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Mayor Timothy M. Keller

CITY OF ALBUQUERQUE

Albuquerque, New Mexico

Planning Department

INTER-OFFICE MEMORANDUM

March 08, 2022

TO: Isaac Benton, President, City Council

FROM: Alan Varela, Planning Director Alan Varela
Alan Varela (Mar 8, 2022 16:28 MST)

SUBJECT: AC-22-3, PR-2021-006174, VA-2022-00019, VA-2021-00390:

Robert Notary, appeals the Zoning Hearing Examiners decision to Approve a variance of 4 feet for a retaining wall in the rear yard for Lot 19A, Stonegate Village located at 4909 Oso Grande PL NE, zoned RT [Subsection 14-16-5-7(D)]

OVERVIEW

Roger Congdon, agent for property owner Jared Congdon requested a variance of 4 feet for a retaining wall in the rear yard located at 4909 Oso Grande PL NE.

The request was scheduled and heard at the December 21, 2021 Public Hearing.

January 5, 2022 the Zoning Hearing Examiner (ZHE) approved the request.

January 20, 2022 an appeal was filed by Robert Notary, owner of adjacent property at 4909 Oso Grande PI NE.

BASIS FOR APPEAL

Subsection 14-16-6-4(V)(4) outlines the applicable criteria for the appeal in determining whether the Zoning Hearing Examiner erred in its 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, followed by a bulleted, italicized response from the Planner for the ZHE. Please see the Appellant's letter and submittal packet for additional details.

1. The new wall height does not match the 12' height of the adjacent old wall section. It is three blocks higher. It presents a visual eyesore as currently constructed as this imposing wall was made significantly higher and out of character with the existing wall. IDO Table 5-7-1 indicates an 8' high maximum residential wall height. The recently constructed wall is approximately 14' in height.

2. In allowing the new wall construction, by default the removal of a perpendicular old wall section along the north property line of the subject property was removed. This is seen in the picture accompanying the original Variance approval request. The demolition of this wall left a visually deterrent end column that is seen jutting above the existing wall. It also exceeds the 12' height limit.

3. On a more functional note, the corner of the new wall did not provide a pilaster and resulted in about a 2" vertical gap. Similarly, the old wall and new wall abutment was made without a structural connection and results in a continuous vertical gap of about 1/8". Both gaps present a concern with soil transfer to our property as the soil levels on the upper subject property are raised according to the Sierra Engineering report found in the original Variance approval request.

- *All property owners within 100 feet of the subject property and the affected neighborhood association were notified.*
- *No opposition was filed prior to, or during the public hearing.*
- *Photos submitted in the appeal application are new evidence not submitted to the ZHE.*
- *The approval is for a 12' wall as illustrated in the application.*
- *Per City request, Sierra Engineering Solutions inspected the retaining wall and stated that, "the integrity of the retaining wall has not been compromised with the added 5'-4" wall extension, and accordingly, should be left in place."*
- *Based on evidence submitted into the record showing compliance with required standards, the ZHE found that the Variance-Review and Decision Criteria were met and approved the request.*

/ Lorena Patten-Quintana /

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





AC-22-3 Memo (002)

Final Audit Report

2022-03-08

Created:	2022-03-08
By:	Lucinda Montoya (lucindamontoya@cabq.gov)
Status:	Signed
Transaction ID:	CBJCHBCAABAAAd-3mjo3LWJmikJA5LObFMj3eGQErIEYw

"AC-22-3 Memo (002)" History

-  Document created by Lucinda Montoya (lucindamontoya@cabq.gov)
2022-03-08 - 10:39:47 PM GMT- IP address: 143.120.133.160
-  Document emailed to Alan Varela (avarela@cabq.gov) for signature
2022-03-08 - 10:40:06 PM GMT
-  Document e-signed by Alan Varela (avarela@cabq.gov)
E-signature obtained using URL retrieved through the Adobe Sign API
Signature Date: 2022-03-08 - 11:28:47 PM GMT - Time Source: server- IP address: 143.120.133.65
-  Agreement completed.
2022-03-08 - 11:28:47 PM GMT



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

Jared Congdon (Agent, Roger Congdon) requests a variance of 4 ft for a retaining wall in the rear yard for Lot 19A, Stonegate Village located at 4909 Oso Grande PL NE, zoned R-T [Section 14-16-5-7(D)]

Special Exception No:..... **VA-2021-00390**
Project No: **Project#2021-006174**
Hearing Date: 12-21-21
Closing of Public Record: 12-21-21
Date of Decision: 01-05-22

On the 21st day of December, 2021, Roger Congdon, agent for property owner Jared Congdon (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 4 ft for a retaining wall in the rear yard (“Application”) upon the real property located at 4909 Oso Grande PL NE (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 4 ft for a retaining wall in the rear yard.
2. The City of Albuquerque Integrated Development Ordinance, Section 14-16-6-6(O)(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 bears the burden of providing a sound justification for the requested decision, based on substantial evidence, pursuant to IDO Section 14-16-6-4(E)(3).
4. The applicant bears the burden of showing compliance with required standards through analysis, illustrations, or other exhibits as necessary, pursuant to IDO Section 14-16-6-4(E)(4).
5. Agent and 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 R-T.
8. 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). Specifically, Applicant testified and provided written evidence that, the Subject Property has special circumstances because of its location and topography, which give rise to the need for this request. These special circumstances create an extraordinary hardship in the form of a substantial and unjustified limitation on the reasonable use or return on the Subject Property, because compliance with the minimum standards would not allow for the reasonably proposed use that otherwise would be in compliance with the IDO
9. 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). Specifically, evidence was submitted supporting that, if granted approval, the Applicant intends to construct the proposed project in a manner that is consistent with the IDO and the Development Process Manual (DPM).
10. 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). Specifically, the proposal is designed to be in harmony and consistency with what currently exists in the neighborhood, which was supported by written evidence and oral testimony. Photographs were submitted showing the neighborhood. The proposal would not be out of character with the surrounding area, but rather would reinforce the architectural character of the neighborhood by being in harmony with the other improvements existing and proposed for the Subject Property and the area.
11. 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). Specifically, Applicant presented evidence that the intent of IDO will still be met in that the subject site will be in harmony with existing uses and the proposed variance would merely add to the safety and usability of the site.
12. 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 variance would be ineffective to provide for the usability of the site. Thus, the applicant is not requesting more than what is minimally necessary for a variance.
13. City Transportation submitted a report stating no objection.
14. The proper "Notice of Hearing" signage was posted for the required time period as required by Section 14-16-6-4(K)(3).
15. The Applicant has authority to pursue this Application.

DECISION:

APPROVAL of a variance of 4 ft for a retaining wall in the rear yard.

APPEAL:

If you wish to appeal this decision, you must do so by January 20, 2022 pursuant to Section 14-16-6-4(V), 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.

A handwritten signature in dark ink, appearing to read "Robert Lucero", written in a cursive style.

Robert Lucero, Esq.
Zoning Hearing Examiner

cc:

ZHE File
Zoning Enforcement
Roger Congdon, rcon6004@msn.com



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: Robert Notary		Phone: 505 615-4875
Address: 4920 Oso Grande Ct NE		Email: robert.notary@gmail.com
City: Albuquerque	State: NM	Zip: 87111
Professional/Agent (if any):		Phone:
Address:		Email:
City:	State:	Zip:
Proprietary Interest in Site: Owner of adjacent property		List <u>all</u> owners: Robert Notary, Yelena Smagley

BRIEF DESCRIPTION OF REQUEST

Appeal of Variance of 4' retaining wall at 4909 Oso Grande PI NE. See attached.

SITE INFORMATION (Accuracy of the existing legal description is crucial! Attach a separate sheet if necessary.)

Lot or Tract No.: 19A	Block:	Unit:
Subdivision/Addition: STONEGATE VILLAGE	MRGCD Map No.:	UPC Code:
Zone Atlas Page(s):	Existing Zoning: R-T	Proposed Zoning:
# of Existing Lots:	# of Proposed Lots:	Total Area of Site (acres):

LOCATION OF PROPERTY BY STREETS

Site Address/Street: 4909 Oso Grande PI NE	Between: Eubank/Osuna	and:
--	-----------------------	------

CASE HISTORY (List any current or prior project and case number(s) that may be relevant to your request.)

Signature: <i>Robert Notary</i>	Date: 1/20/2022
Printed Name: Robert Notary	<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: 2021-006174

___ Application number of the case being appealed, if applicable: VA-2021-00390

___ Type of decision being appealed: Variance of 4' for a retaining wall

___ Letter of authorization from the appellant if appeal is submitted by an agent N/A

___ Appellant's basis of standing in accordance with IDO Section 14-16-6-4(U)(2) Adjacent Property Owner

___ 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) See 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: Robert Notary

Date: 1/20/2022

Printed Name: Robert Notary

☒ Applicant or ☐ Agent

FOR OFFICIAL USE ONLY

Case Numbers:

Project Number:

Staff Signature:

Date:



Appeal of Variance of 4' for a retaining wall – 4909 Oso Grande Pl. NE

Appellant: Robert Notary

Project Number: 2021-006174

Special Exemption Number: VA -2021 -00390

Decision Being Appeals: City of Albuquerque Zoning Hearing Examiner Decision dated January 5, 2022 regarding a Variance of 4' for a retaining wall at the rear of the property located at 4909 Oso Grande Pl NE

Appellant's Standing:

- a) Appellant Robert Notary is an Owner of an adjacent property located within 330 feet of the subject property -Section 14-16-6-4 (V)(2)(a)(5) of the City of Albuquerque Integrated Development Ordinance (IDO).
- b) Appellant's property rights and/or other legal rights have been specially and adversely affected by the decision – IDO Section 14-16-6-4 (V)(2)(a)(4)

Appellant's Basis for the Appeal:

I am the owner of the property at 4920 Oso Grande Ct. NE which is immediately behind the subject property and west of the section of new wall. It needs to be first pointed out that the subject wall has been constructed for more than six months. I have several concerns about the manner in which the wall was constructed, some aesthetic and some functional.

Please recognize that from my property the existing 12-foot wall is the prominent view and also poses a significant risk in the event of failure. I've attached pictures to demonstrate each point of concern as related to the west wall portion recently constructed:

1. The new wall height does not match the 12' height of the adjacent old wall section. As you can see from the picture, it is three blocks higher. It presents a visual eyesore as currently constructed as this imposing wall was made significantly higher and out of character with the existing wall. IDO Table 5-7-1 indicates an 8' high maximum residential wall height. The recently constructed wall is approximately 14' in height.



5-7(D) MAXIMUM WALL HEIGHT

5-7(D)(1) Maximum Wall Height Table

Unless specified otherwise in Subsection 14-16-5-7(D)(3) (Exceptions to Maximum Wall Height) or elsewhere in this IDO, walls shall comply with the height standards in Table 5-7-1.

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)
^[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.					

