

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

JOANN PADILLA request(s) a special exception to Section 14-16-3-3(B)(2)(e): a VARIANCE of 3' 6" to the 5' minimum distance separation requirement between existing accessory structures on all or a portion of Lot(s) 12-P1, Block(s) 3, CASITA DE LA MESA zoned R-D 9 DU/A, located at 700 VISTA DEL PUEBLO ST SW (L-9)

Special Exception No:..... **12ZHE-80068**
Project No: **Project# 1009174**
Hearing Date: 04-17-12
Closing of Public Record: 04-17-12
Date of Decision: 05-02-12

I have reviewed the entire file as well as the recordings, I make the following:

STATEMENT OF FACTS: The applicant, Joann Padilla, requests a variance of 2' 4" to the 6' maximum wall height allowance for an existing accessory structure in the side yard setback area. Ms. Padilla testified, at the hearing, that she has owned and resided on this property for approximately 16 years. She stated that her lot is exceptional because it is a corner lot. There is a letter in the file from the Traffic Engineer's Office that indicates no obstruction to the clear sight requirements. The applicant was advised that, if approved, clear sight must be maintained and that vehicles, dumpsters, or landscaping that may mature and cause an obstruction to clear sight may not be placed next to this wall. The yellow sign was posted. There was no opposition to this request at the hearing, nor is there any opposition noted in the file.

Based on all of the testimony and a review of the entire file, it is determined that there is substantial evidence to make the following findings and conclusions:

FINDINGS AND CONCLUSIONS: I find that the applicant has not met the burden of the variance request. The lot is not exceptional as compared with other corner lots in the vicinity 700 Vista Del Pueblo St SW. Ms. Joann Padilla did not give any other testimony as to how the property met the exceptionality test. There were no permits applied for any of the structures that require variance requests. Ms. Padilla did state at the hearing that she could move the structures. The site plan submitted by Ms. Padilla does not accurately indicate separation distances for the variance requests. The site plan is not drawn to scale. Failure of the applicant to indicate scaled distances on the site plan necessitated a site visit by staff. Staff report of the visit supports the lack of proof that the property at 700 Vista Del Pueblo St. SW is not exceptional.

DECISION: Denied.

If you wish to appeal this decision, you may do so by 5:00 p.m., on May 17, 2012 in the manner described below:

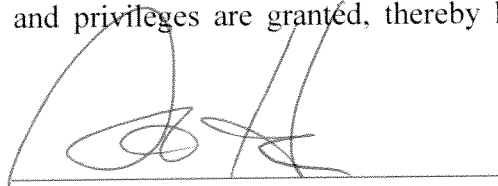
Appeal is to the Board of Appeals within 15 days of the decision. A filing fee of \$105.00 shall accompany each appeal application, as well as a written explanation outlining the reason for appeal and a copy of the ZHE decision. Appeals are taken at 600 2nd Street, Plaza Del Sol Building, Ground Level, 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
Joann Padilla, 700 Vista del Pueblo Street, SW, 87121
Gilbert Austin, 528 2nd Street SW, 87102



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

JOANN PADILLA request(s) a special exception to Section 14-16-3-3(B)(2)(e): a VARIANCE of 2' 6" to the 10' minimum distance separation requirement between an existing dwelling and existing accessory structure on all or a portion of Lot(s) 12-P1, Block(s) 3, CASITA DE LA MESA zoned R-D 9 DU/A, located at 700 VISTA DEL PUEBLO ST SW (L-9)

Special Exception No:..... **12ZHE-80069**
Project No: **Project# 1009174**
Hearing Date: 04-17-12
Closing of Public Record: 04-17-12
Date of Decision: 05-02-12

I have reviewed the entire file as well as the recordings, I make the following:

STATEMENT OF FACTS: The applicant, Joann Padilla, requests a variance of 2' 4" to the 6' maximum wall height allowance for an existing accessory structure in the side yard setback area. Ms. Padilla testified, at the hearing, that she has owned and resided on this property for approximately 16 years. She stated that her lot is exceptional because it is a corner lot. There is a letter in the file from the Traffic Engineer's Office that indicates no obstruction to the clear sight requirements. The applicant was advised that, if approved, clear sight must be maintained and that vehicles, dumpsters, or landscaping that may mature and cause an obstruction to clear sight may not be placed next to this wall. The yellow sign was posted. There was no opposition to this request at the hearing, nor is there any opposition noted in the file.

