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VA-2025-00162 (ZHE – Variance), VA-2026-00006 (Appeal)

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City of Albuquerque

Planning Department

Timothy M. Keller, Mayor

Interoffice Memorandum

February 11, 2026

To: Klarissa J. Pena, President, City Council

From: Alan Varela, Director, Planning Department

Subject: AC-26-02, VA-2025-00162: Dalila Solis ("Applicant") appeals the Zoning Hearing Examiner's decision to DENY a variance of 3 feet to install a 6-foot perimeter steel fence in the front yard for the property located at 237 Wyoming Blvd NE, zoned MX-M

OVERVIEW

On December 16, 2025, property owner Dalila Solis ("Applicant") appeared before the Zoning Hearing Examiner ("ZHE") requesting a Variance of 3 feet to allow a 6-foot fence in the front setback of the property line for the property located at 237 Wyoming Blvd NE.

The ZHE denied the Applicant's request in a written decision dated December 31, 2025.¹

The Appellant timely filed an appeal of the ZHE's decisions prior to the appeal deadline of January 15, 2026. As the property owner and applicant for the original application that was denied, the appellant has standing to appeal the decision.

BASIS FOR APPEAL

Pursuant to Integrated Development Ordinance (IDO) §14-16-6-4(U)(4), the applicable criteria for the appeal shall be whether the ZHE made 1 of the following mistakes:

- 6-4(U)(4)(a) The ZHE acted fraudulently, arbitrarily, or capriciously.
- 6-4(U)(4)(b) The decision being appealed is not supported by substantial evidence.
- 6-4(U)(4)(c) The ZHE 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

¹ The Notice of Decision describes the request as a variance of 3 feet to a 6-foot maximum allowable height; however, the request as posted was for a variance of 3 feet to the maximum allowable height of 3 feet, which would facilitate the approval of a 6-foot fence. This request and discussion are documented in the hearing transcript.

being appealed).

STAFF RESPONSE

The Appellant does not respond specifically to the appeal criteria in IDO § 14-16-6-4(U)(4) but generally reiterates that the wall is needed for security and notes that there are other walls 6 feet high nearby.

Response from ZHE staff is below in italics.

ZHE Finding #13 restates the review and decision criteria for a Variance [/DO § 14-16-6-6{O}{3}{a)].

In Finding #18, the ZHE found that the request did not meet criterion 1 and must be denied.

"Based on evidence in the record, it does not appear that special circumstances applicable to the Subject Property exist 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{O}{3}{a}{1}. Applicant testified that the higher fence is sought to increase security of the Subject Property, because trespassers, including unhoused persons and drug users, have entered the Subject Property repeatedly. While the ZHE empathizes with this difficult situation, it appears from the record that these problems are not unique to the subject property, but instead are suffered generally by the entire vicinity. The /DO requires that there be special circumstances applicable to the Subject Property itself that make it different than surrounding properties. Because substantial evidence does not exist to establish that the Subject Property has any special circumstances, the Application must be denied."

Finding #19 explains that all criteria must be met to approve a Variance, so the request is denied based on not meeting criterion 1.

How other fences nearby got approved is not part of the decision criteria for the requested variance. The decision criteria for this request is pursuant to /DO§ 14-16-6-6{0}{3}, which the ZHE found the applicant did not satisfy because no special circumstances apply to the lot [Finding #18].

Properties in MX-M may have a 5-foot wall if set back at least 10 feet from the lot line if all the requirements of /DO§ 14-16-5-7{D)(3){c) are met.

/ Adam Sena/

Adam Sena, Senior Planner

City of Albuquerque Planning Department

/ Leslie Naji/

Leslie Naji, Principal Planner

City of Albuquerque Planning Department



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

Dalila Solis requests a Variance of 3ft to the allowed 6ft fencing in the front setback of the property line for 237 Wyoming Blvd NE , located at 237 Wyoming Blvd NE, zoned MX-M.

Special Exception No: **VA-2025-00162**
Project No: **N/A**
Hearing Date: 12-16-25
Closing of Public Record: 12-16-25
Date of Decision: 12-31-25

[IDOSection14-16-6 6(O)(Variance– ZHE)]

On December 16, 2025, Dalila Solis (“**Applicant**”) was scheduled to appear before the Zoning Hearing Examiner (the “**ZHE**”) requesting a Variance of 3ft to the allowed 6ft fencing in the front setback of the property line. (“**Application**”) upon the real property located at 237 Wyoming Blvd NE (the “**Subject Property**”). Below are the ZHE’s findings of fact and decision:

FINDINGS:

1. Applicant is requesting a Variance of 3ft to the allowed 6ft fencing in the front setback of the property line, pursuant to City of Albuquerque Code of Ordinances Integrated Development Ordinance (“**IDO**”) Section 14-16-6-6(O).
2. Applicant has authority to pursue this Application, pursuant to 14-16-6-4(D).
3. Applicant duly authorized Agent to act on Applicant’s behalf regarding the Application.
4. Applicant is not required to offer a meeting to Indian Nations, Tribes, and Pueblos before filing the application, pursuant to IDO Section 14-16-6-4(B).
5. The Planning Director’s delegee has determined that the Application is complete, pursuant to IDO Section 14-16-6-4(G).
6. The analyses and studies listed in IDO Section 14-16-6-4(H) are not required.
7. The Application was forwarded to commenting agencies pursuant to IDO Section 14-16-6-4(I).
8. The content of the notice of the Application satisfies IDO Section 14-16-6-4(J)(1).
9. Applicant has sent an electronic mail notice to the email addresses on file with the Office of Neighborhood Coordination for each pertinent Neighborhood Association as required by IDO Section 14-16-6-4(J)(2).
10. Applicant has sent mailed notice to all property owners within 100 feet of the subject property as required by IDO Section 14-16-6-4(J)(3).
11. Applicant has posted sign notice(s) as required by IDO Section 14-16-6-4(J)(4).
12. The Subject Property is located in the MX-M zone district. The property owner is requesting a Variance of 3ft to the allowed 6ft fencing in the front setback of the property line.

13. Therefore, A Variance approval of 3ft to the allowed 6ft fencing in the front setback of the property line requires approval pursuant to IDO Subsection 14-16-6-6(O).
14. IDO Section 14-16-6-6(O)(3)(a) (Review and Decision Criteria– Variance) 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 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.*
 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 this IDO, the applicable zone district, or any applicable Overlay Zone.*
 5. *The Variance approved is the minimum necessary to avoid extraordinary hardship or practical difficulties.”*
15. Applicant has provided a sound justification for the requested decision, based on substantial evidence, pursuant to IDO Section 14-16-6-4(E)(3).
16. Applicant has shown compliance with required standards through analysis, illustrations, or other exhibits as necessary, pursuant to IDO Section 14-16-6-4(E)(4).
17. Applicant appeared at the December 16, 2025, ZHE hearing on the Application and gave evidence in support of the Application.
18. Based on evidence in the record, it does not appear that there 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(O)(3)(a)(1). Applicant testified that the higher fence is sought to increase security of the Subject Property, because trespassers including unhoused persons, have come onto the Subject Property repeatedly. Applicant’s justification letter cites increasing amounts of vandalism in the area. While the ZHE empathizes with this difficult situation, it appears from the record that these problems are not unique to the subject property, but instead are suffered generally by the entire vicinity. The IDO requires that there be special circumstances applicable to the Subject Property itself that make it different than surrounding properties. Because substantial evidence does not exist to establish that the Subject Property has any special circumstances, the Application must be denied.
19. Because the IDO requires that all prongs of the variance test be satisfied, and the Application fails to satisfy the requirement that special circumstances exist, the ZHE need not examine the other prongs of the variance test.

DECISION:

DENIAL of the Application.