- In allowing the new wall construction, by default the removal of a perpendicular old wall section along the north property line of the subject property was removed. This is seen in the picture accompanying the original Variance approval request. The demolition of this wall left a visually deterrent end column that is seen jutting above the existing wall. It also exceeds the 12' height limit. This is marked as Item 2 in the picture above.
- On a more functional note, the corner of the new wall did not provide a pilaster and resulted in about a 2" vertical gap. This can be seen in the picture below taken from the north end of the new wall. Similarly, the old wall and new wall abutment was made without a structural connection and results in a continuous vertical gap of about 1/8". Both gaps present a concern with soil transfer to our property as the soil

levels on the upper subject property are raised according to the Sierra Engineering report found in the original Variance approval request.



On an administrative note, I apologize for having to bring this matter up as an appeal. However, attempts to resolve this matter with email and voice messages sent to the Agent have not been responded to. This appears to be the only course of action remaining to protect against the adverse effects of the subject wall.

Respectfully submitted this 20th day of January 2022 by Robert Notary.

Robert Notary

Robert Notary



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

Jared Congdon (Agent, Roger Congdon) requests a variance of 4 ft for a retaining wall in the rear yard for Lot 19A, Stonegate Village located at 4909 Oso Grande PL NE, zoned R-T [Section 14-16-5-7(D)]

Special Exception No:..... **VA-2021-00390**
Project No: **Project#2021-006174**
Hearing Date: 12-21-21
Closing of Public Record: 12-21-21
Date of Decision: 01-05-22

On the 21st day of December, 2021, Roger Congdon, agent for property owner Jared Congdon (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 4 ft for a retaining wall in the rear yard (“Application”) upon the real property located at 4909 Oso Grande PL NE (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 4 ft for a retaining wall in the rear yard.
2. The City of Albuquerque Integrated Development Ordinance, Section 14-16-6-6(O)(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 bears the burden of providing a sound justification for the requested decision, based on substantial evidence, pursuant to IDO Section 14-16-6-4(E)(3).
4. The applicant bears the burden of showing compliance with required standards through analysis, illustrations, or other exhibits as necessary, pursuant to IDO Section 14-16-6-4(E)(4).
5. Agent and 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 R-T.
8. 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). Specifically, Applicant testified and provided written evidence that, the Subject Property has special circumstances because of its location and topography, which give rise to the need for this request. These special circumstances create an extraordinary hardship in the form of a substantial and unjustified limitation on the reasonable use or return on the Subject Property, because compliance with the minimum standards would not allow for the reasonably proposed use that otherwise would be in compliance with the IDO
9. 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). Specifically, evidence was submitted supporting that, if granted approval, the Applicant intends to construct the proposed project in a manner that is consistent with the IDO and the Development Process Manual (DPM).
10. 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). Specifically, the proposal is designed to be in harmony and consistency with what currently exists in the neighborhood, which was supported by written evidence and oral testimony. Photographs were submitted showing the neighborhood. The proposal would not be out of character with the surrounding area, but rather would reinforce the architectural character of the neighborhood by being in harmony with the other improvements existing and proposed for the Subject Property and the area.
11. 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). Specifically, Applicant presented evidence that the intent of IDO will still be met in that the subject site will be in harmony with existing uses and the proposed variance would merely add to the safety and usability of the site.
12. 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 variance would be ineffective to provide for the usability of the site. Thus, the applicant is not requesting more than what is minimally necessary for a variance.
13. City Transportation submitted a report stating no objection.
14. The proper "Notice of Hearing" signage was posted for the required time period as required by Section 14-16-6-4(K)(3).
15. The Applicant has authority to pursue this Application.

DECISION:

APPROVAL of a variance of 4 ft for a retaining wall in the rear yard.

APPEAL:

If you wish to appeal this decision, you must do so by January 20, 2022 pursuant to Section 14-16-6-4(V), 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.

A handwritten signature in dark ink, appearing to read "Robert Lucero".

Robert Lucero, Esq.
Zoning Hearing Examiner

cc:

ZHE File
Zoning Enforcement
Roger Congdon, rcon6004@msn.com

REQUEST FOR SPECIAL EXCEPTION

☐ Variance ☐ Conditional Use ☐ Other Interpreter: ☐ Yes ☐ No

VA# 2021-00390 PR# 2021-006174

Date: 9/29/2021		Received By: Concetta Trujillo	
Address of Request: 4909 Oso Grande Pl.			
City: Albuquerque	State: NM	Zip: 87111	
Lot: 1	Block: 12	Zone: R-T	Map page: F-20
Subdivision: Stonegate Village		UPC# 102106100919230406	
Property Owner(s): Jared Congdon			
Mailing Address: 4909 Oso Grande Pl NE			
City: Albuquerque	State: NM	Zip: 87111	
Phone: 505-362-8421	Email: zxboomkinxz@yahoo.com		
Agent: Roger Congdon			
Mailing Address: 7309 Laster Ave NE			
City: Albuquerque	State: NM	Zip: 87109	
Phone: 505-340-9340	Email: rcon6004@msn.com		
Fee Total: \$ 214.20			

Completed Application Requirements:

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

Approved for acceptance by:	Date:	Hearing Date:
------------------------------------	--------------	----------------------

ZONING OFFICIAL USE ONLY			
Request for exception to IDO Section: 14-16- 5-7(D) Table 5-7-1			
Description of request: a VARIANCE of 4 feet for a retaining wall in the rear yard.			
<input 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 lot, including but not limited to any front, side, or rear setback area, unless otherwise prohibited by this IDO, by with Articles 14-1, 14-2, and 14-3 of ROA 1994 (Uniform Administrative Code and Technical Codes, Fire Code, and Uniform Housing Code), or by clear sight triangle requirements.
- 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, 14-2, and 14-3 of ROA 1994 (Uniform Administrative Code and Technical Codes, Fire Code, and Uniform Housing Code), or by the DPM, including but not limited to, clear sight triangle requirements or standards for alignments and easements. Walls may not encroach into 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.

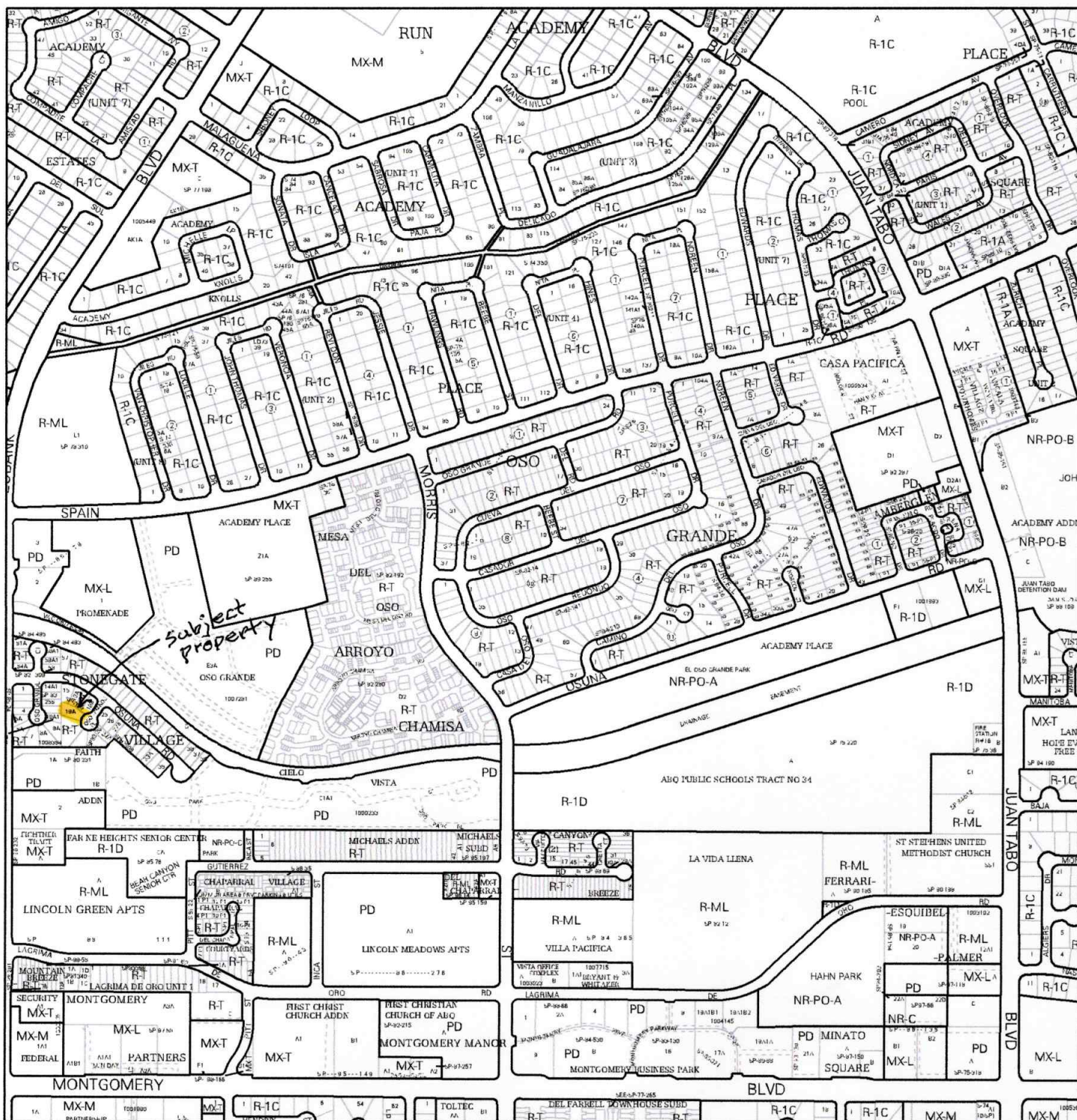
5-7(D) MAXIMUM WALL HEIGHT

5-7(D)(1) Maximum Wall Height Table

Unless specified otherwise in Subsection 14-16-5-7(D)(3) (Exceptions to Maximum Wall Height) or elsewhere in this IDO, walls shall comply with the height standards in Table 5-7-1.

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)
⁽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.					

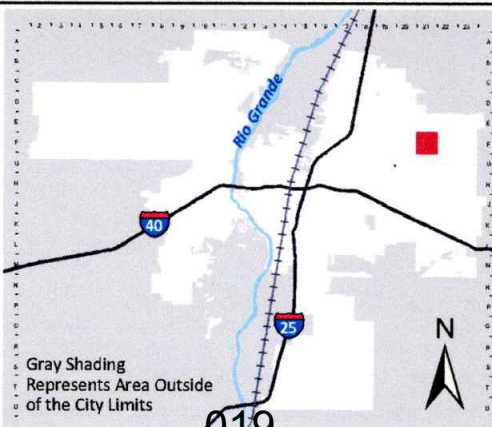


For more details about the Integrated Development Ordinance visit: <http://www.cabq.gov/planning/codes-policies-regulations/integrated-development-ordinance>

IDO Zone Atlas May 2018



IDO Zoning information as of May 17, 2018
The Zone Districts and Overlay Zones
are established by the
Integrated Development Ordinance (IDO).



