



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

GARCIA'S TENTS & EVENTS request(s) a special exception to Section 14-16-2-17 (B)(20): a CONDITIONAL USE to allow an existing tent to be up for longer than 14 days on all or a portion of Lot(s) 6, Block(s) 6, ROMERO ADDN zoned C-2, located at 1113 4TH ST NW (J-14)

Special Exception No:..... **11ZHE-80151**
Project No: **Project# 1008856**
Hearing Date: 08-16-11
Closing of Public Record: 08-16-11
Date of Decision: 08-26-11

STATEMENT OF FACTS: The applicant, Garcia's Tents and Events, requests a conditional use to allow an existing tent to be up for longer than 14 days. This matter was originally scheduled to be heard at the June 21, 2011 ZHE Hearing at which time the matter was deferred to the July 19, 2011 hearing at the request of the applicant. Once again on July 19, 2011, the applicant requested that this matter be deferred to the August 16, 2011 hearing and the request was granted.

Dan & Steve Garcia attended the hearing on August 16, 2011. They testified that they have been at this location for approximately 38 years, but do not own the property. They stated that the existing tent/canopy is being used for shade during deliveries.

Lt. Skip Navarette, City of Albuquerque Fire Marshal's Office, testified at this hearing. He stated that the Fire Marshal must give approval prior to the erection of the tent as meeting the requirements of Chapter 14, Article 2, Fire Code.

Lt. Navarette testified that a permit from the Fire Marshal does not include the use of the tent for shade during deliveries. The practice of trucks backing up to or going under the shade of the tent must cease immediately according to the Fire Marshal due to a fire hazard.

The applicant testified that they plan to put a permanent structure at this location in the future. A permanent structure, built with required permits and approvals, appears to better suit the long term seasonal needs of the applicants as presented at hearing.

The request for the tent to remain up from June, 2011 through the end of December, 2011 (approximately 210 days) exceeds a reasonable extension to the 14 day Zoning Code provision and would require continuous renewal of the permit from the Fire Marshal. This renewal appears not to have taken place thus creating the potential of unsafe conditions.

Based on all of the testimony and a review of the entire file, 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. 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 September 12, 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.



Anita Reina, Esq.

Deputy Zoning Hearing Examiner

cc: Zoning Enforcement
ZHE File
Garcia's Tents & Events, 303 Arvada Avenue, NW, 87102
Neal Zimmer, 8518 Indian School Road NE, 87112
Skip Navarrette, 724 Silver Avenue SW, 87102