APPEAL:

If you wish to appeal this decision, you must do so by January 15, 2026 pursuant to Section 14-16-6-4-(U), of the Integrated Development Ordinance, you must demonstrate that you have legal standing to file an appeal as defined.

Successful applicants are reminded that other regulations of the City must be complied with, even after approval of a special exception is secured. This Notice of Decision does not constitute approval of plans for a building permit. If your application is approved, bring this Notice of Decision with you when you apply for any related building permit or occupation tax number. Approval of a Conditional Use is void after two (2) years from date of approval if the rights and privileges granted thereby have not been executed or utilized. Approval of a Variance is void after one (1) year from date of approval if the rights and privileges granted thereby have not been executed or utilized.



Robert Lucero, Esq.
Zoning Hearing Examiner

cc: Dalila Solis, Owner, giselle864@yahoo.com
ZHE File
Zoning Enforcement

I am asking for an appeal on the decision made on December 16th, 2025.

The property has had to endure increasing acts of vandalism. They started out small, trying to break in, breaking a window, breaking the glass on the door, but they have continued to escalate. In 2024, a hole was made in the wall right by the dumpster area, that hole was used to break in. The person that broke in left a mess behind to clean up, as well as messing with the internet and phone lines. That meant losing business as we tried to get everything back up and running. Last year though, in 2025, two of our AC units were destroyed in the middle of the night. It was right in the middle of summer, and the heat was intense. Business was lost, because who wants to eat at a hot restaurant? It took a while to get the units replaced. The total to replace them was around \$26,000 with taxes. That is not factoring in the losses from the drop of business. A 6 ft fence is necessary to protect building infrastructure and to ensure the continuation of business. It would be an iron fence, so it can be seen through all along the property. We would be open to a setback of a foot or two to maintain the landscape area for pedestrians. There are other fences all along Wyoming Blvd. NE, and we are hoping to keep the same style of fencing going, so that it doesn't differ from other properties. This also shows that fencing of this scale is already in place in the streetscale. We are not hoping to set a precedence, as this is substantial damage that has taken place on the property.

Dalila Solis

ALBUQUERQUE POLICE DEPARTMENT SUMMARY INCIDENT REPORT



REPORT NUMBER: 250819694

| INCIDENT INFORMATION | | | | | | |
|--|---|---|-------------------------------------|---|---|---|
| INCIDENT Criminal | INCIDENT TYPE Criminal Damage Over \$1000 | INITIA SUPP | <input checked="" type="checkbox"/> | DATE/TIME STARTED 08/08/2025 12:00 AM | DATE/TIME ENDED 08/08/2025 06:00 AM | DATE/TIME 08/08/2025 07:42 AM |
| REPORT FILED FROM *** | TRACKING NUMBER T25011151 | LOCATION OF OCCURRENCE 237 Wyoming Boulevard Northeast, | | | APPROVED BY: P7777/Ninamarie Yara | |
| LOCATION TYPE Restaurant/Fast Food | THEFT TYPE | METHOD OF | METHOD OF EXIT | PT OF | PT OF EXIT | ENTRY LOC |

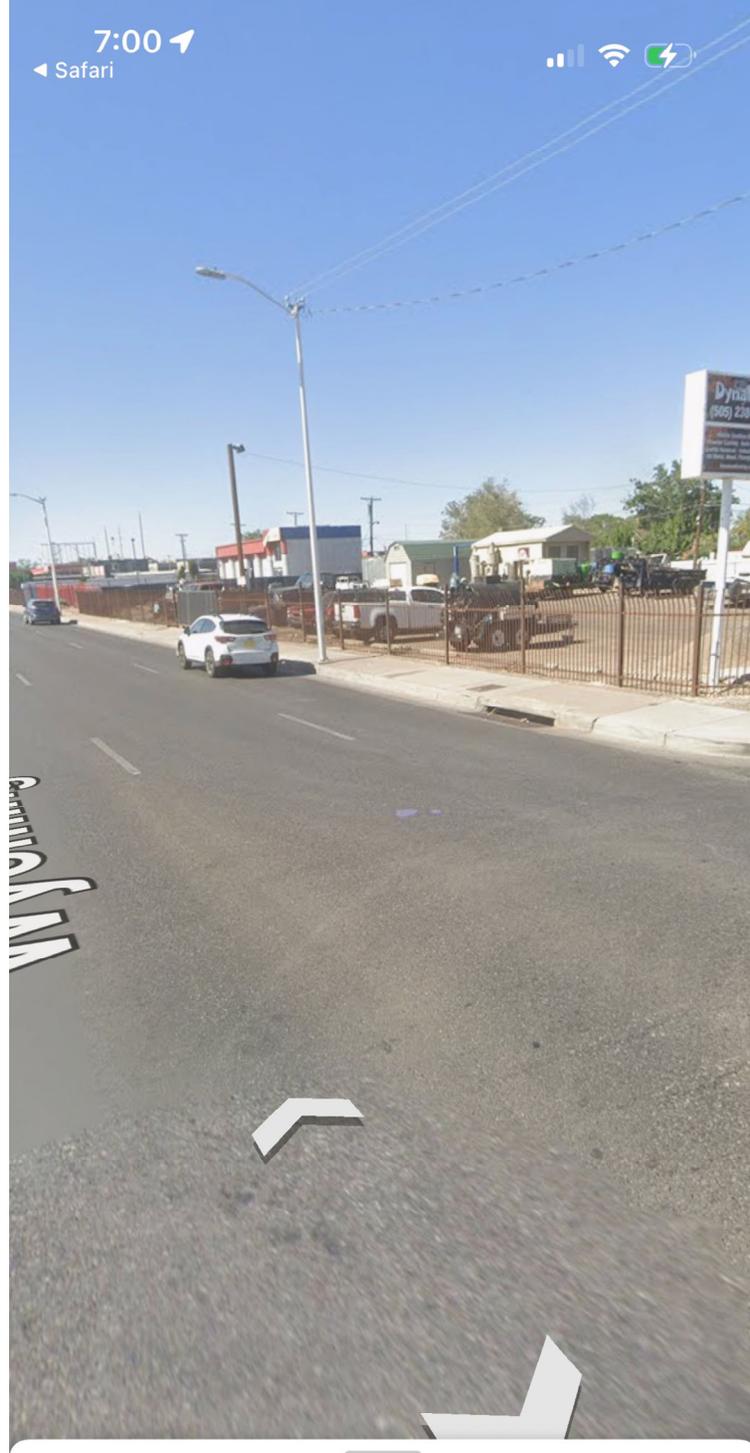
| PERSON LISTINGS | | | | | | | | | | |
|-----------------|---|---|--------------------------|-----------------------------|-------------|------------|-------------|-----------------------------------|-------------------|-----|
| 1 | TYPE VICTI | LAST NAME El Viva Mexico Restaurant | | | DOB | RACE | SEX | DRIVER LIC NO | LIC | |
| | SSN | ETHNICITY | RESIDENT | EYE COLOR | HAIR COLOR | AGE | HEIGHT | WEIGHT | CELL PHONE | |
| | EMAIL | | RESIDENCE ADDRESS | | | | | HOME PHONE | | |
| | EMPLOYER NAME El Viva Mexico Restaurant | | BUSINESS ADDRESS *** | | | | | WORK PHONE 505-265-6285 | | |
| 2 | TYPE REPO | LAST NAME Solis | | FIRST NAME Dalila | MIDDLE NAME | DOB *** | RACE *** | SEX * | DRIVER LIC NO | LIC |
| | SSN | ETHNICITY *** | RESIDENT *** | EYE COLOR | HAIR COLOR | AGE | HEIGHT | WEIGHT | CELL PHONE *** | |
| | EMAIL giselle0315@icloud.com | | RESIDENCE ADDRESS *** | | | | | HOME PHONE *** | | |
| | EMPLOYER NAME El Viva Mexico Restaurant | | BUSINESS ADDRESS *** | | | | | WORK PHONE *** | | |

| PROPERTY LISTINGS | | | | | | | |
|-------------------|-------------------|---|------------------|--|---------------------|-----------------|---------------------------------|
| 1 | INVL 04 | ITEM AIR CONDITION/HEAT EQUIPMENT | | | QUANTIT 3 | BRAND | MODEL |
| | SERIAL NO | | OWNER APPLIED NO | | COLOR | MKT VALUE \$ | DMG VALUE \$ 25000.00 |
| | DESCRIPTION | | | | | | |

| NARRATIVE |
|--|
| <p>The inside parts from our Ac units were stolen sometime last night. Now the units are not working making it impossible to open for business with this heat. It was discovered early this morning.</p> <p>I am willing to prosecute.</p> <p>- Is video/photo evidence available? = [Yes]</p> |