Zone Atlas Page:
F-21-Z

- Easement
- Escarpment
- Petroglyph National Monument
- Areas Outside of City Limits
- Airport Protection Overlay (APO) Zone
- Character Protection Overlay (CPO) Zone
- Historic Protection Overlay (HPO) Zone
- View Protection Overlay (VPO) Zone

0 250 500 1,000 Feet

Letter of Authorization

To: Zoning Hearing Examiner

Date: 10/28/21

Project # _____

ZHE# _____

I, Jared Congdon hereby authorize Roger Congdon to act on my behalf in all matters relating to this application for Special Exception filed for my property located at 4909 Oso Grande Pl NE ABQ, NM 87107.

Property Owner(s)* (Applicant) Printed Name Jared Congdon

Property Owner(s)* (Applicant) Signature Jared Congdon

Mailing Address 4909 Oso Grande Pl NE, Albuquerque, NM, 87111

* Where a property has more than one owner, all owners must consent in writing to the filing of the application to the maximum extent practicable. In the case that not all of the property owners have consented in writing to the application, or when the ownership status of some parties is unclear (as shown on a title abstract or title insurance commitment), the owner shall attest in writing that all of the property owners shown on a title abstract or title insurance commitment have been notified of the application in writing at their last known address as shown on the property tax records of Bernalillo County.

Sanchez, Suzanna A.

From: Sanchez, Suzanna A.
Sent: Wednesday, September 29, 2021 4:19 PM
To: zxboomkinxz@yahoo.com; rcon6004@msn.com
Subject: ZHE Information for 4909 Oso Grande PI NE
Attachments: STEPS TO APPLY FOR A SPECIAL EXCEPTION APRIL 2021.docx; 1. Letter to Neighborhood Association.pdf; VARIANCE JUSTIFICATION APRIL 2021.pdf

Importance: High

Dear Applicant,

Thank you for your request. Attached are forms and instructions to complete your application for a variance. Please pay special attention to Step 3 in the "STEPS TO APPLY" document. These materials are required for a complete submittal. Requests will not be set for a hearing or reviewed for compliance until the application submittal is complete.

1. Please fill in and forward the attached [Letter to Neighborhood Association](#) to the list of neighborhood association contacts below. Per Section 14-16-6-4(C)(3) of the Integrated Development Ordinance, a meeting request must be sent to the 2 representatives of all applicable Neighborhood Associations via Certified Mail, return receipt requested, or via email. (Please include project information such as renderings, a site plan and/or a photo in the notice).

Association Name	First Name	Last Name	Email	Address Line 1
District 8 Coalition of Neighborhood Associations	Donald	Couchman	dhc@zianet.com	6441 Concordia Road NE
District 8 Coalition of Neighborhood Associations	Mary Ann	Dix	dix.mary.ann@gmail.com	11312 Malguena Lane NE

Please forward me the items below at your earliest convenience.

-Justification letter

-Photo

-Site Plan

If you have questions, please contact me.

Thank you,

Suzie Sanchez



SUZIE SANCHEZ

zhe administrative assistant

o 505.924.3894

Sanchez, Suzanna A.

From: R CONGDON <rcon6004@msn.com>
Sent: Friday, October 01, 2021 8:47 AM
To: dhc@zianet.com; dix.mary.ann@gmail.com
Cc: Sanchez, Suzanna A.
Subject: Notice of wall building project near your associations
Attachments: Variance_application_package.pdf

Attached are the details for addition of 43 feet of concrete block wall, installed on 4909 Oso Grande Pl.

Roger Congdon

REQUEST FOR NEIGHBORHOOD MEETING

Date: 9/30/2021

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 Two segments of concrete block wall, 4.3 feet total; 5'4" high on the uphill side, 12' on the downhill side (summary of request).

Property owner Jared Congdon
Agent if applicable Roger Congdon
Property Address 34909 Oso Grande Pl. NE, Albuquerque, NM, 87111 (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 Roger Congdon
Email rcon6004@msn.com
Phone Number 505-340-9340

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.

[Note: Items with an asterisk (*) are required.]

**Neighborhood Meeting Request
for a Proposed Project in the City of Albuquerque**

Date of Request*: 9/30/2021

This request for a Neighborhood Meeting for a proposed project is provided as required by Integrated Development Ordinance (IDO) [Subsection 14-16-6-4\(K\) Public Notice](#) to:

Neighborhood Association (NA)*: District 8 Coalition of Neighborhood Associations

Name of NA Representative*: Donald Couchman

Email Address* or Mailing Address* of NA Representative¹: dhc@zianet.com

The application is not yet submitted. If you would like to have a Neighborhood Meeting about this proposed project, please respond to this request within 15 days.²

Email address to respond yes or no: rcon6004@msn.com

The applicant may specify a Neighborhood Meeting date that must be at least 15 days from the Date of Request above, unless you agree to an earlier date.

Meeting Date / Time / Location:

10/15/2021, 9:00 AM, Conference call

Project Information Required by [IDO Subsection 14-16-6-4\(K\)\(1\)\(a\)](#)

1. Subject Property Address* 4909 Cso Grande Pl. NE 87111
Location Description Single Family Dwelling
2. Property Owner* Jared Congdon
3. Agent/Applicant* [if applicable] Roger Congdon
4. Application(s) Type* per IDO [Table 6-1-1](#) [mark all that apply]
 - ☐ Conditional Use Approval
 - ☒ Permit 4' of block wall (Carport or Wall/Fence – Major)
 - ☐ Site Plan
 - ☐ Subdivision Stonegate Village (Minor or Major)

¹ Pursuant to [IDO Subsection 14-16-6-4\(K\)\(5\)\(a\)](#), email is sufficient if on file with the Office of Neighborhood Coordination. If no email address is on file for a particular NA representative, notice must be mailed to the mailing address on file for that representative.

² If no one replies to this request, the applicant may be submitted to the City to begin the review/decision process.

[Note: Items with an asterisk (*) are required.]

- ☐ Vacation _____ (Easement/Private Way or Public Right-of-way)
☒ Variance
☐ Waiver
☐ Zoning Map Amendment
☐ Other: _____

Summary of project/request^{3*}:

Variance request for 43 Feet of
retaining and privacy block wall

5. This type of application will be decided by^{*}: ☐ City Staff
OR at a public meeting or hearing by:
☐ Zoning Hearing Examiner (ZHE) ☐ Development Review Board (DRB)
☐ Landmarks Commission (LC) ☐ Environmental Planning Commission (EPC)
☐ City Council

6. Where more information about the project can be found^{4*}:

Engineering plans (attached)

Project Information Required for Mail/Email Notice by [IDO Subsection 6-4\(K\)\(1\)\(b\)](#):

1. Zone Atlas Page(s)⁵ E-21-Z
2. Architectural drawings, elevations of the proposed building(s) or other illustrations of the proposed application, as relevant^{*}: Attached to notice or provided via website noted above
3. The following exceptions to IDO standards will be requested for this project^{*}:
☐ Deviation(s) ☒ Variance(s) ☐ Waiver(s)

Explanation:

For the wall location

4. An offer of a Pre-submittal Neighborhood Meeting is required by [Table 6-1-1](#)^{*}: ☐ Yes ☐ No

³ Attach additional information, as needed to explain the project/request. Note that information provided in this meeting request is conceptual and constitutes a draft intended to provide sufficient information for discussion of concerns and opportunities.

⁴ Address (mailing or email), phone number, or website to be provided by the applicant

⁵ Available online here: <http://data.cabq.gov/business/zoneatlas/>

[Note: Items with an asterisk (*) are required.]

5. **For Site Plan Applications only***, attach site plan showing, at a minimum:

- ☐ a. Location of proposed buildings and landscape areas.*
- ☐ b. Access and circulation for vehicles and pedestrians.*
- ☒ c. Maximum height of any proposed structures, with building elevations.*
- ☐ d. **For residential development***: Maximum number of proposed dwelling units.
- ☐ e. **For non-residential development***:
 - ☐ Total gross floor area of proposed project.
 - ☐ Gross floor area for each proposed use.

Additional Information:

1. From the IDO Zoning Map⁶:

- a. Area of Property [typically in acres] 0.15 acre
- b. IDO Zone District R-T
- c. Overlay Zone(s) [if applicable] N/A
- d. Center or Corridor Area [if applicable] N/A

2. Current Land Use(s) [vacant, if none] Residential

Useful Links

Integrated Development Ordinance (IDO):

