

CITY OF ALBUQUERQUE
PLANNING DEPARTMENT
ZONING HEARING EXAMINER
NOTIFICATION OF DECISION

ASHLEY FURNITURE HOME STORE
(GARCIA'S TENTS AND EVENTS, CRYSTAL
DELGADO, AGENT) request(s) a special
exception to Section 14-16-2-20(B)(6): a
CONDITIONAL USE to allow tent activities for
all or a portion of Lot(s) B1, HISE LANDS
zoned M-1 (SC), located on 7912 PAN
AMERICA FRWY NE (D-18)

Special Exception No: **12ZHE-80262**
Project No: **Project# 1009407**
Hearing Date: 10-16-12
Closing of Public Record: 10-16-12
Date of Decision: 10-31-12

On October 16, 2012, Crystal Delgado of Garcia's Tents and Events, agent for Ashley Furniture Home Store appeared before Zoning Hearing Examiner, Joshua Skarsgard, requesting a conditional use to allow tent activities at 7912 Pan American Freeway NE. Below are the findings of facts.

FINDINGS:

1. Ashley Furniture Home Store requests a conditional use to allow tent activities for more than three times a year at 7912 Pan American Freeway NE.
2. Crystal Delgado, agent for Ashley Furniture Home Store testified that her client currently leases the property from a lease management company. After the hearing, Ms. Delgado contacted the Zoning Hearing Office to inform them that Ashley Furniture Home Store owns the property and does not lease.
3. Ms. Delgado anticipates the tent to be used three times a year for five days a week. There will need to be set up and tear down one day before the sale and one day after.
4. The City of Albuquerque Code of Ordinances Section § 14-16-4-2 (C) (1) (a) "SPECIAL EXCEPTIONS" reads in part: "*A conditional use shall be approved if and only if, in the circumstances of the particular case and under conditions imposed, the use proposed will not be injurious to the adjacent property, the neighborhood, or the community.*"
5. Ms. Delgado testified that the conditional use request will not be injurious to the surrounding community because it is a well established commercial area where tent activities are common.
6. The City of Albuquerque Code of Ordinances Section § 14-16-4-2 (C) (1) (b) "SPECIAL EXCEPTIONS" reads in part: "*A conditional use shall be approved if and only if, in the circumstances of the particular case and under conditions imposed, the use proposed will not be significantly damaged by surrounding structures or activities.*"

7. Ms. Delgado testified that the conditional use request will not damage surrounding structures or activities because there are no nearby residential neighbors that would be harmed by these temporary tent activities.
8. There are no letters of opposition in the file nor was there any opposition at the hearing.
9. The yellow "Notice of Hearing" signs were posted for the required time period as articulated within City of Albuquerque Code of Ordinances § 14-16-4-2 SPECIAL EXCEPTIONS.

DECISION:

APPROVAL WITH CONDITION(S) of a CONDITIONAL USE to allow tent activities for all or a portion of Lot(s) B1, HISE LANDS zoned M-1 (SC), located on 7912 PAN AMERICA FRWY NE (D-18)

CONDITON OF APPROVAL

1. The Applicant shall utilize the tent activities in a range of time not to exceed three times a year for five days a week.

If you wish to appeal this decision, you may do so by 5:00 p.m., on November 16, 2012 in the manner described below:

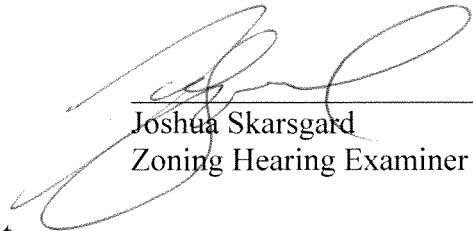
Appeal is to the Board of Appeals within 15 days of the decision. A filing fee of \$105.00 shall accompany each appeal application, as well as a written explanation outlining the reason for appeal and a copy of the ZHE decision. Appeals are taken at 600 2nd Street, Plaza Del Sol Building, Ground Level,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

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.



Joshua Skarsgard
Zoning Hearing Examiner

cc: Zoning Enforcement
ZHE File
Ashley Furniture Home Store, 7912 Pan American Freeway NE, 87109
Garcia Tents and Events, 303 Arvada Ave NW, 87102