REPORT NUMBER: 250819694

| |
|--|
| |
|--|



201 Wyoming Blvd

010
2 years ago · [See more dates](#) >



SPECIAL EXCEPTION REFERRAL SHEET

Variance
 Conditional Use
 Major Permit
 Other
 Interpreter: Yes No

City of Albuquerque
Planning Department

PLAN # **VA-2025-00162**

PROJECT #

| | | | |
|--|-----------------|---|-------------------|
| Date Accepted: | | Hearing Date: 12-16-25 | |
| Address of Request: 237 Wyoming Blvd NE | | | |
| City: Albuquerque | | State: NM | Zip: 87108 |
| Lot: 25A1 | Block: 9 | Zone: MX-M | Map pg. |
| Subdivision: | | UPC# | |
| Property Owner(s): Delila Solis | | | |
| Mailing Address: 217 Shirley St NE | | | |
| City: Albuquerque | | State: NM | Zip: 87123 |
| Phone: 5052806540 | | Email: giselle864@yahoo.com | |
| Agent: N/A | | | |
| Mailing Address: | | | |
| City: | | State: | Zip: |
| | | Email: | |
| | | | Fee Total: |

Completed Application Requirements

- o Copy of relevant IDO section*
- o Letter of authorization (if applicable)*
- o Proof of notice to neighborhood association*
- o List of associations from Office of Neighborhood Coordination*
- o Proof of notice to property owners within 100ft*
- o Buffer map of property owners*
- o Photos (site and existing structures)*
- o Sketch plan*
- o Justification letter*
- o Sign posting and agreement*
- o Payment of fees*

All application materials must be submitted through <https://www.cabq.gov/planning/abq-plan>
 For more information, please visit <https://www.cabq.gov/planning/boards-commissions/zoning-hearing-examiner>



| ZONING OFFICIAL USE ONLY |
|--|
| Request for exception to IDO Section: 14-16-6-6(O) (Variance – ZHE) |
| Description of request: A Variance of 3ft to the allowed 6ft fencing in the front setback of the property line. |
| |
| Staff Comments: The variance request applies to IDO Table 5-7-1 of Maximum Wall Height standards. |



Created in
Collageable

August

| | | | | |
|--------------------------|------------------------|--|---|--------|
| <input type="checkbox"/> | debsia@swcp.com | ☆ variance request notification for 237 Wyoming Blvd. NE 87123 |  | Aug 27 |
| <input type="checkbox"/> | notices@slananm.org | ☆ variance request for 237 Wyoming Blvd. NE 87123 |  | Aug 27 |
| <input type="checkbox"/> | idalialt@gmail.com | ☆ variance request for 237 Wyoming Blvd. NE 87123 |  | Aug 27 |
| <input type="checkbox"/> | 5058041113rw@gmail.com | ☆ variance request notification for 237 Wyoming Blvd. NE 87123 |  | Aug 27 |
| <input type="checkbox"/> | m.ryankious@gmail.com | ☆ variance request notification for 237 Wyoming Blvd. NE 87123 |  | Aug 27 |
| <input type="checkbox"/> | info@willsonstudio.com | ☆ Variance request notification for 237 Wyoming Blvd. NE 87123 |  | Aug 27 |

SIGN POSTING AGREEMENT

Environmental Planning Commission

All persons requesting a hearing before the Environmental Planning Commission are responsible for the posting and maintaining of one or more signs on the property.

Failure to maintain the signs during this entire period may be cause for deferral or denial of the application.

Per Integrated Development Ordinance 14-16-6-4(J)(4): **The applicant shall post at least 1 sign on each street abutting the property that is the subject of the application, at a point clearly visible from that street, for at least 15 calendar days before the public hearing and for the appeal period of 15 calendar days following any decision, required pursuant to Subsection 14-16-6-4(T) and Subsection 14-16-6-4(U)(3)(a)1.**

1. LOCATION

- A. The sign shall be conspicuously located within twenty feet of the public sidewalk (or edge of public street).
- 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 help prevent tearing and are best for attaching signs to a post or backing.

Signs must be posted from 15 days prior to the hearing to 15 days after the hearing.

Project Number & Address 237 Wyoming Blvd. NE 87123

Applicant/Agent Signature  **Date:** 09-05-2025

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

Public Notice of a Hearing before the Zoning Hearing Examiner in the City of Albuquerque

Date of Notice*: 08-29-25

This notice of an application for a proposed project is provided as required by the Integrated Development Ordinance (IDO) [§14-16-6-4\(K\) Public Notice](#). This notice is being provided to (mark as relevant):

- Neighborhood Association Representatives on the attached list from the Office of Neighborhood Coordination.¹
- Property Owners within 100 feet of the Subject Property.

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

1. Subject Property Address* 237 Wyoming Blvd. NE ABQ, NM 87123 (zipcode)
Location Description _____
2. Property Owner* Dalila Solis
3. Agent/Contractor (if other than the property owner) _____
4. Application Type(s)²* per IDO [Table 6-1-1](#):

| | |
|--|--|
| <input type="checkbox"/> Conditional Use | <input type="checkbox"/> Carport Permit |
| <input checked="" type="checkbox"/> Variance | <input type="checkbox"/> Major Wall/Fence Permit |
| <input type="checkbox"/> Other _____ | |

Summary of project/request*:
Requesting a variance of 3 extra feet, in order to put up a 6 foot fence all along the front prop

5. This application will be decided by the Zoning Hearing Examiner at a public hearing.
 Hearing Date*: to be determined (T u e s d a y)
The hearing will begin at 9:00AM via ZOOM.

For Zoom details and the agenda, please visit the CABQ Planning Webpage:
<https://www.cabq.gov/planning/boards-commissions/zoning-hearing-examiner/zhe-agendas-action-sheets-decisions>

To contact staff, email PlanningZHE@cabq.gov or call the Planning Department at 505-924-3860 and select the option for "Boards, Commissions, and ZHE signs."

Please note: You may submit written comments to the Zoning Hearing Examiner up to 6 days before the hearing. (Deadline is 5 pm on the Wednesday before the hearing.)

¹ If this box is marked, the Neighborhood Association Representative Contact List from the City's Office of Neighborhood Coordination must be included as an attachment.

² Other application types require separate forms available here: <https://www.cabq.gov/planning/codes-policies-regulations/integrated-development-ordinance-1/public-notice>. Otherwise, please mark all that apply.

Language Access Notice:

We provide free interpretation services to help you communicate with us. If you need help, you can request interpretation at any service counter in our Department, located in the Plaza Del Sol building, 600 2nd Street NW, Albuquerque, NM 87102.