<https://ido.abc-zone.com/>

IDO Interactive Map

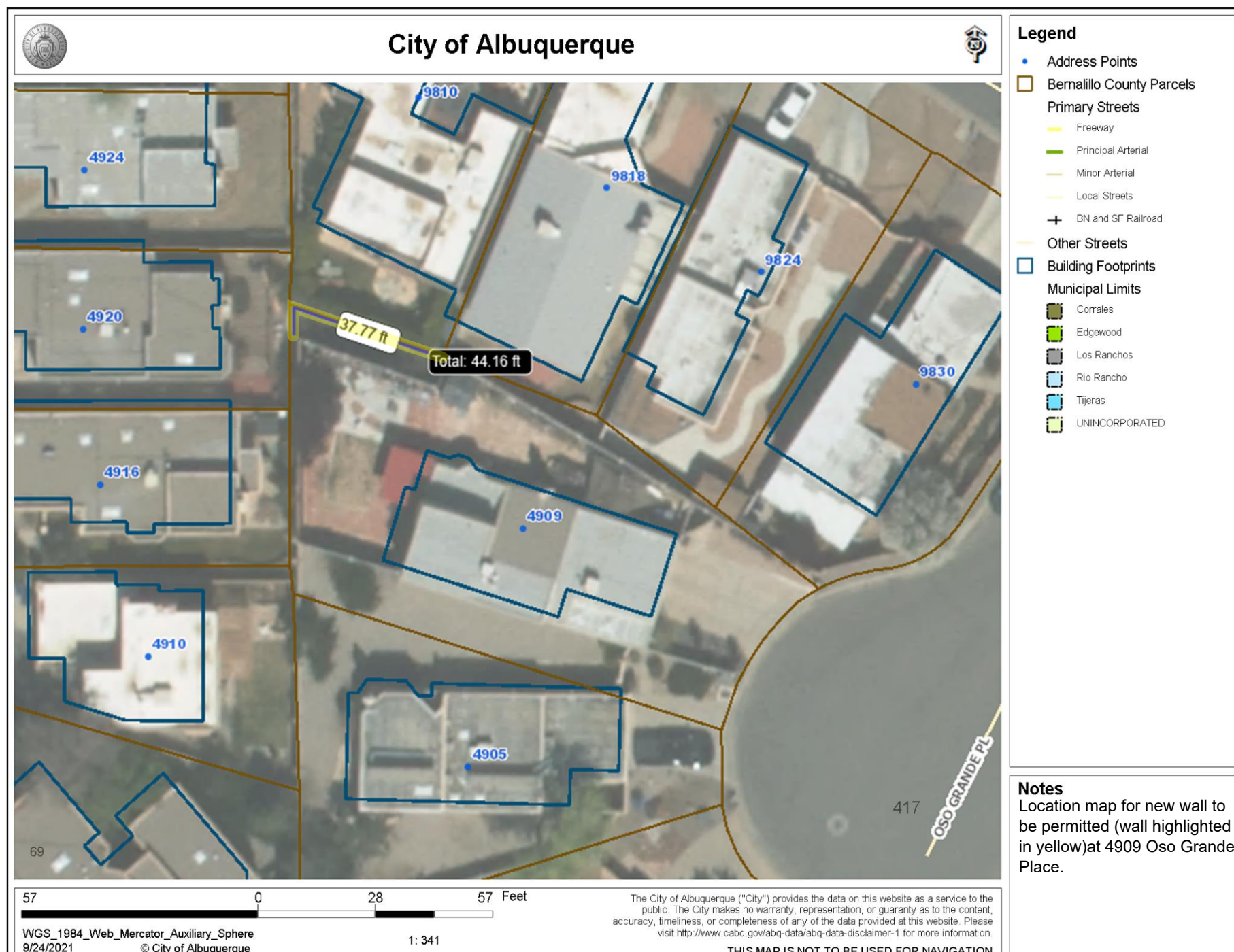
<https://tinyurl.com/IDOzoningmap>

cc: dix.mary.ann@gmail.com [Other Neighborhood Associations, if any]

⁶ Available here: <https://tinyurl.com/idozoningmap>



Figure 1 - Extended CMU Block Retaining Wall with Existing Secondary Wall





Sierra Engineering Solutions, LLC
P.O. Box 890
Ohkay Owingeh, New Mexico 87566
Ph. (505) 670-5385
Email: jrschrandt@gmail.com

21 September 2021

Jared Congdon
4909 Oso Grande Pl. NE
Albuquerque, New Mexico 87111

**RE: CONGDON RESIDENCE - EXISTING RETAINING WALL STRUCTURAL EVALUATION
RESPONSE TO NOTICE CF-2021-031250**

Dear Mr. Congdon:

Sierra Engineering Solutions (SES) inspected an existing concrete masonry unit (CMU) retaining wall at your residence located at 4909 Oso Grande Pl. NE at a site visit on 14 September 2021. The City of Albuquerque Planning Department Building Safety Division has requested a professional engineer look at the integrity of this retaining wall which was added onto this past Spring (May 2021), and accordingly, SES provides the following evaluation of the existing retaining wall structure.

The residence was constructed in 1983 as part of the Stonegate Village development. The lots in this development are typically bounded by CMU retaining walls constructed at the property lines to accommodate the grade separation and to maximize the yard areas. Existing retaining walls in the vicinity of the Congdon residence vary from 6' to 12' in height.

The existing 37' long retaining wall was originally built to a height of 4'-8" using 8"x8"x16" CMU blocks providing a vertical grade separation of approximately 3'-4" above the finish grade of the adjoining lot to the north. A secondary CMU retaining wall was constructed 6' to the south to provide a 2' high terrace (see Figure 1). This terrace space was essentially unusable to the adjoining property owner, and accordingly, you purchased this area to extend your lot northward.

In May 2021 the wall was then raised an additional 7'-4" using 3 courses of 8"x8"x16" CMU blocks and 8 courses of 6"x6"x16" blocks to provide additional privacy (see Figure 2). This extension was reinforced with ½" rebar and the cells of the CMU blocks were filled with concrete. The wall now has a 12'-0" total height, which is consistent with the height of adjacent blocks walls to the east of the extension and along the west property line.

It is our understanding you intend to fill the 6' wide x 2' terrace area with a granular gravel material to extend the yard area up to the wall. This will increase the height of the retained earth from 3'-4" up to 5'-4". This additional fill is acceptable; however, SES recommends no additional fill be placed against the free-standing (heightened) section of the wall with the 6"x6"x16" blocks.

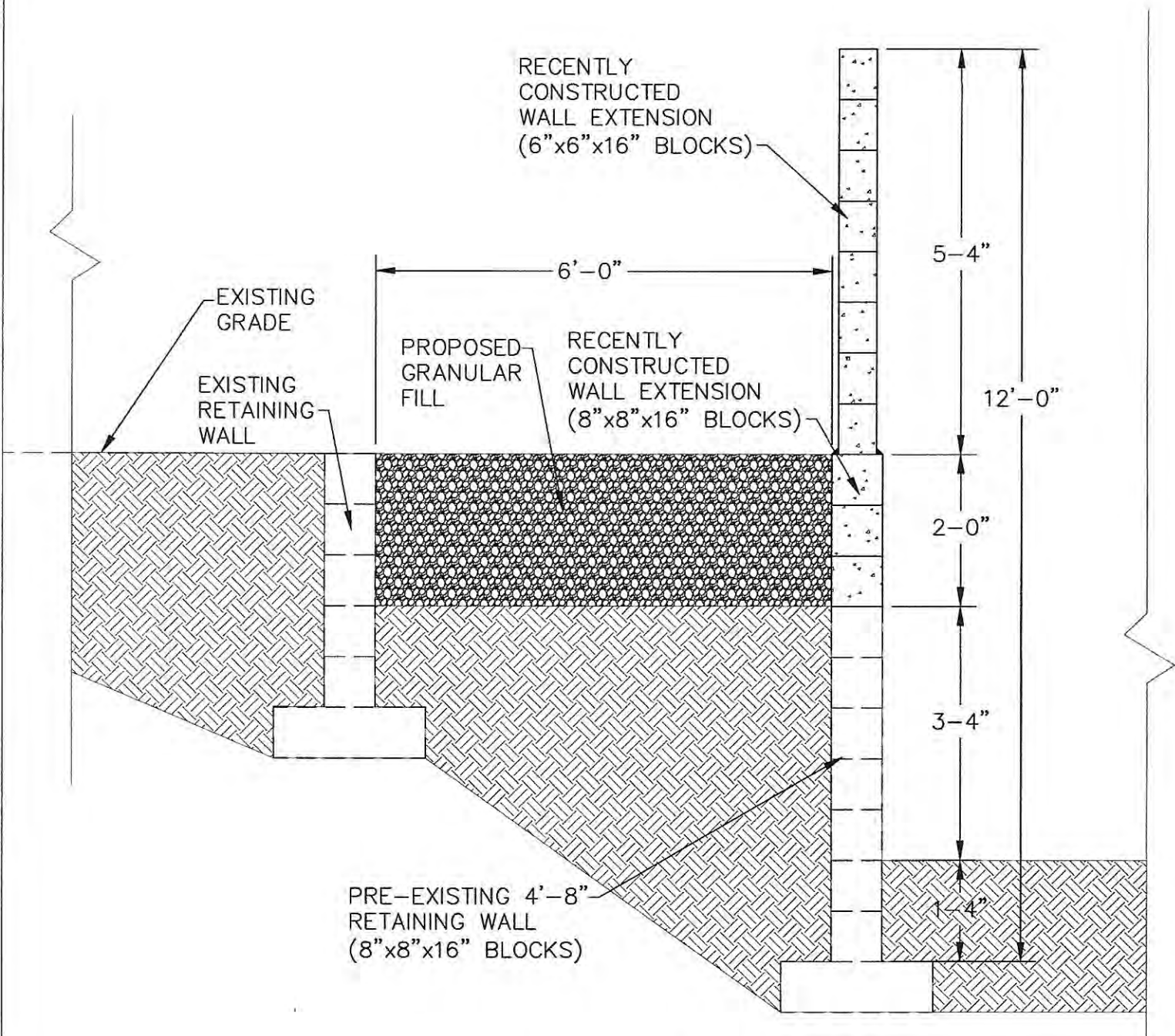


FIGURE 2 - WALL SECTION
LOOKING WEST



CONGDON RESIDENCE RETAINING WALL EVALUATION



Sierra Engineering Solutions, LLC
P.O. Box 890
Ohkay Owingeh, New Mexico 87501
(505) 670-5385

030

DATE: SEPTEMBER 2021

SCALE: 1" = 2'

SHEET NO.: 1

Based on the above information, SES believes the integrity of the retaining wall has not been compromised with the added 5'-4" wall extension, and accordingly, should be left in place. The wall is not showing any signs of movement, cracking, displacement, nor distress.

Please feel free to call me at (505) 670-5385 or email me at jrschrandt@gmail.com should you have any questions or concerns with this evaluation of the above-referenced retaining wall structure.

Respectfully yours,



John Schrandt, P.E.
Sierra Engineering Solutions



VARIANCE JUSTIFICATION LETTER - GENERAL

Zoning Hearing Examiner
City of Albuquerque
600 2nd Street NW, 3rd Floor
Albuquerque, NM 87102

RE: Request for Variance of cement block wall, 43 ft long in
two sections, NW corner of property
at 4909 Iso Grande Pl. NE; S7111 (address of the subject property).

1) There are special circumstances applicable to a single lot that are not self-imposed and that do not apply generally to other property in the same zone district and vicinity, including but not limited to size, shape, topography, location, surroundings, physical characteristics, natural forces, or by government actions for which no compensation was paid. Such special circumstances of the lot either create an extraordinary hardship in the form of a substantial and unjustified limitation on the reasonable use or economic return on the property, or practical difficulties result from strict compliance with the minimum standards. **PLEASE EXPLAIN:**

2) The Variance will not be materially contrary to the public safety, health, or welfare **BECAUSE:**
The foundations for these wall segments were
already in place, at property grade level.

3) The Variance does not cause significant material adverse impacts on surrounding properties or infrastructure improvements in the vicinity **BECAUSE:** There is no increase
in the property footprint.

4) The Variance will not materially undermine the intent and purpose of this IDO or the applicable zone district **BECAUSE:**

There are many similar walls in nearby
neighborhood properties

5) The Variance approved is the minimum necessary to avoid extraordinary hardship or practical difficulties **BECAUSE:**

The fence affords 5'4" of privacy
screening and safety between the subject
property and the neighbors, who are lower in elevation

Signature Roger Congdon

Date 9/30/2021



CITY OF ALBUQUERQUE INVOICE

ROGER CONGDON

7309 LASTER AVE NE

Reference NO: VA-2021-00390

Customer NO: CU-147678740

Date	Description	Amount
10/27/21	2% Technology Fee	\$4.20
10/27/21	Application Fee	\$100.00
10/27/21	Facilitated Meeting Fee	\$50.00
10/27/21	Posted Sign Fee	\$10.00
10/27/21	Published Notice Fee	\$50.00

Due Date: **10/27/21**

Total due for this invoice:

\$214.20

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: 10/27/21

Amount Due: **\$214.20**

Reference NO: VA-2021-00390

Payment Code: 130

Customer NO: CU-147678740

ROGER CONGDON
7309 LASTER AVE NE
ALBUQUERQUE, NM 87109



130 0000VA20210039000102546714767873200000000000002142CU147678740

City of Albuquerque ZHE – December 21, 2021

Agenda Item #14

VA-2021-00390

PR-2021-006174

Jared Congdon (Agent, Roger Congdon) requests a variance of 4 ft for a retaining wall in the rear yard for Lot 19A, Stonegate Village located at 4909 Oso Grande PL NE, zoned R-T [Section 14-16-5-7(D)]

Ownership: Owner: CONGDON JARED & CHEN ZHE

Zone District/Purpose: R-T/The purpose of the R-T zone district is to accommodate a mix of single-family, two-family, and townhouse residential developments, as well as limited civic and institutional uses to serve the surrounding residential area.

