



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

Richard Johnson requests a conditional use to allow an accessory dwelling unit for Lot West 42' of 4, 5, 6, Block 18, Albright & Moore Addn, located at 511 Constitution Ave NW, zoned R-1A [Section 14-16-4-2]

Special Exception No:..... **VA-2019-00015**
Project No: **Project# 2019-001942**
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, Hue Lai agent for property owner Richard Johnson (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a conditional use to allow an accessory dwelling unit (“Application”) upon the real property located at 511 Constitution Ave 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 dwelling unit.
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. Richard Johnson, 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. Sawmill Community Land Trust and Wells Park Neighborhood Association are the affected NAs.
7. The subject property is currently zoned R-1C.

8. A site plan, and photographs showing the site, existing building and adjacent area.
9. Transportation reported no objection to the requested use.
10. The property is located in an Area of Consistency, and in the 4th Street MS, as designated in the ABC Comp. Plan.
11. The applicable overlay zone is CPO-11 (3,4).
12. The requested use is regulated by Character Protection Overlay Zone CPO-11, Section 14-16-4-3-4(L): Sawmill/Wells Park.
13. The requested use is regulated by Use-specific Standard, Section 14-16-4-3(F)(5): Dwelling Unit, Accessory (With or Without Kitchen).
14. The lot size of the subject property is 6400 sq. ft.
15. The requested use is for an old, existing building constructed long ago on the subject property.
16. The requested use will allow redevelopment and improvement of an underutilized building.
17. The accessory structure will not be rented out, and will be used as a guest bedroom.
18. There is no increase of non-residential activity, since the use will be private.
19. The requested use will help create a pleasing, quality urban environment, which will maintain the tradition of identifiable, individual, but still integrated communities within the metro area.
20. An e-mail from Sandra Pederson Hense, 1413 5th St. NW, dated February 4, 2019, was submitted in support of the requested use.
21. An e-mail from Robyn Grant, 1515 5th St. NW, dated February 4, 2019, was submitted in support of the requested use
22. A letter from Catherine Mexal, was submitted in support of the requested use, however, requested restriction of Applicant's off-street parking.
23. This use is consistent with ABC Comp. Plan, Goal 4.1: Enhance, protect, and preserve distinct communities, through Policy 4.1.1: Encourage quality development that is consistent with the distinct character of communities.
24. The requested use is consistent with ABC Comp. Plan, Policy 4.1.2: Protect the identity and cohesiveness of the neighborhoods by ensuring the appropriate scale and location of development, mix of uses, and character of building design.
25. The requested use is consistent with ABC Comp. Plan, policy 4.1.4: Enhance, protect, and preserve neighborhoods and traditional communities as key to our long term health and vitality.
26. The proposed use is consistent with the ABC Comp. Plan, as amended, as required by Section 14-16-6-6(A)(3)(a).
27. 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).
28. 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).
29. 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).

30. The proposed use will not increase non-residential activity within 300 feet of a lot in any Residential zone between the hours of 8:00 pm and 6:00 am as required by Section 14-16-6-6(A)3(e).
31. The proposed use will not negatively impact pedestrian or transit connectivity, as required by Section 14-16-6-6(A)3(f).
32. 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).
33. The ZHE finds that the Applicant has authority to pursue this Application.

DECISION:

APPROVAL of a conditional use to allow an accessory dwelling unit.

CONDITIONS:

This use is regulated by Use-Specific Standards, Section 14-16-4-3(F)(5)

The use is regulated by Character Protection Overlay Zone CPO-11, Section 14-16-4-3-4(L): Sawmill/Wells Park.

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.



Stan Harada, Esq.
Zoning Hearing Examiner

cc: Zoning Enforcement
ZHE File
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