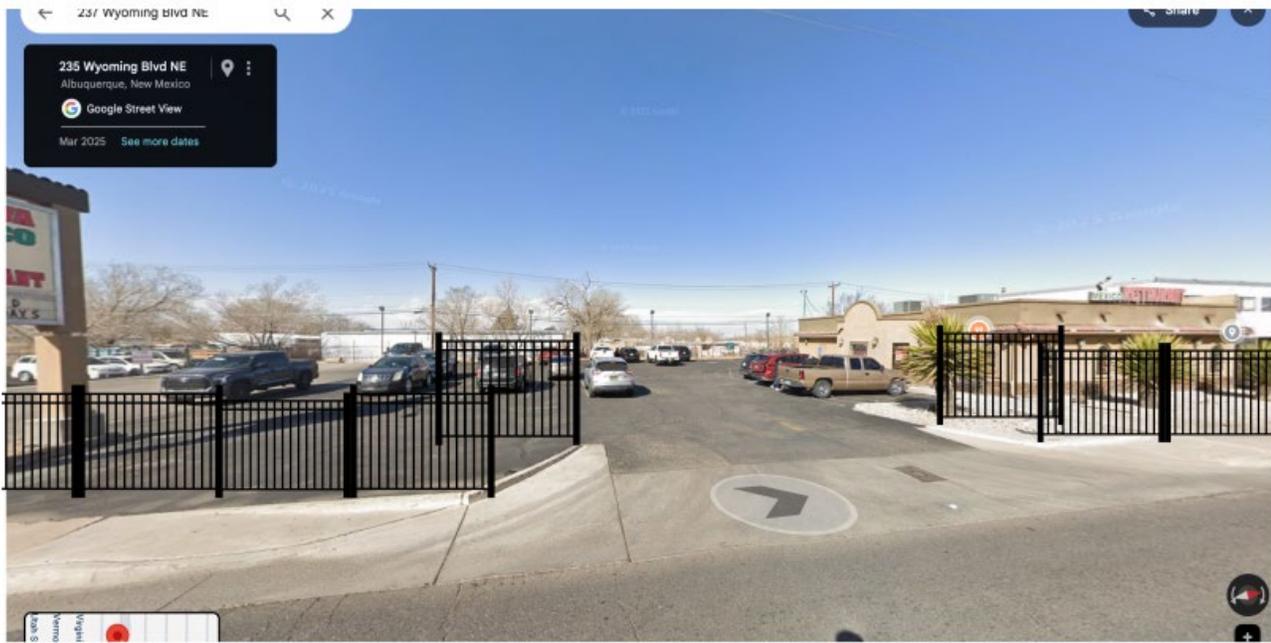
Notificación de Acceso Lingüístico.
Ofrecemos servicios gratuitos de interpretación para ayudarlo a comunicarse con nosotros. Si necesita ayuda, puede solicitar servicios de interpretación en cualquier mostrador de servicio de nuestro Departamento, ubicado en el edificio Plaza Del Sol, 600 2nd Street NW, Albuquerque, NM 87102.

語言輔助通知。我們提供免費口譯服務，以幫助你與我們溝通。如果你需要幫助，你可以在我們部門的任何服務台請求口譯，服務台位於 Plaza Del Sol大樓，600 2nd Street NW，阿爾伯克基，NM 87102。

Thông báo về cách Tiếp cận Ngôn ngữ. Chúng tôi cung cấp các dịch vụ thông dịch miễn phí để giúp quý vị giao tiếp với chúng tôi. Nếu quý vị cần giúp đỡ, quý vị có thể yêu cầu thông dịch tại bất cứ quầy dịch vụ nào trong Sở của chúng tôi, tọa lạc tại tòa nhà Plaza Del Sol, 600 2nd Street NW, Albuquerque, NM 87102.

Saad Hadahwiis'a O'oolkaah bee dah na'astsooz. Nihi bik'inaasdzil t'aadoo baahilinigoo 'ata' hashne' tse'esgizii ach'i' dzaadi! Dzaadi! Danihi dahootahgoo bee nihi-. Daa' danihi bidin nishli dzaadi! Dzaadi! Danihi bineesh'a yinishkeed 'ata' hashne' -di t'aa biholniihgoo tse'esgizii ket'aaz -di nihihigii dah diikaah, -k'eh -di tsin Plaza Del Sol Kiniit'aagoo, 600 2nd Kiniit'aa NW, Albuquerque, NM 87102.





VARIANCE JUSTIFICATION LETTER GUIDELINES - GENERAL

Per Integrated Development Ordinance 16-14-6-4(E)(3): **The applicant bears the burden of providing a sound justification for the requested decision, based on substantial evidence.**

Per Integrated Development Ordinance 14-16-6-4(E)(4) **The applicant bears the burden of showing compliance with required standards through analysis, illustrations, or other exhibits as necessary.**

Because the burden of evidence is borne by the applicant, you may choose to retain the services of a development professional that is knowledgeable in land use matters to guide your application and represent you at the public hearing.

To justify your request and aid our review, please provide a detailed response to items 1-5.

6-6(O) VARIANCE – ZHE

All applicable provisions of Section 14-16-6-4 (General Procedures) apply unless specifically modified by the provisions of this Subsection 14-16-6-6(O) or the DPM.

6-6(O)(3) Review and Decision Criteria

6-6(O)(3)(a) General

An application for a Variance – ZHE shall be approved if it meets all of the following criteria:

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.
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 this IDO or the applicable zone district.
5. The Variance approved is the minimum necessary to avoid extraordinary hardship or practical difficulties.

VARIANCE JUSTIFICATION LETTER - GENERAL

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

RE: Request for Variance of allowing a 6 ft fence to be put up all along the front of the property, which would be up to the side walk.
at 237Wyoming Blvd NE Abq, NM 87123 (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:**

There has been an increasing amount of vandalism activity in the area.
In the past year we have had at least two break-ins into the restaurant, multiple other unsuccessful attempts to break in, that have resulted in broken windows or damages to the doors. They also completely destroyed 2 of our AC units for parts.

2) The Variance will not be materially contrary to the public safety, health, or welfare **BECAUSE:**
it is actually adding to the safety of all those things by trying to put a stop on the vandalism that is going on in the area. The fence will add an extra layer of protection not only for the business, but also for the area, by discouraging vandalism.

3) The Variance does not cause significant material adverse impacts on surrounding properties or infrastructure improvements in the vicinity **BECAUSE** It actually encourages improvements in the vicinity because it has been noticed that more fences have been put up in order to protect the commercial properties all around and therefore giving a better visual aspect to the area while protecting the properties.

4) The Variance will not materially undermine the intent and purpose of this IDO or the applicable zone district **BECAUSE:**
It is a way to help comply with city ordinances that seek to get rid of litter that are present at properties. There is always trash left behind by those that pass by the or through the property. By keeping trespassers out, it is helping keep the lot neat and safe for the surrounding areas, and also allowing the business to thrive.

5) The Variance approved is the minimum necessary to avoid extraordinary hardship or practical difficulties **BECAUSE:**
That area really can't be left without a fence because of its location. That area is too close to Central Ave. which is where a lot of homeless people roam, and they have caused disasters to the property before, and it is something that should be avoided in the future. The height of the fence request and location on the property is to make sure that the whole lot and building will be protected.

Signature  Date 09-05-2025



**Zoning
Hearing
Examiner**

**Agenda Number: 08
Case #: VA-2025-00162
Hearing Date: December 16, 2025**

Staff Report

| | |
|---------------------------|--|
| Agent | NA |
| Applicant | Delila Solis |
| Request | Variance of 3 ft to the allowed 3ft wall/fence height on the front lot line of the property. |
| Legal Description | Lt 25-A-1 Blk 9 Plat of Lot 25-A-1 Block 9 Mesa Verde Addition |
| Address/Parcel No. | 237 Wyoming Blvd NE |
| Size | 0.6556 |
| Zoning | MX-M |

Staff Recommendation

Approval of VA-2025-00162, A Variance for wall height, based on the 15 FINDINGS on page and subject to the conditions on page .