Based on all of the testimony and a review of the entire file, it is determined that there is substantial evidence to make the following findings and conclusions:

FINDINGS AND CONCLUSIONS: I find that the applicant has not met the burden of the variance request. The lot is not exceptional as compared with other corner lots in the vicinity 700 Vista Del Pueblo St SW. Ms. Joann Padilla did not give any other testimony as to how the property met the exceptionality test. There were no permits applied for any of the structures that require variance requests. Ms. Padilla did state at the hearing that she could move the structures. The site plan submitted by Ms. Padilla does not accurately indicate separation distances for the variance requests. The site plan is not drawn to scale. Failure of the applicant to indicate scaled distances on the site plan necessitated a site visit by staff. Staff report of the visit supports the lack of proof that the property at 700 Vista Del Pueblo St. SW is not exceptional.

DECISION: Denied.

If you wish to appeal this decision, you may do so by 5:00 p.m., on May 17, 2012 in the manner described below:

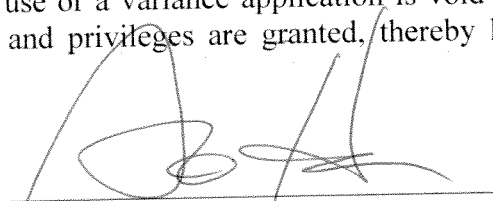
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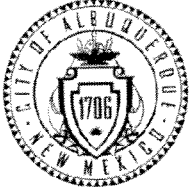
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Stanley D. Harada, Esq.
Interim Zoning Hearing Examiner

cc: Zoning Enforcement
ZHE File
Joann Padilla, 700 Vista del Pueblo Street, SW, 87121
Gilbert Austin, 528 2nd Street SW, 87102



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

JOANN PADILLA request(s) a special exception to Section 14-16-3-3(B)(2)(e): a VARIANCE of 1' 1" to the 10' minimum distance separation requirement between an existing dwelling and existing shade structure on all or a portion of Lot(s) 12-P1, Block(s) 3, CASITA DE LA MESA zoned R-D 9 DU/A, located at 700 VISTA DEL PUEBLO ST SW (L-9)

Special Exception No:..... **12ZHE-80070**
Project No: **Project# 1009174**
Hearing Date: 04-17-12
Closing of Public Record: 04-17-12
Date of Decision: 05-02-12

I have reviewed the entire file as well as the recordings, I make the following:

STATEMENT OF FACTS: The applicant, Joann Padilla, requests a variance of 2' 4" to the 6' maximum wall height allowance for an existing accessory structure in the side yard setback area. Ms. Padilla testified, at the hearing, that she has owned and resided on this property for approximately 16 years. She stated that her lot is exceptional because it is a corner lot. There is a letter in the file from the Traffic Engineer's Office that indicates no obstruction to the clear sight requirements. The applicant was advised that, if approved, clear sight must be maintained and that vehicles, dumpsters, or landscaping that may mature and cause an obstruction to clear sight may not be placed next to this wall. The yellow sign was posted. There was no opposition to this request at the hearing, nor is there any opposition noted in the file.

