

TABLE OF CONTENTS
AC-21-9
Project-2020-004657, VA-2020-00379, VA-2021-00147

	<u>PAGE(S)</u>
MEMO.....	1 - 4
NOTICE OF DECISION, APRIL 20, 2021.....	5 - 8
APPEAL APPLICATION / REASON FOR APPEAL	9 - 20
MATERIAL SUBMITTED TO ZHE.....	21 - 114
ZHE MINUTES, APRIL 20, 2021.....	115 - 125
ADDITIONAL INFORMATION.....	126 - 130



Mayor Timothy M. Keller

CITY OF ALBUQUERQUE

Albuquerque, New Mexico

Planning Department

INTER-OFFICE MEMORANDUM

June 11, 2021

TO: Cynthia Borrego, President, City Council

FROM: Brennon Williams, Planning Director *BWilliams*

SUBJECT: AC-21-9, Project-2020-004657, VA-2020-00379, VA-2021-00147:
Nob Hill Neighborhood Association, appeals the Zoning Hearing Examiners decision to approve a variance of 3 feet to the 3 foot maximum wall height for Lot 1, Block 39, University Heights, located at 202 Richmond DR SE, zoned MX-T [Section 14-16-5-7-D]

OVERVIEW

Applicant filed a request for a variance of 3 feet to the 3 foot maximum allowable wall height. The application was submitted October 14, 2020. The request was scheduled and heard at the December 15, 2020 public hearing.

In the Notice of Decision issued December 30, 2020, the Zoning Hearing Examiner (ZHE) found that the Applicant did not meet the Variance-Review and Decision Criteria in Section 14-16-6-6(N)(3)(a) of the 2018 Integrated Development Ordinance and denied the application.

January 15, 2021, the decision was appealed by the Applicant.

March 11, 2021 LUHO heard the appeal and remanded the matter back to the ZHE to reevaluate the application with the facts presented by Appellant (Applicant) in the appeal under the May 2018 IDO.

April 20, 2021 the matter was again heard at the ZHE Public Hearing and in the May 5, 2021 Notice of Decision, the ZHE found that the Applicant met all criteria required for approval per Section 14-16-6-6(N)(3)(a) of the Integrated Development Ordinance, and approved the application.

May 18, 2021 the Nob Hill Neighborhood Association President, Gary Eyster, appealed the ZHE's approval.

BASIS FOR APPEAL

Section 14-16-6-4(V)(4) outlines the applicable criteria for the appeal in determining whether the Zoning Hearing Examiner erred in their decision:

6-4(V)(4) Criteria for Decision

The criteria for review of an appeal shall be whether the decision-making body or the prior appeal body made 1 of the following mistakes:

6-4(V)(4)(a) The decision-making body or the prior appeal body acted fraudulently, arbitrarily, or capriciously.

6-4(V)(4)(b) The decision being appealed is not supported by substantial evidence.

6-4(V)(4)(c) The decision-making body or the prior appeal body erred in applying the requirements of this IDO (or a plan, policy, or regulation referenced in the review and decision-making criteria for the type of decision being appealed).

STAFF RESPONSE

The reasons for the appeal, excerpted from Appellant's letter, are listed below, with a bulleted, italicized response from the Planner for the Zoning Hearing Examiner. Please see the Appellant's letter and submittal packet for additional details.

The ZHE erred in simply repeating applicant's statements and not verifying the facts. Photographs did not picture uses in relation to the subject property, and did not demonstrate a particular frequency or duration of use by delivery trucks, and there is no analysis of similar lots that may have the same truck traffic. The NOD does not contain any evidence beyond applicant's statement regarding unbearable noise or carbon monoxide fumes in their yard.

The ZHE erred in simply repeating applicant's statement that the subject is one of very few MX-T properties in the vicinity that is used for residential purposes as a finding and not verifying the fact.

The ZHE erred in concluding, *"Further, the location of the Subject Property as a corner lot adjacent to these commercial and public uses make such uses uniquely harmful to the Subject Property"* because all the 12 lots in the group are corner lots.

The ZHE erred by mischaracterizing the oversimplifying the foregoing NHNA statement in finding 10b as: "opponents argued that the vinyl fence that is the subject of this Application is of unprecedented construction in the area." In so doing he neglected to address the arguments of NHNA regarding difficulties in maintaining historic streetscape, the fact that historic streetscape is a cultural resource that the community values and which belongs to all the community, and why those issues were not germane.

The ZHE erred because there is no correlation between materials that are obtained out of state and high quality.

The ZHE erred because the record does not contain evidence that fencing of 4 ft. or 5 ft. would be ineffective.

- *Per IDO Section 14-16- 6-4(E)(3) and Section 14-16-6-5(E)(4) The Applicant bears the burden of providing a sound justification and, the burden of showing compliance with required standards through analysis, illustrations, or other exhibits as necessary.*
- *It is the role of the parties to submit evidence for consideration by the ZHE.*
- *In the record is a letter from the Nob Hill Neighborhood Association dated December 6, 2020, that states, “We express neither support nor opposition for this request.”*
- *The ZHE acknowledged and relied on sworn testimony and written evidence submitted by all parties in his findings and in his decision.*
- *The ZHE determined that heavy commercial and public uses constitute special circumstances applicable to the subject property that are not self-imposed based on evidence that the Applicant submitted on appeal to the LUHO (see finding 9a)*

/ Lorena Patten-Quintana /
Lorena Patten-Quintana, ZHE Planner
Office of the Zoning Hearing Examiner
City of Albuquerque Planning Department





AC-21-9 Memo

Final Audit Report

2021-06-23

Created:	2021-06-23
By:	Lucinda Montoya (lucindamontoya@cabq.gov) Signed
Status:	CBJCHBCAABAANQ6zgr_SQuT2E_YcKiH14CGRga3-EWiL
Transaction ID:	

"AC-21-9 Memo" History

-  Document created by Lucinda Montoya (lucindamontoya@cabq.gov)
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-  Document emailed to BN Williams (bnwilliams@cabq.gov) for signature
2021-06-23 - 5:08:54 PM GMT
-  Document e-signed by BN Williams (bnwilliams@cabq.gov)
Signature Date: 2021-06-23 - 7:18:35 PM GMT - Time Source: server- IP address: 143.120.133.65
-  Agreement completed.
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CITY OF ALBUQUERQUE
OFFICE OF ADMINISTRATIVE HEARINGS
ZONING HEARING EXAMINER
NOTIFICATION OF DECISION

Gary F. Hoffman requests a variance of 3 feet to the 3 foot maximum wall height for Lot 1, Block 39, University Heights, located at 202 Richmond DR SE, zoned MX-T [Section 14-16-5-7-D]

Special Exception No:..... **VA-2020-00379**
Project No: **Project#2020-004657**
Hearing Date: 04-20-21
Closing of Public Record: 04-20-21
Date of Decision: 05-05-21

On the 20th day of April, 2021, property owner Gary F. Hoffman (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 3 feet to the 3-foot maximum wall height (“Application”) upon the real property located at 202 Richmond DR SE (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 3 ft to the 3 ft maximum wall height.
2. This matter comes before the ZHE on remand from the City Land Use Hearing Officer (LUHO), pursuant to the LUHO notice of decision dated March 16, 2021.
3. The Applicant bears the burden of ensuring there is evidence in the record supporting a finding that the above criteria are met under Section 14-16-6-4(N)(1).
4. Agent appeared and gave evidence in support of the application.
5. All property owners within 100 feet of the subject property and the affected neighborhood association were notified. City Transportation submitted a report stating no objection.
6. The proper “Notice of Hearing” signage was posted for the required time period as required by Section 14-16-6-4(K)(3).
7. The Applicant has authority to pursue this Application.
8. The Pre-November 2, 2020 version of the City of Albuquerque Integrated Development Ordinance (IDO), applicable to the Application, at Section 14-16-6-6(N)(3)(a) (Variance-Review and Decision Criteria) reads: “... *an application for a Variance-ZHE shall be approved if it meets all of the following criteria:*
 - (1) *There are special circumstances applicable to the subject property that are not self-imposed and that do not apply generally to other property in the same zone and vicinity such as size, shape, topography, location, surroundings, or physical characteristics created by natural forces or government action for which no compensation was paid. Such special circumstances of the property either create an extraordinary hardship in the form of a substantial and unjustified limitation on the reasonable use or return on the property, or practical difficulties result from strict compliance with the minimum standards.*
 - (2) *The Variance will not be materially contrary to the public safety, health, or welfare.*

- (3) *The Variance does not cause significant material adverse impacts on surrounding properties or infrastructure improvements in the vicinity.*
 - (4) *The Variance will not materially undermine the intent and purpose of the IDO or the applicable zone district.*
 - (5) *The Variance approved is the minimum necessary to avoid extraordinary hardship or practical difficulties.”*
9. Based on evidence submitted by or on behalf of Applicant, it appears that there are special circumstances applicable to the Subject Property that are not self-imposed and that do not apply generally to other property in the same zone and vicinity such as size, shape, topography, location, surroundings, or physical characteristics created by natural forces or government action for which no compensation was paid, as required by Section 14-16-6-6(N)(3)(a)(1).
- a. Applicant submitted evidence on appeal to the LUHO that there is heavy pedestrian, bicycle, and automobile traffic on Silver Avenue along the Subject Property, and that 18-wheeled trucks and other large delivery trucks regularly utilize the Silver Avenue curb next to the Subject Property as parking for deliveries. Applicant states that these heavy trucks are often left with engines idling (sometimes for long periods) as the drivers load and unload their trucks, all occurring within feet of his yard. Applicant submitted evidence that the idling trucks cause unbearable noise and presumably carbon monoxide fumes enter his yard space. Further, Applicant submitted evidence that Silver Avenue is a well-trafficked commercial thoroughfare that causes out-of-proportion negative impacts on residential properties fronting it in this area, in the form of litter, high pedestrian traffic and trespassing by members of the public. These heavy commercial and public uses constitute “special circumstances applicable to the Subject Property that are not self-imposed.”
 - b. Neighbors argued that these commercial and public uses apply generally to other properties in the general vicinity. While that may be the case, Agent submitted evidence that the impact of these commercial and public uses falls disproportionately on the Subject Property, because it is one of very few MX-T zoned properties in the vicinity that is used for residential purposes. Further the location of the Subject Property as a corner lot adjacent to these commercial and public uses make such uses uniquely harmful to the Subject Property.
 - c. These special circumstances create an extraordinary hardship in the form of a substantial and unjustified limitation on the reasonable use on the Subject Property, because while the commercial impacts may be appropriate on an MX-T property used for commercial purposes, they are inappropriate when impacting MX-T property used for residential purposes, such as the Subject Property. Further, practical difficulties result from strict compliance with the minimum standards, because the three-foot wall that would be allowed without a variance would be insufficient to mitigate the negative impact of the special circumstances, as further described, below.
10. Based on evidence submitted by or on behalf of Applicant, the variance will not be contrary to the public safety, health and welfare of the community as required by Section 14-16-6-6(N)(3)(a)(2).
- a. Opponents point out that having “eyes on the street” increases public safety by allowing the public and first responders to view into and out of the Subject Property to assess whether any dangerous condition may exist. The lattice view fencing that

exists on the top approximately 2 feet of the fence allows such views. Although opponents argue that this lattice is less than 50% opaque, there is no bright-line threshold for opacity under the variance criteria in Section 14-16-6-6(N)(3)(a), and based on the photographs and testimony submitted, the ZHE finds that the view fencing provides sufficient “eyes on the street” in this particular case.

- b. While opponents argued that the vinyl fence that is the subject of this Application is of unprecedented construction in the area, Agent points out that just because something is different does not make it bad, and evidence was submitted that the fence is of high-quality construction, incorporating specialty materials that Applicant had to obtain out of state. The fence is in harmony with the color and architecture of the Subject Property and does not have a negative impact on the public safety, health, and welfare of the community by virtue of its architectural style, materials, or construction.
11. Based on evidence submitted by or on behalf of Applicant, the variance will not cause significant adverse material impacts on surrounding properties or infrastructure improvements in the vicinity as required by Section 14-16-6-6(N)(3)(a)(3). According to the site plan and testimony submitted by Applicant, the proposed fence is set back approximately 13 feet along Silver Avenue and approximately 24 feet along Richmond Drive, thereby providing plenty of room for pedestrians and transit connectivity to use rights of way without having the fence in close proximity.
12. Based on evidence submitted by or on behalf of Applicant, the variance will not materially undermine the intent and purpose of the IDO or applicable zone district as required by Section 14-16-6-6(N)(3)(a)(4). The MX-T zone district is a transition zone “*between residential neighborhoods and more intense commercial areas.*” See IDO, § 14-16-2-4(A)(1). Here, obvious intense commercial uses appear to be interfering with Applicant’s residential use. The proposed variance addresses the intent of MX-T serving as a transitional zone by having the proposed fence help the Subject Property serve as a functional buffer between the commercial and residential uses. Indeed, the proposed fence runs parallel to adjacent fences of the same or substantially similar height on properties adjacent to the Subject Property on either side.
13. Based on evidence submitted by or on behalf of Applicant, the variance approved is the minimum necessary to avoid extraordinary hardship or practical difficulties as required by Section 14-16-6-6(N)(3)(a)(5). Specifically, Applicant submitted evidence that any smaller setback variance would be ineffective to provide for the safety and usability of the site and the intended use. While opponents argued that a three-foot fence would discourage trespassers, such a fence would be easy to cross over and would not provide the same security and buffer against the intense commercial and public uses present. Applicant submitted evidence that any shorter fence would be ineffective in that regard. Thus, Applicant is not requesting more than what is minimally necessary for a variance.

DECISION:

APPROVAL of a variance of 3 feet to the 3 feet maximum wall height.

APPEAL:

If you wish to appeal this decision, you must do so by May 20, 2021 pursuant to Section 14-16-6-4(U), of the Integrated Development Ordinance, you must demonstrate that you have legal standing to file an appeal as defined.

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.



Robert Lucero, Esq.
Zoning Hearing Examiner

cc:

ZHE File
Zoning Enforcement
Gary F. Hoffman, 202 Richmond DR SE, 87106
Mallia Walker, melliawalker@gmail.com
Shannie Madden, 203 Richmond DR SE, 87106
Gary Eyster, meyster1@me.com
Margaret Forbes, 201 Richmond DR SE, 87106
Rahim Kassam, 3820 Copper NE, 87108
Michael Vos, Vos@consensusplanning.com



DEVELOPMENT REVIEW APPLICATION

Effective 4/17/19

Please check the appropriate box and refer to supplemental forms for submittal requirements. All fees must be paid at the time of application.

Administrative Decisions		Decisions Requiring a Public Meeting or Hearing	Policy Decisions		
<input type="checkbox"/> Archaeological Certificate (Form P3)	<input type="checkbox"/> Site Plan – EPC including any Variances – EPC (Form P1)	<input type="checkbox"/> Adoption or Amendment of Comprehensive Plan or Facility Plan (Form Z)			
<input type="checkbox"/> Historic Certificate of Appropriateness – Minor (Form L)	<input type="checkbox"/> Master Development Plan (Form P1)	<input type="checkbox"/> Adoption or Amendment of Historic Designation (Form L)			
<input type="checkbox"/> Alternative Signage Plan (Form P3)	<input type="checkbox"/> Historic Certificate of Appropriateness – Major (Form L)	<input type="checkbox"/> Amendment of IDO Text (Form Z)			
<input type="checkbox"/> Minor Amendment to Site Plan (Form P3)	<input type="checkbox"/> Demolition Outside of HPO (Form L)	<input type="checkbox"/> Annexation of Land (Form Z)			
<input type="checkbox"/> WTF Approval (Form W1)	<input type="checkbox"/> Historic Design Standards and Guidelines (Form L)	<input type="checkbox"/> Amendment to Zoning Map – EPC (Form Z)			
	<input type="checkbox"/> Wireless Telecommunications Facility Waiver (Form W2)	<input type="checkbox"/> Amendment to Zoning Map – Council (Form Z)			
Appeals					
<input checked="" type="checkbox"/> Decision by EPC, LC, ZHE, or City Staff (Form A)					
APPLICATION INFORMATION					
Applicant: Nob Hill Neighborhood Assoc (NHNA)		Phone: 505-991-1388			
Address: PO Box 4873		Email: theboard@nobhill-nm.com			
City: Albuquerque	State: NM	Zip: 87196			
Professional/Agent (if any):		Phone:			
Address:		Email:			
City:	State:	Zip:			
Proprietary Interest in Site: within NHNA boundary		List all owners: Hoffman			
BRIEF DESCRIPTION OF REQUEST					
NHNA appeals ZHE Notification of Decision dtd 05-05-21					
SITE INFORMATION (Accuracy of the existing legal description is crucial! Attach a separate sheet if necessary.)					
Lot or Tract No.: 1	Block: 39	Unit: —			
Subdivision/Addition: University Heights	MRGCD Map No.: NA	UPC Code: NA			
Zone Atlas Page(s): NA	Existing Zoning: MX-T	Proposed Zoning: —			
# of Existing Lots: 1	# of Proposed Lots: —	Total Area of Site (acres): NA			
LOCATION OF PROPERTY BY STREETS					
Site Address/Street: 202 Richmond Dr SE		Between: Silver and: Lead			
CASE HISTORY (List any current or prior project and case number(s) that may be relevant to your request.)					
VA-2020-00379, PR 2020-004657 (attached)					
Signature: Gary Exster		Date: 5/18/21			
Printed Name: Gary Exster, President		<input checked="" type="checkbox"/> Applicant or <input type="checkbox"/> Agent			
FOR OFFICIAL USE ONLY					
Case Numbers	Action	Fees	Case Numbers	Action	Fees
Meeting/Hearing Date:			Fee Total:		
Staff Signature:			Date:		
			Project #		

FORM A: Appeals

Complete applications for appeals will only be accepted within 15 consecutive days, excluding holidays, after the decision being appealed was made.

- ☐ APPEAL OF A DECISION OF CITY PLANNING STAFF (HISTORIC PRESERVATION PLANNER) ON A HISTORIC CERTIFICATE OF APPROPRIATENESS – MINOR TO THE LANDMARKS COMMISSION (LC)
- ☐ APPEAL OF A DECISION OF CITY PLANNING STAFF ON AN IMPACT FEE ASSESSMENT TO THE ENVIRONMENTAL PLANNING COMMISSION (EPC)
- ☒ APPEAL TO CITY COUNCIL THROUGH THE LAND USE HEARING OFFICER (LUHO)

- ☒ Interpreter Needed for Hearing? no if yes, indicate language: _____
- ☒ A Single PDF file of the complete application including all documents being submitted must be emailed to PLNDRS@cabq.gov prior to making a submittal. Zipped files or those over 9 MB cannot be delivered via email, in which case the PDF must be provided on a CD. PDF shall be organized with the Development Review Application and this Form A at the front followed by the remaining documents in the order provided on this form.
- ☒ Project number of the case being appealed, if applicable: 2020-004657
- ☒ Application number of the case being appealed, if applicable: VA-2020-00379
- ☒ Type of decision being appealed: Variance - ZHE
- ☒ Letter of authorization from the appellant if appeal is submitted by an agent na
- ☒ Appellant's basis of standing in accordance with IDO Section 14-16-6-4(U)(2) within NHNA boundary
- ☒ Reason for the appeal identifying the section of the IDO, other City regulation, or condition attached to a decision that has not been interpreted or applied correctly, and further addressing the criteria in IDO Section 14-16-6-4(U)(4) Attached
- ☐ Copy of the Official Notice of Decision regarding the matter being appealed

I, the applicant or agent, acknowledge that if any required information is not submitted with this application, the application will not be scheduled for a public meeting or hearing, if required, or otherwise processed until it is complete.

Signature: Gary Eyster, President, NHNA
 Printed Name: Gary Eyster

Date: 5/18/21
☒ Applicant or ☐ Agent

FOR OFFICIAL USE ONLY

Case Numbers: _____ Project Number: _____

 Staff Signature: _____
 Date: _____



2/12

Revised 2/6/19

CASE HISTORY

Special Exception No VA-2020-00379

Project #2020-004657

12-15-20	ZHE hearing
12-30-20	ZHE Notification of Decision; DENIAL of a variance of 3ft to the 3ft maximum wall height
3-11-21	LUHO hearing of appeal by applicant
3-16-21	LUHO remand to ZHE
4-20-21	ZHE hearing
5-5-21	ZHE Notification of Decision; APPROVAL of a variance of 3 feet to the 3 feet maximum wall height

Reason for Appeal

NOTIFICATION OF DECISION, ZONING HEARING EXAMINER

Special Exception No VA-2020-00379

Project #2020-004657

Hearing Date: 04-20-21

Date of Decision: 05-05-21

On the 20th day of April, 2021, property owner Gary F. Hoffman ("Applicant") appeared before the Zoning Hearing Examiner ("ZHE") requesting a variance of 3 feet to the 3-foot maximum wall height ("Application") upon the real property located at 202 Richmond DR SE ("Subject Property")

1. Reference 14-16-6-6(N)(3). Review and Decision Criteria. Prong 1.
Finding 9b of the Notification of Decision (NOD) states: *Neighbors argued that these commercial and public uses apply generally to other properties in the general vicinity. While that may be the case, Agent submitted evidence that the impact of these commercial and public uses falls disproportionately on the Subject Property, because it is one of very few MX-T zoned properties in the vicinity that is used for residential purposes. Further the location of the Subject Property as a corner lot adjacent to these commercial and public uses make such uses uniquely harmful to the Subject Property.*

The ZHE erred in simply repeating applicant's statement that the subject is one of very few MX-T properties in the vicinity that is used for residential purposes as a finding and not verifying the fact. The chart below shows all the developed lots in the MX-T zone district on the south side of Silver from Girard to Carlisle, all corner lots, in the 2020 Polk City Directory. Where a business appears the name of the business is shown. Where a residential use appears surnames of individuals residing at the location are shown.

<u>Lot</u>	<u>Names</u>	<u>Use</u>
Lot 1, Block 31 202 Girard SE	Siegel Law, Rabon, Siegel	res and com
Lot 24, Block 31, 201 Dartmouth SE	Nob Hill Chiropractic	com
Lot 1, Block 34, 202 Dartmouth SE	Erin, Wynne	res
Lot 24, Block 34, 201 Richmond SE	Forbes	res
Lot 1, Block 39, 202 Richmond SE	Abeyta, Hoffman	res
Lot 24, Block 39, 201 Bryn Mawr and 3110 Silver SE	Hughes Heidi J. Gray Realtors	res and com
Lot 1, Block 42, 202 Bryn Mawr SE	Michael Thomas Roasters	com
Note: There are several spaces on Silver on this lot that appear residential		
Lot 24, Block 42, 3208, 3218 Silver	Limonata and others Casper	res and com
Lot 1, Block 47, 3300 Silver SE	Ray, Care	res
Lot 24, Block 47, 201 Tulane SE	Corcoran Psychologists Roll	res and com
Lot 1, Block 50, 202 Tulane SE	Brant Law Office Brant	res and com
Lot 1, Block 55, 200 Amherst SE	La Montanita Co-op	com

There are 12 developed corner lots, all MX-T, on the south side of Silver from Girard to Carlisle. 9 are used for residential purposes.

The ZHE erred in concluding that *"....it is one of very few MX-T zoned properties in the vicinity that is used for residential purposes."*

The ZHE erred in concluding: *"Further, the location of the Subject Property as a corner lot adjacent to these commercial and public uses make such uses uniquely harmful to the Subject Property"* because all the 12 lots in the group are corner lots.

2. Reference 14-16-6-6(N)(3) prongs 2 and 3. Finding 9a of the NOD, states: *Applicant submitted evidence on appeal to the LUHO that there is heavy pedestrian, bicycle, and automobile traffic on Silver Avenue along the Subject Property, and that 18-wheeled trucks and other large delivery trucks regularly utilize the Silver Avenue curb next to the Subject Property as parking for deliveries. Applicant states that these heavy trucks are often left with engines idling (sometimes for long periods) as the drivers load and unload their trucks, all occurring within feet of his yard. Applicant submitted evidence that the idling trucks cause unbearable noise and presumably carbon monoxide fumes enter his yard space.*

The ZHE erred in simply repeating applicant's statements and not verifying the facts. Photographs did not picture uses in relation to the subject property, and did not demonstrate a particular frequency or duration of use by delivery trucks, and there is no analysis of similar lots that may have the same truck traffic. The NOD does not contain any evidence beyond applicant's statement regarding unbearable noise or carbon monoxide fumes in their yard.

3. Reference 14-16-6-6(N)(3) prongs 2 and 3. Finding 10a, states: *Opponents point out that having "eyes on the street" increases public safety by allowing the public and first responders to view into and out of the Subject Property to assess whether any dangerous condition may exist. The lattice view fencing that exists on the top approximately 2 feet of the fence allows such views. Although opponents argue that this lattice is less than 50% opaque, there is no bright-line threshold for opacity under the variance criteria in Section 14-16-6-6(N)(3)(a), and based on the photographs and testimony submitted, the ZHE finds that the view fencing provides sufficient "eyes on the street" in this particular case.*

In actuality, fencing on the street side yard (on Silver Ave.) is solid vinyl to 6 ft. high, no lattice, and portions on the street side yard are 6 ft. high solid corrugated steel. (see photo, 202 Richmond SE, from Silver Ave. 2021-05-18). The ZHE relied on photographs and testimony that are incomplete and incorrect.

Photo 202 Richmond SE, from Richmond Dr. 2021-05-18 indicates that the lattice view fencing does impair eyes on the street.

