



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

AGC requests a conditional use to allow construction contractors yard for Lot A, Associated General Contractors, located at 1615 University Blvd NE, zoned NR-C [Section 14-16-4-2]

Special Exception No:..... **VA-2019-00149**  
Project No: ..... **Project# 2019-002345**  
Hearing Date: ..... 06-19-19  
Closing of Public Record: ..... 06-19-19  
Date of Decision: ..... 07-03-19

On the 18th day of June, 2019, property owner AGC (by and through its authorized agent, “Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a conditional use to allow a construction contractors yard (“Application”) upon the real property located at 1615 University Blvd NE (“Subject Property”). Below are the ZHE’s findings of fact and decision:

FINDINGS:

1. Applicant is requesting a conditional use to allow a construction contractors yard, which use was allowed as permissive under the Subject Property’s previous zoning before adoption of the City of Albuquerque Integrated Development Ordinance (“IDO”).
2. The Subject Property is currently zoned NR-C under the IDO.
3. Applicant has authority to pursue this Application.
4. IDO 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(F)(2).

6. Applicant appeared at the ZHE hearing on this matter and gave evidence in support of the Application.
7. Applicant testified at the hearing that the proper "Notice of Hearing" signage was posted for the required time period as required by Section 14-16-6-4(K)(3).
8. Applicant testified at the hearing that all property owners and neighborhood association entitled to notice were notified of the Application.
9. Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval is consistent with the ABC Comp. Plan, as amended. Specifically, Applicant submitted evidence establishing that the requested Conditional Use approval furthers the following goals of the ABC Comp. Plan: (A) Place making — the Subject Property and the conditional use requested directly creates a place where business talent will stay and thrive, as the proposed use directly and indirectly impacts and employs hundreds of New Mexicans, and a central location gives access to a central point where the business can obtain and hire talent in the field; and (B) Entrepreneurship — the Comp. Plan is aims to foster a culture of creativity and entrepreneurship and to encourage private business to grow, and forbidding Applicant to continue to do business in this location under a zoning and use that was previously approved for this same property directly discourages private business and prevents growth and the ability to serve New Mexicans.
10. Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval 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. Specifically, Applicant testified and confirmed in written submittals that the requested Conditional Use approval would comport with all applicable requirements. No evidence was submitted to the contrary. No prior permits or approvals apply.
11. Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval will not create significant adverse impacts on adjacent properties, the surrounding neighborhood, or the larger community. Specifically, Applicant testified and confirmed in written submittals that the requested Conditional Use approval would not create any adverse impact. No evidence was submitted to the contrary.
12. Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval 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. Specifically, Applicant testified and confirmed in written submittals that the requested Conditional Use approval would not create any adverse impact. No evidence was submitted to the contrary.
13. Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval 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. Specifically, Applicant testified that non-residential activity would not increase in any prohibited manner. No evidence was submitted to the contrary.
14. Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval will not negatively impact pedestrian or transit connectivity

- without appropriate mitigation. Specifically, Applicant testified that no negative impact on pedestrian or transit connectivity would result. No evidence was submitted to the contrary.
15. The City Traffic Engineering Division stated no objection.
  16. The criteria within IDO Section 14-16-6-6(A)(3) are satisfied.

DECISION:

APPROVAL WITH CONDITION of a conditional use to allow a construction contractors yard.

CONDITION:

As required by IDO Section 4-3(D)(24)(b), all outdoor areas where construction equipment or goods or vehicles are parked or stored or work is conducted must comply with requirements in IDO Section 14-16-5-6 (Landscaping, Buffering, and Screening).

APPEAL:

If you wish to appeal this decision, you must do so by July 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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Zoning Hearing Examiner

cc: Zoning Enforcement  
ZHE File  
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