Based on all of the testimony and a review of the entire file, it is determined that there is substantial evidence to make the following findings and conclusions:

FINDINGS AND CONCLUSIONS: I find that the applicant has not met the burden of the variance request. The lot is not exceptional as compared with other corner lots in the vicinity 700 Vista Del Pueblo St SW. Ms. Joann Padilla did not give any other testimony as to how the property met the exceptionality test. There were no permits applied for any of the structures that require variance requests. Ms. Padilla did state at the hearing that she could move the structures. The site plan submitted by Ms. Padilla does not accurately indicate separation distances for the variance requests. The site plan is not drawn to scale. Failure of the applicant to indicate scaled distances on the site plan necessitated a site visit by staff. Staff report of the visit supports the lack of proof that the property at 700 Vista Del Pueblo St. SW is not exceptional.

DECISION: Denied.

If you wish to appeal this decision, you may do so by 5:00 p.m., on May 17, 2012 in the manner described below:

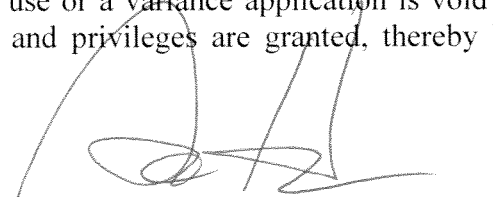
Appeal is to the Board of Appeals within 15 days of the decision. A filing fee of \$105.00 shall accompany each appeal application, as well as a written explanation outlining the reason for appeal and a copy of the ZHE decision. Appeals are taken at 600 2nd Street, Plaza Del Sol Building, Ground Level,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

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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.

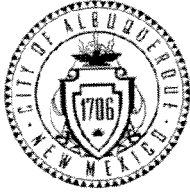
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Stanley D. Harada, Esq.
Interim Zoning Hearing Examiner

cc: Zoning Enforcement
ZHE File
Joann Padilla, 700 Vista del Pueblo Street, SW, 87121
Gilbert Austin, 528 2nd Street SW, 87102



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

JOANN PADILLA request(s) a special exception to Section 14-16-2-6(B)(2)(e): a VARIANCE of 3' 5" to the 10' minimum distance separation requirement between an existing shade structure and existing neighboring dwelling on all or a portion of Lot(s) 12-P1, Block(s) 3, CASITA DE LA MESA zoned R-D 9 DU/A, located at 700 VISTA DEL PUEBLO ST SW (L-9)

Special Exception No: **12ZHE-80071**
Project No: **Project# 1009174**
Hearing Date: 04-17-12
Closing of Public Record: 04-17-12
Date of Decision: 05-02-12

I have reviewed the entire file as well as the recordings, I make the following:

STATEMENT OF FACTS: The applicant, Joann Padilla, requests a variance of 2' 4" to the 6' maximum wall height allowance for an existing accessory structure in the side yard setback area. Ms. Padilla testified, at the hearing, that she has owned and resided on this property for approximately 16 years. She stated that her lot is exceptional because it is a corner lot. There is a letter in the file from the Traffic Engineer's Office that indicates no obstruction to the clear sight requirements. The applicant was advised that, if approved, clear sight must be maintained and that vehicles, dumpsters, or landscaping that may mature and cause an obstruction to clear sight may not be placed next to this wall. The yellow sign was posted. There was no opposition to this request at the hearing, nor is there any opposition noted in the file.

Based on all of the testimony and a review of the entire file, it is determined that there is substantial evidence to make the following findings and conclusions:

FINDINGS AND CONCLUSIONS: I find that the applicant has not met the burden of the variance request. The lot is not exceptional as compared with other corner lots in the vicinity 700 Vista Del Pueblo St SW. Ms. Joann Padilla did not give any other testimony as to how the property met the exceptionality test. There were no permits applied for any of the structures that require variance requests. Ms. Padilla did state at the hearing that she could move the structures. The site plan submitted by Ms. Padilla does not accurately indicate separation distances for the variance requests. The site plan is not drawn to scale. Failure of the applicant to indicate scaled distances on the site plan necessitated a site visit by staff. Staff report of the visit supports the lack of proof that the property at 700 Vista Del Pueblo St. SW is not exceptional.