4. Reference 14-16-6-6(N)(3) prongs 2 and 3. Finding 10b states: *While opponents argued that the vinyl fence that is the subject of this Application is of unprecedented construction in the area, Agent points out that just because something is different does*

not make it bad, and evidence was submitted that the fence is of high-quality construction incorporating specialty materials that Applicant had to obtain out of state. The fence is in harmony with the color and architecture of the Subject Property and does not have a negative impact on the public safety, health, and welfare of the community by virtue of its architectural style, materials, or construction.

Testimony of NHNA on 4-20-21 stated: Nob Hill is slightly over 100 years old. For its first 80 years walls in front yards were rare. Those built were generally under 3 ft. high.

About 20 years ago a few property owners started to build taller walls in front yards. Some mistakenly thought this was part of the area's historic architecture. Others did it because they thought it would enhance their safety.

When that started we consulted architectural historians who indicated that successful historic neighborhoods continue to exhibit the architectural principles of their period of development. Newer front yard walls are clearly not characteristic of the architectural principles of the early 20th century when Nob Hill was built.

....the wall does not strengthen or reinforce the architectural character of the surrounding area.

....The design and materials do not reflect the architectural character of the surrounding area. A white vinyl fence cannot reflect the architectural character of the area when such a structure cannot be found anywhere in Nob Hill, historic or modern.

....it injures adjacent properties and the surrounding community because it damages the historic streetscape which is a cultural resource that the community values and which belongs to all the community.

The ZHE erred by mischaracterizing and oversimplifying the foregoing NHNA statement in finding 10b as: *"opponents argued that the vinyl fence that is the subject of this Application is of unprecedented construction in the area."* In so doing he neglected to address the arguments of NHNA regarding difficulties in maintaining historic streetscape, the fact that historic streetscape is a cultural resource that the community values and which belongs to all the community, and why those issues were not germane.

5. Reference 14-16-6-6(N)(3) prongs 2 and 3, finding 10b states: *"evidence was submitted that the fence is of high-quality construction, incorporating specialty materials that Applicant had to obtain out of state"*. The ZHE erred because there is no correlation between materials that are obtained out of state and high quality.

6. Reference 14-16-6-6(N)(3), prong 5, the ZHE asked NHNA in the hearing if a lower fence would satisfy them. Their president indicated that something lower like 4 or 5 ft. might help. In finding 13 ZHE stated: *Applicant submitted evidence that any shorter*

fence would be ineffective in that regard. Thus, Applicant is not requesting more than what is minimally necessary for a variance.

ZHE erred because the record does not contain evidence that fencing of 4 ft. or 5 ft. would be ineffective.



202 Richmond Dr SE from Silver Ave 2021-05-18 202 Richmond SE from Richmond Dr 2021-05-18



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

Gary F. Hoffman requests a variance of 3 feet to the 3 foot maximum wall height for Lot 1, Block 39, University Heights, located at 202 Richmond DR SE, zoned MX-T [Section 14-16-5-7-D]

Special Exception No:..... **VA-2020-00379**
Project No: **Project#2020-004657**
Hearing Date: 04-20-21
Closing of Public Record: 04-20-21
Date of Decision: 05-05-21

On the 20th day of April, 2021, property owner Gary F. Hoffman ("Applicant") appeared before the Zoning Hearing Examiner ("ZHE") requesting a variance of 3 feet to the 3-foot maximum wall height ("Application") upon the real property located at 202 Richmond DR SE ("Subject Property"). Below are the ZHE's finding of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 3 ft to the 3 ft maximum wall height.
2. This matter comes before the ZHE on remand from the City Land Use Hearing Officer (LUHO), pursuant to the LUHO notice of decision dated March 16, 2021.
3. The Applicant bears the burden of ensuring there is evidence in the record supporting a finding that the above criteria are met under Section 14-16-6-4(N)(1).
4. Agent appeared and gave evidence in support of the application.
5. All property owners within 100 feet of the subject property and the affected neighborhood association were notified. City Transportation submitted a report stating no objection.
6. The proper "Notice of Hearing" signage was posted for the required time period as required by Section 14-16-6-4(K)(3).
7. The Applicant has authority to pursue this Application.
8. The Pre-November 2, 2020 version of the City of Albuquerque Integrated Development Ordinance (IDO), applicable to the Application, at Section 14-16-6-6(N)(3)(a) (Variance-Review and Decision Criteria) reads: "... an application for a Variance-ZHE shall be approved if it meets all of the following criteria:
 - (1) *There are special circumstances applicable to the subject property that are not self-imposed and that do not apply generally to other property in the same zone and vicinity such as size, shape, topography, location, surroundings, or physical characteristics created by natural forces or government action for which no compensation was paid. Such special circumstances of the property either create an extraordinary hardship in the form of a substantial and unjustified limitation on the reasonable use or return on the property, or practical difficulties result from strict compliance with the minimum standards.*
 - (2) *The Variance will not be materially contrary to the public safety, health, or welfare.*

9/12

- (3) *The Variance does not cause significant material adverse impacts on surrounding properties or infrastructure improvements in the vicinity.*
 - (4) *The Variance will not materially undermine the intent and purpose of the IDO or the applicable zone district.*
 - (5) *The Variance approved is the minimum necessary to avoid extraordinary hardship or practical difficulties."*
9. Based on evidence submitted by or on behalf of Applicant, it appears that there are special circumstances applicable to the Subject Property that are not self-imposed and that do not apply generally to other property in the same zone and vicinity such as size, shape, topography, location, surroundings, or physical characteristics created by natural forces or government action for which no compensation was paid, as required by Section 14-16-6-6(N)(3)(a)(1).
- a. Applicant submitted evidence on appeal to the LUHO that there is heavy pedestrian, bicycle, and automobile traffic on Silver Avenue along the Subject Property, and that 18-wheeled trucks and other large delivery trucks regularly utilize the Silver Avenue curb next to the Subject Property as parking for deliveries. Applicant states that these heavy trucks are often left with engines idling (sometimes for long periods) as the drivers load and unload their trucks, all occurring within feet of his yard. Applicant submitted evidence that the idling trucks cause unbearable noise and presumably carbon monoxide fumes enter his yard space. Further, Applicant submitted evidence that Silver Avenue is a well-trafficked commercial thoroughfare that causes out-of-proportion negative impacts on residential properties fronting it in this area, in the form of litter, high pedestrian traffic and trespassing by members of the public. These heavy commercial and public uses constitute "special circumstances applicable to the Subject Property that are not self-imposed."
 - b. Neighbors argued that these commercial and public uses apply generally to other properties in the general vicinity. While that may be the case, Agent submitted evidence that the impact of these commercial and public uses falls disproportionately on the Subject Property, because it is one of very few MX-T zoned properties in the vicinity that is used for residential purposes. Further the location of the Subject Property as a corner lot adjacent to these commercial and public uses make such uses uniquely harmful to the Subject Property.
 - c. These special circumstances create an extraordinary hardship in the form of a substantial and unjustified limitation on the reasonable use on the Subject Property, because while the commercial impacts may be appropriate on an MX-T property used for commercial purposes, they are inappropriate when impacting MX-T property used for residential purposes, such as the Subject Property. Further, practical difficulties result from strict compliance with the minimum standards, because the three-foot wall that would be allowed without a variance would be insufficient to mitigate the negative impact of the special circumstances, as further described, below.
10. Based on evidence submitted by or on behalf of Applicant, the variance will not be contrary to the public safety, health and welfare of the community as required by Section 14-16-6-6(N)(3)(a)(2).
- a. Opponents point out that having "eyes on the street" increases public safety by allowing the public and first responders to view into and out of the Subject Property to assess whether any dangerous condition may exist. The lattice view fencing that

exists on the top approximately 2 feet of the fence allows such views. Although opponents argue that this lattice is less than 50% opaque, there is no bright-line threshold for opacity under the variance criteria in Section 14-16-6-6(N)(3)(a), and based on the photographs and testimony submitted, the ZHE finds that the view fencing provides sufficient “eyes on the street” in this particular case.

- b. While opponents argued that the vinyl fence that is the subject of this Application is of unprecedented construction in the area, Agent points out that just because something is different does not make it bad, and evidence was submitted that the fence is of high-quality construction, incorporating specialty materials that Applicant had to obtain out of state. The fence is in harmony with the color and architecture of the Subject Property and does not have a negative impact on the public safety, health, and welfare of the community by virtue of its architectural style, materials, or construction.
11. Based on evidence submitted by or on behalf of Applicant, the variance will not cause significant adverse material impacts on surrounding properties or infrastructure improvements in the vicinity as required by Section 14-16-6-6(N)(3)(a)(3). According to the site plan and testimony submitted by Applicant, the proposed fence is set back approximately 13 feet along Silver Avenue and approximately 24 feet along Richmond Drive, thereby providing plenty of room for pedestrians and transit connectivity to use rights of way without having the fence in close proximity.
12. Based on evidence submitted by or on behalf of Applicant, the variance will not materially undermine the intent and purpose of the IDO or applicable zone district as required by Section 14-16-6-6(N)(3)(a)(4). The MX-T zone district is a transition zone “*between residential neighborhoods and more intense commercial areas.*” See IDO, § 14-16-2-4(A)(1). Here, obvious intense commercial uses appear to be interfering with Applicant’s residential use. The proposed variance addresses the intent of MX-T serving as a transitional zone by having the proposed fence help the Subject Property serve as a functional buffer between the commercial and residential uses. Indeed, the proposed fence runs parallel to adjacent fences of the same or substantially similar height on properties adjacent to the Subject Property on either side.
13. Based on evidence submitted by or on behalf of Applicant, the variance approved is the minimum necessary to avoid extraordinary hardship or practical difficulties as required by Section 14-16-6-6(N)(3)(a)(5). Specifically, Applicant submitted evidence that any smaller setback variance would be ineffective to provide for the safety and usability of the site and the intended use. While opponents argued that a three-foot fence would discourage trespassers, such a fence would be easy to cross over and would not provide the same security and buffer against the intense commercial and public uses present. Applicant submitted evidence that any shorter fence would be ineffective in that regard. Thus, Applicant is not requesting more than what is minimally necessary for a variance.

DECISION:

APPROVAL of a variance of 3 feet to the 3 feet maximum wall height.

APPEAL:

If you wish to appeal this decision, you must do so by May 20, 2021 pursuant to Section 14-16-6-4(U), of the Integrated Development Ordinance, you must demonstrate that you have legal standing to file an appeal as defined.

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.



Robert Lucero, Esq.
Zoning Hearing Examiner

cc:

ZHE File
Zoning Enforcement
Gary F. Hoffman, 202 Richmond DR SE, 87106
Mallia Walker, melliawalker@gmail.com
Shannie Madden, 203 Richmond DR SE, 87106
Gary Eyster, meyster1@me.com
Margaret Forbes, 201 Richmond DR SE, 87106
Rahim Kassam, 3820 Copper NE, 87108
Michael Vos, Vos@consensusplanning.com

12/12

REQUEST FOR SPECIAL EXCEPTION

☒ Variance ☐ Conditional Use ☐ Other Interpreter: ☐ Yes ☒ No
VA# 2020-00379 PR# 2020-004657

Date: 10/14/2020		Received By: Marcelo Ibarra	
Address of Request: 202 RICHMOND DR SE			
City: Albuquerque	State: NM	Zip: 87106	
Lot: 1	Block: 39	Zone: MX-T	Map page: K16
Subdivision: UNIVERSITY HEIGHTS		UPC# 101605734122642414	
Property Owner(s): HOFFMAN GARY F			
Mailing Address: 202 RICHMOND DR SE			
City: Albuquerque	State: NM	Zip: 87106	
Phone: 505-304-8141	Email: hoffmanbrad82@gmail.com		
Agent: Same as Above			
Mailing Address:			
City:	State:	Zip:	
Phone:	Email:		
Fee Total: \$ 210.00			

Completed Application Requirements:

- o Copy of relevant IDO section
- o Letter of authorization (if agent representation)
- o Proof of Pre-application Meeting (not required for a variance)
- o Proof that neighborhood meeting requirements were met
- o Proof that public notice requirements were met
- o Photos (site and existing structures)
- o Sketch plan
- o Justification letter
- o Sign posting

Approved for acceptance by:

Date:

Hearing Date: DEC 15, 2020

ZONING OFFICIAL USE ONLY			
Request for exception to IDO Section: 14-16- 5-7(D)			
Description of request: Variance of 3 feet to the 3 feet Maximum Wall Height			
<input checked="" type="checkbox"/> Ownership verified on AGIS <input type="checkbox"/> Proof of ownership included <input type="checkbox"/> Letter of authorization included			
Case history number(s) from AGIS:			
APO:	CPO#	HPO#	VPO#
Wall variances not allowed in low-density residential development in these 2 areas per 5-7(D)(3)(e):			
1) CPO 3 and 2) Monte Vista / College View Historic Dist. - Mapped Area:			
2) CPO-8 states walls no more than 3 feet high, but may request a variance			

5-7(C) WALL LOCATION

- 5-7(C)(1)** Walls may be constructed anywhere on a parcel, including but not limited to any front, side, or rear setback area, unless otherwise prohibited by this IDO, by Articles 14-1 and 14-3 of ROA 1994 (Uniform Administrative Code and Uniform Housing Code), Article 14-2 of ROA 1994 (Fire Code), or by clear sight triangle requirements in the Development Process Manual (DPM).
- 5-7(C)(2)** Walls may be constructed without any setback from a property line, unless otherwise prohibited by this IDO, by Articles 14-1 or 14-3 of ROA 1994 (Uniform Administrative Code and Uniform Housing Code), Article 14-2 of ROA 1994 (Fire Code), or by clear sight triangle requirements in the DPM. Walls may not encroach onto any public right-of-way without the prior written approval from the City Engineer and may not encroach onto any adjacent property without prior written approval of that property owner.

5-7(D) MAXIMUM WALL HEIGHT**5-7(D)(1) Maximum Wall Height Table**

Unless specified otherwise in this IDO, walls shall comply with the height standards in Table 5-7-1.

Table 5-7-1: Maximum Wall Height					
Standard Wall Height					
Wall in the front yard or street side yard ^[1]	3 ft.	3 ft.	3 ft.	6 ft.	5-7(D)(2)
Wall in other locations on the lot ^[2]	8 ft.	8 ft.	8 ft.	10 ft.	5-7(D)(2)
Corner Lot Abutting Residential Zone District					
Any portion of a wall in the rear yard abutting the front yard of a Residential zone district.					
<10 ft. from the lot line abutting the street ^[3]	3 ft.	3 ft.	3 ft.	6 ft.	5-7(D)(2) 5-7(D)(3)(d)
≥10 ft. from the lot line abutting the street	6 ft.	8 ft. Low-density residential: 6 ft.	8 ft.	8 ft.	5-7(D)(2)
Walls Abutting Major Arroyos and Major Public Open Space					
Wall in a rear or interior side yard abutting a major arroyo	6 ft.	8 ft.	8 ft.	8 ft.	5-7(D)(2) 5-7(E)(4)
Wall in a rear or interior side yard abutting Major Public Open Space	6 ft.	6 ft.	6 ft.	10 ft.	5-7(D)(2) 5-7(E)(4)
^[1] A Variance – ZHE for a wall greater than 3 ft. in height on a lot with low-density residential development may be approved pursuant to the criteria in Subsection 14-16-6-6(N)(3)(c) (Variance for a Taller Front or Side Yard Wall) if it meets the standards in Table 5-7-2. ^[2] Portion of walls in the rear yard abutting the front yard of a Residential zone district are treated differently, with provisions later in this table. ^[3] Where the rear yard of a through lot abuts at least 1 lot with any residential development that faces the second public street, the rear and side walls shall be subject to the same height restrictions applicable within the required front setback of the abutting residential property.					

Sanchez, Suzanna A.

From: Sanchez, Suzanna A.
Sent: Wednesday, October 14, 2020 10:58 AM
To: 'hoffmanbrad82@gmail.com'
Subject: ZHE Contacts for 202 Richmond DR
Attachments: 1. Letter to Neighborhood Association.docx; 2. Letter to Property Owners-December.docx

Dear Applicant,

1. Below are the neighborhood associations that need to be notified of your ZHE application. Please forward the attached 1. Letter to Neighborhood Association to the email addresses below.

Association Name	First Name	Last Name	Email	Address Line 1
Nob Hill NA	Shani	Madden	shanikm@me.com	203 Richmond D
Nob Hill NA	Gary	Eyster	meyster1@me.com	316 Amherst Dri
District 6 Coalition of Neighborhood Associations	Mandy	Warr	mandy@theremedydayspa.com	119 Vassar Drive
District 6 Coalition of Neighborhood Associations	Patricia	Willson	info@willsonstudio.com	505 Dartmouth I SE
Southeast Heights NA	Pete	Belletto	pmbdoc@yahoo.com	902 Valverde Dri
Southeast Heights NA	John	Pate	jpate@molzencorbin.com	1007 Idlewilde L

2. Below is a list of property owners within 100+ feet of the subject property. Please mail the attached, 2. Letter to Property Owners- December. Also, please provide proof that the letters were sent. Proof can be either a receipt for postage stamps purchased or a photo of the addressed envelopes.

Owner	Owner Address	Owner Address 2
HAYES PAMELA ANN TR HAYES RVLT	918 PARKLAND CIR SE	ALBUQUERQUE NM 87108-4325
SANCHEZ LAURA K	8640 DESERT DAWN CT NE	ALBUQUERQUE NM 87113-2351
VALLES ANDREW	208 RICHMOND DR SE	ALBUQUERQUE NM 87106-2238
FELICIDAD FOUNDATION	126 RICHMOND DR SE	ALBUQUERQUE NM 87106-2236
DAVIS KELIN ACQUISITIONS LLC	127 BRYN MAWR DR SE	ALBUQUERQUE NM 87106-2265
PAVLIDES MARY	1519 WELLESLEY DR NE	ALBUQUERQUE NM 87106-1136
MOSER MICHAEL E & YOUNG HEE MOSER	1321 UPLAND DR SUITE 1115	HOUSTON TX 77043
JEHLE CHLOE	206 RICHMOND DR SE	ALBUQUERQUE NM 87106-2238
DAVENPORT JUDITH & LILLIAN J	203 BRYN MAWR DR SE	ALBUQUERQUE NM 87106
MADDEN SHANI L	203 RICHMOND DR SE	ALBUQUERQUE NM 87106

POLANSKY DAVID	7409 TWISTED BRANCH NE	ALBUQUERQUE NM 87113
FORBES RICHARD G & MARGARET A	10525 4TH ST NW	ALBUQUERQUE NM 87114-2219
BURKE GERALDINE	207 RICHMOND DR SE	ALBUQUERQUE NM 87106-2237
HOFFMAN GARY F	202 RICHMOND DR SE	ALBUQUERQUE NM 87106-2238
GEMMER NOELLE	204 RICHMOND DR SE	ALBUQUERQUE NM 87106-2238
BALDWIN GREGORY D & MELISSA G	205 BRYN MAWR DR SE	ALBUQUERQUE NM 87106-2201

Please keep a copy of the email that you send and copies of each letter once you have filled them in. Please let me know if you have questions or need assistance. The deadline for December is November 3rd.

Thank you,

Suzie



SUZIE SANCHEZ

zhe administrative assistant

o 505.924.3894

e suzannasanchez@cabq.gov

cabq.gov/planning

10/16/2020

Gmail - Neighborhood Association Meeting request



Mellia Walker <weisbergpros.walker@gmail.com>

Neighborhood Association Meeting request

1 message

Mellia Walker <weisbergpros.walker@gmail.com>
To: shanikm@me.com

Fri, Oct 16, 2020 at 12:12 PM

Dear Shani Madden,

Enclosed is a request from Gary Hoffman resident at 202 Richmond, Albuquerque NM
Thank You,

Mellia N. Walker
Agent for Gary Hoffman

—
Mellia N. Walker
Office Manager, CEO
Samuel Weisberg Prosthetics
1018 Coal Ave. SE
Albuquerque, NM 87106
(505) 248-0303 Office
(505) 545-2475 Cell
Weisbergpros.walker@gmail.com



Mellia Walker <weisbergpros.walker@gmail.com>

Neighborhood Association Meeting Request

1 message

Mellia Walker <weisbergpros.walker@gmail.com>
To: jpate@molzencorbin.com


Fri, Oct 16, 2020 at 12:09 PM

Dear John Pate,

Enclosed is a request from Gary Hoffman resident at 202 Richmond, Albuquerque NM
Thank You,

Mellia N. Walker
Agent for Gary Hoffman

--
Mellia N. Walker
Office Manager, CEO
Samuel Weisberg Prosthetics
1018 Coal Ave. SE
Albuquerque, NM 87106
(505) 248-0303 Office
(505) 545-2475 Cell
Weisbergpros.walker@gmail.com

 neighborhood ass doc mellia20201016_12020540.pdf
218K



Mellia Walker <weisbergpros.walker@gmail.com>

Neighborhood Association Meeting Request

1 message

Mellia Walker <weisbergpros.walker@gmail.com>

Fri, Oct 16, 2020 at 12:10 PM

To: pmbdoc@yahoo.com


Dear Pete Belletto,

Enclosed is a request from Gary Hoffman resident at 202 Richmond, Albuquerque NM

Thank You,

Mellia N. Walker
Agent for Gary Hoffman

Mellia N. Walker
Office Manager, CEO
Samuel Weisberg Prosthetics
1018 Coal Ave. SE
Albuquerque, NM 87106
(505) 248-0303 Office
(505) 545-2475 Cell
Weisbergpros.walker@gmail.com

 neighborhood ass doc mellia20201016_12020540.pdf
218K



Mellia Walker <weisbergpros.walker@gmail.com>

Neighborhood Association Meeting Request

1 message

Mellia Walker <weisbergpros.walker@gmail.com>
To: info@willsonstudio.com


Fri, Oct 16, 2020 at 12:10 PM

Dear Patricia Wilson,

Enclosed is a request from Gary Hoffman resident at 202 Richmond, Albuquerque NM
Thank You,

Mellia N. Walker
Agent for Gary Hoffman

Mellia N. Walker
Office Manager, CEO
Samuel Weisberg Prosthetics
1018 Coal Ave. SE
Albuquerque, NM 87106
(505) 248-0303 Office
(505) 545-2475 Cell
Weisbergpros.walker@gmail.com

 neighborhood ass doc mellia20201016_12020540.pdf
218K



Mellia Walker <weisbergpros.walker@gmail.com>

Neighborhood Association Meeting Request

1 message

Mellia Walker <weisbergpros.walker@gmail.com>

To: mandy@theremedyspa.com

Fri, Oct 16, 2020 at 12:11 PM


Dear Mandy Warr,

Enclosed is a request from Gary Hoffman resident at 202 Richmond, Albuquerque NM

Thank You,

Mellia N. Walker
Agent for Gary Hoffman

—
Mellia N. Walker
Office Manager, CEO
Samuel Weisberg Prosthetics
1018 Coal Ave. SE
Albuquerque, NM 87106
(505) 248-0303 Office
(505) 545-2475 Cell
Weisbergpros.walker@gmail.com

 neighborhood ass doc mellia20201016_12020540.pdf
218K



Mellia Walker <weisbergpros.walker@gmail.com>

Neighborhood Association Meeting Request

1 message

Mellia Walker <weisbergpros.walker@gmail.com>
To: meyster1@me.com


Fri, Oct 16, 2020 at 12:08 PM

Dear Gary Evster,

Enclosed is a request from Gary Hoffman resident at 202 Richmond, Albuquerque NM
Thank You,

Mellia N. Walker
Agent for Gary Hoffman

—
Mellia N. Walker
Office Manager, CEO
Samuel Weisberg Prosthetics
1018 Coal Ave. SE
Albuquerque, NM 87106
(505) 248-0303 Office
(505) 545-2475 Cell
Weisbergpros.walker@gmail.com

 neighborhood ass doc mellia20201016_12020540.pdf
218K



Mellia Walker <weisbergpros.walker@gmail.com>

Neighborhood Association email conformations for Gary Hoffman 202 Richmond Drive

1 message

Mellia Walker <weisbergpros.walker@gmail.com>

Mon, Oct 19, 2020 at 12:55 PM

To: suzannasanchez@cabq.gov

Hello Suzie,

My name is Mellia, I have been giving Gary Hoffman a hand in preparing/ submitting the fence documents. Enclosed you will find all the emails sent out on October 16th 2020. If you have any other questions please let me know or feel free to contact Gary.

Thank you bunches for being so helpful and patient with Gary.

--

Mellia N. Walker
Office Manager, CEO
Samuel Weisberg Prosthetics

1018 Coal Ave. SE

Albuquerque, NM 87106

(505) 248-0303 **Office**(505) 545-2475 **Cell**

Weisbergpros.walker@gmail.com

----- Forwarded message -----

From: Mellia Walker <weisbergpros.walker@gmail.com>

To: shanikm@me.com

Cc:

Bcc:

Date: Fri, 16 Oct 2020 12:12:07 -0600

Subject: Neighborhood Association Meeting request

Dear Shani Madden,

Enclosed is a request from Gary Hoffman resident at 202 Richmond, Albuquerque NM

Thank You,

Mellia N. Walker

Agent for Gary Hoffman

--

Mellia N. Walker
Office Manager, CEO
Samuel Weisberg Prosthetics

1018 Coal Ave. SE

Albuquerque, NM 87106

(505) 248-0303 **Office**(505) 545-2475 **Cell**

Weisbergpros.walker@gmail.com

----- Forwarded message -----

From: Gary and Melodie Eyster <meyster1@me.com>

To: "Mellia Walker" <weisbergpros.walker@gmail.com>

Cc:

Bcc:

Date: Fri, 16 Oct 2020 13:01:00 -0600

Subject: RE: Neighborhood Association meeting request

031

Disregard. I see it on another email. GE

~~From: Gary and Melodie Eyster [mailto:meyster1@me.com]~~
~~Sent: Friday, October 16, 2020 1:00 PM~~
~~To: 'Mellia Walker' <weisbergpros.walker@gmail.com>~~
~~Cc: meyster1@me.com~~
~~Subject: RE: Neighborhood Association meeting request~~

Ms. Walker. I don't see the request.