Staff Planner
Adam Sena

Summary of Analysis (Project Overview)

The request is for a Variance-ZHE of 3 feet to the allowed 3 foot wall height in the front property line.

The applicant sights security concerns as the unusual circumstance of the lot. The situation on the site is not different from the majority of sites in the area, the majority of which have 6 ft. front fences.

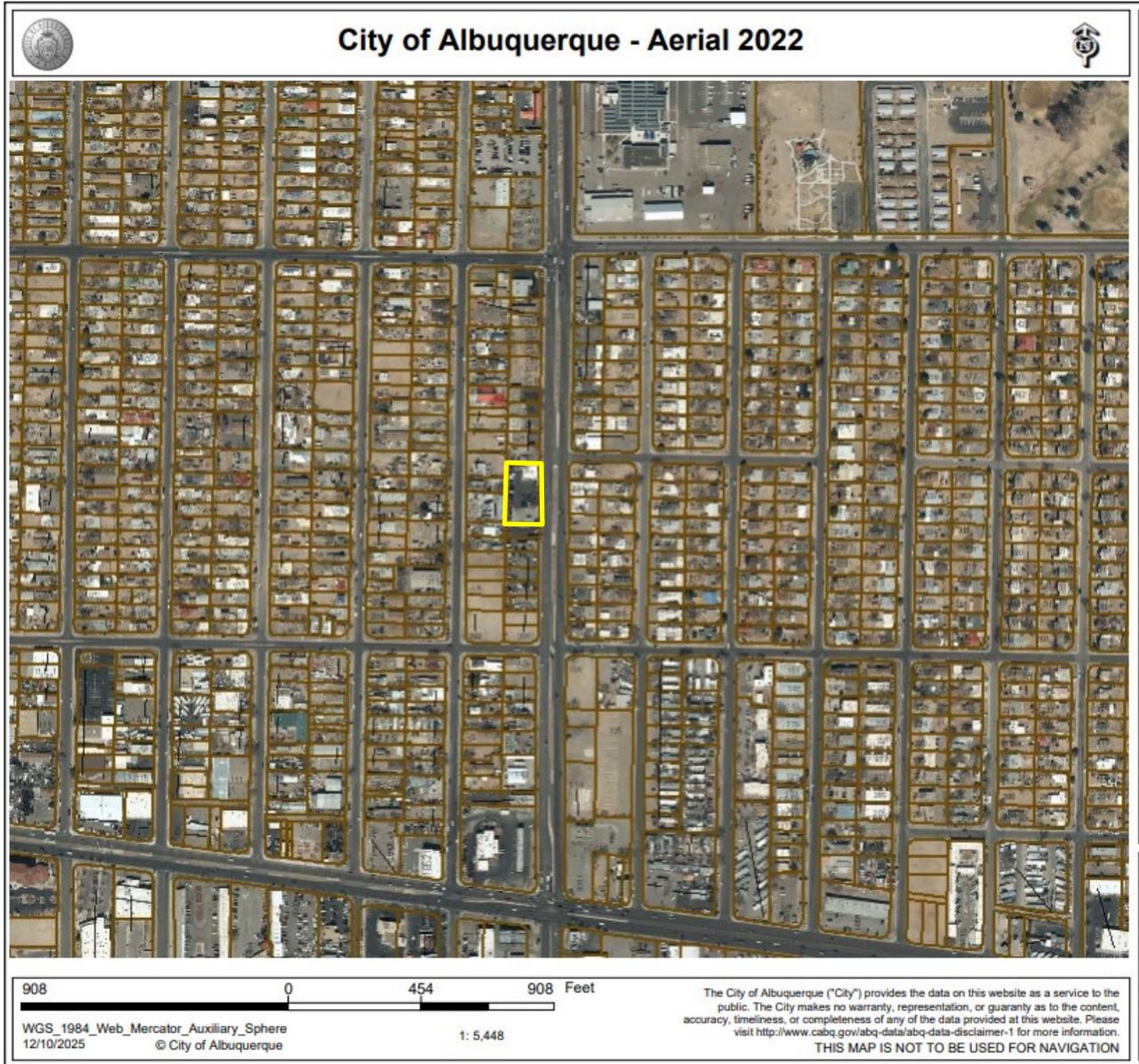
Although the fence itself is not materially harmful, the placement along the sidewalk edge of the entire property is inconsistent with the with IDO policies for setbacks and buffers. In the areas where parking meets the sidewalk, the setback can perhaps be waived; however, a 10 ft. setback in the landscaped area in front of the restaurant building is recommended.

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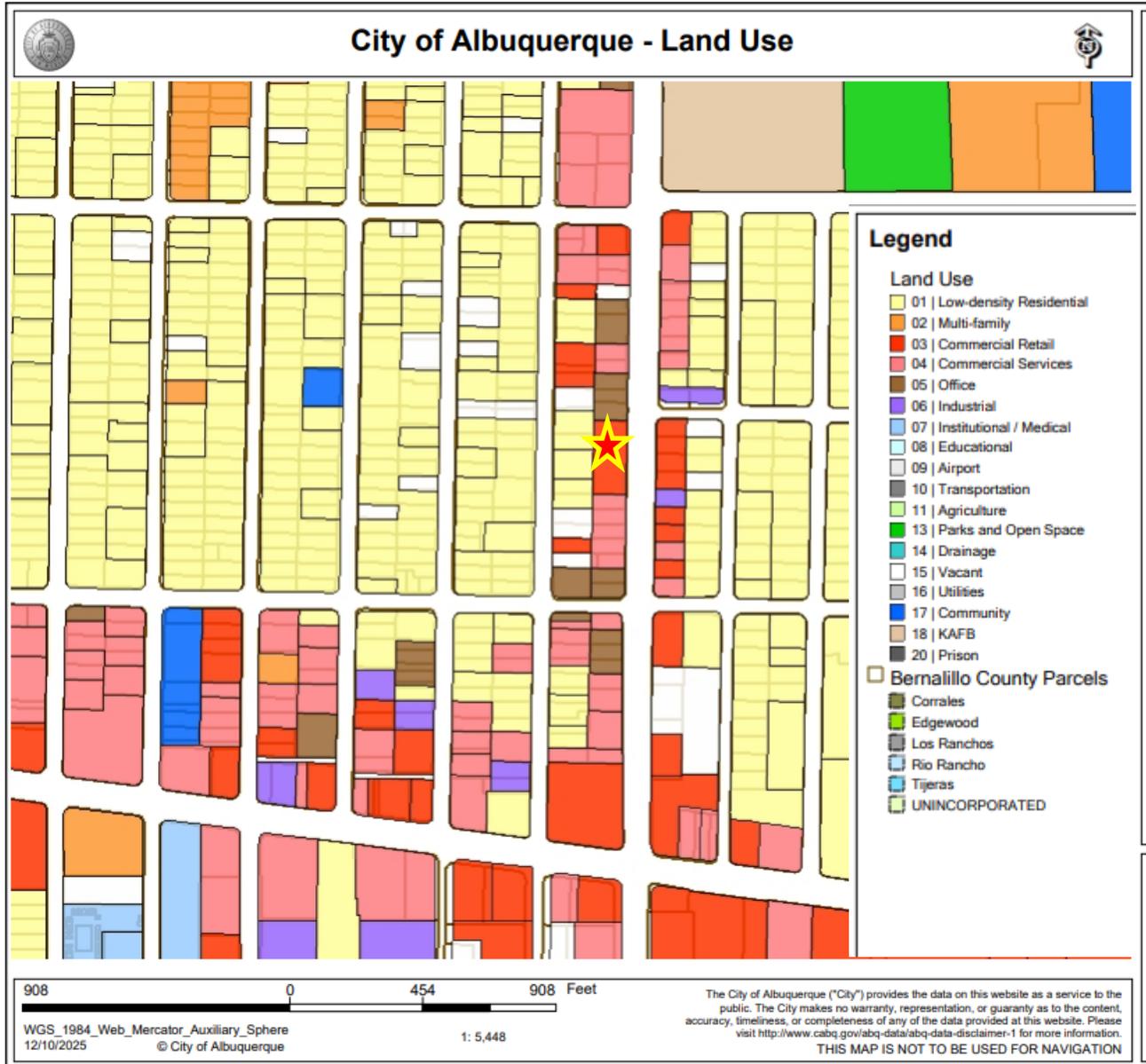
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I. Maps

Aerial Map



Land Use Map



II. Introduction

Request

The owners of the property located at 237 Wyoming Blvd NE are requesting a Variance of 3 ft to the allowed 3 ft wall/fence height in the front of the property. Under the City of Albuquerque’s zoning ordinance, the property is zoned MX-M, which allows a maximum wall-fence height of 3 feet along *the* front and side *of the* property line.

