

1. The applicant shall apply for and receive a Building Permit prior to constructing the accessory apartment, and a Certificate of Occupancy prior to future occupancy. The off-street parking area proposed to be sited at the front of the subject property shall be constructed in accordance with code and be complete prior to future occupancy of the accessory apartment (if this area will be designated for off-street parking to serve the accessory apartment). As an alternative, the existing concrete pad in the rear yard may be utilized for off-street parking to serve the accessory

apartment.

2. The accessory apartment structure shall be architecturally compatible with the existing single family residential structure on the subject property.
3. All requirements of the Los Alamos Development Code shall be met during construction of the accessory apartment and prior to obtaining a Certificate of Occupancy.

In support of this **FINAL ORDER**, the **Commission** issues the following findings as related to the matter:

FINDINGS

Be it therefore decided that:

1. The Planning and Zoning Commission (Commission) is a quasi-judicial public board created pursuant to the Incorporated County of Los Alamos (County) Charter and pursuant to state and local laws, specifically Chapter 8, Section 201 of the Los Alamos County Code of Ordinances (Code).
2. Pursuant to Section 8-203(b)(2)(b) of the Code, the Commission is charged with the duty and has jurisdiction to hear and decide various land use and zoning matters including applications for Special Use Permits.
3. On June 20, 2016, Mark and Diana Martinez jointly filed with the County's Community Development Department (CDD) an application for a special use permit as required pursuant to Chapter 16 (Development Code), Article III of the Code.
4. The application requested a Special Use Permit for the construction of an accessory apartment at 20 Manhattan Loop, Los Alamos County, New Mexico with the lot being located in a R-1-8 zoned district.
5. Notice of this public hearing, setting forth the nature of the request, the specific parcel affected, the date, time, and place of the public hearing, was announced and published as required by law and property owners of real property located within 100 yards of the subject property were notified of this public hearing, all in accordance with the requirements Section 16-192 of the Development Code.
6. The application is limited to a request for a Special Use Permit to construct an accessory apartment in the rear yard as an accessory apartment.

7. The decision of the Commission is limited to determining whether the application meets the criteria set forth in Chapter 16, Section 156 of the Development Code.
8. Applicants Mark and Diana Martinez, CDD, represented by County Planning Staff, and Ms. Martha Katko, a neighbor owning property within 100 yards of the subject property, were denominated as parties.
9. Public member George Chandler, by his testimony, a home owner of property zoned R-1-8 but not within 100 yards of the subject property requested participation in the hearing claiming an interest based solely on ownership of real estate of the same zoning category as the subject property. Mr. Chandler, having no direct or pecuniary interest in the case separate from all other county residents owning property of the same zoning category as the subject property, the Commission Chair ruled Mr. Chandler not to be a party for purposes of participation but nevertheless an interested person allowed to give direct testimony.
10. Pursuant to Development Code Section 16-51(e), “decisions and code interpretations of the community development director shall apply to all applications and actions taken...” by the planning and zoning commission unless replaced by the director or modified by the Commission pursuant to Section 16-53(c)(1)(f) or Section 16-53(c)(2)(a) of the Development Code.
11. The application, the staff report, with the exhibits and oral testimony establish without contradiction the following:
 - A. The accessory apartment proposed will be 20 feet x 24 feet to be occupied by applicant Diane Martinez’s elderly parents;
 - B. The side yard setback to the interior lot is 15 feet;
 - C. The side yard setback to Canyon Road is 27 feet;
 - D. The rear lot setback, abutting a church parking lot is 6 feet.
 - E. Rear yard lot coverage by accessory apartment is 16.4%, less than the maximum 25% backyard allowed by the Development Code;
 - F. Total building coverage, including the main house and the proposed accessory apartment, is 31.2%, less than the maximum total lot coverage of 40% allowed under the Development Code.
 - G. The applicant currently has three off-street parking spaces, as required by the CDD’s interpretation of the Development Code.
 - H. As a part of the Special Use Permit approval pursuant to this application, Applicants have agreed to install a fourth off-street parking place.
 - I. Applicant will be required to obtain a building permit and construct the accessory apartment and obtain an occupancy permit prior to use of the Accessory apartment; and

- J. Applicant, pursuant to such building permit, shall comply with relevant requirements of the Development Code during the construction of the accessory apartment, establishing an accessory apartment of acceptable construction standards and design complementary to the main residence on the subject property.
12. The record of the hearing establishes that the traffic engineering department of the CDD had no issues with ingress and egress from the site and the Commission finds the criteria of Chapter 16, Section 156 (3) have been met.
 13. The proposed accessory apartment, pursuant to the staff report and testimony meets setbacks for buildings on the property and pursuant to Chapter 16, Section 273(2) of the Development Code, the criteria for Chapter 16, Section 156 (4) of the Development Code have been met.
 14. Pursuant to the condition imposed in the approval of this Special Use Permit, Applicant will be required to comply with all relevant requirements of the Development Code in the construction of the accessory apartment the criteria of Section 156(5) of the Development Code has been met.
 15. The condition of approval of this Special Use Permit requiring four off-street parking spaces and the requirement of Applicant to create the new fourth parking space consistent with the requirements of the Development Code, the criteria of Section 16-156(2) has been met.
 16. The testimony of party Ms. Katko supported this application for Special Use Permit and the concept that the addition of an accessory apartment on the subject property is not detrimental to the neighborhood.
 17. The testimony of Applicants that the addition of the accessory apartment is for the purpose of allowing Diana Martinez's parents to continue to live independently and later the apartment may be used for applicants to live independently with a child or children of applicants to remaining in Los Alamos and the maintenance and support of multiple generations of families supports the community fabric and is consistent with the goals of the Comprehensive Plan.
 18. The entirety of the record establishes that approval of this application request for Special Use Permit is and its maintenance and operation will not be detrimental to the health, safety, peace, comfort and general welfare of persons residing or working in the vicinity of the proposed use and will not be injurious to the property or the value of property in the vicinity, or to the general welfare of the County and this request satisfied the criteria of Section 156(1) of the Development Code.

19. At the August 10th public hearing of the Commission, a quorum of the Commission voted unanimously to approve the application. On motion and adoption the hearing was continued until the Commission's August 17, 2016, meeting where the Commissioners, via motion and adoption, approved the form and content of this finding of fact and authorized the Chair of the Commission to sign and enter this order.

Now wherefore all parties being duly notified, the Commission approves with conditions application. SUP-2016-0001.

APPROVED this _____ day of _____, 2016.

BY: _____
PHILLIP GURSKY, CHAIR
Planning and Zoning Commission
County of Los Alamos