Thank you, Gary Eyster

From: Mellia Walker [mailto:weisbergpros.walker@gmail.com]
Sent: Friday, October 16, 2020 12:12 PM
To: meyster1@me.com
Subject: Neighborhood Association meeting request

Dear Gary Eyster,

Enclosed is a request from Gary Hoffman resident at 202 Richmond, Albuquerque NM

Thank You,

Mellia N. Walker

Agent for Gary Hoffman

--

Mellia N. Walker

Office Manager, CEO

Samuel Weisberg Prosthetics

1018 Coal Ave. SE

Albuquerque, NM 87106

(505) 248-0303 Office

(505) 545-2475 Cell

Weisbergpros.walker@gmail.com

----- Forwarded message -----

From: Mellia Walker <weisbergpros.walker@gmail.com>

032

To: mandy@theremedyspa.com

Cc:

Bcc:

Date: Fri, 16 Oct 2020 12:11:03 -0600

Subject: Neighborhood Association Meeting Request

~~Dear Mandy Warr,~~

Enclosed is a request from Gary Hoffman resident at 202 Richmond, Albuquerque NM

Thank You,

Mellia N. Walker

Agent for Gary Hoffman

--

Mellia N. Walker

Office Manager, CEO

Samuel Weisberg Prosthetics

1018 Coal Ave. SE

Albuquerque, NM 87106

(505) 248-0303 Office

(505) 545-2475 Cell

Weisbergpros.walker@gmail.com

----- Forwarded message -----

From: Mellia Walker <weisbergpros.walker@gmail.com>

To: info@willsonstudio.com

Cc:

Bcc:

Date: Fri, 16 Oct 2020 12:10:46 -0600

Subject: Neighborhood Association Meeting Request

~~Dear Patrica Wilson,~~

Enclosed is a request from Gary Hoffman resident at 202 Richmond, Albuquerque NM

Thank You,

Mellia N. Walker

Agent for Gary Hoffman

--

Mellia N. Walker

Office Manager, CEO

Samuel Weisberg Prosthetics

1018 Coal Ave. SE

Albuquerque, NM 87106

(505) 248-0303 Office

(505) 545-2475 Cell

Weisbergpros.walker@gmail.com

----- Forwarded message -----

From: Mellia Walker <weisbergpros.walker@gmail.com>

To: pmbdoc@yahoo.com

Cc:

Bcc:

Date: Fri, 16 Oct 2020 12:10:28 -0600

Subject: Neighborhood Association Meeting Request

~~Dear Pete Belletto,~~

Enclosed is a request from Gary Hoffman resident at 202 Richmond, Albuquerque NM

Thank You,

Mellia N. Walker

Agent for Gary Hoffman

--

Mellia N. Walker

Office Manager, CEO

Samuel Weisberg Prosthetics

1018 Coal Ave. SE

Albuquerque, NM 87106

(505) 248-0303 Office

(505) 545-2475 Cell

Weisbergpros.walker@gmail.com

----- Forwarded message -----

From: Mellia Walker <weisbergpros.walker@gmail.com>

To: jpate@molzencorbin.com

Cc:

Bcc:

Date: Fri, 16 Oct 2020 12:09:47 -0600

Subject: Neighborhood Association Meeting Request

Dear John Pate,

Enclosed is a request from Gary Hoffman resident at 202 Richmond, Albuquerque NM

Thank You,

Mellia N. Walker

Agent for Gary Hoffman

Mellia N. Walker**Office Manager, CEO****Samuel Weisberg Prosthetics**

1018 Coal Ave. SE

Albuquerque, NM 87106

(505) 248-0303 Office

(505) 545-2475 Cell

Weisbergpros.walker@gmail.com

----- Forwarded message -----

From: Mellia Walker <weisbergpros.walker@gmail.com>

To: shanikm@me.com

Cc:

Bcc:

Date: Fri, 16 Oct 2020 12:09:10 -0600

Subject: Neighborhood Association Meeting Request

Dear Shani Madden,

Enclosed is a request from Gary Hoffman resident at 202 Richmond, Albuquerque NM

Thank You,

Mellia N. Walker

Agent for Gary Hoffman

Mellia N. Walker**Office Manager, CEO****Samuel Weisberg Prosthetics**

1018 Coal Ave. SE

Albuquerque, NM 87106

(505) 248-0303 Office

(505) 545-2475 Cell

Weisbergpros.walker@gmail.com

----- Forwarded message -----

From: Mellia Walker <weisbergpros.walker@gmail.com>

To: meyster1@me.com

Cc:

Bcc:

Date: Fri, 16 Oct 2020 12:08:43 -0600

Subject: Neighborhood Association Meeting Request

Dear Gary Eyster,

Enclosed is a request from Gary Hoffman resident at 202 Richmond, Albuquerque NM

Thank You,

Mellia N. Walker
Agent for Gary Hoffman

--
Mellia N. Walker
Office Manager, CEO
Samuel Weisberg Prosthetics
1018 Coal Ave. SE
Albuquerque, NM 87106
(505) 248-0303 Office
(505) 545-2475 Cell
Weisbergpros.walker@gmail.com

14 attachments

-  Neighborhood Association Meeting request.eml
3K
-  Neighborhood Association meeting request.eml
12K
-  neighborhood ass doc mellia20201016_12020540.pdf
218K
-  Neighborhood Association Meeting Request.eml
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301K



Mellia Walker <welsbergpros.walker@gmail.com>

Fwd: ZHE 202 Richmond Dr - Gary-Bradley

1 message

Mellia N. Walker <melliawalker@gmail.com>
To: welsbergpros.walker@gmail.com

Thu, Oct 15, 2020 at 12:22 PM

----- Forwarded message -----

From: Brad Hoffman <hoffmanbrad82@gmail.com>
Date: Thu, Oct 15, 2020, 10:32 AM
Subject: Fwd: ZHE 202 Richmond Dr - Gary-Bradley
To: <melliawalker@gmail.com>

----- Forwarded message -----

From: Ibarra, Marcelo X. <marceloibarra@cabq.gov>
Date: Wed, Oct 14, 2020, 9:01 AM
Subject: ZHE 202 Richmond Dr - Gary-Bradley
To: hoffmanbrad82@gmail.com <hoffmanbrad82@gmail.com>
Cc: Sanchez, Suzanna A. <suzannasanchez@cabq.gov>

cid:image001.jpg@01D42298.80A7FE40**MARCELO IBARRA**

Zoning Plan Examiner

o 505.924.3807

e marceloibarra@cabq.gov

cabq.gov/planning

5 attachments

Image001.gif
2KImage002.png
4K**ONE
ALBUQUE
RQUE**

planning

Image003.jpg
4Kimage002.png
4K ZHE 202 Richmond Dr - Gary-Bradley.pdf
290K

C

REQUEST FOR NEIGHBORHOOD MEETING

Date: 10/16/2020

To Whom This May Concern:

I am requesting approval from the Zoning Hearing Examiner within the City of Albuquerque for a conditional use or variance to allow Request for Variance - Fence
Over 3(three) Feet

(summary of request).

Property owner Gary Hoffman
Agent if applicable Mellia N. Walker (505) 545-2474
Property Address 202 Richmond Dr, Albuquerque, NM, _____ (zip code).

This letter is an offer to meet with you to provide additional information. If you wish to meet, please respond within 15 days. If you do not want to meet, or you support the proposal, please let me know.

Thank you,
Applicant Name Gary Hoffman
Email weisbergpros.walker@gmail.com
Phone Number (505) 400-6895

The City may require the applicant to attend a City-sponsored facilitated meeting with the Neighborhood Associations whose boundaries include or are adjacent to the proposed project, based on the complexity and potential impacts of a proposed project. For more information, please contact the ZHE Administrative Assistant Suzie Sanchez at 505-924-3894 or suzannasanchez@cabq.gov.

Please note: "You may submit written comments to the Zoning Hearing Examiner up to 6 days before the hearing (5pm on the Wednesday before the hearing). Written comments received after that deadline will not be taken into consideration for this application.

Public Notice of Hearing

Date: 10-18-2020

To Whom This May Concern:

I am requesting approval from the Zoning Hearing Examiner within the City of Albuquerque for a conditional use or variance to allow a Variance over 3ft - Fence (summary of request).

Property owner: Gary Hoffman - (505) 400-6895

Agent (If applicable): Mellia N. Walker - Weisbergpros.Walker@gmail

Property Address: 202 Richmond Drive, Albuquerque, NM, 87106 (zip code).

A hearing will be held on December 15, 2020 beginning at 9:00AM via ZOOM.

Join Zoom Meeting

<https://cabq.zoom.us/j/7044490999>

Meeting ID: 704 449 0999

One tap mobile

+16699006833,,7044490999# US (San Jose)

+12532158782,,7044490999# US (Tacoma)

Dial by your location

+1 669 900 6833 US (San Jose)

+1 253 215 8782 US (Tacoma)

+1 346 248 7799 US (Houston)

+1 646 558 8656 US (New York)

+1 301 715 8592 US (Germantown)

+1 312 626 6799 US (Chicago)

Meeting ID: 704 449 0999

Find your local number: <https://cabq.zoom.us/j/a2s7T1dnA>

Thank you,

Applicant's Name: Gary Hoffman

Applicant's Number or Email Address: (505) 400-6895

For more information, please contact the ZHE Administrative Assistant Suzie Sanchez at 505- 924-3894 or suzannasanchez@cabq.gov.

Please note: "You may submit written comments to the Zoning Hearing Examiner up to 6 days before the hearing (5pm on the Wednesday before the hearing). Written comments received after that deadline may result in deferral.



UNIVERSITY
115 CORNELL DR SE
ALBUQUERQUE, NM 87106-9998
(800)275-8777

10/20/2020

10:12 AM

Product	Qty	Unit Price	Price
Hearts Blossom	15	\$0.55	\$8.25

Grand Total: \$8.25

Cash \$10.00
Change (\$1.75)

- Preview your Mail
- Track your Packages
Sign up for FREE @
www.informedelivery.com

All sales final on stamps and postage.
Refunds for guaranteed services only.
Thank you for your business.

Tell us about your experience.
Go to: <https://postalexperience.com/Pos>
840-5870-0079-001-00043-77208-02
or scan this code with your mobile device,



or call 1-800-410-7420.

UFN: 340145-0106
Receipt #: 840-58700079-1-4377208-2
Clerk: 11

C

#2



SUPPORT I DO
MAN WALKING HAS EYES ON
STREET, CAN SEE TALL.



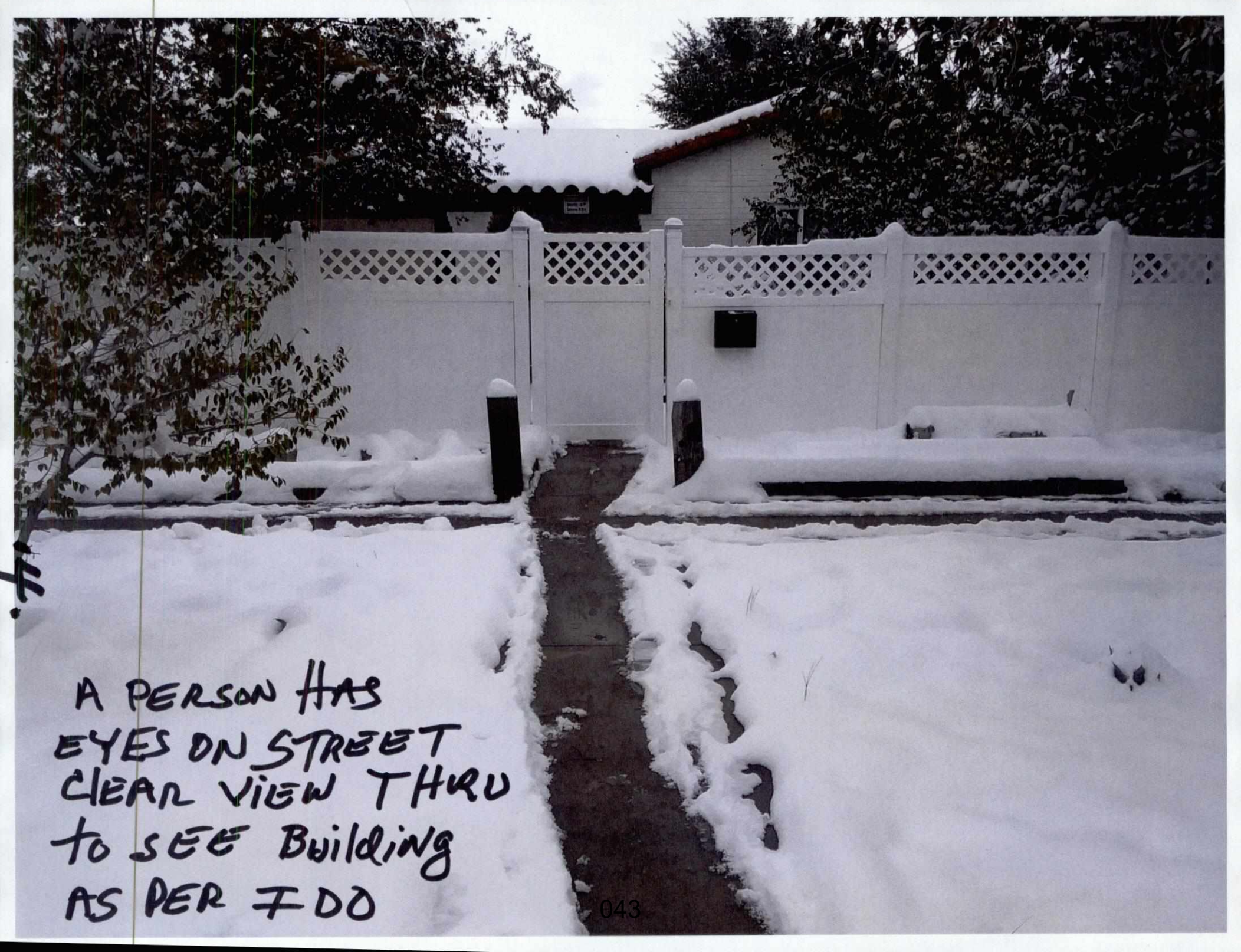
#1

WE FINALLY
FEEL SAFE
WITH FENCE AND
VARIANCE G.H.

202

042

3.



A PERSON HAS
EYES ON STREET
CLEAR VIEW THRU
TO SEE BUILDING
AS PER FDO



215 Richmond
S.E.

2-R-1 with
6' FENCES OR WALLS



6' HIGH WALL
OR FENCE

.8. 213 Richmond

201 Richmond SE

#2



201 Richmond S.E.



9.



14

223 Richmond SE.

048

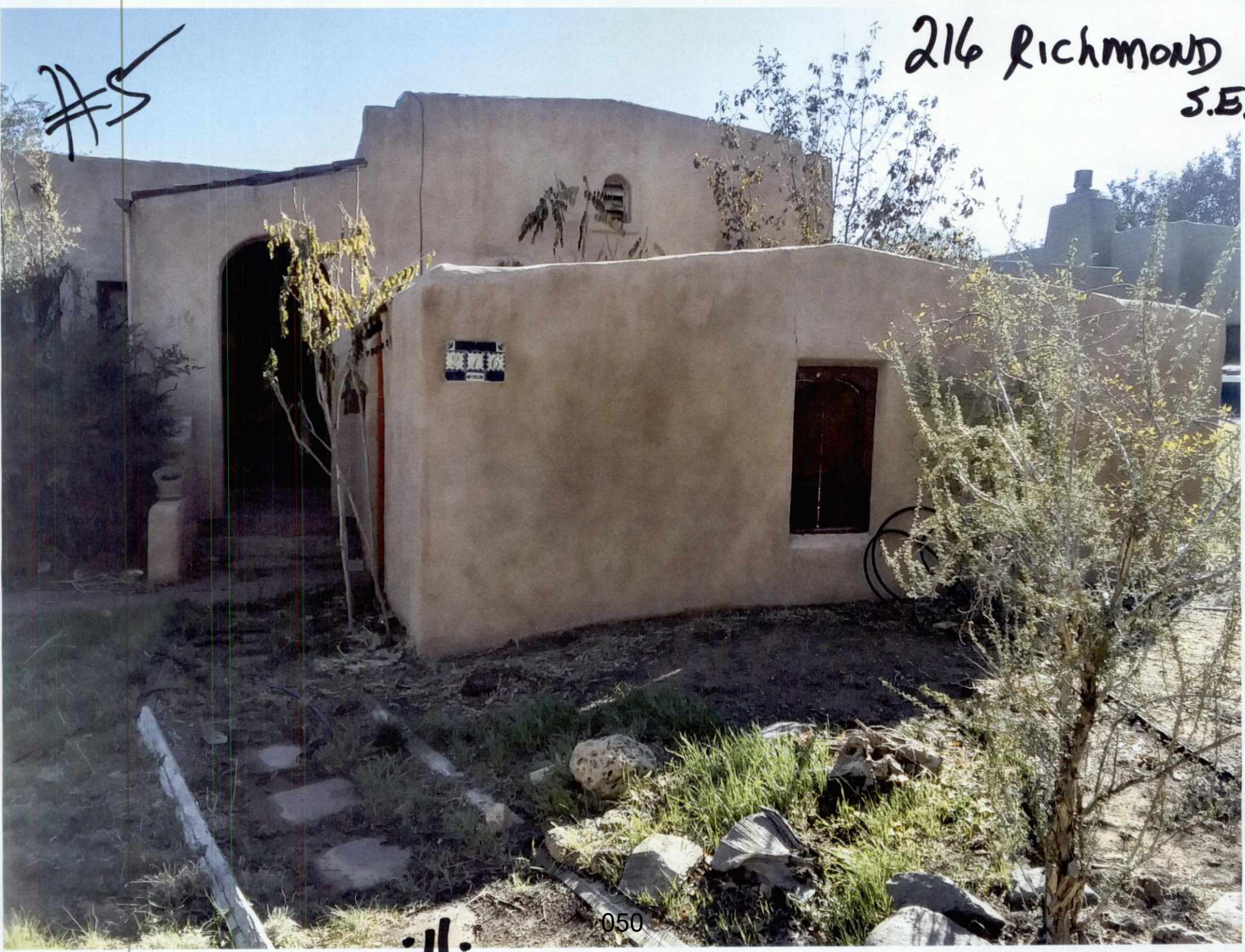
223 Richmond SE.

S. W. CORNER Richmond
& LEAD



#5

216 Richmond
S.E.



11.

050

GUITAR
LESSONS
DAN BOWLING
505-266-5313

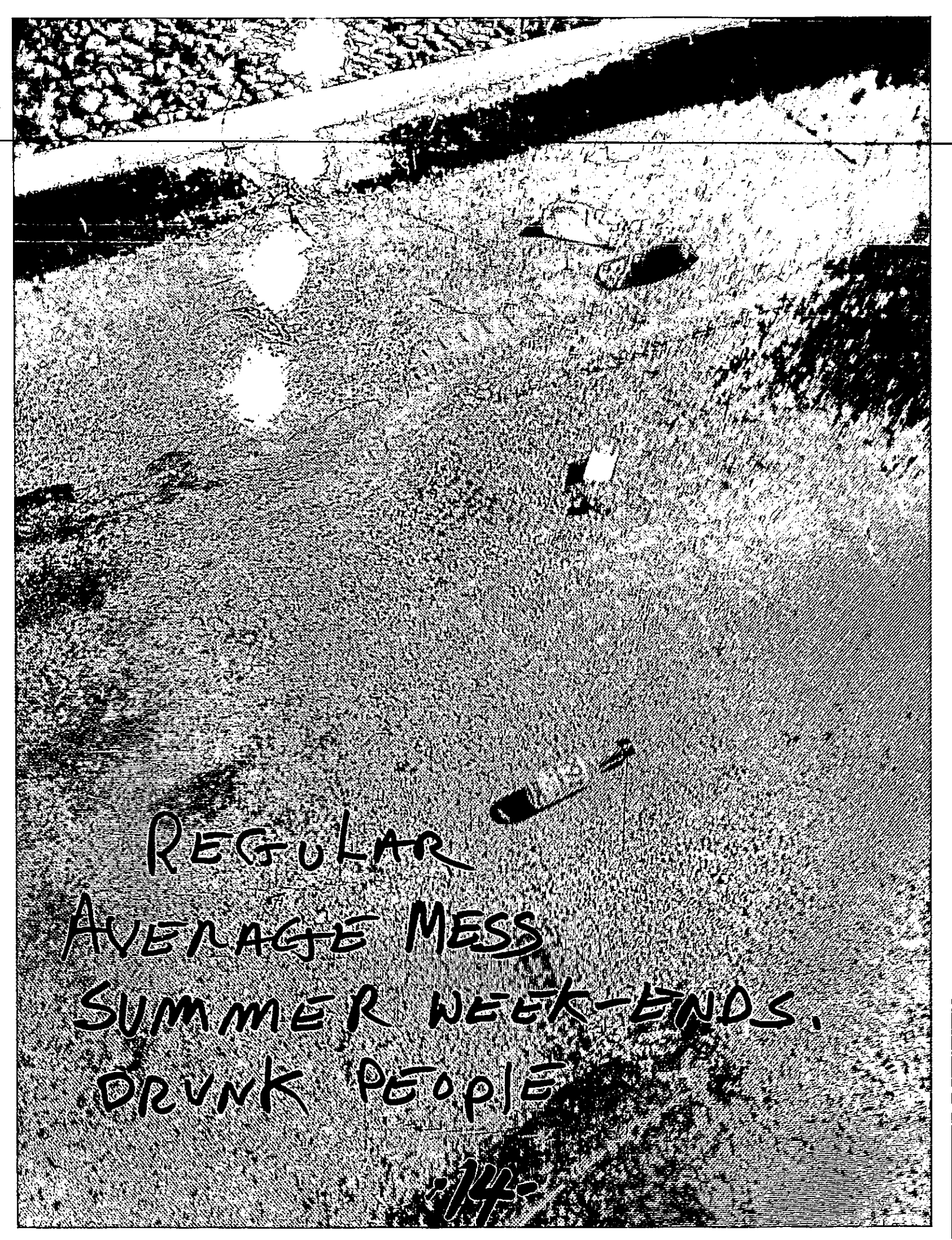
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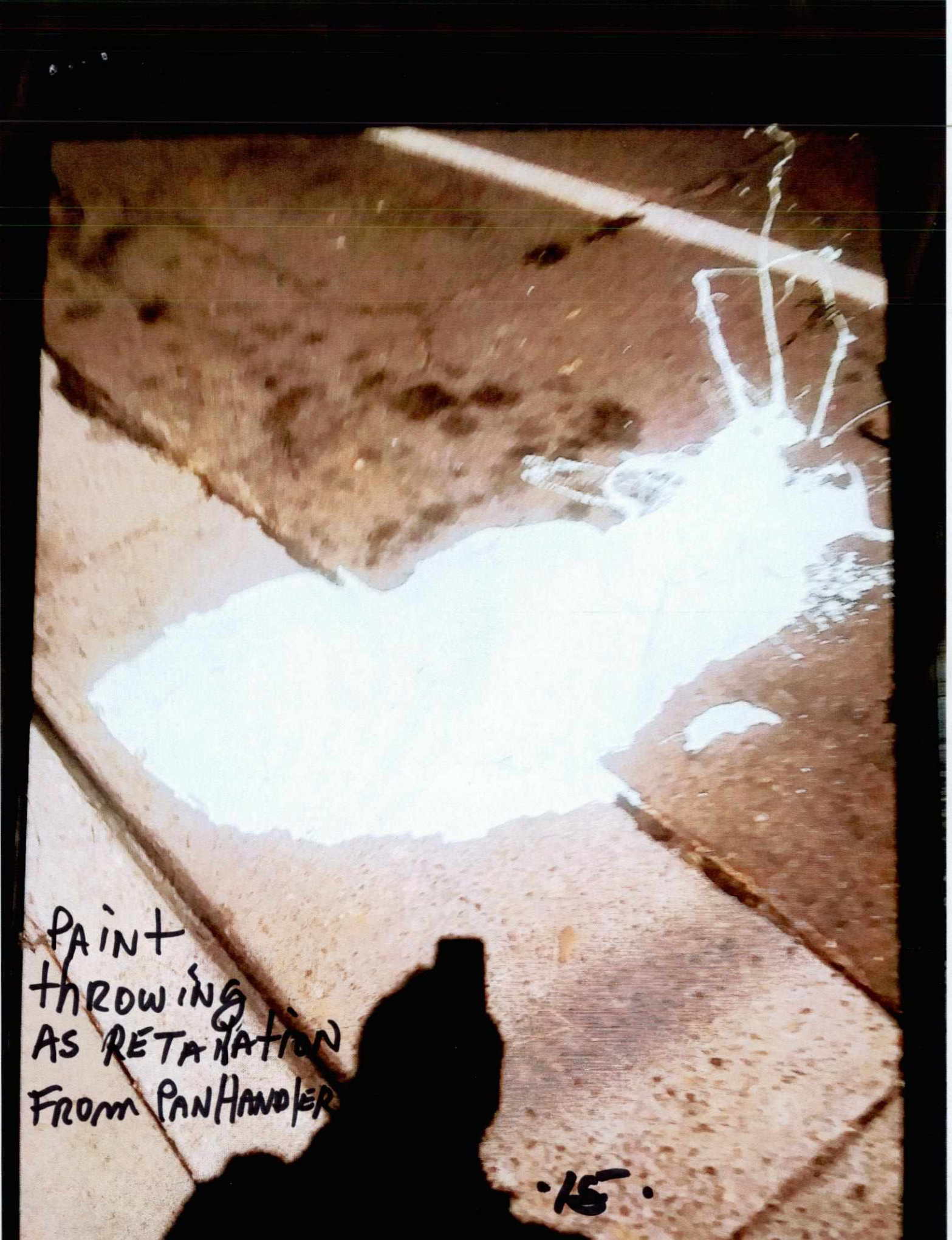
-12-

BACK YARD
AREA

13

A high-contrast, grainy black and white photograph of a beach. The sand is the primary texture, with some darker patches of vegetation or rocks visible in the upper left. A discarded cigarette butt with a filter lies horizontally on the sand in the middle-right section. Handwritten text is overlaid on the lower half of the image.

