing opportunities in accordance with the East Gateway Metropolitan Redevelopment Plan.
12. Concerned parties raised a number of concerns, summarized below. For each concern raised, the question for the ZHE is whether the concern rises to the level of interference with significant enjoyment of other land in the vicinity and, if it does, whether an appropriate condition can be imposed on the approval to address that concern.
13. Many concerns center on the existing mobile home park rather than the Subject Property. The ZHE finds that because the Application is for an expansion of a nonconforming use, the condition of the existing use, and incremental impacts of that existing use, are relevant from the perspective of analyzing the expansion of that use.
14. The primary concerns expressed are as follows:
 - a. Increasing the number of mobile homes and that there are already too many in the vicinity: The parties did not clarify what it is about the placement of mobile homes that is injurious or interferes. The ZHE understands it to be a concern associated with property values primarily, although there is no substantial evidence of a quantifiable effect on property values. On balance, the code allows an expansion up to 25% and the request is for an expansion of under 10%, totaling two additional homes. This is reasonable and does not appear to create a significant impact, although because additional expansion is likely to present additional impact a limiting condition, as contained below, is appropriate.

- b. Trash and code violations: The evidence was conflicting on these issues. Concerned parties focus on excessive trash, inadequate receptacles, improper placement and screening as well as some other violations, such as lack of skirting, permanent structures (garage, deck), placement and unpermitted plumbing. Applicant states that much of the trash problems emanate from a different property altogether and that the City's solid waste enforcement staff has reviewed the property and found no violations, although Applicant does plan some trash capacity increase and at least one receptacle relocation. Appropriate conditions can address these concerns.
 - c. Fencing to screen the mobile homes and contain debris: This is a reasonable request to address potential impacts.
 - d. Parking: There should be adequate parking on site to reduce pressure on Miravista Place and other neighborhood streets. An appropriate condition can address this concern.
 - e. Crime: Some concern was expressed about crime at the existing park, and there was a discussion that gating the park would reduce the potential for crime. The record is inadequate to draw any supportable conclusions on this point. However, the concern is a reasonable one. The condition below attempts to strike a balance on this concern.
15. Therefore, the ZHE finds that Application is not: (i) contrary to the public interest, (ii) injurious to the community; or (iii) injurious to the property or improvements located in the vicinity as required by Section 14-16-4-2(C)(2)(a).
16. The ZHE finds that the proper "Notice of Hearing" signage was posted for the required time period as required by Section 14-16-4-2(B)(4).
17. The ZHE finds that the Applicant has authority to pursue this Application.

DECISION:

APPROVAL WITH CONDITIONS to expand the NON CONFORMING USE of a mobile home park by 9.1% to not exceed the 25% allowance.

CONDITIONS OF APPROVAL:

1. No further expansion will be allowed.
2. No expansion shall be permitted, and no mobile homes shall be placed on the Subject Property, until Applicant has submitted written certification from the Solid Waste Department that 1) the existing Casa Blanca Mobile Home Park is in compliance with all applicable regulations and 2) that the proposed additional homes will be in compliance with all applicable regulations.
3. Applicant shall relocate the waste receptacle located on the street frontage.
4. Applicant shall consult with the Solid Waste Department to ensure that the receptacles on the Subject Property and the existing Casa Blanca Mobile Home Park have adequate capacity. If at any time, even after upgrading receptacle capacity, tenant waste overflows the receptacles repeatedly, defined as more than

- two waste pickup cycles in a row, Applicant shall provide additional or increased capacity.
5. No expansion shall be permitted and no mobile homes shall be placed on the Subject Property, until Applicant has submitted written certification from the Code Enforcement Division that 1) the existing Casa Blanca Mobile Home Park is in compliance with all applicable regulations and 2) that the proposed additional homes will be in compliance with all applicable regulations.
 6. Applicant shall construct a wall and fence around the Subject Property prior to mobile homes being placed on the property. Where a movable fence or gate is not needed for access, and where it will not impinge on the clear sight triangle. Applicant shall construct a CMU wall in the same or similar style as the existing mobile home park street frontage. Where removable panels or gates are necessary to place and remove mobile homes or for access to the material shall be opaque and durable, and shall be maintained so that it is in good repair, and any graffiti shall be promptly removed or covered.
 7. Applicant shall provide at least two parking spaces for each new unit on the property.
 8. If there are two or more police calls for service in any twelve month period after approval in which the police reports indicate that nonresidents are involved, then the Applicant shall install and maintain automatically closing gates at all entrances to Casa Blanca Mobile Home Park.

If you wish to appeal this decision, you must do so by June 14, 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 is to the Board of Appeals within 15 days of the decision. A filing fee of \$105.00 shall accompany each appeal application, as well as a written explanation outlining the reason for appeal and a copy of the ZHE decision. 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.

An appeal shall be heard by the Board of Appeals within 45 days of the appeal period and concluded within 75 days of the appeal period. The Planning Division 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. 4. 4. (B), of the City of Albuquerque Comprehensive Zoning Code, 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.



Christopher L. Graeser, Esq.
Zoning Hearing Examiner

cc: Zoning Enforcement
ZHE File
Casa Blanca MHP LLC, 279 El Rey DR, 87048
Buddy Wheet, PO BOX 21370, 87154
Bryan Nigg, PO BOX 13374, 87192
Lou Aragona, 3801 Westerfeld NE, 87111
Max Sanchez, 11101 Acoma SE, 87123