



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: 11-19-19
Closing of Public Record: 11-19-19
Date of Decision: 12-04-19

On the 19th day of November, 2019, property owners Nouraldin Bartaa and Hadeel Dahdul (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) upon hearing following remand from City Council on a second appeal of the NOD on the request for 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 case began as an Application for a condition use request to allow light vehicle rentals, as an accessory use to the original permissive use business, a light vehicle fueling station.
2. The request was opposed by the South Broadway Neighborhood Association and a number of individuals who were adjacent property owners and residents from the surrounding community.
3. The Applicants had operated the use (U-Haul Rentals) without first obtaining the conditional use approval and this generated a number of complaints, which led to a red tag on the use.
4. The Applicants then filed an Applicant for a request of the conditional use under the IDO, which had just become effective.
5. The hearing on the Application was originally scheduled on the ZHE Agenda scheduled August 21, 2018.
6. ZHE ordered a facilitated meeting since the Applicants had not made required notification and offer of a meeting with the affected neighborhood association.
7. The meeting was conducted with the South Broadway NA on September 6, 2018 and a report was generated.
8. The primary concerns raised by the neighborhood included: increased traffic congestion, negative impact on the surrounding neighborhood resulting from off-hours drop offs of returned rental vehicles; a lack of a site plan indicating parking locations and restrictions, and a lack of procedures for drop-offs.
9. No compromises were reached as a result of the facilitated meeting.
10. The ZHE hearing on the Application was held on the September 18, 2018 agenda.

11. Speakers in opposition presented testimony and photographs evidencing adverse impacts on adjacent properties and the surrounding neighborhood.
12. ZHE allowed Applicants to respond and requested they respond to the evidence of adverse impact to the surrounding neighborhood.
13. Applicants responded they might put up a fence and presented a drawing showing no detail other than property line measurements of the subject lot.
14. ZHE issued his Notice of Decision denied the request for the conditional use and made Findings that stated there was evidence of adverse impact on the adjacent and surrounding neighborhood and that Applicants failed to present a plan to mitigate this injury.
15. Applicants timely appealed the denial to the Land Use Hearing Officer.
16. LUHO determined ZHE erred in denying the request and instructed ZHE to consider if mitigation efforts taken and offered by Applicants were sufficient and appropriate to mitigate the adverse impact on the neighborhood.
17. ZHE scheduled the hearing on the remand from LUHO on the January 15, 2019 agenda.
18. Applicants submitted evidence that that had obtained a minor wall fence permit and plan to install a fence to contained returned rental vehicles within the subject property and submitted a site plan with proposed landscaping to also mitigate the adverse impact.
19. Applicants presented evidence showing that they had altered their web site to show drop offs were not permitted outside normal operating hours.
20. Applicants present a site plan showing the fence, proposed landscaping and areas where the rental vehicles were being stored.
21. Frances Armijo, representing the South Broadway Neighborhood Association presented testimony in opposition to the proposed mitigation, stating the adverse impact continued, that Applicants had erected the fence without notifying them and traffic congestion was still bad and had not improved.
22. She also challenged Appellants stating that their website did not prohibit the improper off-hours drop-offs.
23. ZHE issued his Notice of Decision granting the requested use with a number of Conditions imposed to mitigate the adverse impacts resulting from the use.
24. The South Broadway Neighborhood Association timely appealed this Decision to LUHO, which resulted in a remand for ZHE to rehear the Applicants mitigation proposals and determine whether they were sufficient and appropriate to fully mitigate the adverse impact to the neighborhood.
25. LUHO recommended denial of the Appeal and found that the ZHE had made several harmless errors and presented his findings on the Appeal to City Council.
26. City Council rejected the LUHO recommendation and remanded the case back to ZHE with no further instructions.
27. This ZHE hearing is on remand from City Council.
28. After review of both Appeals, ZHE shall determine if mitigation efforts offered by Applicants are sufficient and appropriate to reduce the adverse impacts found by him previously and Conditions imposed by ZHE on the second NOD.
29. Applicants have constructed a fence with proper permits which contain all returned rental vehicles within the subject property.
30. Applicants testified that they have developed a return policy which prohibits drop-offs of returned rental vehicles outside of normal operating hours.

31. Applicants presented a site plan with landscaping sufficient to comply with Sections 14-16-5-6; Landscaping, Buffering and Screening, and Sub-section 5-6(E): Edge Buffering Landscaping.
32. Frances Armijo, representing the South Broadway Neighborhood Association was the sole person appearing and gave testimony in opposition to the Requested use.
33. Applicants have taken steps and presented a site plan, which is sufficient and appropriate to mitigate the adverse impact on the adjacent and surrounding neighborhood.
34. 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 IDO are satisfied.

DECISION:

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

CONDITIONS:

Applicants shall complete the fence and landscaping shown on the submitted site plan.

Applicant shall limit the hours of operation to minimize and mitigate potential adverse material 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 adverse material 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 Sub-Section 5-6(E): Edge Buffering Landscaping.

APPEAL:

If you wish to appeal this decision, you must do so by December 19, 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:

ZHE File
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