Allowable Use: n/a

Applicable Comp Plan Designation(s): Area of Consistency

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: 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)
<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>					

5-7(F)(1)(a) Retaining walls shall have a maximum height as specified in Section 14-16-5-7(D) (Maximum Wall Height) unless a higher wall is approved by the City Engineer as necessary on a particular lot.

5-7(F)(1)(b) Retaining walls higher than 6 feet tall shall be terraced to minimize visual impacts on residents, neighboring properties, and the public realm. Terracing shall be limited to 3 tiers.

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.



CITY OF ALBUQUERQUE
PLANNING DEPARTMENT
INTER-OFFICE MEMORANDUM

December 8, 2021

To: Lorena Patten-Quintana, ZHE Planner

From: Matt Grush, P.E. Senior Engineer

Subject: COMMENTS FOR THE ZHE HEARING OF December 21, 2021

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

VA-2021-00390

PR-2021-006174

Address: 4909 Oso Grande PI NE

Transportation Review: No objections

After review of the provided application, Transportation has no objection to the request for a VARIANCE of 4 feet for a retaining wall in the rear yard.

Sanchez, Suzanna A.

From: R CONGDON <rcon6004@msn.com>
Sent: Wednesday, December 08, 2021 2:01 PM
To: Sanchez, Suzanna A.
Subject: Re: ZHE Public Notice for 4909 Oso Grande PL NE
Attachments: Photo Dec 07, 5 07 10 PM.jpg; Photo Dec 07, 5 07 43 PM.jpg; Photo Dec 07, 5 08 15 PM.jpg; Photo Dec 07, 5 08 47 PM.jpg; Photo Dec 07, 5 06 42 PM.jpg

Suzanna, here is the proof of my notices (see attached).

Roger Congdon for Jared Congdon

On 11/17/2021 1:49 PM, Sanchez, Suzanna A. wrote:

Dear Applicant,

Below is a list of property owners within 100+ feet of the subject property. Please fill in and 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	Complete Owner Address
CRISLER CHARLES T & REBECCA A	9830 OSUNA RD NE ALBUQUERQUE NM 87111
GLEN MARYANN T	4900 OSO GRANDE PL NE ALBUQUERQUE NM 87111
FRIEND HOLLY D	4928 OSO GRANDE CT NE ALBUQUERQUE NM 87111
MASTERSON TRAVIS M & STOLZ JAMES C & MASTERSON-STOLZ TRACEY	9824 OSUNA RD NE ALBUQUERQUE NM 87111
HUGHES YOKO S	4901 OSO GRANDE PL NE ALBUQUERQUE NM 87111
RIDGEWAY CALVIN A	11210 ELENA DR NE ALBUQUERQUE NM 87122
HAYDEN ROBERT H	4908 OSO GRANDE PL NE ALBUQUERQUE NM 87111
MA TENG	9810 OSUNA RD NE ALBUQUERQUE NM 87111
HAYNE VALERIE J	5236 CHESAPEAKE RD NW ALBUQUERQUE NM 87104
SMITH JAMES D TR SMITH RVT	9818 OSUNA RD NE ALBUQUERQUE NM 87111
SPEER BETTY SUE	4924 OSO GRANDE CT NE ALBUQUERQUE NM 87111
ENCHANTMENT MANAGEMENT	9906 OSUNA RD NE ALBUQUERQUE NM 87111
CONGDON JARED & CHEN ZHE	4909 OSO GRANDE PL NE ALBUQUERQUE NM 87111
EBIA JON	9900 OSUNA RD NE ALBUQUERQUE NM 87111
HOWARD NICKETTI C	4916 OSO GRANDE CT NE ALBUQUERQUE NM 87111
MADDEN-KRALL LEE H & PAMELA	4904 OSO GRANDE PL NE ALBUQUERQUE NM 87111
SUSTAINABLE BUILDING SOLUTIONS	PO BOX 90172 ALBUQUERQUE NM 87199-0172
BRODERICK KIMBERLY ADAMS	4900 OSO GRANDE CT NE ALBUQUERQUE NM 87111
MERRELL LINDA G & BRODERICK KIMBERLY A	4904 OSO GRANDE CT NE ALBUQUERQUE NM 87111

Please forward me a copy of the letter and proof of notice by **Wednesday, December 15th.**

Lack of notice may result in a deferral.

Thank you,

Suzie



SUZIE SANCHEZ-FLORES

zhe administrative assistant

o 505.924.3894

e suzannasanchez@cabq.gov

cabq.gov/planning

Public Notice of Hearing

Date: _____

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 40' long, 7'4" high block wall extension (summary of request).

Property owner: Jared Congdon

Agent (If applicable): Roger Congdon

Property Address: 4909 Os Grande Pl, Albuquerque, NM, 87111 (zip code).

A hearing will be held on December 21, 2021 beginning at 9:00AM via ZOOM. Please call 505- 924-3894 for details and updates regarding an in-person hearing. If an in-person hearing is available, it will occur in the Plaza Del Sol Hearing Room at 600 2ND Street NW-Basement Level.

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)

Find your local number: <https://cabq.zoom.us/j/7044490999>

Thank you,

Applicant's Name: Roger Congdon

Applicant's Number or Email Address: rcon6004@msn.com

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. An agenda can be found at <http://www.cabq.gov/planning/boards-commissions/zoning-hearing-examiner/zhe-agendas-action-sheets-decisions>.

**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:

Decision-making Body: Zoning Hearing Examiner

Pre-Application meeting required: ☐ Yes ☐ No

Neighborhood meeting required: ☐ Yes ☐ No

Mailed Notice required: ☒ ☐ Yes ☐ No

Electronic Mail required: ☐ Yes ☐ No ☒ X

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

PART II - DETAILS OF REQUEST

Address of property listed in application: 4909 Oso Grande Pl, ABQ NM 87111

Name of property owner: Jared Congdon

Name of applicant: Roger Congdon

Date, time, and place of public meeting or hearing, if applicable:

December 21, 2021 9:00AM via Zoom (Meeting ID# 704 449 0999)

Address, phone number, or website for additional information:

www.cabq.gov/zoninghearingexaminer or 505-924-3894

PART III - ATTACHMENTS REQUIRED WITH THIS NOTICE

☐ Zone Atlas page indicating subject property.

☐ Drawings, elevations, or other illustrations of this request.

☐ Summary of pre-submittal neighborhood meeting, if applicable. N/A

☐ Summary of request, including explanations of deviations, variances, or waivers.

**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.

Roger Congdon (Applicant signature) _____ (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.



Sierra Engineering Solutions, LLC
P.O. Box 890
Ohkay Owingeh, New Mexico 87566
Ph. (505) 670-5385
Email: jrschrandt@gmail.com

21 September 2021

Jared Congdon
4909 Oso Grande Pl. NE
Albuquerque, New Mexico 87111

**RE: CONGDON RESIDENCE - EXISTING RETAINING WALL STRUCTURAL EVALUATION
RESPONSE TO NOTICE CF-2021-031250**

Dear Mr. Congdon:

Sierra Engineering Solutions (SES) inspected an existing concrete masonry unit (CMU) retaining wall at your residence located at 4909 Oso Grande Pl. NE at a site visit on 14 September 2021. The City of Albuquerque Planning Department Building Safety Division has requested a professional engineer look at the integrity of this retaining wall which was added onto this past Spring (May 2021), and accordingly, SES provides the following evaluation of the existing retaining wall structure.

The residence was constructed in 1983 as part of the Stonegate Village development. The lots in this development are typically bounded by CMU retaining walls constructed at the property lines to accommodate the grade separation and to maximize the yard areas. Existing retaining walls in the vicinity of the Congdon residence vary from 6' to 12' in height.

The existing 37' long retaining wall was originally built to a height of 4'-8" using 8"x8"x16" CMU blocks providing a vertical grade separation of approximately 3'-4" above the finish grade of the adjoining lot to the north. A secondary CMU retaining wall was constructed 6' to the south to provide a 2' high terrace (see Figure 1). This terrace space was essentially unusable to the adjoining property owner, and accordingly, you purchased this area to extend your lot northward.

In May 2021 the wall was then raised an additional 7'-4" using 3 courses of 8"x8"x16" CMU blocks and 8 courses of 6"x6"x16" blocks to provide additional privacy (see Figure 2). This extension was reinforced with ½" rebar and the cells of the CMU blocks were filled with concrete. The wall now has a 12'-0" total height, which is consistent with the height of adjacent blocks walls to the east of the extension and along the west property line.

It is our understanding you intend to fill the 6' wide x 2' terrace area with a granular gravel material to extend the yard area up to the wall. This will increase the height of the retained earth from 3'-4" up to 5'-4". This additional fill is acceptable; however, SES recommends no additional fill be placed against the free-standing (heightened) section of the wall with the 6"x6"x16" blocks.



