



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

Kiera Homann (Agent, Chris Blaz) requests a conditional use to allow an accessory dwelling unit without a kitchen for Lot 24, Alvarado Gardens Unit 2, located at 2923 Trellis DR NW, zoned R-A [Section 14-16-4-2]

Special Exception No:..... **VA-2020-00448**
Project No: **Project#2020-004768**
Hearing Date: 01-19-21
Closing of Public Record: 01-19-21
Date of Decision: 02-02-21

On the 19th day of January, 2021, Chris Blaz, agent for property owner Kiera Homann (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a conditional use to allow an accessory dwelling unit without a kitchen (“Application”) upon the real property located at 2923 Trellis DR NW (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a conditional use to allow an accessory dwelling unit without a kitchen.
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. Agent appeared and gave evidence in support of the application.
4. All property owners within 100 feet and affected neighborhood association(s) were notified.
5. The subject property is currently zoned R-A.

6. 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, Agent's testimony that the community would benefit from an attractive and harmoniously designed accessory structure to allow uses compatible with single family dwellings demonstrates that the requested Conditional Use approval would help "create healthy, sustainable communities with a mix of uses that are conveniently accessible from surrounding neighborhoods" as stated as a goal in ABC Comp. Plan Policy 5.2.1.
7. 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, Agent testified and confirmed in written submittals that the requested Conditional Use approval would comport with all applicable requirements. No prior permits or approvals apply.
8. 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, Agent testified and confirmed in written submittals that the requested Conditional Use approval would not create any adverse impact and would in fact enhance property values of the subject site and thereby to the neighboring parcels.
9. 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, Agent testified and confirmed in written submittals that the requested Conditional Use approval would not create any adverse impact and would not increase traffic congestion, parking, congestion, noise, or vibration.
10. 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, Agent testified that non-residential activity would not increase in any prohibited manner.
11. 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, Agent testified that no negative impact on pedestrian or transit connectivity would result.
12. Applicable Use-Specific Standards include the following:
 - 4-3(F)(5) *Dwelling Unit, Accessory (With or Without Kitchen)*
 - 4-3(F)(5)(a) *Where this use is allowed, only 1 accessory dwelling unit is allowed per lot.*
 1. *If accessory to residential development in any zone district, the accessory dwelling unit can be attached or detached.*
 2. *If accessory to a non-residential use in any Mixed-use zone district, the accessory dwelling unit shall be attached to the building with the non-residential use.*

3. *In a Non-residential zone district, the accessory dwelling unit is allowed for the caretaker of the primary non-residential use and may be attached or detached.*
- 4-3(F)(5)(b) *When an accessory dwelling unit is attached to a primary dwelling, only 1 dwelling unit entrance may face the front lot line.*
- 4-3(F)(5)(c) *A detached accessory dwelling unit shall comply with any applicable provisions of Subsection 14-16-5-11(C)(4) (Accessory Buildings).*
- 4-3(F)(5)(d) *In any Residential or Mixed-use zone district, a detached accessory dwelling unit shall be located behind the rear wall of a primary building. On corner lots, the accessory dwelling unit shall have the same minimum street side setback requirement as the primary building.*
- 4-3(F)(5)(e) *Accessory dwelling units with kitchens are prohibited in the R-1 zone district, with exceptions where they are allowed as permissive or conditional accessory uses in certain Center and Corridor areas and in certain small areas as specified below and as allowed pursuant to Subsection (f) below. Where allowed as a conditional accessory use, a Conditional Use Approval pursuant to Subsection 14-16-6-6(A) is required.*

13. Applicant testified that his requested Conditional Use approval would comport with all Use-Specific standards.

DECISION:

APPROVAL of a conditional use to allow an accessory dwelling unit without a kitchen.

APPEAL:

If you wish to appeal this decision, you must do so by February 17, 2021 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.



Robert Lucero, Esq.
Zoning Hearing Examiner

cc:

ZHE File
Zoning Enforcement
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