

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

ANTONIO NUNEZ (DAC ENTERPRISES, SAGENT) request(s) a special exception to Proposed auto Condition and truck storage and service on all or a portion of Lot(s) 71, Block(s) A, EASTERN ADDN zoned SU-2 NCR, located at 803 BROADWAY BLVD SE (K-14)

Special Exception No:	11ZHE-80072	
Project No:	Project# 1008744	
Hearing Date:		
Closing of Public Record:		
Date of Decision:	06-01-11	

This matter was heard on May 17, 2011.

STATEMENT OF FACTS: The applicant, Antonio Nunez, requests a conditional use to allow proposed auto and truck storage and service. The property is zoned SU-2/NCR, South Broadway Sector Development Plan (SBSDP). The SBSDP does not allow outdoor storage. Doug Crandall, agent for the applicant, testified that if approved the only services that will be provided are removal and replacement of tires in a 10' x 20' designated work area. There will be no outside storage at this location. Mr. Crandall stated that there is adequate parking and all lighting and sign requirements are being met. Hours of operation will be standard daylight hours, seven days per week. The yellow sign was posted.

Diana Dorn-Jones, who is with the South Broadway Neighborhood Association, testified in opposition to this request. She feels that the applicant has not met the criteria for the granting of a conditional use. Ms. Dorn-Jones stated that the applicant has not proven that the granting of this request would not be injurious to the adjacent property, the neighborhood or the community.

According to the applicant, the use will not be injurious to the adjacent property, the neighborhood or the community. The property across the street to both the north and east are zoned SU-2/NCR, as is the abutting property to the south. There is an alley to the west and the property abutting the alley is zoned SU-2/MR. Most buildings on South Broadway in this area were built as residential dwellings and later converted to commercial uses. The applicant further testified that the use will be beneficial to the neighborhood as it will provide a needed service at a convenient location.

Pursuant to Section 14-16-2-16 (B)(3)(d), tire repair and replacement needs to be done in an enclosed building. The outdoor auto service (tire repair and replacement) would negatively impact the surrounding community. In the view of the Zoning Hearing Examiner that would be an unwelcomed activity. The potential for proliferation of this kind of activity along the South Broadway neighborhood commercial corridor would promote more of this type of outdoor activity, which in my view would cause injury to

the neighborhood, adjacent property and the community in that it will impact it in a negative manner and devalue much of the surrounding property.

Based on all of the testimony and a review of the entire file and the recordings, it is determined that there is substantial evidence to make the following findings and conclusions:

FINDINGS AND CONCLUSIONS: I find that this request does not comply with Section 14. 16. 4. 2. (C). 1., for the granting of a conditional use upon a finding that the proposed use will cause injury to the neighborhood, adjacent property or the community, and will be damaged by surrounding structures. As per Section 14-16-2-16(B)(3)(d), "Vehicle repairing, done within a completely enclosed building and at least 20 feet from any residential zone." For reasons stated above, this request is denied.

DECISION: Denied.

If you wish to appeal this decision, you may do so by 5:00 p.m., on June 16, 2011 in the manner described below:

Appeal is to the Board of Appeals within 15 days of the decision. A filing fee of \$105.00 shall accompany each appeal application, as well as a written explanation outlining the reason for appeal and a copy of the ZHE decision. Appeals are taken at 600 2nd Street, Plaza Del Sol Building, Ground Level, Planning Application Counter located on the west side of the lobby. **Please present this letter of notification when filing an appeal.** When an application is withdrawn, the fee shall not be refunded.

An appeal shall be heard by the Board of Appeals within 45 days of the appeal period and concluded within 75 days of the appeal period. The Planning Division shall give written notice of an appeal, together with a notice of the date, time and place of the hearing to the applicant, a representative of the opponents, if any are known, and the appellant.

Please note that pursuant to Section 14. 16. 4. 4. (B)., of the City of Albuquerque Comprehensive Zoning Code, you must demonstrate that you have legal standing to file an appeal as defined.

You will receive notice if any other person files an appeal. If there is no appeal, you can receive building permits any time after the appeal deadline quoted above, provided all conditions imposed at the time of approval have been met. However, the Zoning Hearing Examiner may allow issuance of building permits if the public hearing produces no objection of any kind to the approval of an application. To receive this approval, the applicant agrees in writing to return the building permit or occupation tax number.

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.

Roberto Albertorio, Esq. 2007.

Zoning Hearing Examiner

Zoning Enforcement cc:

ZHE File

Antonio Nunez, 803 Broadway Blvd., SE, 87102

DAC Enterprises, P.O. Box 16658, 87191

Diana Dorn-Jones, SBNA

Lorraine Smith