Figure 1 - Extended CMU Block Retaining Wall with Existing Secondary Wall

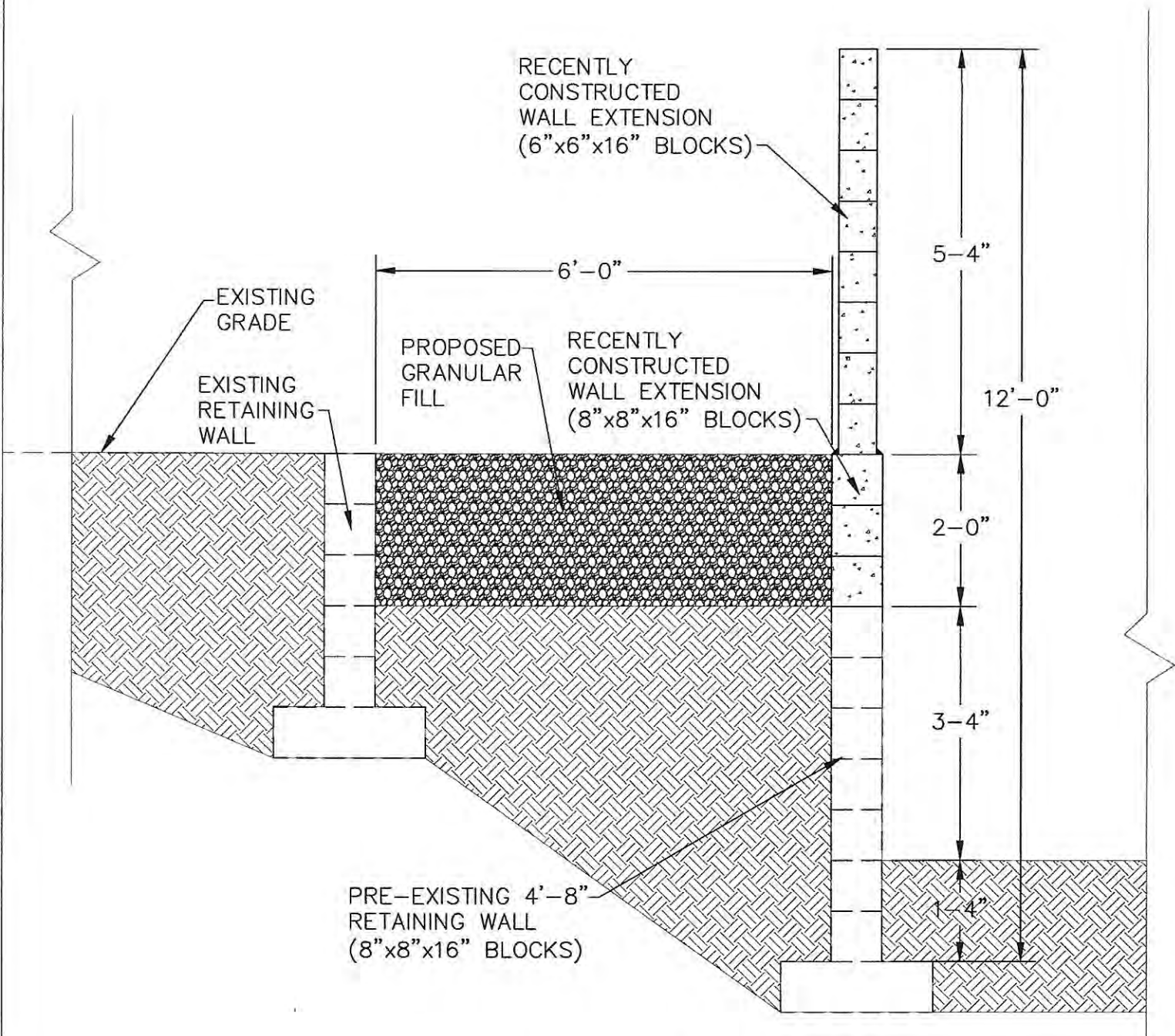


FIGURE 2 - WALL SECTION
LOOKING WEST



CONGDON RESIDENCE RETAINING WALL EVALUATION



Sierra Engineering Solutions, LLC
P.O. Box 890
Ohkay Owingeh, New Mexico 87501
(505) 670-5385

043

DATE: SEPTEMBER 2021

SCALE: 1" = 2'

SHEET NO.: 1

Based on the above information, SES believes the integrity of the retaining wall has not been compromised with the added 5'-4" wall extension, and accordingly, should be left in place. The wall is not showing any signs of movement, cracking, displacement, nor distress.

Please feel free to call me at (505) 670-5385 or email me at jrschrandt@gmail.com should you have any questions or concerns with this evaluation of the above-referenced retaining wall structure.

Respectfully yours,



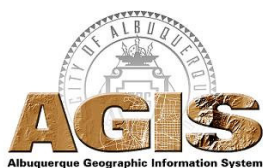
John Schrandt, P.E.
Sierra Engineering Solutions



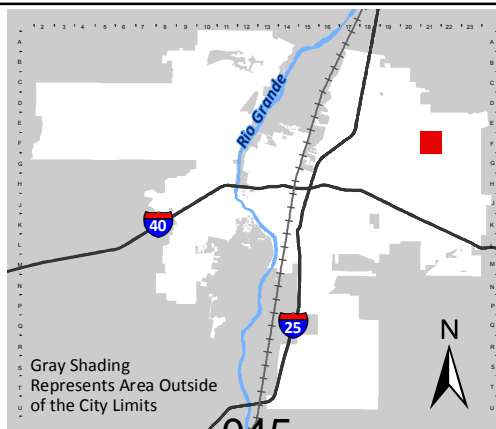


For more details about the Integrated Development Ordinance visit: <http://www.cabq.gov/planning/codes-policies-regulations/integrated-development-ordinance>

IDO Zone Atlas May 2018



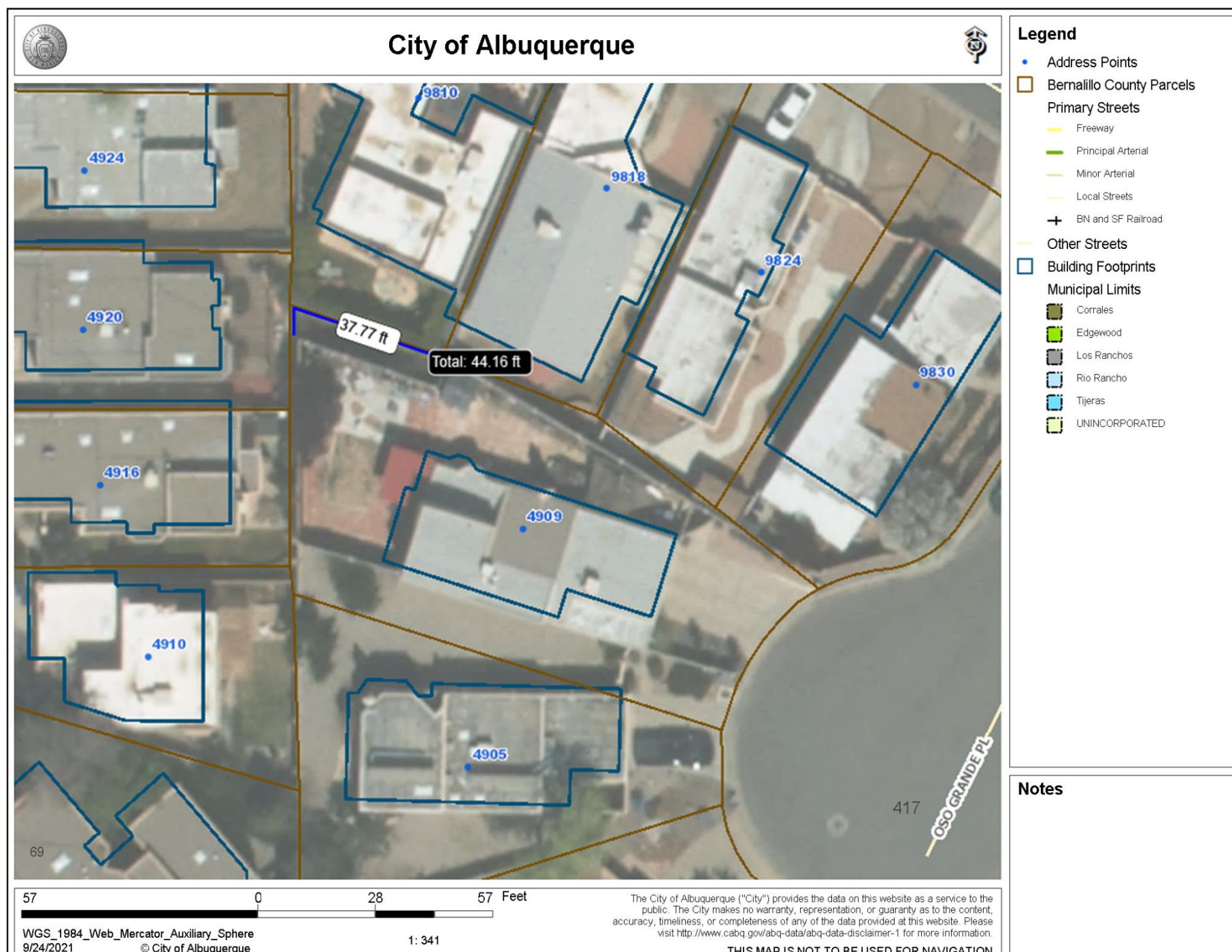
IDO Zoning information as of May 17, 2018
The Zone Districts and Overlay Zones
are established by the
Integrated Development Ordinance (IDO).



Zone Atlas Page:
F-21-Z

- Easement
- Escarpment
- Petroglyph National Monument
- Areas Outside of City Limits
- Airport Protection Overlay (APO) Zone
- Character Protection Overlay (CPO) Zone
- Historic Protection Overlay (HPO) Zone
- View Protection Overlay (VPO) Zone

0 250 500 1,000 Feet



Roger D. Congdon
7309 Laster Ave. NE
Albuquerque, NM 87109



Enchantment Management
4906 Osuna Rd NE
Albuquerque, NM 87111

Roger D. Congdon
7309 Laster Ave. NE
Albuquerque, NM 87109



Sustainable Building Solutions
PO Box 90172
Albuquerque, NM 87199-0172

Roger D. Congdon
7309 Laster Ave. NE
Albuquerque, NM 87109



Nicketti Howard
4916 Oso Grande Ct NE
Albuquerque, NM 87111-2267

Roger D. Congdon
7309 Laster Ave. NE
Albuquerque, NM 87109



Jon Ebia
9900 Osuna Rd NE
Albuquerque, NM 87111-2200

C

Roger D. Congdon
7309 Laster Ave. NE
Albuquerque, NM 87109



Valerie Hayne
5236 Chesapeake Rd NW
Albuquerque, NM 87120-4508

Roger D. Congdon
7309 Laster Ave. NE
Albuquerque, NM 87109



James D & TR Smith
9818 Osuna Rd NE
Albuquerque, NM 87111-2265

Roger D. Congdon
7309 Laster Ave. NE
Albuquerque, NM 87109



Teng Ma
9810 Osuna Rd NE
Albuquerque, NM 87111-2265

Roger D. Congdon
7309 Laster Ave. NE
Albuquerque, NM 87109



Robert Hayden
4908 Oso Grande Pl NE
Albuquerque, NM 87111

C

Roger D. Congdon
7309 Laster Ave. NE
Albuquerque, NM 87109



Calvin Ridgeway
11210 Elena Dr. NE
Albuquerque, NM 87122

C

Roger D. Congdon
7309 Laster Ave. NE
Albuquerque, NM 87109



Yoko Hughes
4901 Oso Grande Pl NE
Albuquerque, NM 87111-2269

C

Roger D. Congdon
7309 Laster Ave. NE
Albuquerque, NM 87109



Travis Masterson, James Stolz,
and Tracy Masterson-Stolz
9824 Osuna Rd NE
Albuquerque, NM 87111-2265