DECISION: Denied.

If you wish to appeal this decision, you may do so by 5:00 p.m., on May 17, 2012 in the manner described below:

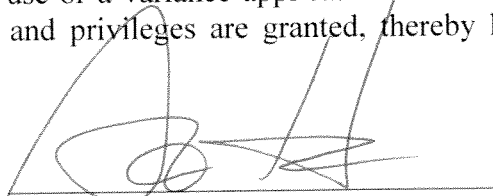
Appeal is to the Board of Appeals within 15 days of the decision. A filing fee of \$105.00 shall accompany each appeal application, as well as a written explanation outlining the reason for appeal and a copy of the ZHE decision. Appeals are taken at 600 2nd Street, Plaza Del Sol Building, Ground Level,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

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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.

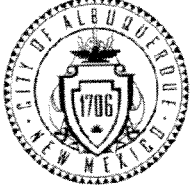
You will receive notice if any other person files an appeal. If there is no appeal, you can receive building permits any time after the appeal deadline quoted above, provided all conditions imposed at the time of approval have been met. However, the Zoning Hearing Examiner may allow issuance of building 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.

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Stanley D. Harada, Esq.
Interim Zoning Hearing Examiner

cc: Zoning Enforcement
ZHE File
Joann Padilla, 700 Vista del Pueblo Street, SW, 87121
Gilbert Austin, 528 2nd Street SW, 87102



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

JOANN PADILLA request(s) a special exception to Section 14-16-3-3(B)(2)(a): a VARIANCE of 2' 4" to the 6' maximum wall height allowance for an existing accessory structure in the side yard setback area on all or a portion of Lot(s) 12-P1, Block(s) 3, CASITA DE LA MESA zoned R-D 9 DU/A, located at 9416 VISTA DEL VALLE ST SW (L-9)

Special Exception No:..... **12ZHE-80072**
Project No: **Project# 1009174**
Hearing Date: 04-17-12
Closing of Public Record: 04-17-12
Date of Decision: 05-02-12

I have reviewed the entire file as well as the recordings, I make the following:

STATEMENT OF FACTS: The applicant, Joann Padilla, requests a variance of 2' 4" to the 6' maximum wall height allowance for an existing accessory structure in the side yard setback area. Ms. Padilla testified, at the hearing, that she has owned and resided on this property for approximately 16 years. She stated that her lot is exceptional because it is a corner lot. There is a letter in the file from the Traffic Engineer's Office that indicates no obstruction to the clear sight requirements. The applicant was advised that, if approved, clear sight must be maintained and that vehicles, dumpsters, or landscaping that may mature and cause an obstruction to clear sight may not be placed next to this wall. The yellow sign was posted. There was no opposition to this request at the hearing, nor is there any opposition noted in the file.

Based on all of the testimony and a review of the entire file, it is determined that there is substantial evidence to make the following findings and conclusions:

FINDINGS AND CONCLUSIONS: I find that this parcel is exceptional as compared to other parcels in the vicinity because it is a corner lot and, therefore, it meets the test for the granting of a variance as provided for by Section 14. 16. 4. 2. I further find that, as a result of the exceptional aspect of the property, the regulations produce an unnecessary hardship in that it will limit the owner's reasonable use of the property and/or deprive the owner of a reasonable return on the property. Furthermore, I find that the particular variance is appropriate to prevent the unnecessary hardship and further find that the variance will differ from development which will be permitted under the existing regular zoning regulations no more than what is necessary to overcome the unnecessary hardship. Finally, the variance will not significantly interfere with the enjoyment of other land in the vicinity and is consistent with the spirit of the Zoning Ordinance, substantial justice and the general public interest.

DECISION: Approved with conditions.

CONDITIONS: The applicant must comply with any and all requirements made by the City Traffic Engineer in that clear sight must be maintained. Vehicles, dumpsters, or landscaping that may mature and cause an obstruction to clear sight may not be placed next to this wall.

