



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

MARIA DEL R MENDOZA requests a special exception to Section 14-16-2-8(B)(1) and 14-16-2-6(B)(14) : a CONDITIONAL USE to allow an existing 5 ft fence in the front yard setback area for all or a portion of Lot 11-P1, Block 2, El Rancho Grande 1 Unit 9A zoned R-LT, located on 2800 JESSE JAMES DR SW (N-9)

Special Exception No:..... **\*IR\* 15ZHE-80287**  
Project No:..... **Project# 1010676**  
Hearing Date:..... 01-19-16  
Closing of Public Record:..... 01-19-16  
Date of Decision: ..... 02-03-16

On the 19th day of January, 2016(hereinafter “**Hearing**”) MARIA DEL R MENDOZA (hereinafter “**Applicant**”) appeared before the Zoning Hearing Examiner (hereinafter “**ZHE**”) requesting a Conditional Use to allow an existing 5 ft fence in the front yard setback (hereinafter “**Application**”) upon the real property located at 2800 JESSE JAMES DR SW (“**Subject Property**”). Below are the findings of facts:

**FINDINGS:**

1. Applicant is requesting a Conditional Use to allow an existing 5 ft fence in the front yard setback.
2. The City of Albuquerque Code of Ordinances Section § 14-16-4-2 (C) (1) (a) “SPECIAL EXCEPTIONS” reads in part: “*A conditional use shall be approved if and only if, in the circumstances of the particular case and under conditions imposed, the use proposed will not be injurious to the adjacent property, the neighborhood, or the community.*”
3. Applicant provided evidence and testified at the Hearing that the Conditional Use, if approved, will not be injurious to the adjacent property, neighborhood, or the community. The ZHE finds the following in support of Applicant’s position:
4. The wall/fence combination will be constructed out of attractive materials (split face block and painted ironwork) that are in harmony with the site, including blending architecturally with the existing residence and the streetscape, with one exception.
5. That exception is related to the wall’s pilasters, which are constructed of standard CMU’s and do not integrate architecturally with the residence.
6. The wall/fence will not interfere with views or sight triangles or otherwise present a hazard to traffic visibility.
7. The wall/fence will provide necessary security and safety for the occupants of the subject property.
8. Additionally, Applicant submitted evidence of support from adjacent property owners.
9. Therefore, the Application meets the requirements of Section 14-16-2-6 (Residential Zone Conditional Uses), with the condition imposed below.

10. The City of Albuquerque Code of Ordinances Section § 14-16-4-2 (C) (1) (b) “SPECIAL EXCEPTIONS” reads in part: “*A conditional use shall be approved if and only if, in the circumstances of the particular case and under conditions imposed, the use proposed will not be significantly damaged by surrounding structures or activities.*”
11. Applicant met her burden of showing that the proposed wall/fence will not be damaged by the surrounding residential structures and activities.
12. Applicant confirmed that the yellow “Notice of Hearing” signs were posted for the required time period as articulated within City of Albuquerque Code of Ordinances § 14-16-4-2 SPECIAL EXCEPTIONS.
13. The Applicant has adequately justified the Conditional Use request pursuant to City of Albuquerque Code of Ordinances § 14-16-4-2 SPECIAL EXCEPTIONS.

**DECISION:**

**APPROVAL WITH CONDITIONS** of a CONDITIONAL USE to allow an existing 5 ft fence in the front yard setback.

**CONDITIONS OF APPROVAL:**

- A. The Applicant shall adhere to the *design guidelines* for walls and fences as set forth in the City of Albuquerque Zoning Code.
- B. The Applicant shall abide by the City of Albuquerque Traffic Engineer approval to keep the wall’s clear sight triangle free of obstructions.
- C. The wall’s pilasters shall be covered in material that harmonizes architecturally with the existing residence, which will be either stucco in the same color as the residence or stacked stone as exhibited by front portions of the residence.

If you wish to appeal this decision, you may do so in the manner described below:

Appeal is to the Board of Appeals within 15 days of the decision. A filing fee of \$105.00 shall accompany each appeal application, as well as a written explanation outlining the reason for appeal and a copy of the ZHE decision. Appeals are taken at 600 2nd Street, Plaza Del Sol Building, Ground Level, Planning Application Counter located on the west side of the lobby. **Please present this letter of notification when filing an appeal.** When an application is withdrawn, the fee shall not be refunded.

An appeal shall be heard by the Board of Appeals within 45 days of the appeal period and concluded within 75 days of the appeal period. The Planning Division shall give written notice of an appeal, together with a notice of the date, time and place of the hearing to the applicant, a representative of the opponents, if any are known, and the appellant.

Please note that pursuant to Section 14. 16. 4. 4. (B), of the City of Albuquerque Comprehensive Zoning Code, you must demonstrate that you have legal standing to file an appeal as defined.

You will receive notice if any other person files an appeal. If there is no appeal, you can receive building permits any time after the appeal deadline quoted above, provided all conditions imposed at the time of approval have been met. However, the Zoning Hearing Examiner may allow issuance of building permits if the public hearing produces no objection of any kind to the approval of an application. To receive this approval, the applicant agrees in writing to return the building permit or occupation tax number.

Successful applicants are reminded that other regulations of the City must be complied with, even after approval of a special exception is secured. This decision does not constitute approval of plans for a building permit. If your application is approved, bring this decision with you when you apply for any related building permit or occupation tax number. Approval of a conditional use or a variance application is void after one year from date of approval if the rights and privileges are granted, thereby have not been executed or utilized.



Christopher L. Graeser, Esq.  
Zoning Hearing Examiner

cc: Zoning Enforcement  
ZHE File