Subject Site Context

The subject site is located on Wyoming Blvd NE and is surrounded by similar commercial properties of Office and Retail Services to North and South of the subject property.

This site is represented as Commercial Retail on city maps; however, the use is actually a service provider.

Adjacent Street Designations

The subject site is located at the intersection of Wyoming Blvd NE and Domingo Rd NE.

The subject site is facing a Principal Arterial Street by the 2040 Long Range Roadway System map, produced by the Mid-Region Council of Governments.

Zoning Hearing Examiner’s Role

The Zoning Hearing Examiner (ZHE) holds public hearings and makes quasi-judicial

| | <i>IDO Zoning</i> | <i>Comprehensive Plan Development Area</i> | <i>Existing Land Use</i> |
|----------------------------|-------------------|--|----------------------------|
| <i>Subject Site</i> | MX-M | Area of Change | Commercial Retail Services |
| <i>North</i> | MX-M | Area of Change | Office Commercial Services |
| <i>South</i> | MX-M | Area of Change | Commercial Services |
| <i>East</i> | MX-M | Area of Change | Commercial Retail Services |
| <i>West</i> | MX-M | Area of Consistency | Low-Density Residential |

decisions about special exceptions to zoning regulations in the Integrated Development Ordinance (IDO). The ZHE ensures compliance with zoning laws, considers public input, and issues written findings based on evidence presented and staff recommendations.

III. Analysis of City Plans and Ordinances

Albuquerque / Bernalillo County Comprehensive Plan

City Development Areas

The subject site is located in an Area of Change as designated by the Comprehensive Plan. Areas of Change include Centers, Corridors, and Metropolitan Redevelopment Areas, where new development and redevelopment are desired and appropriate. These areas include undeveloped land and commercial or industrial zones that would benefit from infill or revitalization. Directing growth to Areas of Change is intended to reduce development pressure on established neighborhoods and rural areas, minimizing infill or redevelopment at a scale and density that could negatively impact their character. Areas of Change are intended to be the focus of urban-scale development that benefits job growth and housing opportunities.

Center & Corridor Designations

The subject property is within 1,320 feet (1/4 mile) of the Main Street Corridor Area.

Integrated Development Ordinance (IDO)

IDO Zoning

On May 2018, the Integrated Development Ordinance replaced the City's Zoning Code, and the property's zoning converted from SU-2 to MX-M. The purpose of the MX-M zone district is to provide for a wide array of moderate-intensity retail, commercial, institutional and moderate-density residential uses, with taller, multi-story buildings encouraged in Centers and Corridors

Overlay Zones

The subject site does not fall within any overlay zones.

Definitions

Clear Sight Triangle An area of unobstructed vision at street intersections at least 3 feet and no more than 8 feet above the gutter line and within a triangular area at the street corner, driveway, or drive aisle, as regulated by the DPM.

Setback The shortest distance between a structure and a lot line. Front setbacks are measured from the front lot line. Rear setbacks are measured from the rear lot line. Side setbacks are measured from side lot lines. In the case of a setback from an irrigation facility, the measurement is taken from the toe of the slope to the structure or from the

lot line to the structure, whichever is greater. See also Lot Definitions for Front Lot Line, Rear Lot Line, and Side Lot Line.

Wall Height For a perimeter wall along the front lot line, wall height shall be measured from the finished grade on the public side of the wall. For other perimeter walls along other lot lines or for walls between the front lot line and the front façade of the primary building, wall height shall be measured from the finished grade on the side of the wall that provides the taller wall height. Wall height does not include decorative or incidental features, such as pilasters or fence posts, that are allowed or required by this IDO. See also Wall Definitions.

Walls and Fences

Pursuant to IDO §14-12--5-7(D)(3)(c) Development in Mixed-use Zone Districts

For development in any Mixed-use zone district, the maximum height of walls in any front or street side yard is 5 feet if all of the following requirements are met, as applicable based on the type of development.

1. For all development, the wall shall be set back at least 10 feet from the lot line abutting the street or edge of the sidewalk closest to the primary building, whichever is more restrictive.
2. For all development, view fencing shall be used for portions of a wall above 3 feet.
3. For mixed-use, multi-family residential, or non-residential development, the area between the wall and the property line shall be landscaped with at least 2 trees and 6 shrubs every 25 feet along the length of the wall.

IV. Variance – ZHE

IDO Review and Decision Criteria

Pursuant to IDO §14-16-6-6(O) (Review and Decision Criteria), "An application for a Variance – ZHE shall be approved if it meets all of the following criteria."

(O)(3)(a) The wall is proposed on a lot that meets all of the following criteria.

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.

The Subject Property sits on an interior commercial lot, facing a Principal arterial road, which is a busy roadway for vehicles. The Variance for the 6-foot wall-fence permit is for a Restaurant. There are not unusual site conditions; however, many site along the street also have high fences.

2. The Variance will not be materially contrary to the public safety, health, or welfare.

The request will maintain safe and legal means of ingress and egress on the Subject Property. The requested variance will not impede public traffic or pedestrians walking on sidewalks. Furthermore, the proposed fence is a clear view fence, which provides visibility to the motoring public.

3. The Variance does not cause significant material adverse impacts on surrounding properties or infrastructure improvements in the vicinity.

The Variance will not cause significant material adverse impacts on surrounding properties or infrastructure improvements in the vicinity. The majority of properties in the area have tall fences including the southern portion of the subject site.

4. The Variance will not materially undermine the intent and purpose of this IDO, the applicable zone district, or any applicable Overlay Zone.

The IDO § 14-16-5-7(D)(3)(c) states that:

For development in any Mixed-use zone district, the maximum height of walls in any front or street side yard is 5 feet if all of the following requirements are met, as applicable based on the type of development.

- 1. For all development, the wall shall be set back at least 10 feet from the lot line abutting the street or edge of the sidewalk closest to the primary building, whichever is more restrictive.*
- 2. For all development, view fencing shall be used for portions of a wall above 3 feet.*
- 3. For mixed-use, multi-family residential, or non-residential development, the area between the wall and the property line shall be landscaped with at least 2 trees and 6 shrubs every 25 feet along the length of the wall.*

The intent of these setbacks is to prevent and soften the pedestrian edge of properties in Mixed-Use zones. The establishment of a taller wall or

fence directly on the sidewalk is to undermine the intent and purpose of such requirements in the IDO.

The site has room in front of the restaurant building to accommodate the 10 ft. setback and is already landscaped. Setting the fence back the 10 feet in this area will meet the intent of the IDO while allowing for the tall fence along the property line in the parking area.

