



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

Route 66 Multi Family ABQ LLC, (Delcie Dobrovolny) requests Expansion of a non-conforming structure not to exceed 25% for Lots D & E, Block 0000, Tijeras Place Addn replat of Blocks 19&20, located at 300 San Mateo, Zone MC-M 14-16-6-8(D)(5)

Special Exception No: .... **VA-2024-00111**  
Project No: ..... **PR-2024-010241**  
Hearing Date: ..... 6-18-24  
Closing of Public Record: 6-18-24  
Date of Decision: ..... 7-3-24

On the 18th day of June, 2024, Route 66 Multi Family ABQ LLC, (Delcie Dobrovolny) appeared before the Zoning Hearing Examiner (“ZHE”) requesting an expansion of a non-conforming structure not to exceed 25% (“Application”) upon the real property located at 300 San Mateo NE (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting an expansion of a non-conforming structure not to exceed 25%.
2. The ZHE finds that the Applicant has authority to pursue this Application.
3. Applicant has duly authorized Agent to act on Applicant’s behalf regarding the Application.
4. All property owners within 100 feet and affected neighborhood association(s) were notified.
5. 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).
6. The City of Albuquerque Code of Ordinances Integrated Development Ordinance (“IDO”) 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.*

7. 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).
8. [Applicant/Agent] appeared and gave evidence in support of the application.
9. 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).
10. 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).
11. Agent appeared and gave evidence in support of the application.
12. The Subject Property is currently zoned MC-M.
13. The City Traffic Engineer submitted a report stating no objection to the Application.
14. 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). The request for balconies and rooftop amenities will not increase total number of building users and therefore will have no impact on traffic congestion, parking congestion, noise, or vibration.
15. 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). The expansion is for tenant amenities associated with a multi-family project and will not increase non-residential activity.
16. 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). The request for balconies and rooftop amenities will not increase total number of users and will therefore have no impact on pedestrian or transit connectivity.
17. 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). Applicant's request is for a nonconforming structure, so this criterion does not apply.
18. 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 non-conforming as required by Section 14-16-6-6(C)(3)(e). The building is approximately 123,000 square feet with approximately 67,000 square feet of gross area that is above the height allowed by MX-M zoning and therefore associated with the nonconformity. Applicant's request includes the following areas that are above the allowed height:

Proposed new balcony areas:

8,700 sf

Proposed new egress stair towers:	510 sf
Proposed extension of elevator and penthouse:	380 sf
Proposed tenant amenity (covered observation deck, fitness center and restrooms):	2,640 sf
Proposed insulating building envelope (additional 4" of insulation/finish cladding):	930 sf
Total expansion request:	13,160 sf
Expansion limit per IDO: 25% of 67,000 =	16,750

Applicant's request of 13,160 sf is therefore less than 25% of the gross floor area existing at the time of nonconformance.

19. Applicant has met its burden of providing evidence that establishes 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). Applicant's request is not associated with a nonconforming use. Applicant's request is less than the allowed increase and does not create a new nonconformity.

DECISION:

APPROVAL of a non-conforming structure not to exceed 25%.

APPEAL:

If you wish to appeal this decision you must do so by July 18, 2024 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.




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Zoning Hearing Examiner

cc:

ZHE File  
Zoning Enforcement  
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