



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

CGC HOSPITALITY ASSOC LLC Special Exception No:..... **17ZHE-80070**  
(GARCIA/KRAEMER & ASSOCIATES, Project No:..... **Project# 1011201**  
AGENT) requests a special exception to Hearing Date:..... 05-16-17  
Section 14-16-3-5(C)(2)(d) : a VARIANCE of Closing of Public Record:..... 05-16-17  
250 ft to the required 660 ft to allow a Date of Decision: ..... 05-31-17  
proposed 75 sq ft electronic sign along Rio Grande Blvd for all or a portion of Lot C G C ADDN, C GC Addn zoned C-2, located on 1015 RIO GRANDE BLVD NW (H-13)

On the 16th day of May, 2017, GARCIA/KRAEMER & ASSOCIATES (“Agent”) acting as agent on behalf of the property owner CGC HOSPITALITY ASSOC LLC (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 250 ft to the required 660 ft to allow a proposed 75 sq. ft electronic sign along Rio Grande Blvd (“Application”) upon the real property located at 1015 RIO GRANDE BLVD NW (“Subject Property”). Below are the ZHE’s findings of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 250 ft to the required 660 ft to allow a proposed 75 sq. ft electronic sign along Rio Grande Blvd.
2. The City of Albuquerque Zoning Code of Ordinances Section 14-16-4-2 (C)(2) (Special Exceptions – Variance) reads: “A *variance application shall be approved by the Zoning Hearing Examiner, if and only if, the Zoning Hearing Examiner finds all of the following:*
  - (a) *The application is not contrary to the public interest or injurious to the community, or to property or improvements in the vicinity;*
  - (b) *There are special circumstances applicable to the subject property which do not apply generally to other property in the same zone and vicinity such as size, shape, topography, location, surroundings, or physical characteristics created by natural forces or government action for which no compensation was paid;*
  - (c) *Such special circumstances were not self-imposed and create an unnecessary hardship in the form of a substantial and unjustified limitation on the reasonable use or return on the property that need not be endured to achieve the intent and purpose of the Zoning Code (§14-16-1-3) and the applicable zoning district; and*
  - (d) *Substantial justice is done.*”
3. The Applicant bears the burden of ensuring there is evidence in the record supporting a finding that the above criteria are met under Section 14-16-4-2(C).

4. The ZHE finds that Application is not: (i) contrary to the public interest, (ii) injurious to the community; or (iii) injurious to the property or improvements located in the vicinity as required by Section 14-16-4-2 (C)(2)(a).
5. Specifically, the ZHE finds that Applicant, in coordination with the nearby residents, has taken the following steps to address any potentially deleterious impacts of the project:
  - a. The new sign will employ directional LED's rather than the non-directional flexible face lighting currently used. The LED's will be oriented toward Interstate 40 and away from residential areas and Rio Grande Boulevard.
  - b. Louvers will be installed which will further limit light transmission to the residential areas south of the Subject Property.
  - c. The physical sign structure will be v-shaped, with the faces oriented toward Interstate 50 and away from residential areas and Rio Grande Boulevard.
  - d. The sign is located as far from Rio Grande Boulevard, and as far from the residential areas, as permitted by the property boundaries and drainage easement.
  - e. The sign, at 75 square feet, is reasonable in size, and the information it projects will be limited and in accordance with City of Albuquerque electronic sign regulations.
6. The bright ambient lighting along the interstate should also be noted.
7. The support of surrounding neighbors and the neighborhood association indicates the absence of potential injury to the surrounding area.
8. The ZHE finds that there are special circumstances applicable to the Subject Property which do not apply generally to other property in the same zone and vicinity such as size, shape, topography, location, surroundings, or physical characteristics created by natural forces or government action for which no compensation was paid, as required by Section 14-16-4-2(C)(2)(b).
9. Specifically, the ZHE finds that the Subject Property is uniquely oriented on three different streets and abutting Interstate 40, so that the sign can be oriented toward the Interstate and not Rio Grande Boulevard.
10. There is an existing, legal nonconforming sign in the same location, which the proposed sign will replace.
11. The Subject Property is oddly shaped, with seven different property lines, contributing to the difficulty of erecting a sign.
12. The orientation and location of the sign and lot, as well as the existing of the building and mature landscaping, also constitute special circumstances limiting visibility from Rio Grande Blvd.
13. The ZHE finds that such special circumstances were not self-imposed and create an unnecessary hardship in the form of a substantial and unjustified limitation on the reasonable use or return on the property that need not be endured to achieve the intent and purpose of the Zoning Code (§14-16-1-3) and the applicable district, as required by Section 14-16-4-2(C)(2)(c).
14. Specifically, the ZHE finds that the tension between the existing sign location and lot layout were not self-created, and denial of the Application, resulting in reduced ability to compete with other businesses. The significant effort required for manual

placement and removal of message letters, such as room rates, on a 37' sign also constitutes an unjustified limitation.

15. The ZHE finds that substantial justice will be done if this Application is approved, as required pursuant to Section 14-16-4-2 (C)(2)(d).
16. The ZHE finds that the proper "Notice of Hearing" signage was posted for the required time period as required by Section 14-16-4-2(B)(4).
17. The ZHE finds that the Applicant has authority to pursue this Application.

#### CONCLUSIONS OF LAW:

The criteria within Section 14-16-4-2(C)(2) of the Albuquerque Zoning Code are satisfied.

#### DECISION:

APPROVAL of a variance of 250 ft to the required 660 ft to allow a proposed 75 sq ft electronic sign along Rio Grande Blvd.

If you wish to appeal this decision, you must do so by June 15, 2017, in the manner described below. A non-refundable filing fee will be calculated at the Planning Department's Land Development Coordination counter and is required at the time the Appeal is filed.

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.



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