5. The Variance approved is the minimum necessary to avoid extraordinary hardship or practical difficulties.

The requested variance exceeds the minimum necessary to avoid practical difficulties. A 5-foot fence would be equally effective in deterring trespassers and promoting the safety and welfare of the property. Simultaneously, placement of the taller fence along the property line in the area of the parking is necessary to prevent the loss of required parking for the site.

V. Agency & Neighborhood Concerns

Reviewing Agencies

Transportation had no comments regarding this application.

Neighborhood/Public

As part of the notification process, La Mesa Community Improvement Association was notified. At the time of writing, no comments have been received from neighboring properties.

Property owners within 100 ft. of the site were notified by mail. No comments have been received.

VI. Conclusion

The request is for a Variance-ZHE of 3 feet to the allowed 3-foot wall height in the front of the property.

The applicant sights security concerns as the unusual circumstance of the lot. The situation on the site is not different from the majority of sites in the area, the majority of which have 6 ft. front fences. Although the fence itself is not materially harmful, the placement along the sidewalk edge of the entire property is inconsistent with the with IDO policies for setbacks and buffers. In the areas where parking meets the sidewalk, the setback can

perhaps be waived; however, a 10 ft. setback in the landscaped area in front of the restaurant building is recommended.

Findings for Variance-ZHE, VA-2025-00162

FINDINGS:

1. Applicant is requesting a Variance of 3 ft to the maximum 3ft wall height, pursuant to City of Albuquerque Code of Ordinances Integrated Development Ordinance (“**IDO**”) Section 14-16-6-6(O).
2. Applicant has authority to pursue this Application, pursuant to 14-16-6-4(D).
3. Applicant has duly authorized Agent to act on Applicant’s behalf regarding the Application.
4. Applicant is not required to offer a meeting to Indian Nations, Tribes, and Pueblos before filing the application, pursuant to IDO Section 14-16-6-4(B).
5. The Planning Director’s delegee has determined that the Application is complete, pursuant to IDO Section 14-16-6-4(G).
6. The Application was forwarded to commenting agencies pursuant to IDO Section 14-16-6-4(I).
7. The content of the notice of the Application satisfies IDO Section 14-16-6-4(J)(1).
8. Applicant has sent an electronic mail notice to the email addresses on file with the Office of Neighborhood Coordination for each pertinent Neighborhood Association as required by IDO Section 14-16-6-4(J)(2).
9. Applicant has sent mailed notice to all property owners within 100 feet of the subject property as required by IDO Section 14-16-6-4(J)(3).
10. Applicant has posted sign notice(s) as required by IDO Section 14-16-6-4(J)(4).
11. The Subject Property is located in the MX-M zone.
12. Therefore, a request for an 6 ft wall-fence in the front of the property line with no setbacks on the Subject Property requires a Variance Approval pursuant to IDO Subsection 14-16-6-6(O).
13. IDO Section 14-16-6-6(O)(3)(a) (Review and Decision Criteria– Variance) 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 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.*

The Subject Property sits on an interior lot surrounded by Office, Low Density and Commercial Services. The Variance for the 6-foot wall-fence permit is for a Restaurant Commercial Retail Business.

There are no unusual characteristics of the site; however, the neighboring properties just to the north and south of the subject property have up to 6-foot wall-fences

2. *The Variance will not be materially contrary to the public safety, health, or welfare.*

The request will maintain safe and legal means of ingress and egress on the Subject Property. The requested variance will not impede public traffic or pedestrians walking on sidewalks. Furthermore, the proposed fence is a clear view fence, which provides visibility to the motoring public.

3. *The Variance does not cause significant material adverse impacts on surrounding properties or infrastructure improvements in the vicinity.*

The Variance will not cause significant material adverse impacts on surrounding properties or infrastructure improvements in the vicinity. The majority of properties in the area have tall fences including the southern portion of the subject site.

4. *The Variance will not materially undermine the intent and purpose of this IDO, the applicable zone district, or any applicable Overlay Zone.*

The IDO § 14-16-5-7(D)(3)(c) states that:

For development in any Mixed-use zone district, the maximum height of walls in any front or street side yard is 5 feet if all of the following requirements are met, as applicable based on the type of development.

1. *For all development, the wall shall be set back at least 10 feet from the lot line abutting the street or edge of the sidewalk closest to the primary building, whichever is more restrictive.*
2. *For all development, view fencing shall be used for portions of a wall above 3 feet.*
3. *For mixed-use, multi-family residential, or non-residential development, the area between the wall and the property line shall be landscaped with at least 2 trees and 6 shrubs every 25 feet along the length of the wall.*

The intent of these setbacks is to prevent and soften the pedestrian edge of properties in Mixed-Use zones. The site has room in front of the restaurant building to accommodate the 10 ft. setback and is already landscaped.

Setting the fence back the 10 feet in this area will meet the intent of the IDO while allowing for the tall fence along the property line in the parking area.

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

The requested variance exceeds the minimum necessary to avoid practical difficulties. A 5-foot fence would be equally effective in deterring trespassers and promoting the safety and welfare of the property. Simultaneously, placement of the taller fence along the property line in the area of the parking is necessary to prevent the loss of required parking for the site.

14. Applicant has provided justification for the requested decision, based on substantial evidence, pursuant to IDO Section 14-16-6-4(E)(3).

15. The City Traffic Engineer submitted a report stating no objection to the Application.

Recommendation

APPROVAL of Case #: VA-2025-00162 a request for Variance to front wall/fence height for Lt 25-A-1 Blk 9 Plat of Lot 25-A-1 Block 9 Mesa Verde Addition, located at 237 Wyoming Blvd NE, based on the preceding 15 Findings.

Recommended Conditions if Approved:

1. Applicant provide 10-foot setback from the lot line where possible on the front street facing and side street facing with required landscaping pursuant to IDO § 14-16-5-7(D)(3)(c).
2. Applicant attain all required permits associated with this application.

Adam Sena

Senior Planner, Zoning Hearing Examiner
Urban Design and Development Division

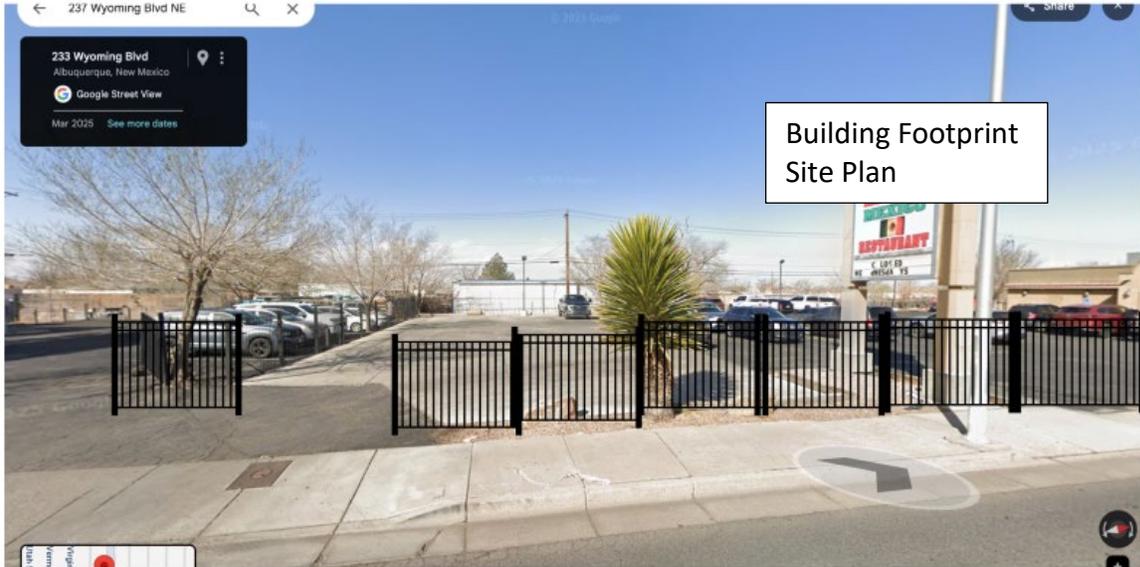
Notice of Decision cc list:

List will be finalized subsequent to the ZHE hearing.