REGULAR
AVERAGE MESS
SUMMER WEEK-ENDS,
DRUNK PEOPLE



PAINT
THROWING
AS RETENTION
FROM PANHANDLER

• 15 •

20409 J

Bottle CLEANED
FROM BUSHES
FRONT YARD
1/6 • 202 Richmond S.E.

SKETCH PLAN

ALLEY

CURB

ST.

SILVER

GATE

FENCE 50'

NEW FENCE VARIANCE REQUEST

13'

DRIVE WAY

202 B

ENTRANCE

DRIVE WAY

202 A

FENCE 50'

NEW FENCE VARIANCE REQUEST

13'

4'

GATE

050

Richmond Drive

C

Variance Justification Letter

Zoning Hearing Examiner

City of Albuquerque

600 2nd Street NW, 3rd Floor

Albuquerque, NM 87102

RE: Request for Variance of Fence height 32 inches above suggested height at 202 Richmond Drive SE, Albuquerque, NM 87106.


- 1) There are special circumstances applicable to the subject property that are not self-imposed and that do not apply generally to other property in the same Zone district and vicinity. Those special circumstances create a hardship because: Residents safety is at risk!, because of unwanted people and circumstances that take place in the front yard. Silver Street also known as Bicycle Boulevard brings heavy foot traffic from Central Avenue, Nob Hill shopping and Entertainment District put a huge amount of people walking by Richmond bringing a host of issues to front yard. Homeless and drunk people sleep, Eat & drink alcohol on our front and side porches of residence. Discarding trash, used hypodermic needles, empty bottles and food containers that are left for the residents to clean. Police have been called many times over the past 30 years. These days panhandlers walking on Silver have gone almost to a point of violence towards resident. Paint thrown in Street when maney was refused to panhandler. Common to find that front yard is used as a restroam and Resident must clean human waste also common to see people urinoting in the front and side yards, and backyard areo leaving waste in yard making fence necessary.
- 2) The variance will not be materially contrary to the public safety, health, or welfare because: the variance of 32 in on fence does not affect Public Safety or health but does provide a safety barrier for residents. Keeping people from walking by looking into open plain view of porches, they see as a place to sleep. The variance would minimize site into the yard by passers-by as a place to sleep and steal our life acquired items, please see list
 - Wright Iron Table
 - 2 wrought iron chairs with cushions
 - Antique adult bike, family item
 - Shovels, garden hoses as well as other yard maintenance items
 - City of Albuquerque trash-collection container

People see items in the yard by day, return at night loosen or remove light bulb and steal items as well as kick in the front door to the residence. Unknown people set our car on fire which was a total loss. Drunk panhandlers single and in small groups of up to three harass residents for handouts when refused, they become nasty possibly high on drugs or alcohol. A 32 in fence would not provide enough privacy to avoid this direct contact from passers-by, that's opening a venue for unwanted conversations leading to bad and dangerous encounters. The variance does eliminate this to a high degree.

- 3) The variance does not cause adverse impacts on surrounding Properties or infrastructure improvements in the vicinity because: surrounding properties all support fence and 32-inch

variance in height. See signed petition supporting that defense is beautiful and made of modern lightweight vinyl. See pics of walls on Richmond 201, 204, 213, 215, 217 and 223.

- 4) The variance will not materially undermined the intent and purpose of this IDO or the applicable Zone District because: not to undermine the IDO or the eye to eye requirements, we used lottice at additional cast for transparency thus requesting approval of variance request due to requirements being met.
- 5) The variance approved is the minimum necessary to avoid extraordinary hardship or practical difficulties because: because area is well-established is well established as a Main recreational walking area, Bicycle Boulevard with cammercial traffic, both foot and vehicle. The residents safety is a serius concern with all type of issues that a normal R1 resident does nat encaunter an a daily basis. People become violent towards resident and it is unacceptable. We have the right to be in our own front yard without fear of danger. Please accept variance request for our safety and happiness again peaple sleeping on porch in front yard cobbossee pictures and see signatures on petition verified people sleeping on frant porch and people sleeping in front of the guitar stap near aur property.

Signature:  Date: 10-2-2020

PETITION

I SUPPORT VARIANCE REQUEST
(FILE # CF 2020-041813 FILE #) (JOB #
121831 877-001 JOB #) FOR 202
RICHMOND S.E., FENCE EXCEEDING
MINIMUM HEIGHT ALLOWED FOR A
FENCE IN THE FRONT YARD, ALSO
FENCE IS AN IMPROVEMENT.

Pete Candelaria PETE CANDELARIA 305 MOUNTAIN SIDE SE

SIGN POSTING AGREEMENT

REQUIREMENTS

POSTING SIGNS ANNOUNCING PUBLIC HEARINGS

All persons making application to the City under the requirements and procedures established by the Integrated Development Ordinance are responsible for the posting and maintaining of one or more signs on the property which is subject to the application, as shown in Table 6-1-1. Vacations of public rights-of-way (if the way has been in use) also require signs. Waterproof signs are provided at the time of application for a \$10 fee per sign. If the application is mailed, you must still stop at the Development Services Front Counter to pick up the sign(s).

The applicant is responsible for ensuring that the signs remain posted throughout the 15-day period prior to any public meeting or hearing. Failure to maintain the signs during this entire period may be cause for deferral or denial of the application. Replacement signs for those lost or damaged are available from the Development Services Front Counter.

1. LOCATION

- A. The sign shall be conspicuously located. It shall be located within twenty feet of the public sidewalk (or edge of public street). Staff may indicate a specific location.
- B. The face of the sign shall be parallel to the street, and the bottom of the sign shall be at least two feet from the ground.
- C. No barrier shall prevent a person from coming within five feet of the sign to read it.

2. NUMBER

- A. One sign shall be posted on each paved street frontage. Signs may be required on unpaved street frontages.
- B. If the land does not abut a public street, then, in addition to a sign placed on the property, a sign shall be placed on and at the edge of the public right-of-way of the nearest paved City street. Such a sign must direct readers toward the subject property by an arrow and an indication of distance.

3. PHYSICAL POSTING

- A. A heavy stake with two crossbars or a full plywood backing works best to keep the sign in place, especially during high winds.
- B. Large headed nails or staples are best for attaching signs to a post or backing; the sign tears out less easily.

4. TIME

Signs must be posted from NOV 30, 2020 To DEC 15, 2020

5. REMOVAL

- A. The sign is not to be removed before the initial hearing on the request.
- B. The sign should be removed within five (5) days after the initial hearing.

I have read this sheet and discussed it with the Development Services Front Counter Staff. I understand (A) my obligation to keep the sign(s) posted for (15) days and (B) where the sign(s) are to be located. I am being given a copy of this sheet.

[Signature]
(Applicant or Agent)

11-2-2020
(Date)

I issued 2 signs for this application, NOV 2, 2020, Charles Meester
(Date) (Staff Member)

PROJECT NUMBER: PR-2020-004657/VA-2020-00379

C

CITY OF ALBUQUERQUE

CODE ENFORCEMENT

Plaza Del Sol Building, Suite 500

600 2nd Street NW

Albuquerque, NM 87102

Tel: (505) 924-3850 Fax: (505) 924-3847



Oct 22, 2020

NOTICE OF CONTINUED VIOLATION PRE-CRIMINAL SUMMONS

HOFFMAN GARY F
202 RICHMOND DR SE
ALBUQUERQUE, NM 87106

Dear Property Owner:

Our office recently notified you that your property located at **202 RICHMOND DR SE, Albuquerque, NM** was in violation of the Comprehensive City Zoning Code and/or the Albuquerque Weed and Anti-Litter Ordinance. Our records indicate that you were made aware of the nature of the violation, and that you were given ample time to remedy the violation.

A re-inspection of your property was conducted and that inspection revealed that the necessary corrective action had not been taken and the property continued to be in violation. This letter will serve as notice that if the violation is not corrected by the listed "Resolve By Date" on this notice a criminal complaint will be filed against you. Penalties include up to 90 days imprisonment and/or fines of up to \$500.00 for each day of violation. Each violation constitutes a separate offense.

Page two (or reverse) of this notice describes the continued violation(s) found on your property as well as the corrective action that is necessary to abate the violation(s). This is the final notice you will receive regarding this matter before court action is initiated against you.

Do not hesitate to contact me if you have questions concerning this matter. Because I am a field inspector, the best time to reach me is before 9:00 a.m. or after 3:30 p.m. Monday-Friday. When contacting me please reference Notice of Violation Number **CF-2020-041813** and address.

Thank you for your cooperation on this matter.

Sincerely,

Alexander Stelly
Code Enforcement Specialist
(505) 924-3451

File Number: CF-2020-041813

Job Number: 121831877-001

Initial Print Date: Oct 22, 2020

Page 1 of 2

CITY OF ALBUQUERQUE

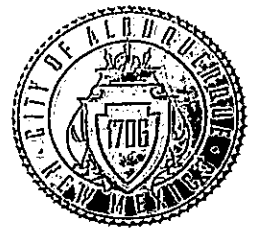
CODE ENFORCEMENT

Plaza Del Sol Building, Suite 500

600 2nd Street NW

Albuquerque, NM 87102

Tel: (505) 924-3850 Fax: (505) 924-3847



Violation at Property

Address: 202 RICHMOND DR SE, Albuquerque, NM

The above-described premises have been inspected and the following violations of City laws and regulations have been found:

Violation Type	Violation Description	Resolve By Date
14-16-5-7 WALLS AND FENCES	<ul style="list-style-type: none">At the time of inspection a wall was being erected on the property. It exceeds the minimum height allowed for a fence in the front yard and the code enforcement division does not have a permit on record allowing for the construction of the fence. Permits can be obtained in person at 600 2nd Street NW, 1st floor, Zoning Permit Counter. For more information about Zoning Permits or the Integrated Development Ordinance, you can visit: http://www.cabq.gov/plan	Nov 5, 2020

Code Sections	Code Description



CITY OF ALBUQUERQUE

INVOICE

GARY HOFFMAN

202 RICHMOND DR SE

Reference NO: VA-2020-00379

Customer NO: CU-123753771

Date	Description	Amount
11/02/20	Application Fee	\$210.00

Due Date: 11/02/20

Total due for this invoice:

\$210.00

Options to pay your Invoice:

1. Online with a credit card: <http://posse.cabq.gov/posse/pub/lms/Default.aspx>
2. In person: Plaza Del Sol, 600 2nd St. NW, Albuquerque, NM 87102

PLEASE RETURN THE BOTTOM PORTION OF THIS INVOICE NOTICE WITH PAYMENT



City of Albuquerque
PO Box 1293
Albuquerque, NM 87103

Date: 11/02/20
Amount Due: \$210.00
Reference NO: VA-2020-00379
Payment Code: 130
Customer NO: CU-123753771

GARY HOFFMAN
202 RICHMOND DR SE
ALBUQUERQUE, NM 87106



130 0000VA20200037900102546712375375100000000000021000CU123753771



CITY OF ALBUQUERQUE INVOICE

202 RICHMOND DR SE

Date: 11/2/2020
Office: ANNEX Cashier: e43322
Batch: 11540 Tran #: 4

0-00379
753771

Building Permits
3:05 PM Station ID
Office ANNEX
Receipt #: 00648646
Reference VA-2020-00379
Trans Amt: \$210.00

ription	Amount
ication Fee	\$210.00

Total due for this invoice: **\$210.00**

130 Building Permit \$210.00
Payment Total: \$210.00

Transaction Total: \$210.00
Check Tendered : \$210.00

<http://posse.cabq.gov/posse/pub/lms/Default.aspx>
0 2nd St. NW, Albuquerque, NM 87102

Checks presented:

GARY HOFFMAN 202 RICHMOND DR SE ALBUQUERQUE NM 87106-2228		1837 11/2/2020
10-1-20		
C. O. A. <i>[Signature]</i>		\$210.00
Bank of America		
V. A. <i>[Signature]</i>		

Thank you for your payment.
Have a nice day!

BOTTOM PORTION OF THIS INVOICE NOTICE WITH PAYMENT

Gary Hoffman
202 Richmond Dr. SE
Albuquerque, NM 87106

ALBUQUERQUE NM 870

20 OCT 2020 PM 4 L



Ailist C

ANDREW VAILLES
208 RICHMOND SE.
ALBQ NM 87106

9303610672700047

VAC

87106223802

NIXIE 871 DE 1 0010/24/20

RETURN TO SENDER
VACANT
UNABLE TO FORWARD

BC: 87106223802 *0768-05240-20-37



Gary Hoffman
202 Richmond Dr. SE
Albuquerque, NM 87106

ALBUQUERQUE NM 870

20 OCT 2020 PM 4 L



NOELLE GEMMER
204 RICHMOND SE.
ALBQ NM 87106

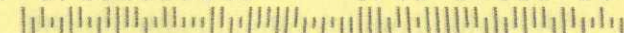
NIXIE 871 DE 1 0010/24/20

RETURN TO SENDER
ATTEMPTED - NOT KNOWN
UNABLE TO FORWARD

ANK

BC: 87106223802 *0768-04882-20-37

87106223802



066

Gary Hoffman
202 Richmond Dr. SE
Albuquerque, NM 87106

ALBUQUERQUE NM 870

20 OCT 2020 PM 4 L



FELICIDAD FOUNDATION
126 RICHMOND DR. SE.
ALBUQUERQUE - NM - 87106

Proof of N

NIXIE 871 DE 1 0010/24/20

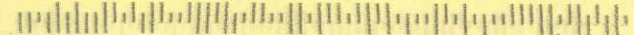
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ATTEMPTED - NOT KNOWN
UNABLE TO FORWARD

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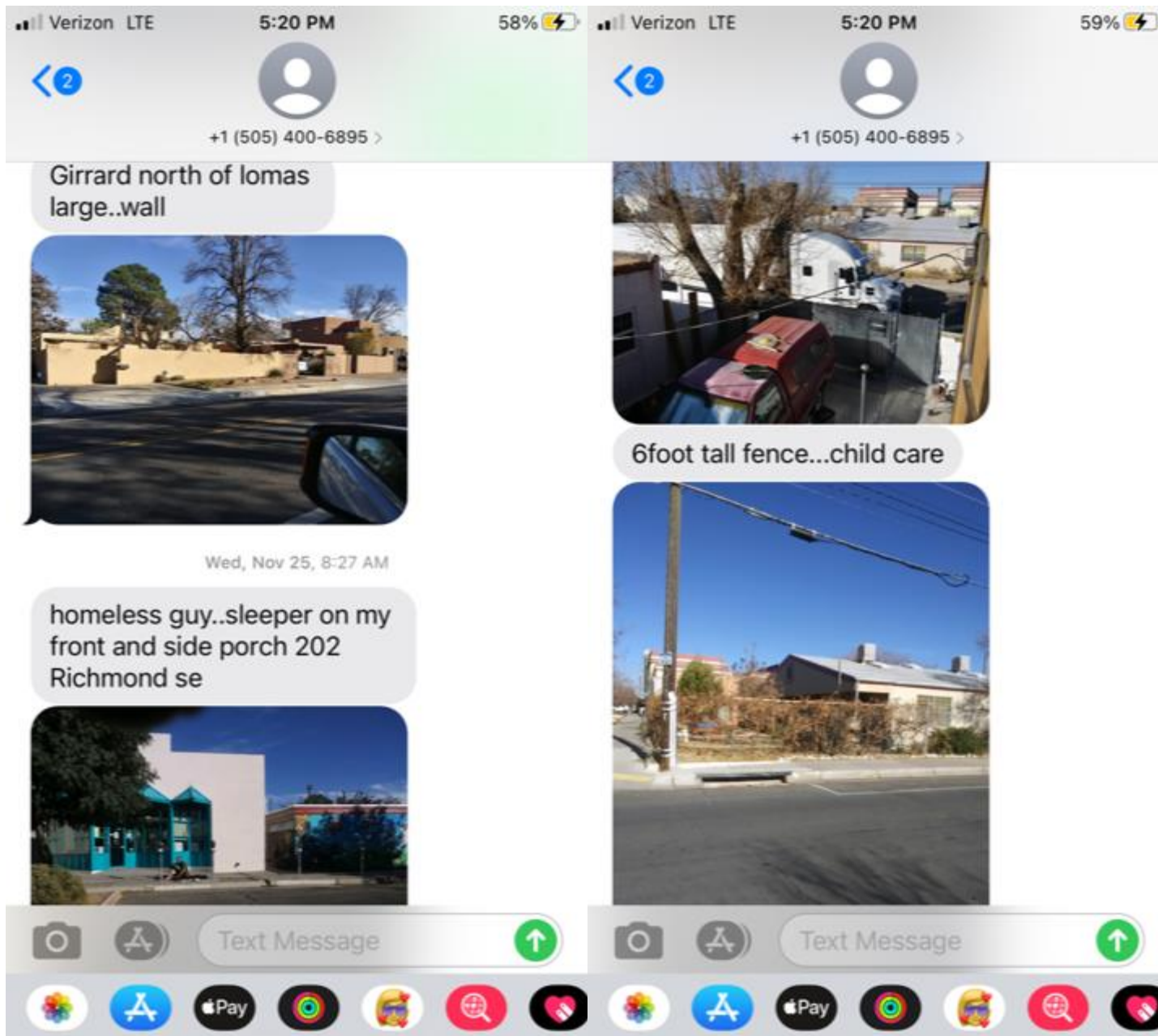
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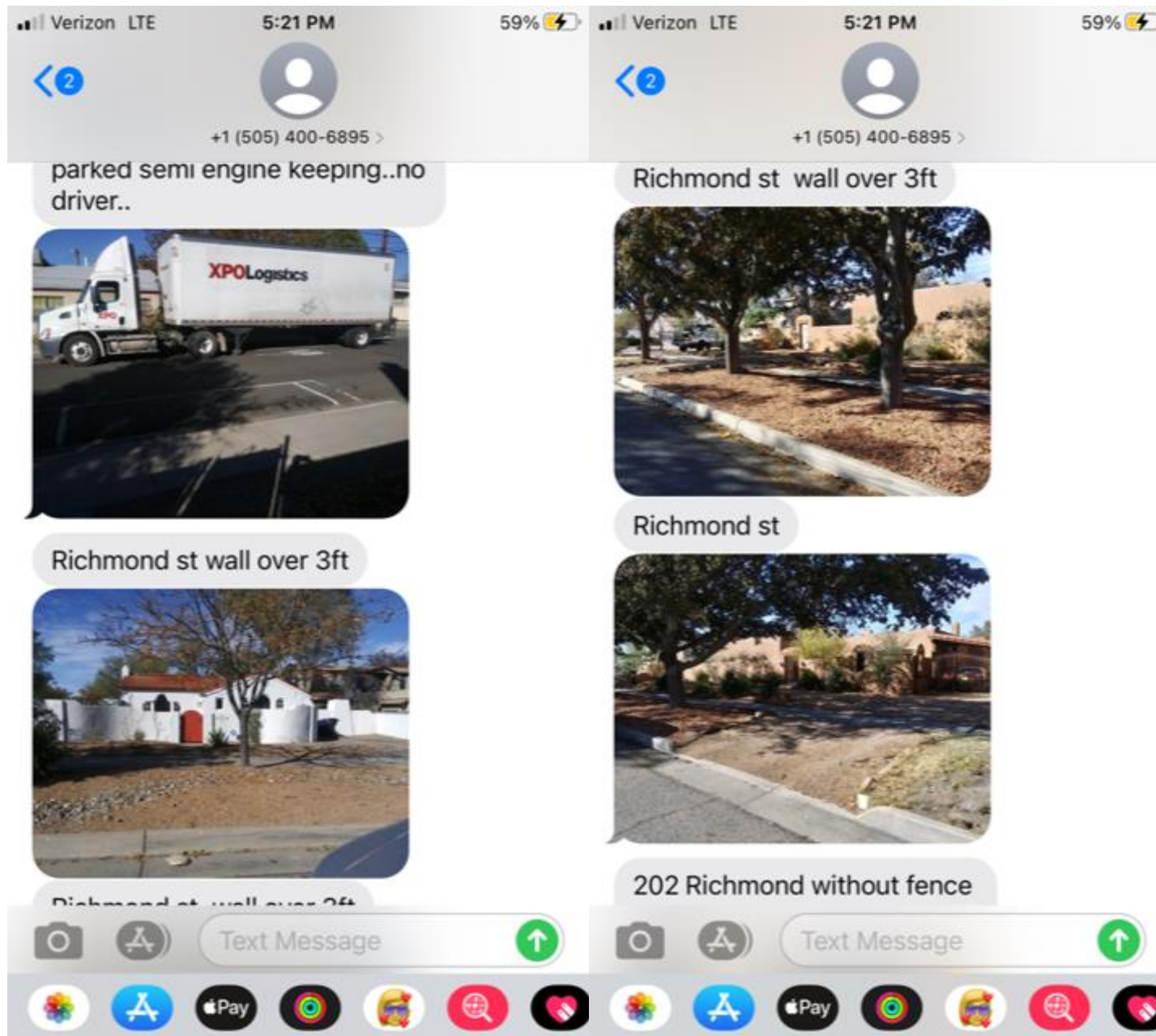
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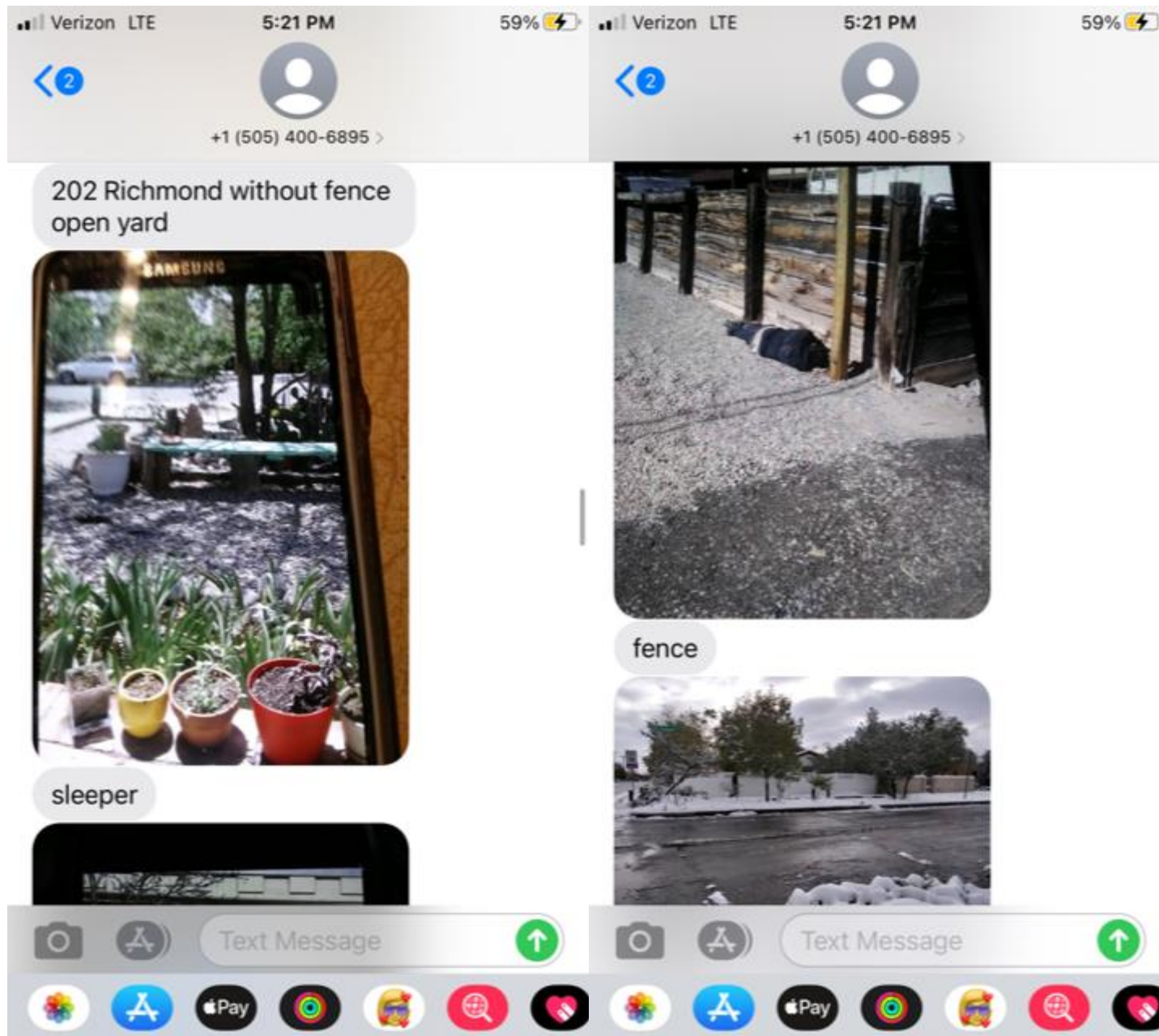


