

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

TED V. MONTOYA (AUSTIN'S CARPORTS, GILBERT AUSTIN, AGENT) request(s) a special exception to Section 14-16-2-6(B)(3): a CONDITIONAL USE for a proposed carport in the front yard setback area for all or a portion of Lot(s) 3, Block(s) D, VISTA BELMONTE zoned R-1, located on 9804 ASPEN CT NE (J-20)

Special Exception No:..... **12ZHE-80177**  
Project No: ..... **Project# 1009293**  
Hearing Date: ..... 08-07-12  
Closing of Public Record: ..... 08-07-12  
Date of Decision: ..... 08-07-12

On August 7, 2012, Gilbert Austin agent and contractor for Austin's Carports appeared in front of Interim Zoning Hearing Examiner, Stanley D. Harada for a special exception, conditional use for a proposed carport in the front yard setback area at 9804 Aspen Ct NE.

**SUMMARY:**

1. Ted V. Montoya requests a conditional use for a proposed carport in the front yard setback area.
2. Mr. Austin testified that his client has owned the property since 1979.
3. It will be a steel single carport which will be attractive in appearance.
4. There will be rain gutters placed on the owner's property.
5. Mr. Austin testified that the proposed request will not be injurious to the surrounding community or adjacent property.
6. There are no letters of opposition nor was there any opposition at the hearing.
7. The yellow signs were posted for the prescribed time.
8. A City of Albuquerque Traffic Engineer's Report shows that there are no clear sight triangle problems.

**FINDINGS:** The burden of proof has been established for a proposed carport in the front yard setback area at 9804 Aspen Ct NE. There will be rain gutters placed on the carport and the proposed request will not be injurious to the surrounding community or adjacent property.

**DECISION:** Approved.

**If you wish to appeal this decision, you may do so by 5:00 p.m., on August 22, 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

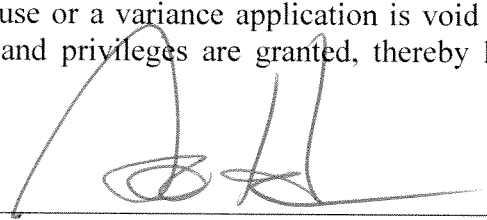
side of the lobby. **Please present this letter of notification when filing an appeal.** When an application is withdrawn, the fee shall not be refunded.

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.



Stanley D. Harada, Esq.  
Interim Zoning Hearing Examiner

cc: Zoning Enforcement  
ZHE File  
Austin's Carports, 528 2<sup>nd</sup> Street SW, 87102  
Ted V. Montoya, 9804 Aspen Ct NE, 87112