



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

Edward Baca requests a conditional use to allow accessory living quarters without a kitchen for Lot 110, Quaker Heights Addn, located at 5128 Northern Trl NW, zoned R-1A [Section 14-16-4-2]

Special Exception No:..... **VA-2019-00046**  
Project No: ..... **Project# 2019-002065**  
Hearing Date: ..... 03-19-19  
Closing of Public Record: ..... 03-19-19  
Date of Decision: ..... 04-03-19

On the 19th day of March, 2019, Dawn Baca, agent for property owner Edward Baca (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a conditional use to allow an accessory living quarters without a kitchen (“Application”) upon the real property located at 5128 Northern Trl NW (“Subject Property”). Below are the ZHE’s findings of fact and decision:

FINDINGS:

1. Applicant is requesting a conditional use to allow an accessory living quarters without a kitchen.
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. Dawn M. Baca, agent for Edward Baca, property owner appeared and gave evidence in support of the application.
5. All property owners within 100 feet and affected neighborhood association(s) were notified.

6. Quaker Heights Neighborhood Association, Taylor Ranch Neighborhood Association and Vista De la Luz HOA, are the affected NAs.
7. An e-mail from Vanessa Alarid, a current officer of the Quaker Heights NA, dated January 18, 2019, stating no objection to the requested use, was submitted in support of the Application.
8. An e-mail from Paul DePetro, 5124 Northern Trails NW, dated March 13, 2019, indicating no objection to the request, was submitted in support of the Application.
9. The subject property is currently zoned R-A.
10. The subject property is located within an Area of Consistency as designated by the ABC Comp. Plan.
11. The requested use is regulated by Section 14-16-4-3(F)(5): Accessory Building without Kitchen.
12. A site plan, with accompanying photographs of the existing primary structure and area surrounding it, were submitted in support of the Application.
13. The subject property is .89 acres in area.
14. The requested use is to allow a dwelling unit without a kitchen to be allowed on the property.
15. The accessory living unit would be used by out of state family members to stay while they are in Albuquerque for medical treatments.
16. The unit will be located behind the primary wall located on the north side of the property.
17. The proposed use will be in an existing well house on the north side of the property.
18. No new structures are requested.
19. Minimum setbacks have been met.
20. The street facing façade does articulate and resemble the primary building façade.
21. The Quaker Heights neighborhood currently has existing properties granted with conditional use to allow accessory living quarters.
22. 3 of 4 adjacent property owners currently have accessory living quarters.
23. The subject property already has on-site parking within its contained walls.
24. The requested living space is fully contained within the current property walls and will not increase non-residential activity.
25. The requested use is setback away from any pedestrian or transit use or access.
26. The requested use will encourage quality development that is consistent with the distinct character of the surrounding community.
27. This use is consistent with ABC Comp. Plan, policy 4.1.1.
28. The requested use will protect the identity and cohesiveness of neighborhoods by ensuring appropriate scale and location of development, mix of uses and character of building design.
29. This use is consistent with ABC Comp. Plan Policy 4.1.2.
30. The proposed use is consistent with the ABC Comp. Plan, as amended, as required by Section 14-16-6-6(A)(3)(a).
31. 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; any conditions specifically applied to the development of the property in a prior permit or approval affecting the property, as required by Section 14-16-6-6(A)(3)(b).
32. The proposed use will not create significant adverse impacts on the adjacent properties; the surrounding neighborhood, or the larger community, as required by Section 14-16-6-6(A)(3)(c).

33. 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 as requires by Section 14-16-6(A)(3)(d).
34. The proposed use will not increase non-residential activity within 300 feet of a lot in any residential zone between the hours of 8:00PM and 6:00AM as required by Section 14-16-6-6(A)(3)(e).
35. The proposed use will not negatively impact pedestrian or transit connectivity, as required by Section 14-16-6-6(A)(3)(f).
36. 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).
37. The ZHE finds that the Applicant has authority to pursue this Application.

DECISION:

APPROVAL of a conditional use to allow an accessory living quarters without a kitchen.

CONDITIONS:

The Use is regulated by Section 14-16-4-3(F)(5): Accessory Building without Kitchen.

APPEAL:

If you wish to appeal this decision, you must do so by April 18, 2019 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.



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Stan Harada, Esq.  
Zoning Hearing Examiner

cc: Zoning Enforcement  
ZHE File  
Edward and Dawn Baca, 5128 Northern TRL NW, 87120