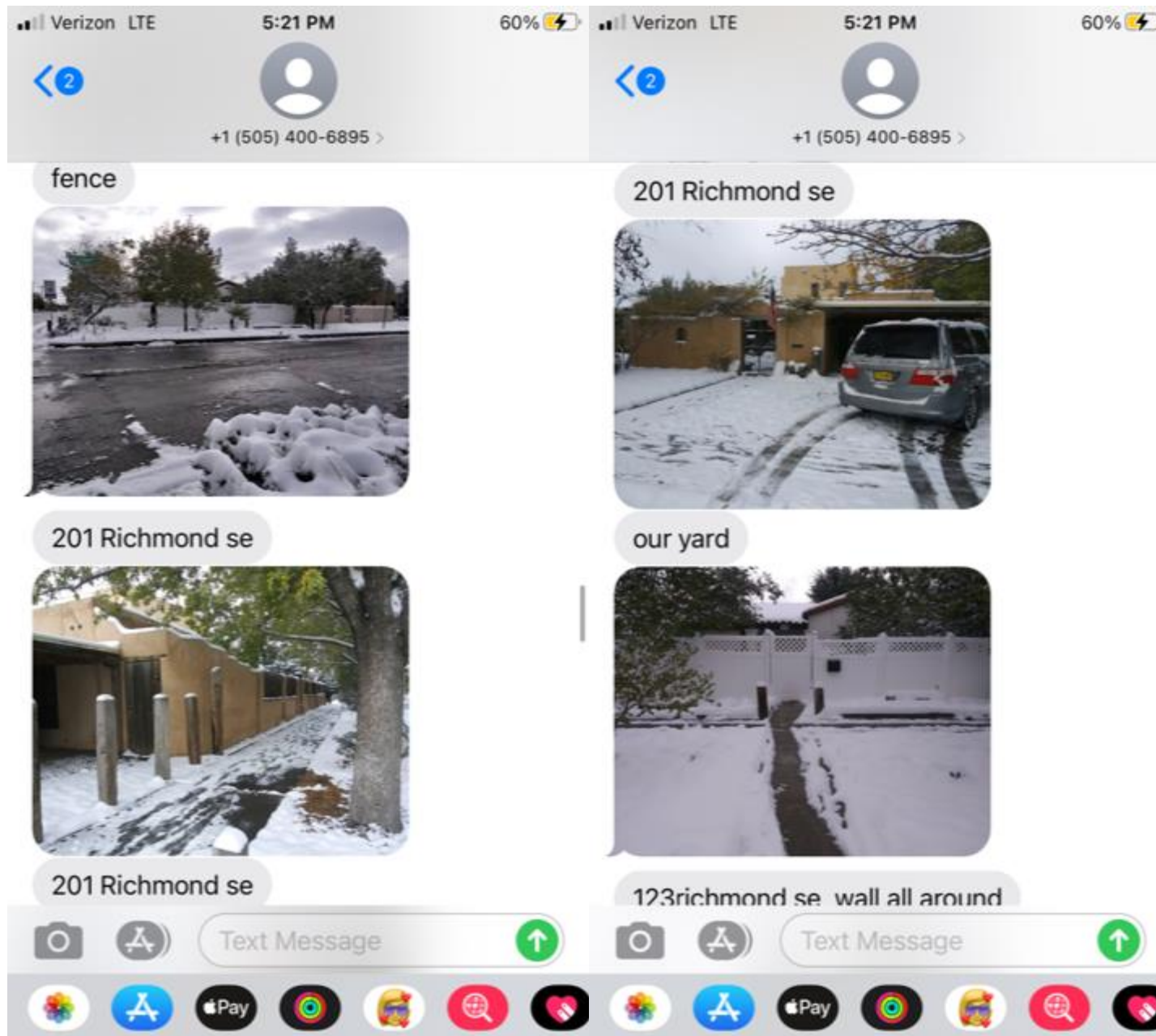


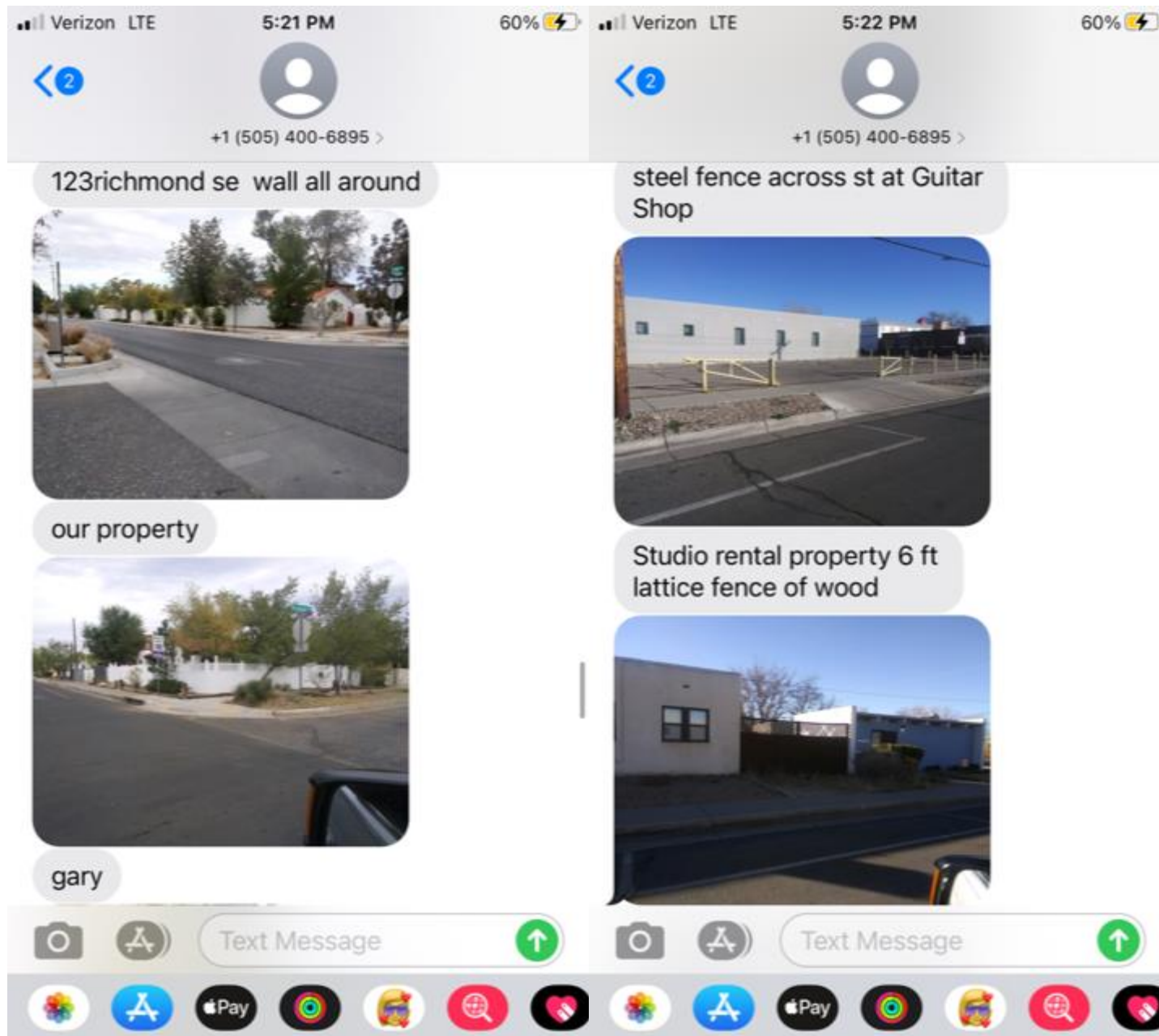


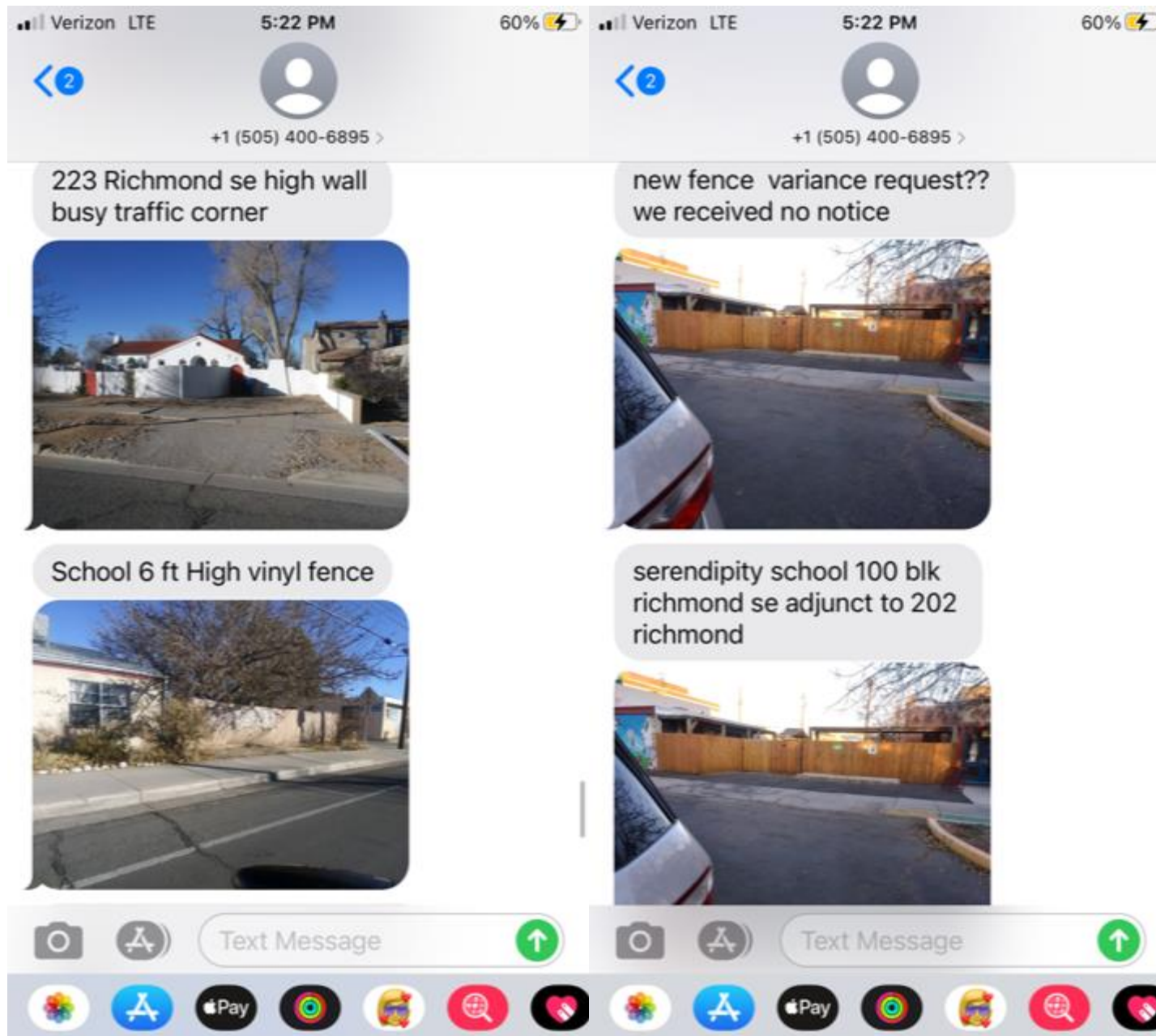


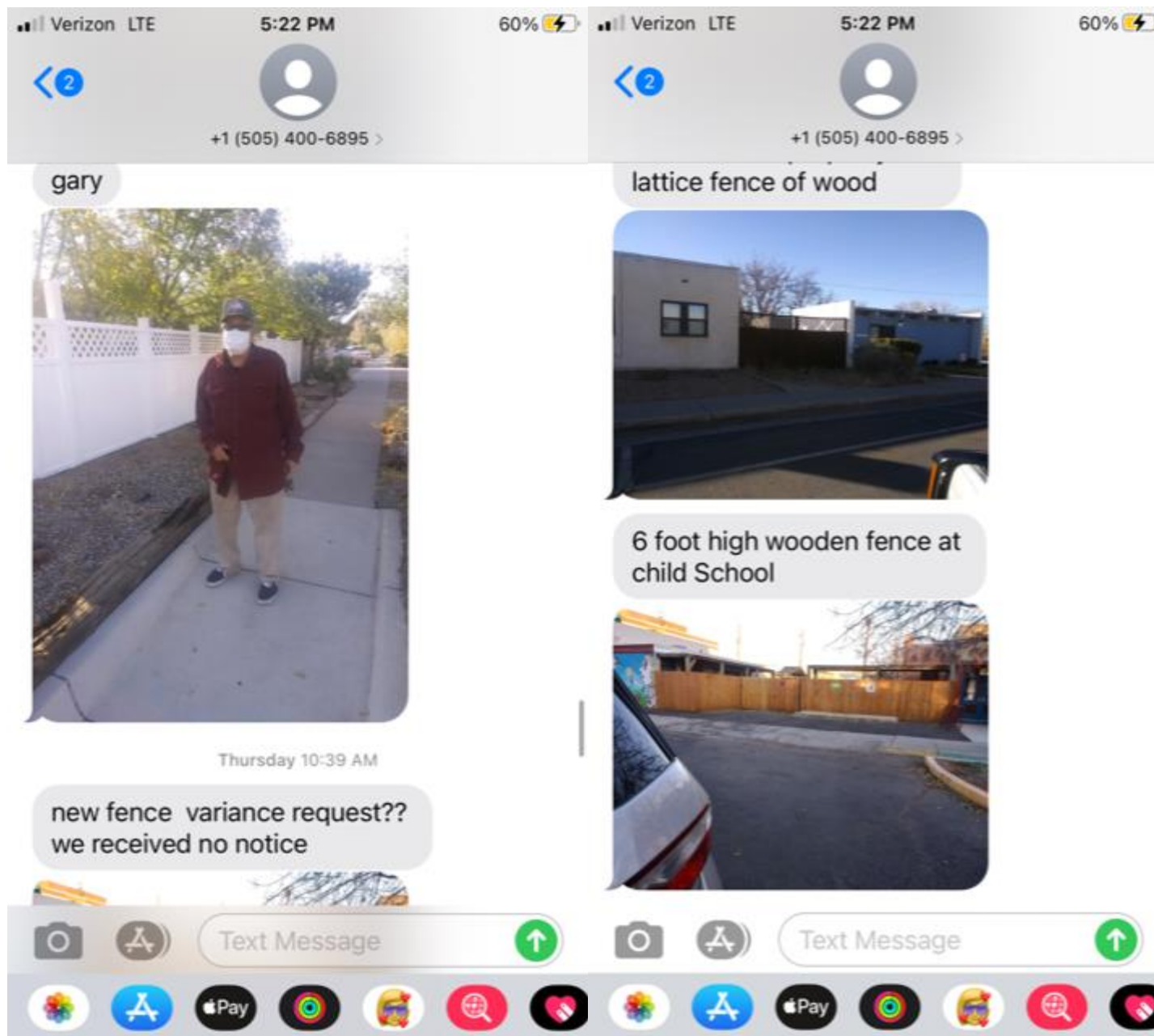












CITY OF ALBUQUERQUE
PLANNING DEPARTMENT
INTER-OFFICE MEMORANDUM

December 8, 2020

To: Lorena Patten-Quintana, ZHE Planner

From: Matt Grush, P.E. Senior Engineer

Subject: COMMENTS FOR THE ZHE HEARING OF December 15, **2020**

The Transportation Development Review Services Section has reviewed the zone hearing requests, and submits the attached comments.

VA-2020-00379

PR-2020-004657

Address: 202 Richmond Dr SE

Transportation Review: **No objections**

After review of the provided application, Transportation has no objection to the construction of a wall with gates over 3 feet tall. The wall location will not adversely impact the driveway or intersection sight distance.

City of Albuquerque ZHE – December 15, 2020

Agenda Item #17

VA-2020-00379

PR-2020-004657

Gary F. Hoffman requests a variance of 3 feet to the 3 foot maximum wall height for Lot 1, Block 39, University Heights, located at 202 Richmond Dr SE, zoned MX-T [Section 14-16-5-7-D]

Ownership: Owner: HOFFMAN GARY F

Zone District/Purpose: MX-T/The purpose of the MX-T zone district is to provide a transition between residential neighborhoods and more intense commercial areas. Primary land uses include a range of low-density multi-family residential and small-scale office, institutional, and pedestrian-oriented commercial uses.

Allowable Use: n/a

Applicable Comp Plan Designation(s): Area of Consistency; Nob Hill PT, Central MT, Central MS

Applicable Overlay Zones: None listed

Applicable Use-Specific Standard(s): n/a

Applicable Dimensional/Development Standards:

Table 5-7-1: Maximum Wall Height					
Zone Category	Residential	Mixed-use	Non-residential (NR-C, NR-BP) ^[1]	Non-residential (NR-LM, NR-GM)	See also:
Standard Wall Height					
Wall in the front yard or street side yard ^{[2][3][4]}	3 ft.	3 ft.	3 ft.	6 ft.	5-7(D)(2)
Wall in other locations on the lot ^{[5][6]}	8 ft.	8 ft.	8 ft.	10 ft.	5-7(D)(2)
Corner Lot Abutting Residential Zone District					
Any portion of a wall in the rear yard abutting the front yard of a Residential zone district.					
<10 ft. from the lot line abutting the street ^[3]	3 ft.	3 ft.	3 ft.	6 ft.	5-7(D)(2) 5-7(D)(3)(g)
≥10 ft. from the lot line abutting the street	6 ft.	8 ft. Low-density residential: 6ft.	8 ft.	8 ft.	5-7(D)(2)
Walls Abutting Major Arroyos and Major Public Open Space					
Wall in a rear or interior side yard abutting a major arroyo	6 ft.	8 ft.	8 ft.	8 ft.	5-7(D)(2) 5-7(E)(4)
Wall in a rear or interior side yard abutting Major Public Open Space	6 ft.	6 ft.	6 ft.	10 ft.	5-7(D)(2) 5-7(E)(4)
<small>[1] In the NR-BP zone district, wall heights shall be specified in the Master Development Plan. If no Master Development Plan exists or if no wall heights are specified in the Master Development Plan, then the wall height requirements in this table apply. [2] Taller walls may be approved for multi-family residential development pursuant to Subsection 14-16-5-7(D)(3)(c). [3] Taller walls may be approved for low-density residential development pursuant to Subsections 14-16-5-7(D)(3)(d) or 14-16-5-7(D)(3)(g). [4] Taller walls may be approved in any NR-C or NR-BP zone district pursuant to Subsection 14-16-5-7(D)(3)(e). [5] Portions of walls in the rear yard of a corner lot abutting the front yard of a Residential zone district are treated differently, with provisions later in this table. [6] Where the rear yard of a through lot abuts at least 1 lot with any residential development that faces the second public street, the rear and side walls shall be subject to the same height restrictions applicable within the required front setback of the abutting residential property.</small>					

Traffic Recommendations: No objection

Planning Recommendation: This matter should proceed to a public hearing where the Zoning Hearing Examiner will hear additional evidence and make a written decision pursuant to applicable provisions of Section 14-16-6-4.



Sanchez, Suzanna A.

From: John Pate <JPate@molzencorbin.com>
Sent: Monday, December 07, 2020 10:05 AM
To: Sanchez, Suzanna A.
Cc: theboard@nobhill-nm.com; 'Mellia Walker'; Melodie Eyster; Belletto, Peter; Elizabeth Vencill; Glenda Armstrong (mailto:glendalarmstrong@gmail.com); Greg Miller - Morrow Reardon Wilinon Miller, LTD. (gmiller@mrwmla.com); Heidi Olson (heidifolson@gmail.com); John Pate; Joseph Turk; Linda Tigges (lindatigges@gmail.com); Phyllis Taylor
Subject: RE: 202 Richmond SE, Statement of Position , Nob Hill Neighborhood Association
Attachments: SEHNA Garden Wall Policy 10-13-08.pdf

Follow Up Flag: Follow up
Flag Status: Completed

Ms. Sanchez,

As you know the Southeast Heights residents in 2008 passed a policy which formally OPPOSES walls and opaque fences greater than allowed by the Zoning Ordinances now the IDO. The Policy is attached.

SEHNA does however understand that there may be extenuating circumstances as would be determined by the Zoning Hearing Examiner.

Please enter this memo and policy in the record for 202 Richmond SE.

For the Southeast Heights Neighborhood Association
John Quinn Pate, President



From: Melodie Eyster <meyster1@me.com>
Sent: Monday, December 7, 2020 8:59 AM
To: 'Sanchez, Suzanna A.' <suzannasanchez@cabq.gov>
Cc: theboard@nobhill-nm.com; 'Mellia Walker' <weisbergpros.walker@gmail.com>; John Pate <JPate@molzencorbin.com>
Subject: 202 Richmond SE, Statement of Position , Nob Hill Neighborhood Association

Good morning, Suzie,

I hope you had a good weekend.

Please confirm successful receipt of this statement of position.

Kind regards, Gary Eyster

=====
This message has been analyzed by Deep Discovery Email Inspector.

SOUTHEAST HEIGHTS NEIGHBORHOOD ASSOCIATION

P.O. Box 8711
Albuquerque, New Mexico 87198
October 21, 2006

Re: Policy – Garden Walls in Front Yard Setbacks

It has been a long-standing policy of the Board of the Southeast Heights Neighborhood Association to uphold the City Zoning Ordinance on walls and fences over 3 feet high within the setback in the front of homes. We therefore **OPPOSE** any application for a **CONDITIONAL USE** or a **VARIANCE** for construction of these walls for a number of reasons:

- In the spirit of keeping the historical nature of our neighborhood which was designed with broad avenues and houses with a primary orientation toward the street.
- One element of good neighborhoods is defensibility. Self-surveillance creates safer neighborhoods. Neighborhoods with private active living spaces with a view of the street activity require less martial resources and promote legal activities on the streets. The tall walls facing the street prohibit self surveillance and put the legal activities behind walls and leaving the streets unwatched and consequently less safe spaces.
- In the same vein tall wall create a complete visual barrier conducive to burglaries and other undesirable activities while one's neighbors would be unable to see or respond appropriately.
- Tall walls provide spaces behind which people can hide.
- Tall walls disturb the sight lines and views down the streets.

Properties in our neighborhood do not generally have special circumstances that would justify violation of the zoning standards for construction of a wall of that height. Although the Board for the Southeast Heights Neighborhood Association is not the reviewing agency and the ultimate decision will be made by the City Zoning Hearing Examiner, we believe that it is the duty of the Board to promote the zoning standards affecting our neighborhood. The Board trusts that the hearing examiner reviews each case on its merits and ascertains that extenuating circumstances exist that would warrant an exception to any zoning code before granting approval. It is up to the applicant to show the City Zoning Hearing Examiner why any exception to the Zoning Ordinance should be granted.

Southeast Heights Neighborhood Association
John Quinn Pate, President

Nob Hill Neighborhood Association, Inc.

PO Box 4875, Albuquerque, NM 87196

TheBoard@NobHill-NM.com

December 6, 2020

Robert Lucero, Esq, Zoning Hearing Examiner

By email to suzannasanchez@cabq.gov

Subj: Gary F. Hoffman requests a variance of 3 ft. to the 3 ft. maximum wall height, 202 Richmond SE

Dear Mr. Lucero,

Our board of directors discussed this request with Ms. Walker and Mr. Hoffman on Dec. 3. We received two statements from neighbors in opposition before the meeting and one in support at the meeting.

The house faces west at the corner of Richmond Dr SE and Silver Ave SE. Mr. Hoffman has constructed a fence of white vinyl 6 ft. high in the front yard and the street side yard. The top 2 ft. of the fence on Richmond Dr. is lattice. The entire fence on Silver Ave. is solid.

Our association makes a robust effort to preserve our neighborhood character and to promote eyes on the street. Since 2012 every issue of our neighborhood newsletter, distributed to all 3,000 homes in our boundaries twice a year and posted on our website, has carried an article along the lines of the one attached called *Caring for Our Streetscape; A Message From Your Board*. Please enter this piece in the record.

The IDO establishes a process whereby an applicant engages in dialogue with a neighborhood association before construction. We have dealt with requests where the applicant was located on a collector street meeting the requirement of IDO 6-6 (N)(3)(C)3b. Our pre-hearing dialogue resulted in walls that reflect the architectural character of the surrounding area. The applicants built the walls to a height which met 4a, not blocking any portion of any window. Win-win.

Situations like the one you are hearing sadden us because that opportunity has been foreclosed. This fence does not meet 6-6 (N)(3)(C) 1, 2, or 4b. With respect to 2, this area is up for listing in the NM Register of Cultural Places which would make homeowners eligible for the 50% tax credit for renovation of historic

structures. Structures like this lessen the likelihood of successful listing and other homeowners are injured. With respect to 4b, the design and materials used are not to be found anywhere in Nob Hill.

When we met, Mr. Hoffman offered to replace the top 2 ft. on the Silver Ave. side yard with lattice to preserve eyes-on-the-street.

We express neither support nor opposition for this request. We support the IDO. It is a durable tool for preserving community character. We ask you to apply it to this case to the very best of your ability.

Our board adopted this statement on a vote of 6 for, 1 against, with 2 abstentions.

Respectfully yours,

Gary Eyster, President

Attachment:

Caring for Our Streetscape

Albuquerque's Integrated Development Ordinance (IDO) fosters healthy streetscapes. This refers to the relationship between houses and the public way; what we see as we walk, bike, or drive through a neighborhood.

When Nob Hill was built in the early 20th century architectural designers believed that houses should communicate well with the street. Looking out of our homes today we can see nearby houses, neighbors, and passersby. Eyes-on-the-street is a key component of *Crime Prevention Through Environmental Design*.