C

Roger D. Congdon
7309 Laster Ave. NE
Albuquerque, NM 87109



Betty Sue Speer
4924 Oso Grande Ct. NE
Albuquerque, NM 87111-2267

Roger D. Congdon
7309 Laster Ave. NE
Albuquerque, NM 87109



Jared Congdon + Chen Zhe
4909 Oso Grande Pl NE
Albuquerque, NM 87111

C

Roger D. Congdon
7309 Laster Ave. NE
Albuquerque, NM 87109



Holly D Friend
4928 Oso Grande Ct. NE
Albuquerque, NM 87111-2267

C

Roger D. Congdon
7309 Laster Ave. NE
Albuquerque, NM 87109



Maryann T. Glen
4900 Oso Grande Pl NE
Albuquerque, NM 87111-2269

C

Roger D. Congdon
7309 Laster Ave. NE
Albuquerque, NM 87109



Rebecca + Charles Crisler
9830 Osuna Rd NE
Albuquerque, NM 87111

Roger D. Congdon
7309 Laster Ave. NE
Albuquerque, NM 87109



Lee + Pamela Madden-Krall
4904 Oso Grande Pl NE 87111-2269
Albuquerque, NM 87111-2269

Roger D. Congdon
7309 Laster Ave. NE
Albuquerque, NM 87109



Linda Merrell + Kimberly Broderick
4904 Oso Grande Ct NE
Albuquerque, NM 87111-2267

Roger D. Congdon
7309 Laster Ave. NE
Albuquerque, NM 87109



Kimberly Broderick
4900 Oso Grande Ct NE
Albuquerque, NM 87111

SIGN POSTING AGREEMENT

REQUIREMENTS

POSTING SIGNS ANNOUNCING PUBLIC HEARINGS

All persons making application to the City under the requirements and procedures established by the City Zoning Code or Subdivision Ordinance are responsible for the posting and maintaining of one or more signs on the property which the application describes. 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. If the application is mailed, you must still stop at the Development Services Front Counter to pick up the sign.

The applicant is responsible for ensuring that the signs remain posted throughout the 15-day period prior to public 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 at a charge of \$3.75 each.

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

December 6 To January 20

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.

Roger Congdon
(Applicant or Agent)

11/12/2021
(Date)

I issued 1 signs for this application,

11/3/21
(Date)

Suzi Flores
(Staff Member)

PROJECT NUMBER: VA-2021-00390



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

Jared Congdon (Agent, Roger Congdon) requests a variance of 4 ft for a retaining wall in the rear yard for Lot 19A, Stonegate Village located at 4909 Oso Grande PL NE, zoned R-T [Section 14-16-5-7(D)]

Special Exception No:..... **VA-2021-00390**
Project No: **Project#2021-006174**
Hearing Date: 12-21-21
Closing of Public Record: 12-21-21
Date of Decision: 01-05-22

On the 21st day of December, 2021, Roger Congdon, agent for property owner Jared Congdon (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a variance of 4 ft for a retaining wall in the rear yard (“Application”) upon the real property located at 4909 Oso Grande PL NE (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a variance of 4 ft for a retaining wall in the rear yard.
2. The City of Albuquerque Integrated Development Ordinance, Section 14-16-6-6(O)(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 bears the burden of providing a sound justification for the requested decision, based on substantial evidence, pursuant to IDO Section 14-16-6-4(E)(3).
4. The applicant bears the burden of showing compliance with required standards through analysis, illustrations, or other exhibits as necessary, pursuant to IDO Section 14-16-6-4(E)(4).
5. Agent and 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 R-T.
8. 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). Specifically, Applicant testified and provided written evidence that, the Subject Property has special circumstances because of its location and topography, which give rise to the need for this request. These special circumstances create an extraordinary hardship in the form of a substantial and unjustified limitation on the reasonable use or return on the Subject Property, because compliance with the minimum standards would not allow for the reasonably proposed use that otherwise would be in compliance with the IDO
9. 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). Specifically, evidence was submitted supporting that, if granted approval, the Applicant intends to construct the proposed project in a manner that is consistent with the IDO and the Development Process Manual (DPM).
10. 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). Specifically, the proposal is designed to be in harmony and consistency with what currently exists in the neighborhood, which was supported by written evidence and oral testimony. Photographs were submitted showing the neighborhood. The proposal would not be out of character with the surrounding area, but rather would reinforce the architectural character of the neighborhood by being in harmony with the other improvements existing and proposed for the Subject Property and the area.
11. 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). Specifically, Applicant presented evidence that the intent of IDO will still be met in that the subject site will be in harmony with existing uses and the proposed variance would merely add to the safety and usability of the site.
12. 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 variance would be ineffective to provide for the usability of the site. Thus, the applicant is not requesting more than what is minimally necessary for a variance.
13. City Transportation submitted a report stating no objection.
14. The proper "Notice of Hearing" signage was posted for the required time period as required by Section 14-16-6-4(K)(3).
15. The Applicant has authority to pursue this Application.

DECISION:

APPROVAL of a variance of 4 ft for a retaining wall in the rear yard.

APPEAL:

If you wish to appeal this decision, you must do so by January 20, 2022 pursuant to Section 14-16-6-4(V), 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.

A handwritten signature in dark ink, appearing to read "Robert Lucero", written in a cursive style.

Robert Lucero, Esq.
Zoning Hearing Examiner

cc:

ZHE File
Zoning Enforcement
Roger Congdon, rcon6004@msn.com



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

MINUTES

December 21, 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

VA-2021-00390
PR-2021-006174
Jared Congdon
Agent, Roger Congdon

ZHE: Next, we will hear agenda item 14. That is VA-2021-00390, project number PR-2021-006174, Jared Congdon through agent, Roger Congdon request a variance of 4 feet for a retaining wall in the rear yard for Lot 19A, Stonegate Village located at 4909 Oso Grande Place NE, zoned R-T. Is Mr. Congdon there?

MR. CONGDON: Yes.

ZHE: Good morning, sir.

MR. CONGDON: Morning.

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

MR. CONGDON: Roger Congdon, 7309 Laster NE, in Albuquerque.

ZHE: And, please raise your right hand. Do you affirm under penalty of perjury that your testimony today will be true?

MR. CONGDON: Yes, I do.

ZHE: Thank you, sir. Please tell me about this wall.

MR. CONGDON: Well, the wall is unfortunately already built. We used a contractor that was highly recommended by some friends and I believe he's called Mr. Mudd. He said, because we already had the footing, which was 4 foot 8 inches in height, for a retaining wall, that we would not need a permit for the extension of the wall; so that they could have privacy and also help keep their animals in the yard. However, one of the neighbors complained and we found out yes, we do need a permit. So, we did hire an engineer and he is, he is on this call, John Schrandt and he filed a report as to the structural integrity of the wall and also it's - - the wall is consistent with most of the properties in that neighborhood. In fact, my sons house's south wall is actually the, on the property line with the next property over. It's actually quite common in that neighborhood. I don't know how to - - Let's see, I must have missed it but I don't know how to add the file that has pictures of the wall. Maybe John can help with that...

ZHE: Did you want to share your screen? I see John Schrandt with a hand raised.

MR. CONGDON: Is he on? Yeah, I'd like him to help me out here. I've never done this.

ZHE: Sure thing. Mr. Shrandt, are you there? Hello? It looks like you're un-muted but I can't hear you. Is your volume up? Hello?

MR. CONGDON: He's got his hand up, I see.

ZHE: Let's see, it looks like he's muted now.

VA-2021-00390
PR-2021-006174
Jared Congdon
Agent, Roger Congdon

MR. CONGDON: He's still muted.

ZHE: Are you there Mr. Schrandt? Hello? Okay. Suzie, I think in the file there's a letter from Mr. Schrandt's Engineering firm. Would you mind giving him a call and see if you can help him out?

HEARING MONITOR: Sure.

ZHE: Thank you. And, meanwhile, Mr. Congdon, I did have a couple questions I'd like you to address. I see that you submitted a justification letter and thank you for that. However, one of the elements was not addressed and that is the requirement that there be special circumstances that apply to the lot, itself. These have to apply, not only to this lot, not generally to other land in the same area and these can be, you know, things like size, shape, topography, location, surroundings, physical characteristics, things like that. Is there something unique about this? It does appear that there's maybe the topography, the elevation. What's different about this lot?

MR. CONGDON: Yes, the - - In the backyard, the topography decreases in elevation to the west and also to the north. There were only retaining walls and well, the retaining wall was 4ft 8 and there ground level was higher than those, than those lots to the west and to the north.

ZHE: Okay, thank you. Thank you for that explanation. And, I do see the letter here with the drawings from Mr. Schrandt. I saw that someone else new called in, is that Mr. Schrandt, are you there?

MR. CONGDON: I see he has his hand up.

ZHE: Hello?

MR. CONGDON: Maybe his volume is low.

ZHE: Mr. Schrandt, are you there? Let's see...

MR. CONGDON: Where'd he go?

ZHE: Hello, Mr. Schrandt, can you hear me? Let's see, Mr. Congdon, is there anything else that you'd like to add before we call for public comment? We can allow Suzie to continue to work to bring on Mr. Schrandt.

MR. CONGDON: Okay, well as I said, one of the circumstances was keeping their animals in the yard and without having to be on any kind leash or whatever but now, they can just - - before they could have just jumped into the neighboring yard and perhaps be lost. Yup.

VA-2021-00390
PR-2021-006174
Jared Congdon
Agent, Roger Congdon

ZHE: Okay, sir. Well, let's do this, let's call for public comment because I do - - What was it that you wanted Mr. Schrandt to address? I do see the letter from him and I do see photos submitted into the record that pretty clearly show the wall.

MR. CONGDON: They show the integrity of the wall.

ZHE: Yes, yes, his report seems pretty clear on that point.

MR. CONGDON: Yes, and it's consistent with the heights of the other walls in the neighborhood and most of the properties there are walled and have gates at the side to get into the walled backyards. It's typical of that neighborhood.

ZHE: Okay. Well, let's call for public comment and see if anyone has anything that they'd like to address. Again, this is agenda item 14, Jared Congdon through agent, Roger Congdon requesting a variance of 4 feet for a retaining wall at 4909 Oso Grande Place NE. Please raise your hand if you'd like to speak on that item. I'm scrolling through the participant list and I don't see anyone raising their hand. Again, agenda item 14, request for a variance for a retaining wall at 4909 Oso Grande. Last call for agenda item 14. Okay, Mr. Congdon, it doesn't appear that there is any, any public comment and I'm sorry we couldn't get Mr. Schrandt on. Let's see. Are you there? Let's give him one more chance. Are you there Mr. Schrandt? Hello? Looks like he's un-muted but I can't seem to hear him. Mr. Congdon, did you have anything you'd like to add in closing?

MR. CONGDON: I think I said about what we have.

