

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

DOLORES & MARIA CABRERA (ARNOLD MELBIHESS, AGENT) request(s) a special exception to Section 14-16-2-18(B)(1) and 14-16-2-17(B)(11)(c): a CONDITIONAL USE to allow a proposed mobile vending unit as an outdoor activity on all or a portion of Lot(s) 7 & 8, Block(s) E, CARLOS REY zoned C-3, located at 801 OLD COORS DR SW (L-11)

Special Exception No:..... **12ZHE-80048**  
Project No: ..... **Project# 1009148**  
Hearing Date: ..... 03-20-12  
Closing of Public Record: ..... 03-20-12  
Date of Decision: ..... 03-30-12

**STATEMENT OF FACTS:** The applicants, Dolores & Maria Cabrera, request a conditional use to allow a proposed mobile vending unit as an outdoor activity. Eddie Gallegos, agent for the applicant, testified that his clients' desire to have a mobile vending unit that is an extension of their existing restaurant, El Bronco. The proposed mobile vending unit will be parked daily, except Thursday, at this location from 5:00 p.m. – 10:00 p.m.

Victor Becera, Larry Nelson and Jerry Gallegos of the West Side Central Merchants Association all spoke in opposition to this request. Concerns include: environmental health issues; mobile unit not being used as a mobile unit, but being located at only one location; potential precedence set by this request; increased number of mobile units currently in the area of this proposed vending unit. The opponents persuasively argue that allowing this type of activity is contrary to the established anchor businesses in the community; violates the goals of stability included in the Sector Development Plan and would give rise to potential other types of mobile business.

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. I agree with the issues raised by the opposition. 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 April 16, 2012 in the manner described below:**

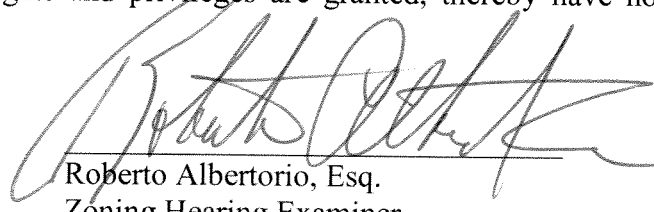
Appeal is to the Board of Appeals within 15 days of the decision. A filing fee of \$105.00 shall accompany each appeal application, as well as a written explanation outlining the reason for appeal and a copy of the ZHE decision. Appeals are taken at 600 2nd Street, Plaza Del Sol Building, Ground Level, 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.  
Zoning Hearing Examiner

cc: Zoning Enforcement  
ZHE File  
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