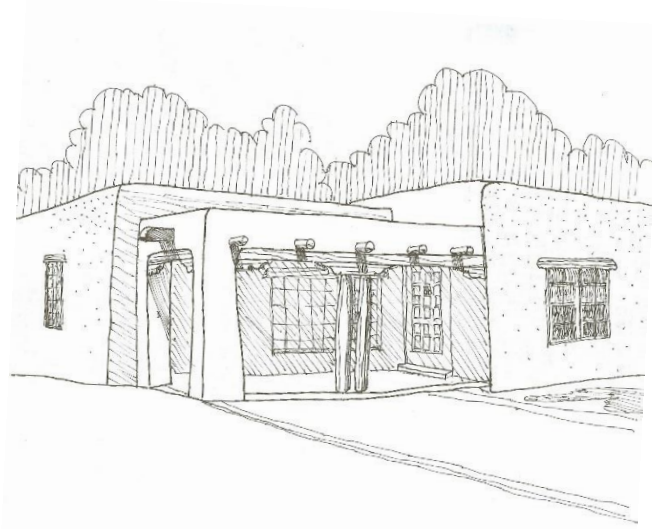
The IDO allows walls up to 6 ft. high on a lot beside and behind a residence after obtaining a *WALL PERMIT-MINOR*.

In the lot area forward of the house, the front yard, the IDO allows a wall or fence 3 ft. high or less after obtaining a *WALL PERMIT-MINOR*.

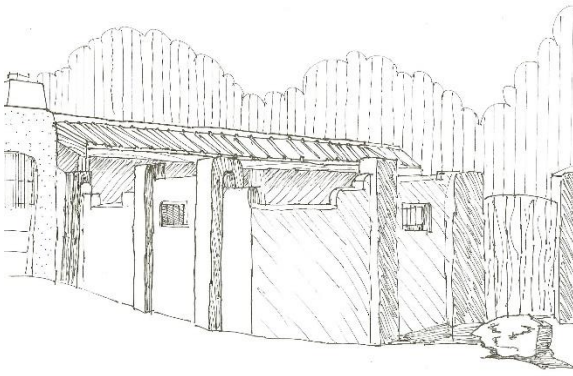
A wall or fence higher than 3 ft. in the front yard or street side yard of a residential lot requires a *VARIANCE* which is considered by the Zoning Hearing Examiner in a public hearing. If the examiner issues a permit the wall must meet standards with respect to materials and must preserve eyes-on-the-street. Such a *VARIANCE* is not available in several areas of the city, one of which is Monte Vista and College View Historic District.

Because they diminish streetscape, historic character, and eyes-on-the-street, your Nob Hill Neighborhood Association discourages fences or walls higher than 3 ft. in the front yard and street side yard. Information about permits can be obtained from a reliable architect or landscape architect or from CABQ Zoning Enforcement at 924-3838. Visit them on the ground floor at the Planning Department, 600 Second Street NW.

Download the IDO at <http://documents.cabq.gov/planning/IDO/IDO-Effective-2018-05-17.pdf>



Nob Hill house from the public way; well-preserved scale, massing, materials, and details contribute to historic streetscape. Eyes-on-the-street diminish crime.



House near Nob Hill with a 6 ft. wall in the front yard diminishing streetscape, historic character and eyes-on-the-street

Excerpts of the IDO related to walls and fences in residential neighborhoods are included in the ZHE letter for ready reference.

Subsection 5-7: Walls and Fences.....5-7(A)....*this section regulates walls, fences...collectively referred to as “walls” in order to enhance the visual appearance of development in the city; establish a consistent attractive streetscape.....and promote neighborhood character.*

5-7(B) *A wall shall be erected **only after obtaining a permit**, pursuant to the provision in Subsection*

*6-5(J) (Wall or Fence Permit – Minor).....max 3 ft. in front yard
or*

6-6(N) (Variance – ZHE)

5-7(C)(2) Walls may not encroach onto any public right-of-way without the prior written approval from the City Engineer and may not encroach onto any adjacent property without prior written approval of that property owner.

5-7(D)(1)*.....walls shall comply with the height standards in Table 5-7-1 Maximum Wall Height....Wall in the front yard or street side yard, Residential, 3 ft.Footnote [1] A Variance-ZHE for a wall greater than 3 ft. in height on a lot with low-density residential development may be approved pursuant to the criteria in 6-6(N)(3)(c) if it meets the standards in Table 5-7-2.*

5-7(D)(3)(e) *Walls greater than 3 ft. in height are not allowed in any front or street side yard on lots with low density residential development in the following mapped areas, and no Variance to this provision is allowed in these areas.....2. Monte Vista and College View Historic District*

Subsection 6-5(J)...The ZEO shall...make a decision on the Wall or Fence Permit-Minor

Subsection 6-6: Decisions Requiring a Public Meeting or Hearing

6-6(N)(3)(c) Variance for a Taller Front or Side Yard Wall.....An application for a Variance for a wall in the front or street side yard of a lot in a Residential zone district...shall be approved if it meets all the following criteria:

1. The proposed wall would strengthen or reinforce the architectural character of the surrounding area.
2. The proposed wall would not be injurious to adjacent properties, the surrounding neighborhood, or the larger community.
3. The wall is proposed on a lot that meets any of the following criteria:
 - a. The lot is a least ½ acre
 - b. The lot fronts a street designated as a collector or above in the LRTS Guide.
 - c. At least 20% of the properties within 330 ft. of the lot where the wall or fence is being requested have a wall or fence over 3 ft. in the front yard.
4. The design of the wall complies with any applicable standards in section 5-7 (walls and fences).....and all of the following:
 - a. The wall or fence shall not block the view of any portion of any window on the front façade of the primary building when viewed from 5 ft. above the ground level at the centerline of the street in front of the house.
 - b. The design and materials proposed for the wall or fence shall reflect the architectural character of the surrounding area.

Sanchez, Suzanna A.

From: Mellia N. Walker <melliawalker@gmail.com>
Sent: Tuesday, December 15, 2020 3:24 PM
To: Sanchez, Suzanna A.
Subject: Letter from COA planning dept/202 Richmond
Attachments: 20201215_134738_(1).jpg; 20201215_134749_(1).jpg

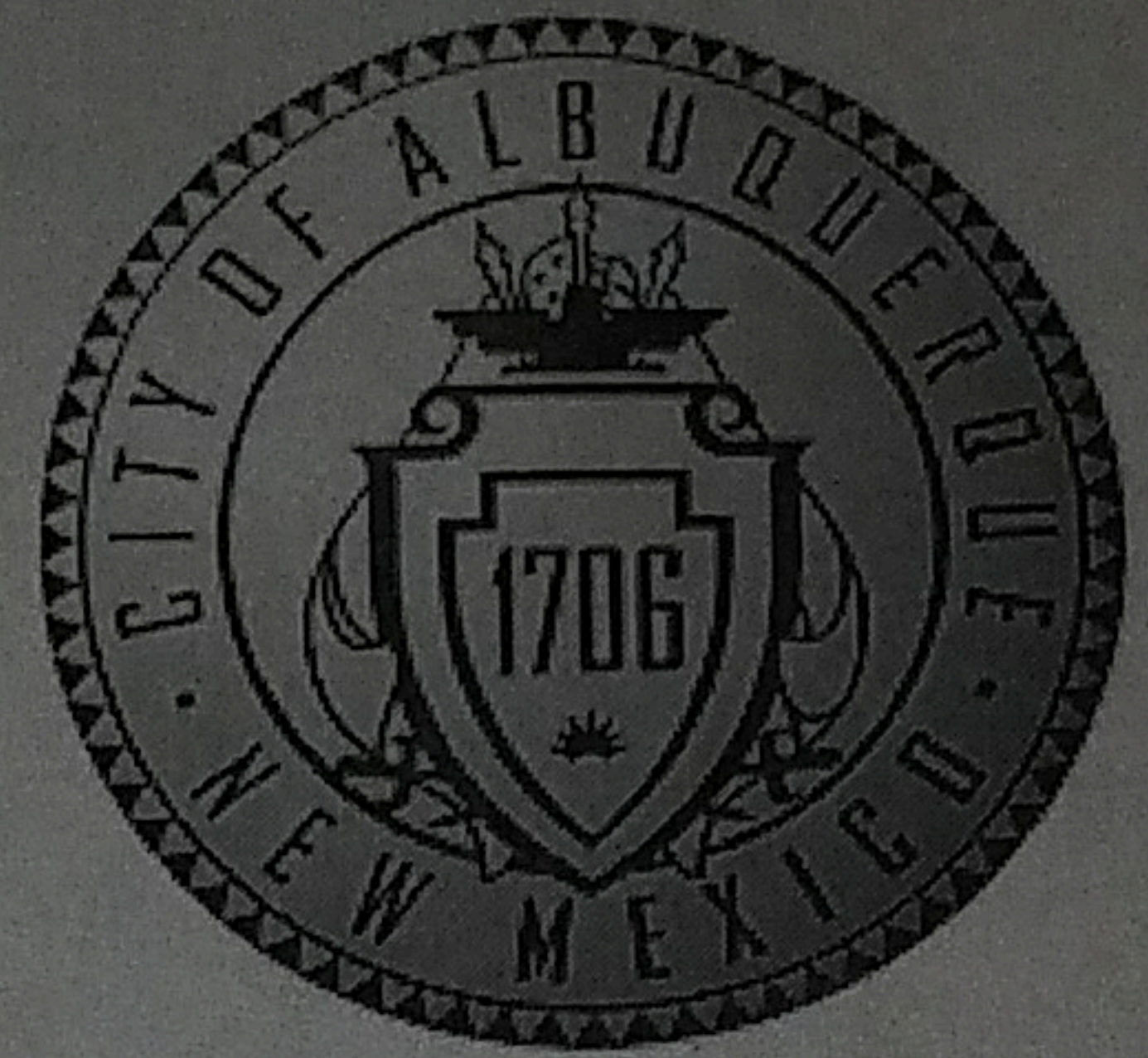
Hello Suzie,

We wanted to start out by thanking you all for your time and consideration today in this matter. Enclosed you will find the letter I referenced at the hearing from the City of Albuquerque planning department. If you have any questions, feel free to contact me at this email which is my personal email or my work email that we have had previous Communications on or Gary directly via phone.

Thank you again,
Mellia N. Walker
For Gary Hoffman

=====
This message has been analyzed by Deep Discovery Email Inspector.

November 25, 2020



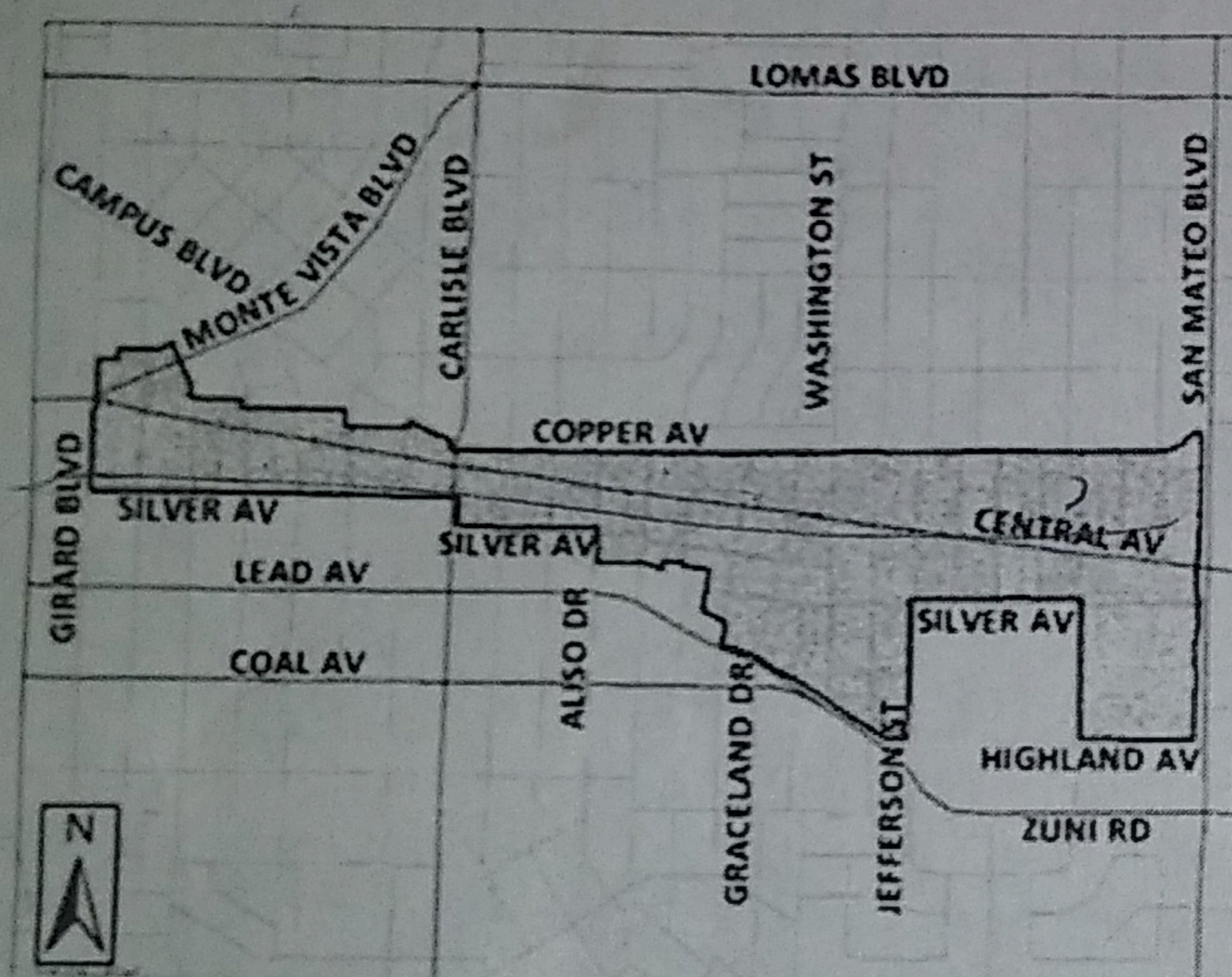
Re: City application to amend zoning regulations for small areas

Dear Property Owner,

The City of Albuquerque is submitting an application for an Amendment to Integrated Development Ordinance (IDO) Text – Small Area to be reviewed and recommended by the Environmental Planning Commission (EPC) and decided by City Council. This letter is mailed notice to property owners who own land in or abutting one of 14 small areas in Albuquerque that would be subject to area-specific zoning regulations proposed as text amendments to the IDO.

This letter serves as official mailed notice to the property owner addressed on this envelope for the small areas identified below, in accordance with the procedures of IDO Subsection 14-16-6-4(K)(3)(d) Notice for Amendment to IDO Text – Small Area. A complete list of affected properties and maps of the small areas are available on the project webpage: <https://abc-zone.com/ido-annual-update-small-area-text-amendments>

The application includes text amendments for the Nob Hill/Highland Character Protection Overlay (CPO):



3-4(I) Nob Hill/Highland – CPO-8

Revise the building frontage types to allow a storefront or an urban residential frontage. This change clarifies what a residential façade is and links the regulation to defined terms. Currently residential developments also must use the storefront building frontage type, which is not appropriate for that use. (3-4(I)(5)(b)(4)b.)

This request will be heard by the EPC on **January 21, 2021**, beginning at **8:30 am** online via Zoom.

Zoom link: <https://cabq.zoom.us/j/96997162697>

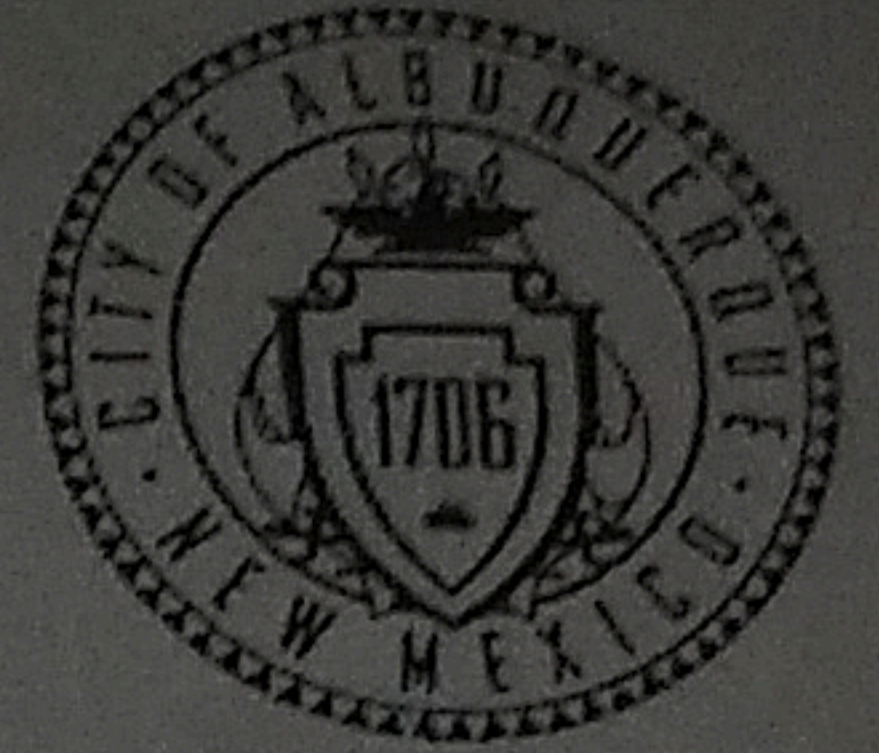
To dial in by phone: (346) 248-7799, Meeting ID: 969 9716 2697

Additional information about this request will be posted on the following webpage, as it becomes available:
<https://abc-zone.com/ido-annual-update-2020>

Sincerely,

K. Carrie Barkhurst, Senior Planner, 505-924-3879, kcbarkhurst@cabq.gov
City of Albuquerque Planning Department

**OFFICIAL PUBLIC NOTIFICATION FORM
FOR MAILED OR ELECTRONIC MAIL NOTICE
CITY OF ALBUQUERQUE PLANNING DEPARTMENT**



PART I - PROCESS

Use Table 6-1-1 in the Integrated Development Ordinance (IDO) to answer the following:

Application Type: Amendment to IDO Text – Small Area

Decision-making Body: City Council

Pre-Application meeting required: ☒ Yes ☐ No

Neighborhood meeting required: ☒ Yes ☐ No

Mailed Notice required: ☒ Yes ☐ No

Electronic Mail required: ☒ Yes ☐ No

Is this a Site Plan Application: ☐ Yes ☒ No **Note: if yes, see second page**

PART II – DETAILS OF REQUEST

Address of property listed in application: 14 small areas with multiple properties listed on project webpage

Name of property owner: multiple owners within 14 small areas, listed on the project webpage

Name of applicant: City of Albuquerque, Planning Department

Date, time, and place of public meeting or hearing, if applicable: **January 21, 2021, 8:30 am** on Zoom.

Zoom link: <https://cabq.zoom.us/j/96997162697>

To dial in by phone: (346) 248-7799, Meeting ID: 969 9716 2697

Address, phone number, or website for additional information: <https://abc-zone.com/ido-annual-update-small-area-text-amendments>

PART III - ATTACHMENTS REQUIRED WITH THIS NOTICE

☐ Zone Atlas page indicating subject property. *14 small areas mapped at website listed above*

☐ Drawings, elevations, or other illustrations of this request. *None*

☐ Summary of pre-submittal neighborhood meeting, if applicable. *Available at the website listed above*

☐ Summary of request, including explanations of deviations, variances, or waivers. *None*

**IMPORTANT: PUBLIC NOTICE MUST BE MADE IN A TIMELY MANNER PURSUANT TO
SUBSECTION 14-16-6-4(K) OF THE INTEGRATED DEVELOPMENT ORDINANCE (IDO).
PROOF OF NOTICE WITH ALL REQUIRED ATTACHMENTS MUST BE PRESENTED UPON
APPLICATION.**

I certify that the information I have included here and sent in the required notice was complete, true, and accurate to the extent of my knowledge.

(Applicant signature)

11/25/2020

(Date)

Note: Providing incomplete information may require re-sending public notice. Providing false or misleading information is a violation of the IDO pursuant to IDO Subsection 14-16-6-9(B)(3) and may lead to a denial of your application.



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

Gary F. Hoffman requests a variance of 3 feet to the 3 foot maximum wall height for Lot 1, Block 39, University Heights, located at 202 Richmond DR SE, zoned MX-T [Section 14-16-5-7-D]

Special Exception No:..... **VA-2020-00379**
Project No: **Project#2020-004657**
Hearing Date: 12-15-20
Closing of Public Record: 12-15-20
Date of Decision: 12-30-20

On the 15th day of December, 2020, property owner Gary F. Hoffman (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 3ft to the 3ft maximum wall height (“Application”) upon the real property located at 202 Richmond DR SE (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 3ft to the 3ft maximum wall height.
2. The City of Albuquerque Integrated Development Ordinance, Section 14-16-6-6(N)(3)(a) (Variance-Review and Decision Criteria) reads: “... an application for a Variance-ZHE shall be approved if it meets all of the following criteria:
 - (1) *There are special circumstances applicable to the subject property that are not self-imposed and that do not apply generally to other property in the same zone and vicinity such as size, shape, topography, location, surroundings, or physical characteristics created by natural forces or government action for which no compensation was paid. Such special circumstances of the property either create an extraordinary hardship in the form of a substantial and unjustified limitation on the reasonable use or return on the property, or practical difficulties result from strict compliance with the minimum standards.*
 - (2) *The Variance will not be materially contrary to the public safety, health, or welfare.*
 - (3) *The Variance does not cause significant material adverse impacts on surrounding properties or infrastructure improvements in the vicinity.*
 - (4) *The Variance will not materially undermine the intent and purpose of the IDO or the applicable zone district.*
 - (5) *The Variance approved is the minimum necessary to avoid extraordinary hardship or practical difficulties.*”
3. The Applicant has authority to pursue this Application.
4. The Applicant bears the burden of ensuring there is evidence in the record supporting a finding that the above criteria are met under Section 14-16-6-4(N)(1).
5. Applicant appeared and gave evidence in support of the application.
6. All property owners within 100 feet of the subject property and the affected neighborhood association were notified.

7. The subject property is currently zoned MX-T.
8. The ZHE received written evidence and testimony from the Nob Hill Neighborhood Association, the Southeast Heights Neighborhood Association and certain individual neighbors, regarding the Application.
9. Applicant has not established that there are special circumstances applicable to the Subject Property that are not self-imposed and that do not apply generally to other property in the same zone and vicinity such as size, shape, topography, location, surroundings, or physical characteristics created by natural forces or government action for which no compensation was paid, as required by Section 14-16-6-6(N)(3)(a)(1). Applicant asserted in written submittals and oral testimony that the special circumstances justifying the variance are the existence of homeless people, alcohol and drug users, and panhandlers in the area, all of which pose a safety hazard to the residents of the subject property. The ZHE can certainly sympathize with a difficult situation. However, these conditions appear to apply generally to neighboring properties in the vicinity, rather than uniquely to the subject property. As such, they do not satisfy the requirement of special circumstances under the IDO.
10. Given that the required element of special circumstances has not been satisfied, the variance must be denied, and it is therefore unnecessary to examine any other element required to establish a variance.

DECISION:

DENIAL of a variance of 3ft to the 3ft maximum wall height.

APPEAL:

If you wish to appeal this decision, you must do so by January 15, 2021 pursuant to Section 14-16-6-4(U), of the Integrated Development Ordinance, you must demonstrate that you have legal standing to file an appeal as defined.

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.



Robert Lucero, Esq.
Zoning Hearing Examiner

cc:

ZHE File
Zoning Enforcement
Gary F. Hoffman, 202 Richmond DR SE, 87106
Shannie Madden, 203 Richmond DR SE, 87106
Gary Eyster, meyster1@me.com
Margaret Forbes, 201 Richmond DR SE, 87106

Sanchez, Suzanna A.

From: John Pate <JPate@molzencorbin.com>
Sent: Wednesday, April 14, 2021 9:31 AM
To: Gary Eyster; Sanchez, Suzanna A.
Cc: melliawalker@gmail.com; 'TheBoard'; P. Davis Willson; Belletto, Peter; Elizabeth Vencill; Glenda Armstrong (mailto:glendalarmstrong@gmail.com); Greg Miller - Morrow Reardon Wilinon Miller, LTD. (gmiller@mrwmla.com); Heidi Olson (heidifolson@gmail.com); John Pate; Joseph Turk; Linda Tigges (lindatigges@gmail.com); Phyllis Taylor
Subject: RE: April 20, 2021, 202 Richmond Dr SE, Statement of Nob Hill Neighborhood Association

Examiner Lucero and Ms. Sanchez,

Please enter SEHNA's agreement with the opposition statement from the Board of Nob Hill. Permitting this fence would reinforce this undesirable precedent again: A precedent which the Neighborhood Associations have repeatedly opposed for years.

And with each new wall it becomes harder and harder just to say NO! The neighborhoods and the residents have spoken loudly and consistently for years in opposition and the issue just won't be quelled. Generally, the people requesting these walls/fences are new to the neighborhood and are clueless as to the historic and social damage they are fomenting.

Please hear us once again.

Thank you,

For the Southeast Heights Neighborhood Association
John Quinn Pate, President



From: Gary Eyster <meyster1@me.com>
Sent: Wednesday, April 14, 2021 9:02 AM
To: Suzie Sanchez <suzannasanchez@cabq.gov>
Cc: melliawalker@gmail.com; 'TheBoard' <theboard@nobhill-nm.com>; John Pate <JPate@molzencorbin.com>; P. Davis Willson <info@willsonstudio.com>
Subject: April 20, 2021, 202 Richmond Dr SE, Statement of Nob Hill Neighborhood Association

Dear Examiner Lucero,

Our association provided you a letter of position on December 6. Ms. Sanchez tells me you will again refer to the entire letter as you consider your decision. We have struggled with preservation of our historic streetscape and eyes-on-the-street for over twenty years. I would draw your attention particularly to the chronology of this in our letter.

