



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: 01-15-19
Closing of Public Record: 01-15-19
Date of Decision: 01-30-19

On the 15th day of January, 2019, property owner 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. This matter comes before the ZHE on remand from the Land Use Hearing Officer (LUHO), following an appeal by Applicants of the ZHE’s previous denial of the Application.
2. LUHO remanded with instructions to ZHE to consider whether the Applications proposed efforts and plans mitigate and outweigh potential material adverse impacts to the adjacent properties and surrounding community.
3. Applicant is requesting a conditional use to allow allow light vehicle sales and vehicle rentals.
4. 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*

5. 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).
6. Applicant, Hadeel Dahdul, owner appeared and gave evidence in support of the application.
7. All property owners within 100 feet and affected neighborhood association(s) were notified of this hearing on LUHO remand.
8. South Broadway Neighborhood Association is the affected NA.
9. The subject property is currently zoned MX-L.
10. Frances Armijo, 915 William St. SE, appeared and gave evidence in opposition to the Application.
11. She is a member of the South Broadway NA.
12. Gwen Colonel, 909 John St. SE, appeared and gave evidence in opposition to the Application.
13. She is the Co-Chair of the South Broadway NA.
14. The NA has voted to oppose the Application.
15. The Applicants were operating the applied for use for a period of time before they were cited and were required to apply for a conditional use.
16. Rental vehicles were dropped off late into the evening and early morning hours.
17. These drop-offs created parking congestion when vehicles were parked off the Applicants' property in the adjacent residential zone district.
18. This also created excessive noise at a time when most residents were asleep.
19. Traffic congestion and safety issues are created by customers attempting to turn left from northbound Broadway into the Applicant's business.
20. The excessive traffic endangers patrons to the bus stop directly across from Applicants' business.
21. Applicants illegally erected a fence across the alley behind the subject business, creating a public safety hazard.
22. 24 hour operation of the rental business is excessive and causes a great deal of congestion around the business.
23. A great amount of congestion is caused by the rental business.
24. Rental vehicles are dropped off constantly during 24 hour periods.
25. The proposed use has caused and potentially will create significant adverse impacts on the adjacent properties, the surrounding neighborhood or the larger community, contrary to the requirements in Section 14-16-6-6(A)(3)(c).
26. The proposed use will potentially cause material adverse impacts on other land in the surrounding area through increased traffic congestion, parking congestion, noise or vibration contrary to Section 14-16-6-6(A)(3)(d).
27. Applicant was given opportunity to present her efforts and plans to mitigate the significant adverse impact caused by the conditional use requested.
28. Applicant has submitted a site plan.
29. Applicant has discussed with U-Haul, the adverse material impacts on the neighborhood caused by the proposed use.
30. Applicant has altered the business web-site to prevent, discourage and reduce the off-hour drop-off of returned rental vehicle.
31. Applicant attempted to erect a fence across the alley in an attempt to discourage or prevent unauthorized drop-offs.

32. Applicant submitted a Petition signed by 30 persons living in the South Broadway neighborhood in support of the Application.
33. Applicant has agreed to limit hours of operation and publicize same on the business website to mitigate adverse impacts to the adjacent neighborhood.
34. Applicant has applied for a permit to erect a fence to prevent non-approved drop-offs in the adjacent residential neighborhood.
35. Applicant has agreed to comply with buffer and, landscape and barrier requirements in the IDO to shield and protect the adjacent residential neighborhood.
36. Applicant has agreed to clearly designate areas for off-hours vehicle rental returns.
37. 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).
38. The proposed use will not negatively impact pedestrian or transit connectivity, as required by Section 14-16-6-6(A)(3)(f).
39. 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).
40. The ZHE finds that the Applicant has authority to pursue this Application.

DECISION:

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

CONDITIONS:

Applicant shall limit the hours of operations to minimize and mitigate potential material adverse impacts on the adjacent residential district and surrounding community.

Applicant shall limit off-hours drop-offs to a specific and clearly designated location on the subject business property to minimize and mitigate potential material adverse impacts on the adjacent residential district and surrounding community.

Applicant shall comply with all Use-Specific Standards contained in Section 14-16-4-3(D)(19) (Light Vehicle Sales and Rental).

Applicant shall comply with all Development Standards contained in Section 14-16-5-6 (Landscaping, Buffering and Screening), specifically including, but not limited to Section 5-6(E) (Edge Buffering Landscaping).

APPEAL

If you wish to appeal this decision, you must do so by February 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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