



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

QUIDIO ENRIQUE ALFARO request(s) a special exception to Section 14-16-2-6 (B)(3): a CONDITIONAL USE to allow an existing carport in the side yard setback area on all or a portion of Lot(s) 65A1A2, MRGCD MAP 39 zoned R-1, located at 501 ATRISCO DR SW (K-12)

Special Exception No:..... ***IR* 11ZHE-80150**
Project No: **Project# 1008855**
Hearing Date: 07-19-11
Closing of Public Record: 07-19-11
Date of Decision: 07-25-11

STATEMENT OF FACTS: The applicant, Ouidio Enrique Alfaro, requests a conditional use to allow an existing carport in the side yard setback area. Mr. Alfaro testified, at the hearing, that he has owned this property for approximately five years. He indicated that the carport was on the property when he purchased the home; however, approximately one year ago that carport fell down and a new carport was constructed without obtaining the proper permits. He stated that it is a double carport and water and debris fall onto his own property.

Rose Marie Apodaca, an adjacent neighbor and Frances Sandoval testified in opposition to this request. They stated that this carport negatively impacts the adjoining property as well as the neighborhood. They stated that this carport is too close to the property line.

They offer undisputed evidence that the applicant converted the original carport to residential use which is then rented to tenants. The applicant did not dispute that he has rental tenants living on his property. He stated that when he purchased this property, the previous owner also used a portion of his home for rental purposes.

The opponents argue that this type of activity and the placement of this carport, without permits, has had a negative impact in the quality of life and interferes with their enjoyment of their property.

After a review of the entire file, it is my opinion that this existing carport has negatively impacted the neighborhood, adjacent property and the community. The proximity to the neighbor's property clearly demonstrates that water or debris of any kind will fall onto the adjacent property. Therefore I am compelled to deny this request.

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 request does not comply with Section 14. 16. 4. 2. (C). 1., for the granting of a conditional use upon a finding that the proposed use will cause injury to the neighborhood, adjacent property or the community,

and will be damaged by surrounding structures. For reasons stated above, this request is denied.

DECISION: Denied.

If you wish to appeal this decision, you may do so by 5:00 p.m., on August 9, 2011 in the manner described below:

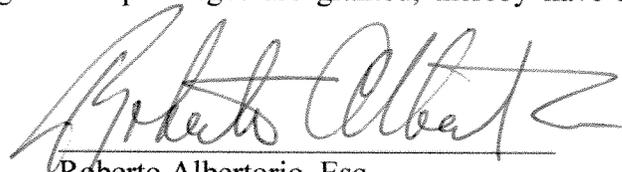
Appeal is to the Board of Appeals within 15 days of the decision. A filing fee of \$105.00 shall accompany each appeal application, as well as a written explanation outlining the reason for appeal and a copy of the ZHE decision. Appeals are taken at 600 2nd Street, Plaza Del Sol Building, Ground Level,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



Roberto Albertorio, Esq.
Zoning Hearing Examiner

cc: Zoning Enforcement
ZHE File

Ouidio Enrique Alfara, 501 Atrisco Drive SW, 87105
Rose Marie Apodaca, 406 Foothill Drive SW, 87105
Marian DiFiore, 414 Foothill Road SW, 87105
Frances Sandoval, 416 Foothill Road SW, 87105
Lucille Maldonado, 418 Foothill Road SW, 87105