



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

Dr. Richard and Karen Hammer (Agent, American Legion Post 99, Dean Johnson) requests a conditional use to allow a club in an MX-T zone for Lots 1-9 and 28-36, Block 26, Valley View Addn, located at 4500 Silver Ave SE, zoned MX-T [Section 14-16-4-2]

Special Exception No:..... **VA-2021-00305**
Project No: **Project#2021-005805**
Hearing Date: 09-21-21
Closing of Public Record: 09-21-21
Date of Decision: 10-06-21

On the 21st day of September, 2021, American Legion Post 99, Dean Johnson, agent for property owner Dr. Richard and Karen Hammer (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a conditional use to allow a club in an MX-T zone (“Application”) upon the real property located at 4500 Silver Ave SE (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a conditional use to allow a club in an MX-T zone.
2. 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 this 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 a prior permit or approval affecting the property, or there is a condition of approval that any Variances or Waivers needed to comply with any of these provisions must be approved or the Conditional Use Approval will be invalidated pursuant to Subsection (2)(c)2 above.*
 - (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) *On a project site with existing uses, it will not increase non-residential activity within 300 feet in any direction of a lot in any Residential zone district between the hours of 10:00 P.M. and 6:00 A.M.*
 - (f) *It will not negatively impact pedestrian or transit connectivity without appropriate mitigation.*

3. The applicant bears the burden of providing a sound justification for the requested decision, based on substantial evidence, pursuant to IDO Section 14-16-6-4(E)(3).
4. The applicant bears the burden of showing compliance with required standards through analysis, illustrations, or other exhibits as necessary, pursuant to IDO Section 14-16-6-4(E)(4).
5. All property owners within 100 feet and affected neighborhood association(s) were timely notified.
6. The subject property is currently zoned MX-T.
7. City Transportation stated no objection to the Application.
8. Based on evidence submitted by the Applicant, the requested conditional use is consistent with the ABC Comp. Plan, as amended. Specifically, the Application furthers the following policies of the ABC Comp Plan:
 - a. Policy 2.4.2: *Growing Inward: Encourage infill development in appropriate places.* The proposed use of this property at this infill site because it is located on an existing commercial property with significant infrastructure in place.
Policy 5.3.1: *Infill Development: Support additional growth in areas with existing infrastructure and public facilities.* The proposed development furthers this policy by redeveloping the site that is served by existing infrastructure (water, sewer and major roadway network) and public facilities.
 - b. Policy 5.5.5.g: *Accommodate new growth through infill and compact development in areas where vacant land is contiguous to existing or programmed urban facilities and services and where the integrity of existing neighborhoods can be ensured.* The proposed use will not infringe on the adjacent properties, and the property redevelopment will comply with IDO standards and include buffers per the site plan in the record.
9. Based on evidence submitted by the Applicant, the requested conditional 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; and any conditions specifically applied to development of the property in any prior permit or approval affecting the property, as demonstrated in the site plan submitted by Applicant.
10. Based on evidence submitted by the Applicant, the requested conditional use will not create significant adverse impacts on adjacent properties, the surrounding neighborhood, or the larger community. The proposed development is located on a large lot with adequate capacity for this type of development. Surrounding properties will not experience disruption with the addition of club use on this property. Any impact to adjacent properties would be mitigated with the provision of appropriate existing walls acting as a screening buffer.
11. Based on evidence submitted by the Applicant, the requested conditional use 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. The City Traffic engineer did not object to the Application. Further, the Applicant proposed to take steps to mitigate any material adverse impact; namely, by providing wall screening and gated entries.
12. 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 10:00 pm and 6:00 am, because the club will not generate increased traffic during those hours.

13. Based on evidence submitted by the Applicant, the requested conditional use proposed use will not negatively impact pedestrian or transit connectivity, as required by Section 14-16-6-6(A)(3)(f).
14. 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).
15. The ZHE finds that the Applicant has authority to pursue this Application.

DECISION:

APPROVAL of a conditional use to allow a club in an MX-T zone.

APPEAL:

If you wish to appeal this decision, you must do so by October 21, 2021 pursuant to Section 14-16-6-4(V), 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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