



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

GARY GORDON (MICHAEL NEAS, AGENT) requests a special exception to Section 14-16-2-5(B)(1) and 14-16-2-6(B)(14)(a)(1): a CONDITIONAL USE to allow a 5' wall in the front setback area and up to 6' when 10' past the property line for all or a portion of Lot M5A, Tract(s) PLAT OF LAND OR TEODORO PADILLA, PADILLA TEODORO zoned RA-2, located on 2120 TEODORO RD NW (F-13)

Special Exception No:..... **15ZHE-80122**
Project No:..... **Project# 1010430**
Hearing Date:..... 05-19-2015
Closing of Public Record:..... 05-19-2015
Date of Decision: 05-29-2015

On the 19th day of May, 2015 (hereinafter “**Hearing**”) MICHAEL NEAS (hereinafter “**Agent**”) acting as agent on behalf of the property owner GARY GORDON (hereinafter “**Applicant**”) appeared before the Zoning Hearing Examiner (hereinafter “**ZHE**”) requesting a Conditional Use to allow a 5' wall in the front setback area and up to 6' when 10' past the property line (hereinafter “**Application**”) upon the real property located at 2120 TEODORO RD NW (“**Subject Property**”). Below are the findings of facts:

FINDINGS:

1. Applicant is requesting a Conditional Use to allow a 5' wall in the front setback area and up to 6' when 10' past the property line.
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. Applicant testified at the Hearing that the Conditional Use, if approved, will not be injurious to the adjacent property, neighborhood, or the community because the wall is located at least 15 feet from the nearest roadway and the wall is professionally designed and constructed to match the southwestern style on Teodoro Road. The wall will have an entry gate that is no taller than 9’ 6” and the wall will not exceed 6’ in height. Additionally, the ZHE notes that there was no opposition to this request from neighbors at the Hearing and in fact the staff of the ZHE received a letter of support from Mr. Felix Torres stating that he “does not foresee any issues or have any concerns” about the Application.
4. 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.*”

5. Applicant testified at the Hearing that the proposed conditional use, will not be significantly damaged by the surrounding structures or activities.
6. The Traffic Engineer wrote an email to ZHE Staff that indicated that the wall does not impair the CST's because it is setback from the roadway.
7. The Applicant made clear that the wall will NOT exceed 5' in height within 14' of the roadway (Teodoro).
8. 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.
9. 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 to allow a 5' wall in the front setback area and up to 6' when 10' past the property line.

CONDITIONS OF APPROVAL:

- A. The Applicant shall adhere to the *design guidelines* for walls and fences as set forth in the City of Albuquerque Zoning Code.
- B. The Applicant shall abide by the City of Albuquerque Traffic Engineer approval to keep the wall's clear sight triangle free of obstructions.
- C. The Applicant shall ensure that the wall will NOT exceed 5' in height within 14' of the roadway (Teodoro).
- D. The wall shall have a color and style that is harmonious with Teodoro Road (similar colors, materials, etc.).

If you wish to appeal this decision, you may do so 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.



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cc: Zoning Enforcement
ZHE File
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