



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

Joanna Browne requests a conditional use to allow outdoor storage for Lot 51, Block 125, Snow Heights Addn, located at 2020 Eubank Blvd NE, zoned MX-M [Section 14-16-4-2]

Special Exception No:..... **VA-2019-00301**
Project No: **Project#2019-002829**
Hearing Date: 10-15-19
Closing of Public Record: 10-15-19
Date of Decision: 10-30-19

On the 15th day of October, 2019, Jesus Gonzales, agent for property owner Joanna Browne (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a conditional use to allow outdoor storage (“Application”) upon the real property located at 2020 Eubank Blvd NE (“Subject Property”). Below are the ZHE’s findings of fact and decision:

FINDINGS:

1. Applicant is requesting a conditional use to allow outdoor storage.
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. The request is for a conditional use to allow outdoor storage; under Section 14-16-4; **USE REGULATIONS**; Table 4-2-1; **Allowable Uses**; *Wholesaling and Storage*.
5. This use is regulated by Section 14-16-4-3(E)(15): **Use-Specific Standards: Outdoor Storage**.

6. Jesus Gonzales, agent for Joanne Browne, property owner appeared and gave evidence in support of the application.
7. The address of the subject property is 2020 Eubank NE.
8. The subject property is currently zoned MX-M.
9. The request is for outdoor storage of tire inventory on the subject property.
10. The MX-M zone allows outdoor storage as a conditional use.
11. All property owners within 100 feet and affected neighborhood association(s) were notified.
12. East Gateway Coalition, North Eastern Association of Residents, and District 7 Coalition of Neighborhood Associations are the affected neighborhood associations.
13. The affected neighborhood association was notified by e-mail dated August 19, 2019.
14. No response, or request for meeting was submitted.
15. Applicant/Agent is lessee of the subject property and operator of the requested use.
16. The subject business is light auto repair, tire sales and repair.
17. The requested use is to store used tires, accessory to the subject business.
18. The subject property is Applicant's business location.
19. Applicant will be the operator of the use.
20. Applicant testified that used and discarded tires are picked up and removed from the business bi-weekly, and stated there will not be an accumulation of unusable tires, that potentially could become a health and safety hazard.
21. Applicant also agreed to place roofing over the area of the requested use, to prevent tires from accumulating stagnant water creating safety, health dangers.
22. Applicant agreed to abide with the fencing, barrier requirements in Section 14-16-4-3(E)(15): *Use-Specific Standards: Outdoor Storage*.
23. The subject address is located within walking distance from other commercial businesses and residential neighborhoods and is conveniently located near main transportation corridors to work centers, which is consistent with *ABC Comp. Plan*, GOAL 5.2 *COMPLETE COMMUNITIES*, Policy 5.2.1: *Land Use*.
24. The proposed project will help create a healthy, sustainable community, within a mix of uses conveniently accessible from surrounding neighborhoods, which is consistent with *ABC Comp. Plan*, GOAL 5.2 *COMPLETE COMMUNITIES*, Policy 5.2.1: *Land Use*.
25. The proposed use is consistent with the *ABC Comp. Plan*, as amended, as required by Section 14-16-6-6(A)(3)(a).
26. 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).
27. The side boundary street is Snow Heights Blvd NE.
28. Applicant's business building is on the adjacent property to the east, which provides a barrier and a buffer for the requested use.
29. Two adjacent businesses are located to the east of the subject lot, which provide a barrier and buffer to the requested use on that side.
30. There is a residential zone district located to the east and south of the subject property.
31. The subject property is separated from this residential zone by a 7-foot tall fence, a dirt trail, a large concrete, city storm drainage arroyo and another trail 20 feet wide.

32. The residential district lots all have 6-foot fences on their rear yards facing the subject site.
33. The city storm drainage arroyo curves and is also the boundary to the south.
34. 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).
35. The Applicant's business already has an adequate parking lot, and the requested use will not increase the number of customers to the primary business and will be utilized by Operator and his employees, which means no traffic to the subject site.
36. 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).
37. The requested use will only be accessed during their normal business hours from 9:00 am to 4:00 pm, Monday through Saturday with no increase of 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).
38. The proposed use will not negatively impact pedestrian or transit connectivity, as required by Section 14-16-6-6(A)(3)(f).
39. An aerial photograph with drawing showing the location of the business was submitted in support of the Application.
40. 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).
41. The ZHE finds that the Applicant has authority to pursue this Application.

CONCLUSIONS OF LAW:

The criteria within Section 14-16-6-6(A)(3) of the Albuquerque Zoning Code are satisfied.

DECISION:

APPROVAL of a conditional use to allow outdoor storage.

CONDITIONS:

The use will comply with Use-Specific Standards contained in by Section 14-16-4-3(E)(15): *Use-Specific Standards: Outdoor Storage.*

APPEAL:

If you wish to appeal this decision, you must do so by November 14, 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.



Stan Harada, Esq.
Zoning Hearing Examiner

cc: Zoning Enforcement
ZHE File
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