The approval is subject to the submitted site plan, as required. Any substantial changes to the site plan, as determined by the Zoning Enforcement Division, shall require the scheduling of an additional Public Hearing.

A Building Permit must be applied for at the Building Permit Desk which is located at the Plaza del Sol Building, Ground Level on the east side of the lobby.

If you wish to appeal this decision, you may do so by 5:00 p.m., on May 17, 2012 in the manner described below:

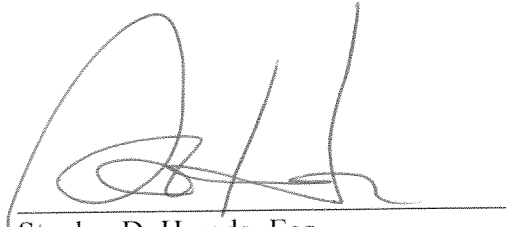
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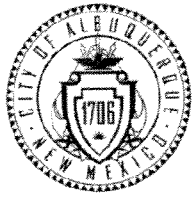
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A handwritten signature in black ink, appearing to read 'S. Harada', written over a horizontal line.

Stanley D. Harada, Esq.
Interim Zoning Hearing Examiner

cc: Zoning Enforcement
ZHE File
Joann Padilla, 700 Vista del Pueblo Street, SW, 87121
Gilbert Austin, 528 2nd Street SW, 87102



CITY OF ALBUQUERQUE
OFFICE OF ADMINISTRATIVE HEARINGS
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NOTIFICATION OF DECISION

JOANN PADILLA request(s) a special exception to Section 14-16-3-3(B)(2)(e): a VARIANCE of 3' 6" to the 5' minimum distance separation requirement between existing accessory structures on all or a portion of Lot(s) 12-P1, Block(s) 3, CASITA DE LA MESA zoned R-D 9 DU/A, located at 700 VISTA DEL PUEBLO ST SW (L-9)

Special Exception No:..... **12ZHE-80073**
Project No:..... **Project# 1009174**
Hearing Date: 04-17-12
Closing of Public Record: 04-17-12
Date of Decision: 05-02-12

I have reviewed the entire file as well as the recordings, I make the following:

STATEMENT OF FACTS: The applicant, Joann Padilla, requests a variance of 2' 4" to the 6' maximum wall height allowance for an existing accessory structure in the side yard setback area. Ms. Padilla testified, at the hearing, that she has owned and resided on this property for approximately 16 years. She stated that her lot is exceptional because it is a corner lot. There is a letter in the file from the Traffic Engineer's Office that indicates no obstruction to the clear sight requirements. The applicant was advised that, if approved, clear sight must be maintained and that vehicles, dumpsters, or landscaping that may mature and cause an obstruction to clear sight may not be placed next to this wall. The yellow sign was posted. There was no opposition to this request at the hearing, nor is there any opposition noted in the file.

Based on all of the testimony and a review of the entire file, it is determined that there is substantial evidence to make the following findings and conclusions:

FINDINGS AND CONCLUSIONS: I find that the applicant has not met the burden of the variance request. The lot is not exceptional as compared with other corner lots in the vicinity 700 Vista Del Pueblo St SW. Ms. Joann Padilla did not give any other testimony as to how the property met the exceptionality test. There were no permits applied for any of the structures that require variance requests. Ms. Padilla did state at the hearing that she could move the structures. The site plan submitted by Ms. Padilla does not accurately indicate separation distances for the variance requests. The site plan is not drawn to scale. Failure of the applicant to indicate scaled distances on the site plan necessitated a site visit by staff. Staff report of the visit supports the lack of proof that the property at 700 Vista Del Pueblo St. SW is not exceptional.

DECISION: Denied.

