

CITY OF ALBUQUERQUE
PLANNING DEPARTMENT
ZONING HEARING EXAMINER
NOTIFICATION OF DECISION

JESSE G. LOPEZ (AUSTIN'S CARPORTS, GILBERT AUSTIN, AGENT) request(s) a special exception to Section 14-16-2-6(B)(12), 14-16-2-5(B), 14-16-2-4(B)(1) and Page 85 of the LOS DURANCES SECTOR DEVELOPMENT PLAN: a CONDITIONAL USE for a proposed carport (shade structure) in the rear yard setback area for all or a portion of Lot(s) 5, JESSE G LOPEZ zoned SU-2 LD-RA-2, located on 2913 DURANES RD NW (H-12)

Special Exception No:..... **12ZHE-80333**
Project No: **Project# 1009481**
Hearing Date: 11-19-12
Closing of Public Record: 11-19-12
Date of Decision: 12-06-12

On the 19th day of November, 2012 (hereinafter "**Hearing**") Mr. Gilbert Austin, (hereinafter "**Agent**") acting as agent on behalf of the property owner, Jesse G. Lopez (hereinafter "**Applicant**") appeared before the Zoning Hearing Examiner (hereinafter "**ZHE**") requesting a CONDITIONAL USE for a proposed carport (shade structure) in the rear yard setback area (hereinafter "**Application**") upon the real property located at 2913 DURANES RD NW ("**Subject Property**"). Below are the findings of facts:

FINDINGS:

1. Applicant is requesting a CONDITIONAL USE for a proposed carport (shade structure) in the rear yard setback area.
2. 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.*"
3. Agent testified at the Hearing that the Conditional Use, if approved, will not be injurious to the adjacent property, neighborhood, or the community because there are no neighbors that oppose the application and the Applicant will use a rain gutter placed on top of the car port to not allow water runoff to damage neighboring properties.
4. The Traffic Engineer indicated that the proposed carport does not violate the clear sight triangle.
5. The Agent indicated that the construction material will be steel and attractive in appearance.
6. There is no neighborhood opposition letters in the file.
7. 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.”

8. Agent testified at the Hearing that the proposed conditional use will not be significantly damaged by the surrounding structures or activities.
9. It will be a two car carport.
10. 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.
11. The Applicant has adequately justified the Conditional Use request pursuant to City of Albuquerque Code of Ordinances § 14-16-4-2 SPECIAL EXCEPTIONS.

DECISION:

APPROVAL WITH CONDITIONS of a **CONDITIONAL USE** for a proposed carport (shade structure) in the rear yard setback area upon the real property located at 2913 DURANES RD NW.

CONDITIONS OF APPROVAL:

1. The Applicant shall maintain the clear sight triangle.
2. The Applicant shall maintain rain gutters placed on the car ports so as to mitigate storm water runoff damage to neighboring properties.

If you wish to appeal this decision, you may do so by 5:00 p.m., on December 21, 2012 in the manner described below:

Appeal is to the Board of Appeals within 15 days of the decision. A filing fee of \$50.00 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.

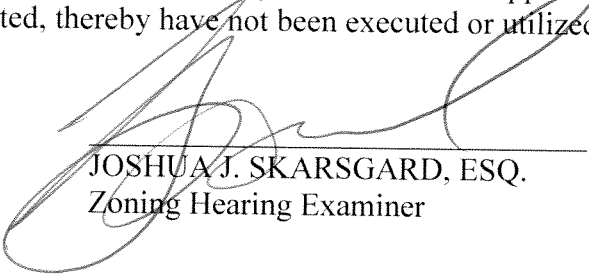
An appeal shall be heard by the Board of Appeals within 45 days of the appeal period and concluded within 75 days of the appeal period. The Planning Division shall give written notice of an appeal, together with a notice of the date, time and place of the hearing to the applicant, a representative of 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 J. SKARSGARD, ESQ.
Zoning Hearing Examiner

cc: Zoning Enforcement
ZHE File
Austin's Carports, 528 2nd St SW, 87102
Jesse Lopez, 2913 Duranes Rd NW, 87104