



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

Steve and Nicole Craner request a Permit for a Court yard Tall Wall - Major for Lot 12, La Cueva Tierra, located at 8904 Helmick Pl NE, zoned R-1C [Section 14-16-5-7(D)(3) Table 5-7-2]

Special Exception No:..... **VA-2024-00236**
Project No: **PR-2024-010787**
Hearing Date: 10-15-24
Closing of Public Record: .. 10-15-24
Date of Decision: 10-30-24

On the 15th day of October, 2024, property owner Steve and Nicole Craner (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a permit-wall or fence-major (“Application”) upon the real property located at 8904 Helmick Pl NE (“Subject Property”). Below are the ZHE’s finding of fact and decision:

FINDINGS:

1. Applicant is requesting a Permit-Wall or Fence-Major.
2. The ZHE finds that the Applicant has authority to pursue this Application.
3. All property owners within 100 feet and affected neighborhood association(s) were notified.
4. The ZHE finds that the proper “Notice of Hearing” signage was posted for the required time period as required by Section 14-16-6-4(J)(4).
5. The City of Albuquerque Integrated Development Ordinance Section Integrated Development Ordinance (“IDO”) 14-16-6 6(H)(3) Permit-Wall or Fence-Major reads: “*An application for a Permit – Wall or Fence – Major for a wall in the front or street side yard of a lot with low-density residential development in or abutting any Residential zone district that meets the requirements in Subsection 14-16-5-7(D)(3)(g) (Exceptions to Maximum Wall Height) and Table 5-7-2 shall be approved if the following criteria are met:*
6-6(H)(3)(a) *The wall is proposed on a lot that meets any of the following criteria:*
 1. *The lot is at least ½ acre.*
 2. *The lot fronts a street designated as a collector, arterial, or interstate highway.*
 3. *For a front yard wall taller than allowed in Table 5-7-1, at least 20 percent of the properties with low-density residential development with a front yard abutting the same street as the subject property and within 330 feet of the subject property along the length of the street the lot faces have a front yard wall or fence over 3 feet. This distance shall be measured along the street from each corner of the subject property's lot line, and the analysis shall include properties on both sides of the street.*
 4. *For a street side yard wall taller than allowed in Table 5-7-1, at least 20 percent of the properties with low-density residential*

development with a side yard abutting the same street as the subject property and within 330 feet of the subject property along the length of the street the lot faces have a street side yard wall or fence over 3 feet. This distance shall be measured along the street from each corner of the subject property's lot line, and the analysis shall include properties on both sides of the street.

- 6-6(H)(3)(b) The proposed wall would strengthen or reinforce the architectural character of the surrounding area.*
 - 6-6(H)(3)(c) The proposed wall would not be injurious to adjacent properties, the surrounding neighborhood, or the larger community.*
 - 6-6(H)(3)(d) The design of the wall complies with any applicable standards in Section 14-16-5-7 (Walls and Fences), including but not limited to Subsection 14-16-5-7(E)(2) (Articulation and Alignment), Subsection 14-16-5-7(E)(3) (Wall Design), and both of the following criteria:*
 - 1. The wall or fence shall not block the view of any portion of any window on the front façade of the primary building when viewed from 5 feet above ground level at the centerline of the street in front of the house.*
 - 2. The design and materials proposed for the wall or fence shall reflect the architectural character of the surrounding area.*
6. 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).
 7. 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).
 8. Applicant appeared and gave evidence in support of the application.
 9. Based on photographs, maps and oral evidence presented by Applicant, at least 20 percent of the properties within 330 feet of the lot where the wall or fence is being requested have a wall or fence over 3 feet in the applicable yard area.
 10. Based on evidence presented by Applicant, the proposed wall would strengthen or reinforce the architectural character of the surrounding area. Based on evidence provided by Applicant, it would be consistent with courtyard walls in the surrounding area.
 11. Based on evidence presented by Applicant, the proposed wall would not be injurious to adjacent properties, the surrounding neighborhood, or the larger community. Applicant testified that it would provide more safety and privacy to the Subject Property. The next-door neighbor raised the concern that Applicant allegedly holds noisy gatherings in the area enclosed by the courtyard wall. The ZHE is judging the wall itself and not any activities that may occur behind the wall, which would be more appropriately addressed to Code Enforcement if any IDO provision were violated. Moreover, it appears to the ZHE that the complained-of activities could occur regardless of whether the proposed wall exists. The neighbor also raised the concern that the Applicant constructed a fireplace along the property line, and this, too, is a matter for Code Enforcement if any IDO violation exists. Finally, the neighbor raised the concern that the neighbor believes that the courtyard wall may be encroaching on the neighbor's property; however, there appears insufficient evidence in the record to establish this speculation. Weighing the evidence in the record, the proposed wall

would not be injurious to adjacent properties, the surrounding neighborhood, or the larger community.

12. Based on evidence presented by Applicant, the design of the wall complies with any applicable standard in Section 14-16-5-7 (Walls and Fences), including, but not limited to Subsection 14-16-5-7(E)(2) (Articulation and alignment) and Subsection 14-16-5-7(E)(3) (Wall Design), and all of the following: (a) The wall or fence shall not block the view of any portion of any window on the front façade of the primary building when viewed from 5 feet above ground level at the centerline of the street in front of the house; and (b) The design and materials proposed for the wall or fence shall reflect the architectural character of the surrounding area.
13. The City Traffic Engineer submitted a report stating no objection to the Application, provided that the wall does not affect the mini sight triangle, which it does not, based on the site plan and photographs in the record.

DECISION:

APPROVAL of a Permit-Wall or Fence-Major.

APPEAL:

If you wish to appeal this decision, you must do so by November 14, 2024 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.



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