ZHE: Yeah, no, I appreciate it. Thank you for your submittals and like I said, we did have, we did get Mr. Schrandt's report in the record along with photos of the wall so, I hope that that covers anything that he would have addressed and I didn't have any questions for him. I thought what he submitted was clear, so. Thank you for that. We'll go ahead and close the record. I'll take everything under consideration and I'll issue the written decision in 15 days.

MR. CONGDON: Thank you very much.

ZHE: Thank you, sir. Have a good day.

MR. CONGDON: You too.

ZHE: That concludes agenda item 14.

Planning Department
Alan Varela, Interim,, Planning Director
Development Review Division
600 2nd Street NW – 3rd Floor
Albuquerque, NM 87102

NOTICE OF APPEAL

January 27, 2022

TO WHOM IT MAY CONCERN:

The Planning Department received an appeal on January 26, 2022. 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-22-3
PLANNING DEPARTMENT CASE FILE NUMBER:
PR-2021-006174, VA-2022-00019, VA-2021-00390

APPLICANT: Robert Notary
4920 Oso Grande Ct NE
Albuquerque NM, 87111

cc: Crystal Ortega, City Council, City county bldg. 9th floor
Kevin Morrow/Legal Department, City Hall, 4th Floor-
Robert Notary, robert.notary@gmail.com
Jared Congdon, zxboomkinxz@yahoo.com
Roger Congdon, rcon6004@msn.com



ZONING HEARING EXAMINER'S AGENDA

TUESDAY, December 21, 2021 9:00 A.M.

Join Zoom Meeting

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

Meeting ID: 704 449 0999

One tap mobile

+1-669-900-6833,,7044490999# US (San Jose)

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Meeting ID: 704 449 0999

Find your local number: <https://cabq.zoom.us/j/7044490999>

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.

OLD BUSINESS:

- | | | | |
|----|---------------|----------|--|
| 1. | VA-2021-00359 | Project# | Carlos Hernandez requests a variance to allow a 6 ft solid wall in the front |
| | | PR-2021- | yard for Lot 8, Highland Place, located at 621 Santa Fe Ave SE, zoned R-1A |
| | | 006085 | [Section 14-16-5-7-D] |

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|----|---------------|--------------------------------|--|
| 2. | VA-2021-00360 | Project#
PR-2021-
006085 | Carlos Hernandez requests a permit-wall or fence-major for Lot 8, Highland Place, located at 621 Santa Fe Ave SE, zoned R-1A [Section 14-16-5-7-D] |
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NEW BUSINESS:

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|-----|---------------|--------------------------------|--|
| 3. | VA-2021-00379 | Project#
PR-2021-
006156 | City of Albuquerque Family and Community Services Dept (Agent, Sites Southwest) request a variance of 6.2 to the required 30% of clear transparent windows on the ground floor facing Knotts Landing Ct for Lot 3A, Block 2, Metz-Robertson Addn, located at 109 60 th ST NW, zoned MX-M [Section 14-16-5-11(E)(2)(b)(2)] |
| 4. | VA-2021-00380 | Project#
PR-2021-
006156 | City of Albuquerque Family and Community Services Dept (Agent, Sites Southwest) request a variance to 1 of the 3 required facade design elements on the street facing facade facing Knotts Landing Ct for Lot 3A, Block 2, Metz-Robertson Addn, located at 109 60 th ST NW, zoned MX-M [Section 14-16-5-11(E)(2)(b)(3)] |
| 5. | VA-2021-00381 | Project#
PR-2021-
006156 | City of Albuquerque Family and Community Services Dept (Agent, Sites Southwest) request a variance of 2 ft 2 inches to the required 10 ft minimum ground floor clear height for Lot 3A, Block 2, Metz-Robertson Addn, located at 109 60 th ST NW, zoned MX-M [Section 14-16-5-11(E)(1)] |
| 6. | VA-2021-00382 | Project#
PR-2021-
002253 | Marie Coleman (Agent, Owen Kramme) requests a conditional use to allow artisan manufacturing in the MX-T zone district Lot 231, MRGCD MAP 38, located at 522 Romero ST NW, zoned MX-T [Section 14-16-4-2] |
| 7. | VA-2021-00383 | Project#
PR-2021-
002253 | Marie Coleman (Agent, Owen Kramme) requests a conditional use to allow artisan manufacturing in the MX-T zone district Lot 232A/Old Town Park, MRGCD MAP 38, located at 522 Romero ST NW, zoned MX-T [Section 14-16-4-2] |
| 8. | VA-2021-00385 | Project#
PR-2021-
006168 | John Brant (Agent, Kathleen Ahghar) requests a permit to allow for a carport in the side yard setback for Lot 15, Block 40, Parkland Hills, located at 1019 Idlewilde Lane SE, zoned R-1D [Section 14-16-5-5(F)(2)(a)(3)(b)] |
| 9. | VA-2021-00386 | Project#
PR-2021-
006168 | John Brant (Agent, Kathleen Ahghar) request a variance of 3 feet to the required 3 feet from a lot line for Lot 15, Block 40, Parkland Hills, located at 1019 Idlewilde Lane SE, zoned R-1D [Section 14-16-5-5(F)(2)(a)(3)(c)] |
| 10. | VA-2021-00387 | Project#
PR-2021-
006169 | Barbara Burns requests a permit wall or fence major for Lot 46, Block 29, Four Hills Village Fifth Installment, located at 1319 Wagon Train CT SE, zoned R-1D [Section 14-16-5-7(D)] |

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| 11. | VA-2021-00388 | Project#
PR-2021-
006172 | John & Debra Herring (Agent, Hilltop Landscaping) request a permit wall or fence major for Lot 4, Block 8, Haines Park Addn, located at 1512 Wellesley DR NE, zoned R-1C [Section 14-16-5-7(D)] |
| 12. | VA-2021-00389 | Project#
PR-2021-
006173 | Ernest Herrera requests a variance of 11 ft 8 inches to allow an accessory building 14 ft 8 inches in height in a required street side setback, where height is limited to the maximum allowed wall height of 3 ft for Lot 1, Block 5, Holiday Park Unit 4, located at 3100 Tahiti ST NE, zoned R-1C [Section 14-16-5-11(C)(4)(b)] |
| 13. | VA-2021-00402 | Project#
PR-2021-
006173 | Ernest Herrera requests a variance of 9 ft to the required 10 ft corner side yard setback for Lot 1, Block 5, Holiday Park Unit 4, located at 3100 Tahiti ST NE, zoned R-1C [Section 14-16-5-11(C)(4)(c)] |
| 14. | VA-2021-00390 | Project#
PR-2021-
006174 | Jared Congdon (Agent, Roger Congdon) requests a variance of 4 ft for a retaining wall in the rear yard for Lot 19A, Stonegate Village located at 4909 Oso Grande PL NE, zoned R-T [Section 14-16-5-7(D)] |
| 15. | VA-2021-00391 | Project#
PR-2021-
006175 | William & Mary Frances Dorman (Agent, Mark Weaver) request a variance to allow an 11 ft 6 inch solid wall/fence where the height is limited to a 6 ft courtyard wall in the front yard, greater than 10 ft from the front lot line and also where limited to an 8 ft wall/fence in the side yard for Lot 3, Block 1, Academy Estates Unit 1, located at 7811 Academy TRL NE, zoned R-1D [Section 14-16-5-7(D)] |
| 16. | VA-2021-00392 | Project#
PR-2021-
006176 | Herb & Susan Guttler (Agent, Kyle Deacon) requests a taller wall permit in the front yard Lot 16, Block 13, House Replat Knob Heights Addn, located at 3413 Vail Ave SE, zoned R-MH [Section 14-16-5-7(D)] |
| 17. | VA-2021-00393 | Project#
PR-2021-
006176 | Herb & Susan Guttler (Agent, Kyle Deacon) request a variance for a 6 foot view fence in the required front yard for Lot 16, Block 13, House Replat Knob Heights Addn, located at 3413 Vail Ave SE, zoned R-MH [Section 14-16-5-7(D)] |
| 18. | VA-2021-00394 | Project#
PR-2021-
006176 | Herb & Susan Guttler (Agent, Kyle Deacon) requests a taller wall permit in the front yard for Lot 17, Block 13, House Replat Knob Heights Addn, located at 3417 Vail Ave SE, zoned R-MH [Section 14-16-5-7(D)] |
| 19. | VA-2021-00395 | Project#
PR-2021-
006176 | Herb & Susan Guttler (Agent, Kyle Deacon) request a variance for a 6 foot view fence in the required front yard for Lot 17, Block 13, House Replat Knob Heights Addn, located at 3417 Vail Ave SE, zoned R-MH [Section 14-16-5-7(D)] |

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| 20. | VA-2021-00399 | Project#
PR-2021-
006176 | Kylie and Zephyr Renner request a conditional use to allow an accessory dwelling unit without a kitchen for Lot 1, Block N, Netherwood Park 1 st Replat, located at 2702 Morrow RD NE, zoned R-1D [Section 14-16-4-3(F)(5)(g)] |
| 21. | VA-2021-00400 | Project#
PR-2021-
005573 | Netflix, LLC (Agent, Will Gleason, Dekker Perich Sabatini) requests a variance of 20 feet to allow intervals of 50 feet wall variations for Lot 26, Mesa Del Sol Innovation Park, located at 5650 University BLVD SE, zoned PC [Section 14-16-2-6(B)(5)] |
| 22. | VA-2021-00403 | Project#
PR-2021-
006208 | 98 th Street, LLC- Toot'n Totum (Agent, Modulus Architects) requests a conditional use to allow for a light fueling station adjacent to a residential zone for Lot E-5-A-2, Albuquerque South Unit 3, located at 99999 Gibson BLVD SW, zoned MX-M [Section 14-16-4-3(D)(18)(g)] |
| 23. | VA-2021-00404 | Project#
PR-2021-
006208 | 98 th Street, LLC- Toot'n Totum (Agent, Modulus Architects) requests a conditional use to allow for liquor retail in an MX-M zone district for Lot E-5-A-2, Albuquerque South Unit 3, located at 99999 Gibson BLVD SW, zoned MX-M [Section 14-16-4-3(D)(39)(f)] |
| 24. | VA-2021-00405 | Project#
PR-2021-
006208 | 98 th Street, LLC- Toot'n Totum (Agent, Modulus Architects) requests a conditional use to allow for liquor retail within 500 feet of a residential zone for Lot E-5-A-2, Albuquerque South Unit 3, located at 99999 Gibson BLVD SW, zoned MX-M [Section 14-16-4-3(D)(39)(c)] |
| 25. | VA-2021-00406 | Project#
PR-2021-
006208 | 98 th Street, LLC- Toot'n Totum (Agent, Modulus Architects) requests a variance of 144.5 to the required 15 maximum setback for a building containing 1000 sq ft or more in an activity center for Lot E-5-A-2, Albuquerque South Unit 3, located at 99999 Gibson BLVD SW, zoned MX-M [Section 14-16-4-3(D)(18)(l)] |