



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

TONY LOPEZ SR. (JEROME ECKSTAIN, AGENT) request(s) a special exception to Section PG. 25 NMW LAND USE and 14-16-2-17(B)(11): a CONDITIONAL USE to allow existing vehicle storage on all or a portion of Lot(s) 4A, Block(s) 14, CLAYTON HEIGHTS ADDN zoned SU-2 NMX, located at 1801 WILMOORE DR SE (L-15)

Special Exception No:..... **11ZHE-80240**  
Project No:..... **Project# 1008981**  
Hearing Date: ..... 10-18-11  
Closing of Public Record: ..... 10-18-11  
Date of Decision: ..... 10-31-11

**STATEMENT OF FACTS:** The applicant, Tony Lopez, Sr., requests a conditional use to allow existing vehicle storage. Tony Lopez testified, at the hearing, he is currently leasing this property; he has a five year lease. If approved, this lot will be used as overflow parking for RV's from his business at 1831 Wilmoore Drive SE. He stated that he has night security at both locations. All RV's are moved onto the property from the street at the end of each business day. Only RV's that are dropped off by customers after business hours are left on the street over night. Tony Lopez testified that repairs are not done on the street, only diagnosis of repairs needed. He indicated that RV's are stored at this location for approximately two weeks, while repairs are being done.

Lee Graham with the Clayton Heights Neighborhood Association testified in support, with conditions, of this request as long as some conditions are met.

Isabel Cabrera, VP of Clayton Heights/Lomas del Cielo Neighborhood Association testified in opposition. She stated that she resides across the street from this location and has lived there for approximately 30 years. She stated that this business has caused a lot of noise and traffic in this area due to large RV vehicles being moved in and out of the lot and workers yelling instructions to guide the driver who is backing the RV vehicles out of the fenced storage areas. There was also testimony that workers would sometimes be seen under the RV's parked on the street. There are also other items being stored at this location such as horse trailers, boats and flat beds. Also speaking in opposition to this request was Paula Welsh, she testified that this business has caused traffic congestion in the area and that no improvements have been made on the property. There was testimony of a similar request that was granted to this applicant at 1824 Wilmoore Drive SE. The neighbors testified that the conditions set out in the ZHE decision were never met.

There was also testimony that a husband and wife live at the site for on-site security reasons. This was also confirmed by Mr. Lopez.

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 November 15, 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*

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Anita Reina, Esq.  
Deputy Zoning Hearing Examiner

cc: Zoning Enforcement  
ZHE File  
Jerome Eckstain, 1420 Ridgecrest Place SE, 87108  
Tony Lopez, 1831 Wilmoore Drive SE, 87106  
Isabel Cabrera, 1720 Buena Vista SE, 87106  
Paula Welsh, 506 Princeton Drive SE, Apt. F, 87106  
Lee Graham, P.O. Box 27543, 87125