Findings in the remand make a further statement from us appropriate. The LUHO, in his finding, stated that we equivocated in taking a position. That mischaracterizes our letter Of December 6. We viewed the original request as a variance that would apply the tests of 6-6(N)(3)(C) relating to strengthening or reinforcing the architectural character of the surrounding area, design and materials that reflect the architectural character of the surrounding area, and not injuring adjacent properties and the surrounding community.

We provided arguments relating to those tests. We then asked you to apply those tests to the best of your ability because we respect the IDO and we stand for it. We felt that if you did that you would not grant the variance.

On remand you may look at the five prong test of 6-6(N)(3)(a). We support your original finding that there are not special circumstances applicable to the single lot. The same truck fumes or vagrant traffic apply to several dozen lots with the same zoning on Silver Ave. A wall 6 ft. high does not generally ameliorate those problems. They need a different solution.

Relative to Prong 2, the variance will be *materially contrary to public safety because of its impact on eyes-on-the-street*. It will cause a signaling effect leading to more such structures with similar negative impacts.

Relative to Prong 3 a white vinyl fence cannot reinforce the architectural character of the area but *diminishes the architectural character of the surrounding area* when such a structure cannot be found anywhere in Nob Hill historic or modern.

In this way it damages the *historic streetscape which is a cultural resource that the community values and which belongs to all the community*.

Mr. Examiner, we are disheartened by requests that ignore the processes in the IDO and disregard community values.

We are heartened by the opportunity to be heard and to have our ideas respected.

Kind regards,

Gary Eyster, President

Nob Hill Neighborhood Association

Sanchez, Suzanna A.

From: P. Davis Willson <info@willsonstudio.com>
Sent: Wednesday, April 14, 2021 10:46 AM
To: Sanchez, Suzanna A.
Cc: Gary Eyster; John Pate; TheBoard; melliawalker@gmail.com; Rich Willson
Subject: PR-2020-004657; 202 Richmond Drive SE

Examiner Lucero and Ms. Sanchez,

Last fall the Victory Hills Neighborhood Association expressed its objection to a request for a Variance of 3' to a 3' high fence in the front yard setback of a residence at 1309 Vassar SE. And after the Notice of Decision was issued in favor of the variance on 11/4/20, we wrote again.

That letter said, in part, "...VHNA is not in favor of supporting the granting of Variances simply to rectify a non-compliant situation. It is not clear why this wall...did not comply with the 3' maximum height in the first place. If it was not permitted prior to construction, and is then granted a Variance—it sets a precedent for the neighborhood that exceeds the 3' maximum height. That opens the door for the next applicant to ignore the specified dimensional standards."

We apply the same objection to the request for 202 Richmond Dr. SE. Located in a historic district AND also on a corner (thus needing to be in compliance with clear sight triangle regulations), this property bears extra responsibility to reinforce the architectural character of the area and provide a safe environment for drivers, bicyclists and pedestrians. Even though the fence angles back at the corner, it still compromises visibility.

Again, VHNA is not in favor of supporting the granting of Variances simply to rectify non-compliant situations. Thank you for the opportunity to speak to this issue. I currently serve as the President of the Victory Hills NA and the Treasurer of the District 6 Coalition of Neighborhoods.

Patricia Willson

Victory Hills NA
District 6 Coalition

Sanchez, Suzanna A.

From: Gary Eyster <meyster1@me.com>
Sent: Wednesday, April 14, 2021 9:02 AM
To: Sanchez, Suzanna A.
Cc: melliawalker@gmail.com; 'TheBoard'; 'John Pate'; P. Davis Willson
Subject: April 20, 2021, 202 Richmond Dr SE, Statement of Nob Hill Neighborhood Association

Dear Examiner Lucero,

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Findings in the remand make a further statement from us appropriate. The LUHO, in his finding, stated that we equivocated in taking a position. That mischaracterizes our letter Of December 6. We viewed the original request as a variance that would apply the tests of 6-6(N)(3)(C) relating to strengthening or reinforcing the architectural character of the surrounding area, design and materials that reflect the architectural character of the surrounding area, and not injuring adjacent properties and the surrounding community.

We provided arguments relating to those tests. We then asked you to apply those tests to the best of your ability because we respect the IDO and we stand for it. We felt that if you did that you would not grant the variance.

On remand you may look at the five prong test of 6-6(N)(3)(a). We support your original finding that there are not special circumstances applicable to the single lot. The same truck fumes or vagrant traffic apply to several dozen lots with the same zoning on Silver Ave. A wall 6 ft. high does not generally ameliorate those problems. They need a different solution.

Relative to Prong 2, the variance will be *materially contrary to public safety because of its impact on eyes-on-the-street*. It will cause a signaling effect leading to more such structures with similar negative impacts.

Relative to Prong 3 a white vinyl fence cannot reinforce the architectural character of the area but *diminishes the architectural character of the surrounding area* when such a structure cannot be found anywhere in Nob Hill historic or modern.

In this way it damages the *historic streetscape which is a cultural resource that the community values and which belongs to all the community*.

Mr. Examiner, we are disheartened by requests that ignore the processes in the IDO and disregard community values.

We are heartened by the opportunity to be heard and to have our ideas respected.

Kind regards,

Gary Eyster, President

Nob Hill Neighborhood Association

Sanchez, Suzanna A.

From: Richard Willson <rich@willsonstudio.com>
Sent: Wednesday, April 14, 2021 4:58 PM
To: Sanchez, Suzanna A.
Cc: theboard@nobhill-nm.com; JPate@molzencorbin.com
Subject: ZHE PR-2020-004657 Variance Request for 6' high fence at 202 Richmond Drive NE

Dear Examiner Lucero,

My wife and I live in the 500 block of Dartmouth Drive SE. I routinely walk on Silver past this site. The existing Vinyl fence was built without a zoning permit. I am opposed to the concept that property owners can ignore the IDO and then request a variance.

IDO Section 6-6(N)(3) Review and Decision Criteria An application for a Variance shall be approved if it meets all of the following criteria:

1. There are no special circumstance applicable to the lot. The owner self-imposed the problem by not applying for a Zoning Permit.
2. A Variance will be materially contrary to the public safety, health or welfare. High fences limit the ability of neighbors to monitor criminal activity.
3. The fence adversely impacts the entire block there are no there fence that total block the view of the house. The surrounding properties are impacted because the character of the streetscape is obstructed.
4. The fence materially undermines the intent and purpose of the IDO.
5. Any Hardship is the owners own doing. The Variance should be denied and the owner should be require to remove or modify the fence to bring it into compliance with the IDO.

Regards,

Richard Willson, AIA
Willson + Willson Architects
505 Dartmouth Drive SE
Albuquerque, NM 87106
Office: 505-266-8944
Fax: 505-266-2746
Cell: 505-980-1469
rich@willsonstudio.com

City of Albuquerque ZHE – December 15, 2020

Agenda Item #2

VA-2020-00379

PR-2020-004657

Gary F. Hoffman requests a variance of 3 feet to the 3 foot maximum wall height for Lot 1, Block 39, University Heights, located at 202 Richmond Dr SE, zoned MX-T [Section 14-16-5-7-D]

Ownership: Owner: HOFFMAN GARY F

Zone District/Purpose: MX-T/The purpose of the MX-T zone district is to provide a transition between residential neighborhoods and more intense commercial areas. Primary land uses include a range of low-density multi-family residential and small-scale office, institutional, and pedestrian-oriented commercial uses.

Allowable Use: n/a

Applicable Comp Plan Designation(s): Area of Consistency; Nob Hill PT, Central MT, Central MS

Applicable Overlay Zones: None listed

Applicable Use-Specific Standard(s): n/a

Applicable Dimensional/Development Standards:

Table 5-7-1: Maximum Wall Height					
Zone Category	Residential	Mixed-use	Non-residential (NR-C, NR-BP) ^[1]	Non-residential (NR-LM, NR-GM)	See also:
Standard Wall Height					
Wall in the front yard or street side yard ^{[2][3][4]}	3 ft.	3 ft.	3 ft.	6 ft.	5-7(D)(2)
Wall in other locations on the lot ^{[5][6]}	8 ft.	8 ft.	8 ft.	10 ft.	5-7(D)(2)
Corner Lot Abutting Residential Zone District					
Any portion of a wall in the rear yard abutting the front yard of a Residential zone district.					
<10 ft. from the lot line abutting the street ^[3]	3 ft.	3 ft.	3 ft.	6 ft.	5-7(D)(2) 5-7(D)(3)(g)
≥10 ft. from the lot line abutting the street	6 ft.	8 ft. Low-density residential: 6ft.	8 ft.	8 ft.	5-7(D)(2)
Walls Abutting Major Arroyos and Major Public Open Space					
Wall in a rear or interior side yard abutting a major arroyo	6 ft.	8 ft.	8 ft.	8 ft.	5-7(D)(2) 5-7(E)(4)
Wall in a rear or interior side yard abutting Major Public Open Space	6 ft.	6 ft.	6 ft.	10 ft.	5-7(D)(2) 5-7(E)(4)
<small>[1] In the NR-BP zone district, wall heights shall be specified in the Master Development Plan. If no Master Development Plan exists or if no wall heights are specified in the Master Development Plan, then the wall height requirements in this table apply. [2] Taller walls may be approved for multi-family residential development pursuant to Subsection 14-16-5-7(D)(3)(c). [3] Taller walls may be approved for low-density residential development pursuant to Subsections 14-16-5-7(D)(3)(d) or 14-16-5-7(D)(3)(g). [4] Taller walls may be approved in any NR-C or NR-BP zone district pursuant to Subsection 14-16-5-7(D)(3)(e). [5] Portions of walls in the rear yard of a corner lot abutting the front yard of a Residential zone district are treated differently, with provisions later in this table. [6] Where the rear yard of a through lot abuts at least 1 lot with any residential development that faces the second public street, the rear and side walls shall be subject to the same height restrictions applicable within the required front setback of the abutting residential property.</small>					

Traffic Recommendations: No objection

Planning Recommendation: This matter should proceed to a public hearing where the Zoning Hearing Examiner will hear additional evidence and make a written decision pursuant to applicable provisions of Section 14-16-6-4.



Sanchez, Suzanna A.

From: Mellia N. Walker <melliawalker@gmail.com>
Sent: Tuesday, April 20, 2021 10:02 AM
To: Sanchez, Suzanna A.
Subject: Photos from Hearing 202 Richmond
Attachments: IMG_20210419_110733.jpg; IMG_20210419_110744.jpg; IMG_20210419_110741.jpg;
IMG_20210419_110737.jpg; IMG_20210419_110746.jpg; IMG_20210419_110723.jpg;
IMG_20210419_110729.jpg; IMG_20210419_110731.jpg

Thank you all very much for your time and consideration in this matter, enclosed are the photos I reference this morning showing the view from the corner and the lineup with the fence next door at 204 Richmond.

Thank you again and have a great day
Mellia N. Walker
Agent for Gary Hoffman







STOP

CROSS TRAFFIC
DOES NOT STOP













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

Gary F. Hoffman requests a variance of 3 feet to the 3 foot maximum wall height for Lot 1, Block 39, University Heights, located at 202 Richmond DR SE, zoned MX-T [Section 14-16-5-7-D]

Special Exception No:..... **VA-2020-00379**
Project No: **Project#2020-004657**
Hearing Date: 04-20-21
Closing of Public Record: 04-20-21
Date of Decision: 05-05-21

On the 20th day of April, 2021, property owner Gary F. Hoffman (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 3 feet to the 3-foot maximum wall height (“Application”) upon the real property located at 202 Richmond DR SE (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 3 ft to the 3 ft maximum wall height.
2. This matter comes before the ZHE on remand from the City Land Use Hearing Officer (LUHO), pursuant to the LUHO notice of decision dated March 16, 2021.
3. The Applicant bears the burden of ensuring there is evidence in the record supporting a finding that the above criteria are met under Section 14-16-6-4(N)(1).
4. Agent appeared and gave evidence in support of the application.
5. All property owners within 100 feet of the subject property and the affected neighborhood association were notified. City Transportation submitted a report stating no objection.
6. The proper “Notice of Hearing” signage was posted for the required time period as required by Section 14-16-6-4(K)(3).
7. The Applicant has authority to pursue this Application.
8. The Pre-November 2, 2020 version of the City of Albuquerque Integrated Development Ordinance (IDO), applicable to the Application, at Section 14-16-6-6(N)(3)(a) (Variance-Review and Decision Criteria) reads: “... *an application for a Variance-ZHE shall be approved if it meets all of the following criteria:*
 - (1) *There are special circumstances applicable to the subject property that are not self-imposed and that do not apply generally to other property in the same zone and vicinity such as size, shape, topography, location, surroundings, or physical characteristics created by natural forces or government action for which no compensation was paid. Such special circumstances of the property either create an extraordinary hardship in the form of a substantial and unjustified limitation on the reasonable use or return on the property, or practical difficulties result from strict compliance with the minimum standards.*
 - (2) *The Variance will not be materially contrary to the public safety, health, or welfare.*

- (3) *The Variance does not cause significant material adverse impacts on surrounding properties or infrastructure improvements in the vicinity.*
 - (4) *The Variance will not materially undermine the intent and purpose of the IDO or the applicable zone district.*
 - (5) *The Variance approved is the minimum necessary to avoid extraordinary hardship or practical difficulties.”*
9. Based on evidence submitted by or on behalf of Applicant, it appears that there are special circumstances applicable to the Subject Property that are not self-imposed and that do not apply generally to other property in the same zone and vicinity such as size, shape, topography, location, surroundings, or physical characteristics created by natural forces or government action for which no compensation was paid, as required by Section 14-16-6-6(N)(3)(a)(1).
- a. Applicant submitted evidence on appeal to the LUHO that there is heavy pedestrian, bicycle, and automobile traffic on Silver Avenue along the Subject Property, and that 18-wheeled trucks and other large delivery trucks regularly utilize the Silver Avenue curb next to the Subject Property as parking for deliveries. Applicant states that these heavy trucks are often left with engines idling (sometimes for long periods) as the drivers load and unload their trucks, all occurring within feet of his yard. Applicant submitted evidence that the idling trucks cause unbearable noise and presumably carbon monoxide fumes enter his yard space. Further, Applicant submitted evidence that Silver Avenue is a well-trafficked commercial thoroughfare that causes out-of-proportion negative impacts on residential properties fronting it in this area, in the form of litter, high pedestrian traffic and trespassing by members of the public. These heavy commercial and public uses constitute “special circumstances applicable to the Subject Property that are not self-imposed.”
 - b. Neighbors argued that these commercial and public uses apply generally to other properties in the general vicinity. While that may be the case, Agent submitted evidence that the impact of these commercial and public uses falls disproportionately on the Subject Property, because it is one of very few MX-T zoned properties in the vicinity that is used for residential purposes. Further the location of the Subject Property as a corner lot adjacent to these commercial and public uses make such uses uniquely harmful to the Subject Property.
 - c. These special circumstances create an extraordinary hardship in the form of a substantial and unjustified limitation on the reasonable use on the Subject Property, because while the commercial impacts may be appropriate on an MX-T property used for commercial purposes, they are inappropriate when impacting MX-T property used for residential purposes, such as the Subject Property. Further, practical difficulties result from strict compliance with the minimum standards, because the three-foot wall that would be allowed without a variance would be insufficient to mitigate the negative impact of the special circumstances, as further described, below.
10. Based on evidence submitted by or on behalf of Applicant, the variance will not be contrary to the public safety, health and welfare of the community as required by Section 14-16-6-6(N)(3)(a)(2).
- a. Opponents point out that having “eyes on the street” increases public safety by allowing the public and first responders to view into and out of the Subject Property to assess whether any dangerous condition may exist. The lattice view fencing that

exists on the top approximately 2 feet of the fence allows such views. Although opponents argue that this lattice is less than 50% opaque, there is no bright-line threshold for opacity under the variance criteria in Section 14-16-6-6(N)(3)(a), and based on the photographs and testimony submitted, the ZHE finds that the view fencing provides sufficient “eyes on the street” in this particular case.

- b. While opponents argued that the vinyl fence that is the subject of this Application is of unprecedented construction in the area, Agent points out that just because something is different does not make it bad, and evidence was submitted that the fence is of high-quality construction, incorporating specialty materials that Applicant had to obtain out of state. The fence is in harmony with the color and architecture of the Subject Property and does not have a negative impact on the public safety, health, and welfare of the community by virtue of its architectural style, materials, or construction.
11. Based on evidence submitted by or on behalf of Applicant, the variance will not cause significant adverse material impacts on surrounding properties or infrastructure improvements in the vicinity as required by Section 14-16-6-6(N)(3)(a)(3). According to the site plan and testimony submitted by Applicant, the proposed fence is set back approximately 13 feet along Silver Avenue and approximately 24 feet along Richmond Drive, thereby providing plenty of room for pedestrians and transit connectivity to use rights of way without having the fence in close proximity.
 12. Based on evidence submitted by or on behalf of Applicant, the variance will not materially undermine the intent and purpose of the IDO or applicable zone district as required by Section 14-16-6-6(N)(3)(a)(4). The MX-T zone district is a transition zone “*between residential neighborhoods and more intense commercial areas.*” See IDO, § 14-16-2-4(A)(1). Here, obvious intense commercial uses appear to be interfering with Applicant’s residential use. The proposed variance addresses the intent of MX-T serving as a transitional zone by having the proposed fence help the Subject Property serve as a functional buffer between the commercial and residential uses. Indeed, the proposed fence runs parallel to adjacent fences of the same or substantially similar height on properties adjacent to the Subject Property on either side.
 13. Based on evidence submitted by or on behalf of Applicant, the variance approved is the minimum necessary to avoid extraordinary hardship or practical difficulties as required by Section 14-16-6-6(N)(3)(a)(5). Specifically, Applicant submitted evidence that any smaller setback variance would be ineffective to provide for the safety and usability of the site and the intended use. While opponents argued that a three-foot fence would discourage trespassers, such a fence would be easy to cross over and would not provide the same security and buffer against the intense commercial and public uses present. Applicant submitted evidence that any shorter fence would be ineffective in that regard. Thus, Applicant is not requesting more than what is minimally necessary for a variance.

DECISION:

APPROVAL of a variance of 3 feet to the 3 feet maximum wall height.

APPEAL:

If you wish to appeal this decision, you must do so by May 20, 2021 pursuant to Section 14-16-6-4(U), of the Integrated Development Ordinance, you must demonstrate that you have legal standing to file an appeal as defined.

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.



Robert Lucero, Esq.
Zoning Hearing Examiner

cc:

ZHE File
Zoning Enforcement
Gary F. Hoffman, 202 Richmond DR SE, 87106
Mallia Walker, melliawalker@gmail.com
Shannie Madden, 203 Richmond DR SE, 87106
Gary Eyster, meyster1@me.com
Margaret Forbes, 201 Richmond DR SE, 87106
Rahim Kassam, 3820 Copper NE, 87108
Michael Vos, Vos@consensusplanning.com



**Hearing on Special Exceptions
to the Integrated Development Ordinance**

MINUTES

April 20, 2021

600 2nd St NW, Albuquerque, NM 87102

CITY STAFF PRESENT:

Robert Lucero – Zoning Hearing Examiner

Lorena Patten-Quintana – ZHE Planner, Planning Department

Suzie Sanchez – Hearing Monitor

ZHE: That concludes agenda item 1 and takes us to item 2, which is old business, it's labeled. This is a case that is here on remand from the Land Use Hearing Officer, it's VA-2020-00379, Project Number PR-2020-004657, Gary F. Hoffman requests a variance of 3 feet to the 3-foot maximum wall height for Lot 1, Block 39, University Heights, located at 202 Richmond Drive Southeast and its zoned MX-T. Do we have Ms. Walker?

MELLIA WALKER: Yes, good morning.

ZHE: Good morning, how are you?

MELLIA WALKER: I'm doing well, thanks. How are you?

ZHE: Oh, just fine. Is Mr. Hoffman going to be joining us as well?

MELLIA WALKER: They are listening in.

ZHE: Okay, but he won't be testifying? Is that right?

MELLIA WALKER: No.

ZHE: Okay, so let's go ahead and if you could just please state your full name and mailing address for the record, we'll get you sworn in.

MELLIA WALKER: Definitely. It's Mellia N. Walker and it is PO Box 27353, Albuquerque, NM 87125.

ZHE: Thank you and please raise your right hand and do you affirm under penalty of perjury that your testimony will be true?

MELLIA WALKER: I do.

ZHE: Great, thank you. All right, go ahead. If you could tell us - - I know, since I - - since my last - - since this was last before me, I know you've had a hearing for the LUHO, additional evidence was submitted. Would you please summarize that for me?

MELLIA WALKER: Yes, definitely. There - - Well what was most recently submitted was a request for safety after that hearing. There was, you know, talks during that hearing regarding you know, the safety and stuff like that but as I know, there's been a stop with the City, you know, since then, as far as accepting those particular type of request. So, here we are and I know there were some issues and you know, some things that were not necessarily brought up that were new but I kind of wanted to you know, kind of address and kind of, I guess point you in the direction of answers to certain things that were brought up that were kind of already addressed and dealt with you know, before.

ZHE: Okay, okay and so, I see that you know, in the LUHO remand there was, there were some findings that - - regarding the first prong because as you know there's you know...

MELLIA WALKER: I apologize, your audio is cutting out.

ZHE: Can you hear me?

MELLIA WALKER: I can hear you now, yes.

ZHE: Oh good, sorry about that. So, what I was saying was that, regarding the special circumstances prong of the variance test, the LUHO seemed to indicate that, that your additional evidence would support a finding of a special circumstance.

MELLIA WALKER: Yes.

ZHE: You know, that, that prong was satisfied.

MELLIA WALKER: Yes.

ZHE: And, I understand that it was because of you know, the property is zoned MX-T and there's, it's sort of a buffer zone between commercial and residential and there, there are trucks that park out front and so forth. Is that unique to this property or do they, do they park sort of out in front of other properties?

MELLIA WALKER: It - - well, see, the difference is most of the other properties that run along Silver are not residential, they are probably zoned the same way but they're not residential businesses. So, there's only if I'm mistaken, if I'm not mistaken, there's only four of you know, in that area that are used for residential purposes but are zoned differently. So, that's where it kind of gets tricky as far as homes and homes that we know that are immediate. It's our home and directly across is Mrs. Forbes, her home is zoned the same way. She's having the same issues and she has a 10-foot wall that was grandfathered in on her Silver side and she's still dealing with the issues. She just had her truck stolen two nights ago, out of her yard. So, she's still you know, dealing with the issues just like we are. I mean her husband just passed two weeks ago and two nights ago their truck was stolen out of their yard. So, I mean, Albuquerque has changed. You know, this property has been owned by Gary for 49 years. He purchased this property in 1972 so, he's not new to the neighborhood. It's not you know, anything like that. It's just the neighborhood has changed around him and that's the biggest issue. There wasn't a need for this 15 years ago. To, you know - - it's just times are changing. Albuquerque is changing. I mean, we all watch the news, we all see the crime. It's - - I mean, it comes with the territory, being that buffer, being that transition zone. You know, that we were talking about. It kind of comes with that territory and we understand that. We understand the reason why we're zoned the way that we're zoned. We understand the purpose that it serves and we're okay with that but, like I said in the past, we're just trying to have some sort of a buffer of our own.

ZHE: Yes. Okay, and as to this second prong, you know that the variance will not be materially contrary to public safety, health or welfare. Is there any, any negative impact to the public's health or welfare caused by this requested variance?

MELLIA WALKER: I don't believe so. I - - There were a few things that were brought up and one of those things was the eyes on the street portion and the safety that comes along with that. But, when you look at the IDO in regards to that it - - I mean, because I spoke about this actually

in the appeal if you know, when you're making your decision, if you're able to refer back to the appeal but there's a part that I mention in the IDO where it calls for at least 5%. Well, we not only met that 5%, we exceeded the 5% and we're at 20% because the top portion of the, of the fence is lattice. So, we not only met that portion as far as the safety, you're able to see the windows, you're able to see the house, you're able to see the door, you're able to see I mean, everything because like I said, not only did we meet the 5%, we exceeded it at 20%.

ZHE: Yes.

MELLIA WALKER: And then, there was another issue that came up regarding the line of view from the stop sign. I guess there was some issue as far as, was it blocking, was it - - and I just have a few pictures that I wanted to submit. I'm not sure how you know, well you all will be able to see them but if I could submit them through email, I will do that immediately following the hearing. But, in the pictures I mean, you can see clear down the block from the stop sign. You can see the businesses on both sides, you can see clear, you can see people running, walking, riding bikes. I mean, the vision - - it's the 5-foot setback is what makes the difference. I believe if it was at the street line, there might be some obstruction of view but being that it's set back 5 feet, there's the rocks and you know, all of the decoration and the xeriscaping around it, to the street line, that gives you just a clear view down Silver, a clear view. So, I know that was another issue that was brought up as well.

ZHE: Okay, how tall is the, the solid portion of the fence and how tall is the lattice portion of the fence?

MELLIA WALKER: I, I would have to give you the exact dimensions which I do have but I don't have them right here with me. But, I can give you the...

ZHE: That's, that's okay. They're in the record, is that right? I'm just trying to find this. I'm trying to find the...

MELLIA WALKER: Yes.

ZHE: Okay.

