



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

Dominic Martinez (Agent, ABQ Land Use Consulting, LLC) requests an expansion of non-conforming use of 10.27% increase in area for Lot 6A, Nelsons, located at 520 Montano RD NW, zoned MX-M [Section 14-16-6-8(c)(4)]

Special Exception No:..... **VA-2022-00142**
Project No: **Project#2019-003030**
Hearing Date: 07-19-22
Closing of Public Record: 07-19-22
Date of Decision: 08-03-22

On the 19th day of July, 2022, ABQ Land Use Consulting, LLC, agent for property owner Dominic Martinez (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting an expansion of non-conforming use of 10.27% increase in area (“Application”) upon the real property located at 520 Montano RD NW (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting an expansion of non-conforming use of 10.27% increase in area.
2. The City of Albuquerque Code of Ordinances Section 14-16-6-6(C)(3) (Review and Decision Criteria– Expansion of Nonconforming Use) reads: “*An application for an Expansion of Nonconforming Use or Structure shall be approved if it meets all of the following criteria, as applicable:*”
 - (a) *The expansion will not create material negative 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.*
 - (b) *The expansion 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.*
 - (c) *The expansion will not negatively impact pedestrian or transit connectivity without appropriate mitigation.*
 - (d) *The expansion will not exceed 25 percent of the gross floor area of the structure occupied by the nonconforming use, or 25 percent of the area occupied by the nonconforming use at the time it became nonconforming.*
 - (e) *The expansion will not exceed the gross floor area of a nonconforming structure by more than 25 percent of the gross floor area existing at the time the structure became non-conforming.*
 - (f) *The expansion will not increase an existing nonconformity or create a new nonconformity.*
3. 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. 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. Agent appeared and gave evidence in support of the application.
6. The subject property is currently zoned MX-M.
7. Applicant has met its burden of providing evidence that establishes that the requested expansion approval will not create material negative 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 as required by Section 14-16-6-6(C)(3)(a). Specifically, Agent confirmed in oral testimony and submitted evidence that the expansion will be contained on-site, which is already used as a self-storage facility, and in turn will not generate noise, vibration, traffic congestion, or parking congestion.
8. Applicant has met its burden of providing evidence that establishes that the requested expansion 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 as required by Section 14-16-6-6(C)(3)(b). Specifically, Agent confirmed the same in oral testimony and submitted evidence.
9. Applicant has met its burden of providing evidence that establishes that the requested expansion approval will not negatively impact pedestrian or transit connectivity without appropriate mitigation as required by Section 14-16-6-6(C)(3)(c). Specifically, Agent confirmed in oral testimony and evidence that the expansion will take place on an already an existing self-storage establishment, and therefore will not negatively impact pedestrian or transit connectivity.
10. Applicant has met its burden of providing evidence that establishes that the requested expansion approval will not exceed 25 percent of the gross floor area of the structure occupied by the nonconforming use, or 25 percent of the area occupied by the nonconforming use at the time it became nonconforming as required by Section 14-16-6-6(C)(3)(d). Specifically, evidence confirms the expansion will not exceed the maximum 25 percent.
11. Applicant has met its burden of providing evidence that establishes that the requested expansion approval will not exceed the gross floor area of a nonconforming structure by more than 25 percent of the gross floor area existing at the time the structure became nonconforming as required by Section 14-16-6-6(C)(3)(e).
12. Applicant has met its burden of providing evidence that the expansion will not increase an existing nonconformity or create a new nonconformity, as required by Section 14-16-6-6(C)(3)(f). Specifically, evidence confirms that the proposed building expansion will be built on property that is already being used for motor home storage, and therefore will not increase existing or new nonconformity.
13. The City Traffic Engineer submitted a report stating no objection to the Application.
14. All property owners within 100 feet and affected neighborhood association(s) were notified.
15. "Notice of Hearing" signage was posted for the required time period as required by Section 14-16-6-4(K)(3).
16. Applicant has authority to pursue this Application.

DECISION:

APPROVAL of an expansion of non-conforming use of 10.27% increase in area.

APPEAL:

If you wish to appeal this decision, you must do so by August 18, 2022 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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