If you wish to appeal this decision, you may do so by 5:00 p.m., on May 17, 2012 in the manner described below:

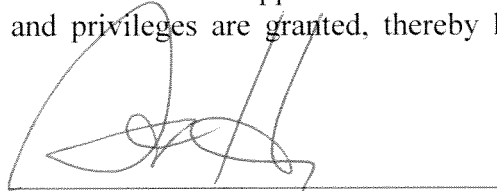
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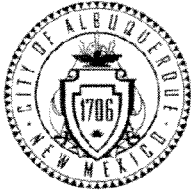
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Stanley D. Harada, Esq.
Interim Zoning Hearing Examiner

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Gilbert Austin, 528 2nd Street SW, 87102



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

JOANN PADILLA request(s) a special exception to Section 14-16-3-3(B)(3): a CONDITIONAL USE to allow an existing carport in the front yard setback area on all or a portion of Lot(s) 12-P1, Block(s) 3, CASITA DE LA MESA zoned R-D 9 DU/A, located at 9416 VISTA DEL VALLE ST SW (L-9)

Special Exception No:..... **12ZHE-80074**
Project No: **Project# 1009174**
Hearing Date: 04-17-12
Closing of Public Record: 04-17-12
Date of Decision: 05-02-12

I have reviewed the entire file as well as the recordings, I make the following:

STATEMENT OF FACTS: The applicant, Joann Padilla, requests a conditional use to allow an existing carport in the front yard setback area. Ms. Padilla testified, at the hearing, that she has owned and resided on this property for approximately 16 years. Ms. Padilla stated that this carport was built without obtaining the proper permits by Austin's Carports. Mr. Austin testified that he failed to obtain the proper permits prior to constructing this carport. Mr. Austin was advised that in the future, proper permits must be obtained prior to construction. There is a letter in the file from the Traffic Engineer's Office that indicates no obstruction to the clear sight requirements. The applicant was advised that, if approved, clear sight must be maintained and that vehicles, dumpsters, or landscaping that may mature and cause an obstruction to clear sight may not be placed next to this carport. The yellow sign was posted. There was no opposition to this request at the hearing, nor is there any opposition noted in the file.

Based on all of the testimony and a review of the entire file, it is determined there is substantial evidence to make the following findings and conclusions:

FINDINGS AND CONCLUSIONS: I find that this request complies with Section 14.16.4.2.(C).1., for the granting of a conditional use upon a finding that the proposed use will not cause injury to the neighborhood, adjacent property or the community, nor will it be damaged by surrounding structures. For reasons stated above, this request is approved.

DECISION: Approved with conditions.

CONDITIONS: The applicant must comply with any and all requirements made by the City Traffic Engineer in that clear sight must be maintained. Vehicles, dumpsters, or landscaping that may mature and cause an obstruction to clear sight may not be placed next to this carport.

The approval is subject to the submitted site plan, as required. Any substantial changes to the site plan, as determined by the Zoning Enforcement Division, shall require the scheduling of an additional Public Hearing.

A Building Permit must be applied for at the Building Permit Desk which is located at the Plaza del Sol Building, Ground Level on the east side of the lobby.

If you wish to appeal this decision, you may do so by 5:00 p.m., on May 17, 2012 in the manner described below:

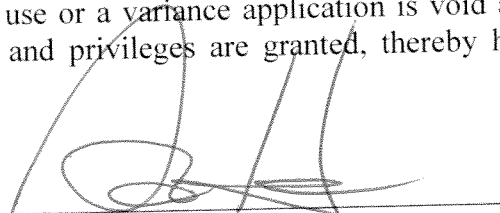
Appeal is to the Board of Appeals within 15 days of the decision. A filing fee of \$105.00 shall accompany each appeal application, as well as a written explanation outlining the reason for appeal and a copy of the ZHE decision. Appeals are taken at 600 2nd Street, Plaza Del Sol Building, Ground Level, 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
Joann Padilla, 700 Vista del Pueblo Street, SW, 87121
Gilbert Austin, 528 2nd Street SW, 87102