MELLIA WALKER: Because, in order to complete it with the lattice, we actually had to go to a Home Depot right on the Arizona, New Mexico border in order to get the lattice because here, when the fence was started, they told us at Home Depot, with the ones with the lattice, we can't keep them in stock because that's what everyone is using because of the lattice because of the view, because you know - -So, instead of just saying, oh well, we'll put a solid wall up and deal with it, no, we intentionally, you know and I think going as far as we did to get the rest of the panels to complete it correctly shows the intent. The intent I mean, it, it might not of been done correctly in the beginning and I will, I will give you that because I mean, it should've been done differently but when it was constructed these things were in mind. It wasn't that, it was just, we're going to get a fence up, we're gonna throw it together, it's a beautiful fence. It's a beautiful fence. The neighbor directly across, she's called it serene, she's called it calming because it, it's white, the house is white, it's clean, crisp, it's, I mean, it's beautiful, really. It's

similar to the house next-door because at 204 Richmond, they have a fence that is equally in height out front. It has the 5-foot setback as well and the fences lineup to each other just like this. Theirs matches their house perfectly, you know, the same material that's on the house, is the same you know, as the fence and it's a purple-ish color and it's really nice. They both match. Well, it's the same with our fence, the house is white with a red stone roof, the fence is completely white and it's I mean, it's just crisp and clean.

ZHE: So, would you - - just looking at the third prong of the variance test, the variance does not cause adverse impacts on surrounding properties, you just said that you know, the adjacent properties have the same height and sort of same setback of wall is that right?

MELLIA WALKER: Yes.

ZHE: Is there any, any harm that would result to the adjacent...

MELLIA WALKER: No, it's not like they're set in any off dimension. The fences, they line up to each other perfectly. They both have an equal setback. They both have zero scape and stuff in the setback to give it you know, an aesthetic, you know aesthetically nice look to it. So, no, I mean, there is no difference or variation in where the fences line up with each other.

ZHE: And so, the fence, does the fence cause any impact to infrastructure like, you know, sidewalk, curb gutter, traffic improvements...

MELLIA WALKER: Nope.

ZHE: ...transit, bus stops, anything like that?

MELLIA WALKER: Nope, because of the 5-foot setback. I mean, like I said again, if it was to the sidewalk line then I would say yeah, but with the 5-foot setback, I mean, there's people on bikes, there's people pushing strollers, walking, running, all of the above and it doesn't affect them in any way shape or form.

ZHE: Yes, then, on the fourth prong, you know, it requires that the variance will not materially undermine the intent and purpose of the IDO or the applicable zone district, talked about how it's zoned MX-T and is a buffer zone and should serve as a buffer zone between commercial and residential. Is there anything else you can add to that fourth prong?

MELLIA WALKER: Well, I've - - I know it was brought up as far as the material that it's made out of but when you referred to the IDO, I spoke about that as well, as far as the wall and fence design aspect, and like I talked about in the appeal of 14-16-5-7-E number 1, regarding the materials and textures. There's a list of materials that are prohibited and there's a list of materials that are accepted but it also states that it's not limited to. So, vinyl is not listed as a prohibited material so, my thing is just because it hasn't been done in this particular area doesn't make it bad, it just makes it different. Different is not always necessarily bad and in this case it's different but it, but it's really nice aesthetically.

ZHE: Okay and would this, on the fifth and last prong, it's requires that the variance is the minimum necessary to avoid extraordinary hardship or practical difficulties. Why is that the case? Would a lower, would a lower fence work, basically?

MELLIA WALKER: A lower fence is going to - - I mean, they're just going to go over it. They're just - -it's going to be the same exact issues and as far as the fumes and the smoke and the, you know, the exhaust and stuff from the trucks, a smaller fence isn't going to help. Now, at least we can sit out there and you can have a cup of coffee in the morning even if the trucks are out there. I mean, yes, it's noisy but it kind of serves as a barrier. The fumes are not just overbearing to where, after five minute you're like, okay, I can't do this and you go inside. It's to the point now that it's tolerable. It's, I mean, it's - - the peaceful enjoyment is back. I mean, after 49 years of owning that property I mean, that's a lot of time there and to have to go to this measure now, it's just, it's, it's a sign of the times. It's a corner lot, it's easily accessible. The traffic is there, the people are there and now that things are opening back up from Covid, life is coming back and we're just kind of back where we started. But, like I said, we are okay with that. All we're asking for is a buffer of our own. We don't mind being the buffer you know, for the neighborhood, that's why the property is zoned the way it's zoned. It's been zoned that way for years and years and years but all we're asking for is a personal buffer from all of the excess fumes, the excess traffic, the excess now that's going on.

ZHE: Thank you, Ms. Walker, is there anything else you'd like to add before we call for public comment?

MELLIA WALKER: No, I don't believe so.

ZHE: Okay, well let's call for public comment and then you'll get the chance to respond after that.

MELLIA WALKER: Thank you.

ZHE: Okay, again, so, this is agenda item 2, Gary Hoffman requesting a variance of 3 foot at 202 Richmond Dr. SE. I see at Gary Eyster?

GARY EYSTER: Yes, Mr. Examiner.

ZHE: Good morning, sir.

GARY EYSTER: Good morning to you, sir.

ZHE: Would you please... Thank you. Would you please state your full name and mailing address for the record?

GARY EYSTER: Yes, my name is Gary Eyster. My mailing address is PO Box 16473, Albuquerque 87191.

ZHE: Thank you, sir and I see you have your right hand raised, do you affirm that your testimony will be true upon penalty of perjury?

GARY EYSTER: Absolutely.

ZHE: Thank you, sir. Are you speaking on behalf of a neighborhood association?

GARY EYSTER: Yes, I'm president and speaking for Nob Hill Neighborhood Association.

ZHE: Thank you, sir. You have five minutes. Go ahead.

GARY EYSTER: Thank you. Good morning, Mr. Examiner and good morning to Mrs. Patten-Quintana and Mrs. Sanchez. Thank you both for your contribution in this process. Can you hear me okay Mr. Examiner?

ZHE: Yes, sir, go ahead.

GARY EYSTER: Thank you. As you know, my association provided you a letter of position on December 6th and Mrs. Sanchez tells me that will still be in the record and that you will again refer to that letter as you reach your decision. We struggled with preservation of our historic streetscape and eyes on the street for the last 20 years in Nob Hill. I would draw your attention particularly to the chronology of that struggle in our letter and also to the piece that we publish in our twice-yearly newsletter called, Caring for Our Streetscape, that's something that we distribute to all the 3000 homes in Nob Hill and have for about the last eight years. So, Mr. Examiner, we think that the findings in the remand necessitate a further statement from us. The LUHO stated we equivocated in taking a position but that mis-characterizes our letter we viewed the original request wrongly as a variance that would require the tests for variance of a taller wall like the lot size or other fences in the area. Also, that would have called for strengthening a reinforcing architectural character of the area, design and materials that reflect the architectural character and not injuring adjacent properties. We provided arguments in that letter relating to those tests. We asked you to apply those tests to the best of your ability because, we do stand for the IDO and we felt that if you did, you would not grant the variance. It now appears or we will understand that you will be evaluating this question with respect to the review design, review decision criteria ZHE of 6-6-N-3-8 as you did last time. With respect to prong one of those criteria, we support your original findings, sir, that there are not special circumstances applicable to the single lot. The same truck fumes or vagrant traffic apply to several dozen lots in the MX-T zone along Silver Avenue. I question the statement of the applicant, the agent that there are maybe only one or two other houses in the MX-T zone there that are used as residences. We also assert that a 6-foot wall does not ameliorate truck fumes. There's a question about how much is needed to provide safety from vagrants but Ms. Walker indicated that the lady across the street has a 10-foot sidewall but it's not helping. Mr. Examiner, relative to prong 2, the requested variance is materially contrary to public safety because it does impact eyes on the street. The, the lattice portion is not really that transparent. As well, noted Urbanist, Jane Jacob wrote in Death and Life of Great American Cities, that communities cannot be made safer by creating private fortresses. Relative to the prong 3, sir, the white vinyl fence does not reinforce the architectural character of the area. There is no other fence in Nob Hill, historic or modern with that design. This diminishes the historic streetscape which is a cultural resource to community values and it belongs to all the community, not just the applicant. We appreciate that several others have

submitted written positions to you in support of these positions. Mr. Examiner, even if you should agree with prong one of the variance and we hope you don't, you can still require materials and design that don't violate prongs two and three. And, you can order that 6 foot is not the minimum necessary to avoid extraordinary hardship or practical difficulties. The wall was built without a permit, without notice, without dialogue. We're disheartened by requests that ignore the processes of the IDO, they deprive the community of the IDO intent and purpose regarding notice and dialogue. We are heartened by the opportunity to be heard by you today and have our views inspected. Thank you, sir.

ZHE: Thank you Mr. Eyster, I had a couple questions, if you don't mind. So, one of the things you just mentioned is that you know, that the minimal, minimum necessary with the neighborhood association or you personally, have any stance on sort of what, what would be sufficient and, and what would sort of then not have the negative impacts?

GARY EYSTER: Probably so, Mr. Examiner. As you know, one can build a wall in the front or street side yard up to 3 feet with a wall permit minor, there's no doubt that - -that's permissive so, I'm sure that, that no one could question that. As far as, as far as the, a solution to this, I'm, I'm hard-pressed to tell you, oh well, we would go for five or we would go for four. I think as much as anything, the design and material are, are the problem but I'm sorry to ramble but I don't know how every member of the public reacts but when I see a 3-foot wall with a gate, I'm reluctant to go in there. That, that demarcates private from public space and if you go in there and if you have ill intent, then, then you know it's pretty clear that you violated that private space. But, but not to evade your question, I would imagine that the feeling of the association would probably go down a lot if it were more like 4 feet.

ZHE: Well, thank you. I appreciate that perspective.

GARY EYSTER: You're welcome.

ZHE: Is there anything you'd like to add before I call for additional public comment?

GARY EYSTER: Well, we appreciate your original finding that the lot is not exceptional and we hope you stay with it.

ZHE: Thank you, sir. All right, again we are here on agenda item 2 and this is VA-2020-00379. I see Rahim Kassam with a hand raised?

RAHIM KASSAM: Yes, can you hear me?

ZHE: Good morning Mr. Kassam, would you please state your full name and mailing address for the record?

RAHIM KASSAM: Good morning, my name is Rahim Kassam, I'm the property owner at 3820 Copper Ave NE, Albuquerque, New Mexico, 87108.

ZHE: Thank you, sir. Please raise your right hand and do you affirm under penalty of perjury that your testimony will be true?

RAHIM KASSAM: Yes, I do.

ZHE: Thank you, sir and are you speaking on your own behalf?

RAHIM KASSAM: I am speaking on my own behalf.

ZHE: Thank you. You have two minutes, sir go ahead.

RAHIM KASSAM: Hi, I just wanted to first thank, you know, Mrs. Walker for coming on and, and letting us know about you know the situation and I do feel for the, you know, the person, Mr. Hoffman. I know that you know, there's concerns about crime. There's concerns you know, when people get older as well. My concern here is that, on this, that this wouldn't set a really good precedence if, if this fence was approved and that's because Mr. Hoffman, as he stated has lived in the neighborhood you know, for I guess almost 40 years. He understands the rules, he understands the procedures and if we just had all the neighbors you know, just go up and you know, put up whatever walls or change whatever variances, you would lose that you know, that historic feel for that, for this neighborhood. And also, it's just the rule of law and the procedures and I feel that the practice of you know, doing something first and then asking for forgiveness later really wouldn't help the City in the long run. Again, I do feel for Mr. Hoffman and, and I think that, that you know he can do other things to help with security but I do genuinely believe that having the lower walls does actually help with security because there are eyes, there are more eyes on the street. So, so I just, I just wanted to you know, make that opinion and I hope that this can be resolved. Thank you.

ZHE: Thank you, sir. Okay, again, this is agenda item 2. Please raise your hand if you'd like to speak on this matter and have not yet done so. I'm scrolling through the participant list and I see Michael Vos.

MICHAEL VOS: Hey, Mr. Hearing Examiner.

ZHE: Good morning.

MICHAEL VOS: My name is Michael Vos and I reside at 244 Carlisle Blvd NE.

ZHE: Thank you sir and please raise your right hand and do you affirm under penalty of perjury that your testimony will be true?

MICHAEL VOS: I do. So, Mr. Hearing Examiner, I am here this morning as a resident of Nob Hill speaking for myself and I would like to state that I agree with the neighborhood association's position on this matter as stated by Gary Eyster, just earlier. There is not, not an exceptional characteristic for this lot compared to other lots in the area. And while, I can certainly feel for the need for increased security, I'd also point out that the IDO has very specific rules and a menu of options on how to design a taller wall that's in a front or street side yard. It's not clear from the evidence in the application packet, on the sketch plan whether or not this wall would meet the minimum setback from the back of sidewalk to the fence in order to be allowed to be 6 feet tall and I don't believe that the lattice work meets the definition for view fencing which is one of those options. While you can see through it, view fencing must be, I think at least

75% open-ended the latticework would probably be only about 50%. So, that's what I have to say this morning. Thank you.

ZHE: Thank you, Mr. Vos. All right, again, agenda item 2, please raise your hand if you'd like to address that matter. This is 202 Richmond Dr. I'm scrolling through the participant list and I don't see anyone else raising their hand. So, again this is agenda item 2, VA-2020-00379, Gary Hoffman requesting a wall variance at 202 Richmond Southeast. Please raise your hand if you'd like to address that matter. Last call for agenda item 2. Okay, Ms. Walker, are you there?

MELLIA WALKER: I am. I apologize.

ZHE: Oh good, thank you. You've heard the public testimony and neighborhood association comments.

MELLIA WALKER: Mmhmm.

ZHE: You have some time to respond. Go ahead.

MELLIA WALKER: Okay, perfect. I just want to say, you know, thank you to everyone for their opinions on both sides. I, I mean we appreciate it, we respect it, we understand where everyone is coming from. I understand you know, where everyone is coming from but I just want to kind of address a few things as far as, some of the more recent things that were just said, like to setback. When it comes to the setback, from what I'm reading in the IDO, technically our fence being zoned MX-T could be at the street line. The 5-foot setback was given as a courtesy, that was done for the appeal, for the view, because it just looks so, it looks better because there's almost like a yard in front that's really well kept. It has railroad tires, I mean, different cactus, it's really, really well kept. So that was why the setback was done the way that it was done. Had the fence been to the sidewalk line, I mean, I think this would be like a night and day situation. It - - with that height being to the sidewalk line, I could definitely see you know, opposition but being that it's set so far back, I mean, I just really don't, I don't think that the setback is an issue according to the IDO. And, one thing that was mentioned, I just have to respond to, it, it's not that we want a fortress. It's - - that's not the case at all. I mean, if that was the case, if we wanted to just be blocked in and not deal with anybody, it, it would've been done years and years ago. This was something that came from necessity. If - - And I - - There's not one or two other properties that are zoned MX-T that are used for residential. There are actually from the overlay that I received from the City, I only see four properties in the Silver here, business district that are zoned the same and are used for residential purpose not business purposes. So, that is unique and if we refer back to the Land Hearing Officer and the evidence that was presented with that hearing and during that hearing, I mean, it does establish a special circumstance and I know that was a question that you know, that a lot of people had or the neighborhood association or whatever the case; but everything that was questioned in the IDO, as far as the appeal and all the documents, I have addressed every, every issue and every issue was - - is in compliance. Let's say, every issue that was brought up according to the IDO is in compliance. So, if we're asking to go based on the IDO, then we have met the requirements. The only real issue that I could see that I think is, is open to interpretation and it's really opinion, I think just because there are no

other vinyl fences does not necessarily make it bad. I think being different is kind of getting a bad rap just because something is different does not necessarily make it bad. I could see if it was different and it was like really shotty work, thrown together, just kind of something that was erected just to be a barrier then, I could kind of you know, understand that but it was, it's really nice. It's really, really nice and according to the IDO, as far as eyes from the street, it states 5%, it's not 50% and we have met and exceeded. So, the only issue that I see, are the material and like I said the material is different but different is not necessarily bad and the eyes from the street. And, in the pictures that I have submitted, in the appeal, in the evidence and the stuff that I've submitted, if you look over that stuff, I really think that you will have a better understanding of the situation as a whole. Thank you.

ZHE: Thank you, Ms. Walker. All right, well, I'd like to thank you for your, all of the information and testimony that you brought and I'd like to thank all of the participants as well and all of you for your civility and talking through this, it's very helpful and I have my work cut out for me. I'm gonna do my best to apply all of the evidence to the rules. Apply the rules to the evidence and, and make a decision as best I can. So, with that, we'll go ahead and close the record an agenda item 2 and I'll take it all under consideration and issue the written decision in 15 days. Thank you all very much. Thank, thank you Ms. Walker.



ZONING HEARING EXAMINER'S AGENDA

TUESDAY, April 20, 2021 9:00 A.M.

Join Zoom Meeting

<https://cabq.zoom.us/j/7044490999>

Meeting ID: 704 449 0999

One tap mobile

+16699006833,,7044490999# US (San Jose)

+12532158782,,7044490999# US (Tacoma)

Dial by your location

+1 669 900 6833 US (San Jose)

+1 253 215 8782 US (Tacoma)

+1 346 248 7799 US (Houston)

+1 646 558 8656 US (New York)

+1 301 715 8592 US (Germantown)

+1 312 626 6799 US (Chicago)

Meeting ID: 704 449 0999

Find your local number: <https://cabq.zoom.us/u/a2s7T1dnA>

Robert Lucero, Esq., Zoning Hearing Examiner

Lorena Patten-Quintana, ZHE Planner

Suzie Sanchez, ZHE Administrative Assistant

For Inquiries Regarding This Agenda, Please Call The Planning Dept. at (505) 924-3894.

PLEASE ADDRESS ALL CORRESPONDENCE TO:

Robert Lucero, Esq., Zoning Hearing Examiner at suzannasanchez@cabq.gov

NOTICE TO PEOPLE WITH DISABILITIES: If you have a disability and you require special assistance to participate in this hearing, please contact Planning Information at (505) 924-3860.

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INTERPRETER NEEDED:

- | | | |
|------------------|--------------------------------|--|
| 1. VA-2021-00046 | Project#
PR-2021-
005138 | Samuel Martinez and Maria Cholico request a Permit-Wall or Fence Major for Lot 163, Rio Grande Heights Addn, located at 518 57 th ST SW, zoned R-1C [Section 14-16-5-7-D] |
|------------------|--------------------------------|--|

OLD BUSINESS:

- | | | |
|------------------|--------------------------------|--|
| 2. VA-2020-00379 | Project#
PR-2020-
004657 | Gary F. Hoffman requests a variance of 3 feet to the 3 foot maximum wall height for Lot 1, Block 39, University Heights, located at 202 Richmond DR SE, zoned MX-T [Section 14-16-5-7-D] |
|------------------|--------------------------------|--|

NEW BUSINESS:

- | | | | |
|-----|---------------|----------------------------|---|
| 3. | VA-2021-00043 | Project#
PR-2021-005096 | James Love and Deana Mercer request a Permit-Wall or Fence-Major for Lot 6, Block 2, Sunrise Call Addn Unit 2, located at 823 Girard Blvd NE, zoned R-1B [Section 14-16-5-7-D] |
| 4. | VA-2021-00048 | Project#
PR-2021-005143 | Christopher M Montoya (Agent, Paul Luce) requests a variance of 5ft to the 15ft required front yard setback for Lot 1, Block 34, Bel Air, located at 2845 Washington St NE, zoned R-1C [Section 14-16-5-1] |
| 5. | VA-2021-00049 | Project#
PR-2021-005147 | Valentine Garcia requests a Permit-Wall or Fence Major for Lot 6, Block A, Kirtland Addn Unit 2, located at 1609 Gerald Ave SE, zoned R-1B [Section 14-16-5-7-D] |
| 6. | VA-2021-00052 | Project#
PR-2021-005151 | Donald Harville (Agent, RSDGP, LLC) requests a conditional use to allow for alcohol sales within 500 feet of a residential zone for Lot D1, Paradise Heights Unit 1, located at 10850 Golf Course Road RD NW, zoned MX-M [Section 14-16-4-3-(D)(38)(c)] |
| 7. | VA-2021-00053 | Project#
PR-2021-005157 | Jeremy Olguin (Agent, Reggie Olguin) requests a Permit-Wall or Fence-Major for Lot 2, Block D, Ceilo Dorado, located at 7505 Elderwood DR NW, zoned R-1B [Section 14-16-5-7-D] |
| 8. | VA-2021-00054 | Project#
PR-2021-005169 | Brittany Love (Agent, Teresa King) requests a variance of 5 feet to the required 10 foot front yard setback for Lot 266-A, MRGCD Map 38, located at 2311 Hollywood Ave NW, zoned R-1A [Section 14-16-2-3(B)] |
| 9. | VA-2021-00055 | Project#
PR-2021-005169 | Brittany Love (Agent, Teresa King) requests a variance of 5 feet to the required 10 feet rear yard setback for Lot 266-A, MRGCD Map 38, located at 2311 Hollywood Ave NW, zoned R-1A [Section 14-16-2-3(B)] |
| 10. | VA-2021-00056 | Project#
PR-2021-005170 | Duncan Allard (Agent, Gilbert Austin) requests a permit to allow a carport within the front/side setback for Lot 5, Block 12, Monterey Hills Addn, located at 615 Carlisle Blvd SE, zoned R-1C [Section 14-16-5-5-F-2] |
| 11. | VA-2021-00057 | Project#
PR-2021-005172 | Miguel Martinez requests a Permit-Wall or Fence Major for Lot 1, J M Moore Realty Co Addn No 1, located at 1248 8 TH ST NW, zoned R-1A [Section 14-16-5-7-D] |
| 12. | VA-2021-00058 | Project#
PR-2021-005172 | Miguel Martinez requests a Permit-Wall or Fence Major for Lot 2, J M Moore Realty Co Addn No 1, located at 1248 8 TH ST NW, zoned R-1A [Section 14-16-5-7-D] |
| 13. | VA-2021-00060 | Project#
PR-2021-005173 | Juan Gabriel Medrano (Agent, Ed Mader) requests a variance to allow a carport closer than 3 feet from property line for Lot 14, Block 4, Crestview Heights Unit 1, located at 12452 Morrow Ave NE, zoned R-1C [Section 14-16-5-5-F-2] |
| 14. | VA-2021-00063 | Project#
PR-2021-005182 | Richard Galko (Agent, Gilbert Austin) requests a permit-carport for Lot 21, Block 2, El Rancho Atrisco Unit 3, located at 2512 Los Compadres NW, zoned R-1 [Section 14-16-5-5-F-2] |

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|-----|---------------|--------------------------------|--|
| 15. | VA-2021-00064 | Project#
PR-2021-
005183 | Tyler Smith (Agent, Paul Chavez) requests a variance of 7 ft 6 inches to the required 15 ft side yard setback for Lot 11, Block 5, Volcano Cliffs Unit 19, located at 6515 Azor LA NW, zoned R-1D [Section 14-16-3-4(N)(3)(b)] |
| 16. | VA-2021-00065 | Project#
PR-2021-
005189 | Cara Potter / Ed Rosenblum (Agent, Matthew Osofsky) requests a Permit-Wall or Fence-Major for Lot 4, Block 19, Uning Castle Addn, located at 1506 San Carlos DR SW, zoned [Section 14-16-5-7-D] |
| 17. | VA-2021-00066 | Project#
PR-2020-
004747 | 98th & I-40 Land LLC (Agent, Tierra West) requests a conditional use to allow heavy vehicle and equipment sales, rental, fueling, and repair for Lot 2, Avalon Unit 5, located at 99999 Daytona RD NW. zoned [Section 14-16- |

NOTICE OF APPEAL

May 20, 2021

TO WHOM IT MAY CONCERN:

The Planning Department received an appeal on May 18, 2021. You will receive a Notice of Hearing as to when the appeal will be heard by the **Land Use Hearing Officer**. If you have any questions regarding the appeal please contact Alfredo Ernesto Salas, Planning Administrative Assistant at (505) 924-3370.

Please refer to the enclosed excerpt from the City Council Rules of Procedure for Land Use Hearing Officer Rules of Procedure and Qualifications for any questions you may have regarding the Land Use Hearing Officer rules of procedure.

Any questions you might have regarding Land Use Hearing Officer policy or procedures that are not answered in the enclosed rules can be answered by Crystal Ortega, Clerk to the Council, (505) 768-3100.

CITY COUNCIL APPEAL NUMBER: AC-21-9
PLANNING DEPARTMENT CASE FILE NUMBER:
PR-2020-004657, VA-2020-00379, VA-2021-00147

APPLICANT: Nob Hill Neighborhood Assoc.
P.O. BOX 4875
Albuquerque NM, 87196

cc: Crystal Ortega, City Council, City county bldg. 9th floor
Kevin Morrow/Legal Department, City Hall, 4th Floor-
Gary Hoffman, Hoffmanbrad82@gmail.com
Mellia Walker, Weisbergpros.walker@gmail.com
Shani Madden, shanikm@me.com
Nob Hill Neighborhood Association, TheBoard@NobHill-NM.com
Margaret Forbes, 201 Richmond DR SE, Albuquerque, NM 87106
Michael Vos, vos@consensusplanning.com
Gary Eyster, Meyster1@me.com
John Quinn Pate, President-Southeast Heights Neighborhood Association
jpate@molzencorbin.com
Rahim Kassam, 3820 Copper NE, Albuquerque, NM 87108

Gary Hoffman
202 Richmond DR SE
Albuquerque NM 87106

Gary Hoffman
Hoffmanbrad82@gmail.com

Mellia Walker
Weisbergpros.walker@gmail.com

Gary Eyster
Meyster1@me.com

Shani Madden
shanikm@me.com

Nob Hill Neighborhood Association
TheBoard@NobHill-NM.com

John Quinn Pate, President-Southeast
Heights Neighborhood Association
jpate@molzencorbin.com

Margaret Forbes
201 Richmond DR SE
Albuquerque, NM 87106

Michael Vos
vos@consensusplanning.com

Rahim Kassam
3820 Copper NE
Albuquerque, NM 87108