

CITY OF ALBUQUERQUE
PLANNING DEPARTMENT
ZONING HEARING EXAMINER
NOTIFICATION OF DECISION

HARBOR FREIGHT (GARCIA'S TENTS AND EVENTS, NAOMI ROMERO, AGENT) request(s) a special exception to Section 14-16-2-17(B)(20): a CONDITIONAL USE to allow tent activity for more than two times a year and 20 days a year for proposed tent sales for all or a portion of Lot(s) 88, Block(s) 88, SNOW HEIGHTS ADDN zoned C-2 (SC), located on 11035 MENAUL BLVD NE (H-21)

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, Naomi Romero of Garcia's Tents and Events, agent for Harbor Freight appeared before Zoning Hearing Examiner, Joshua Skarsgard, requesting a conditional use to allow tent activities for more than two times a year and 20 days a year for proposed tent sales at 11035 Menaul Blvd NE. Below are the findings of facts.

FINDINGS:

1. Harbor Freight requests a conditional use to allow tent activities for more than two times a year and 20 days a year for proposed tent sales at 11035 Menaul Blvd NE.
2. Naomi Romero, agent for Harbor Freight testified that her client currently leases the property from a lease management company. There is a letter from Jolene Terry-Phinney, Commercial Regional Manager, Red Tail Acquisitions, LLC., who represents the owners of the Foothill Shopping Center, FPA Foothills, LLC., who are in support of the request.
3. Ms. Romero anticipates the tent to be used four times a year for three 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. 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.*"
6. Ms. Romero testified that the request will not be injurious to the surrounding community or damage the surrounding structures or activities because the proposed tent will be 75' from a nearby Subway restaurant and 90' from the strip center and its location will be in an established commercial area.
7. Ms. Romero testified that the tent will also have a 40' x 70' temporary fence that surrounds the tent activities.

8. Ms. Romero testified that Harbor Freight has been having tent events for the past 5 years and have been successful in sales and has not significantly damaged any of the neighboring properties.
9. Originally, this request was for tent activity for more than two times a year and 14 days a year for proposed tent sales. However, it was amended at the hearing to allow tent activities for more than two times a year and 20 days a year for proposed tent activities because of the extra 2 days for set up and tear down of tents.
10. There are no letters of opposition in the file nor was there any opposition at the hearing.
11. 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 activity for more than two times a year and 20 days a year for proposed tent sales for all or a portion of Lot(s) 88, Block(s) 88, SNOW HEIGHTS ADDN zoned C-2 (SC), located on 11035 MENAUL BLVD NE (H-21).

CONDITON OF APPROVAL

1. The Applicant shall utilize the tent activities in a range of time not to exceed two times a year (totaling 20 days a year).

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.

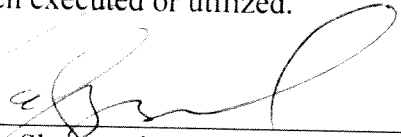
An appeal shall be heard by the Board of Appeals within 45 days of the appeal period and concluded within 75 days of the appeal period. The Planning Division shall give written notice of an appeal, together with a notice of the date, time and place of the hearing to the applicant, a representative of the opponents, if any are known, and the 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.



Joshua Skarsgard
Zoning Hearing Examiner

cc: Zoning Enforcement
ZHE File
Harbor Freight, 11035 Menaul Blvd NE, 87112
Garcia Tents and Events, 303 Arvada St NW, 87102
Red Tail Acquisitions, LLC., 834 East 9400 South, Ste 54, Sandy Utah, 84094