A) PHOTOS OF SITE

Subject Site-237 Wyoming Blvd NE





VARIANCE JUSTIFICATION LETTER - GENERAL

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

RE: Request for Variance of allowing a 6 ft fence to be put up all along the front of the property, which would be up to the side walk.
at 237Wyoming Blvd NE Abq, NM 87123 (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:**

There has been an increasing amount of vandalism activity in the area.
In the past year we have had at least two break-ins into the restaurant, multiple other unsuccessful attempts to break in, that have resulted in broken windows or damages to the doors. They also completely destroyed 2 of our AC units for parts.

2) The Variance will not be materially contrary to the public safety, health, or welfare **BECAUSE:**
it is actually adding to the safety of all those things by trying to put a stop on the vandalism that is going on in the area. The fence will add an extra layer of protection not only for the business, but also for the area, by discouraging vandalism.

3) The Variance does not cause significant material adverse impacts on surrounding properties or infrastructure improvements in the vicinity **BECAUSE** It actually encourages improvements in the vicinity because it has been noticed that more fences have been put up in order to protect the commercial properties all around and therefore giving a better visual aspect to the area while protecting the properties.

4) The Variance will not materially undermine the intent and purpose of this IDO or the applicable zone district **BECAUSE:**
It is a way to help comply with city ordinances that seek to get rid of litter that are present at properties. There is always trash left behind by those that pass by the or through the property. By keeping trespassers out, it is helping keep the lot neat and safe for the surrounding areas, and also allowing the business to thrive.

5) The Variance approved is the minimum necessary to avoid extraordinary hardship or practical difficulties **BECAUSE:**
That area really can't be left without a fence because of its location. That area is too close to Central Ave. which is where a lot of homeless people roam, and they have caused disasters to the property before, and it is something that should be avoided in the future. The height of the fence request and location on the property is to make sure that the whole lot and building will be protected.

Signature  Date 09-05-2025

SIGN POSTING AGREEMENT

Environmental Planning Commission

All persons requesting a hearing before the Environmental Planning Commission are responsible for the posting and maintaining of one or more signs on the property.

Failure to maintain the signs during this entire period may be cause for deferral or denial of the application.

Per Integrated Development Ordinance 14-16-6-4(J)(4): **The applicant shall post at least 1 sign on each street abutting the property that is the subject of the application, at a point clearly visible from that street, for at least 15 calendar days before the public hearing and for the appeal period of 15 calendar days following any decision, required pursuant to Subsection 14-16-6-4(T) and Subsection 14-16-6-4(U)(3)(a)1.**

1. LOCATION

- A. The sign shall be conspicuously located within twenty feet of the public sidewalk (or edge of public street).
- 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 help prevent tearing and are best for attaching signs to a post or backing.

Signs must be posted from 15 days prior to the hearing to 15 days after the hearing.

Project Number & Address 237 Wyoming Blvd. NE 87123

Applicant/Agent Signature  **Date:** 09-05-2025

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

Public Notice of a Hearing before the Zoning Hearing Examiner in the City of Albuquerque

Date of Notice*: 08-29-25

This notice of an application for a proposed project is provided as required by the Integrated Development Ordinance (IDO) [§14-16-6-4\(K\) Public Notice](#). This notice is being provided to (mark as relevant):

- Neighborhood Association Representatives on the attached list from the Office of Neighborhood Coordination.¹
- Property Owners within 100 feet of the Subject Property.

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

1. Subject Property Address* 237 Wyoming Blvd. NE ABQ, NM 87123 (zipcode)
Location Description _____
2. Property Owner* Dalila Solis
3. Agent/Contractor (if other than the property owner) _____
4. Application Type(s)²* per IDO [Table 6-1-1](#):

| | |
|--|--|
| <input type="checkbox"/> Conditional Use | <input type="checkbox"/> Carport Permit |
| <input checked="" type="checkbox"/> Variance | <input type="checkbox"/> Major Wall/Fence Permit |
| <input type="checkbox"/> Other _____ | |

Summary of project/request*:

Requesting a variance of 3 extra feet, in order to put up a 6 foot fence all along the front prop

5. This application will be decided by the Zoning Hearing Examiner at a public hearing.
Hearing Date*: to be determined (T u e s d a y)
The hearing will begin at 9:00AM via ZOOM.

For Zoom details and the agenda, please visit the CABQ Planning Webpage:
<https://www.cabq.gov/planning/boards-commissions/zoning-hearing-examiner/zhe-agendas-action-sheets-decisions>

To contact staff, email PlanningZHE@cabq.gov or call the Planning Department at 505-924-3860 and select the option for "Boards, Commissions, and ZHE signs."

Please note: You may submit written comments to the Zoning Hearing Examiner up to 6 days before the hearing. (Deadline is 5 pm on the Wednesday before the hearing.)

¹ If this box is marked, the Neighborhood Association Representative Contact List from the City's Office of Neighborhood Coordination must be included as an attachment.

² Other application types require separate forms available here: <https://www.cabq.gov/planning/codes-policies-regulations/integrated-development-ordinance-1/public-notice>. Otherwise, please mark all that apply.

August

| | | | | |
|--------------------------|------------------------|--|---|--------|
| <input type="checkbox"/> | debsia@swcp.com | ☆ variance request notification for 237 Wyoming Blvd. NE 87123 |  | Aug 27 |
| <input type="checkbox"/> | notices@slananm.org | ☆ variance request for 237 Wyoming Blvd. NE 87123 |  | Aug 27 |
| <input type="checkbox"/> | idalialt@gmail.com | ☆ variance request for 237 Wyoming Blvd. NE 87123 |  | Aug 27 |
| <input type="checkbox"/> | 5058041113rw@gmail.com | ☆ variance request notification for 237 Wyoming Blvd. NE 87123 |  | Aug 27 |
| <input type="checkbox"/> | m.ryankious@gmail.com | ☆ variance request notification for 237 Wyoming Blvd. NE 87123 |  | Aug 27 |
| <input type="checkbox"/> | info@willsonstudio.com | ☆ Variance request notification for 237 Wyoming Blvd. NE 87123 |  | Aug 27 |

| | | |
|-----------------------------------|----------------------------|---------------------------|
| GARCIA-SALAS HECTOR A | 103 ABILENE AVE SE | ALBUQUERQUE NM 87102-4801 |
| LRS CONSTRUCTION INC | 11504 WOODMAR LN NE | ALBUQUERQUE NM 87111 |
| CE REAZIN BILLAU LLC | 1600 RITA DR NE | ALBUQUERQUE NM 87106-1128 |
| CHACON FIDEL & SOLIS DALILA | 217 SHIRLEY ST NE | ALBUQUERQUE NM 87123-2936 |
| DOMINGUEZ DAVID A & ROSE H | 2316 DIETZ PL NW | ALBUQUERQUE NM 87107 |
| PETERSON JAMES C TRUSTEE PETERSON | 2325 SAN PEDRO DR NE SUITE | |
| IRVT | 2A | ALBUQUERQUE NM 87110-4121 |
| HOLGUIN JESUS | 242 WISCONSIN ST NE | ALBUQUERQUE NM 87108-2717 |
| JOHNSON ERNEST J & DIANNA J | 5036 JUAN P SANCHEZ RD | LOS LUNAS NM 87031 |
| COE & PETERSON LLC | 7001 MENAUL BLVD NE | ALBUQUERQUE NM 87110-3695 |
| LEITHEAD CAROL A | PO BOX 36358 | ALBUQUERQUE NM 87176 |

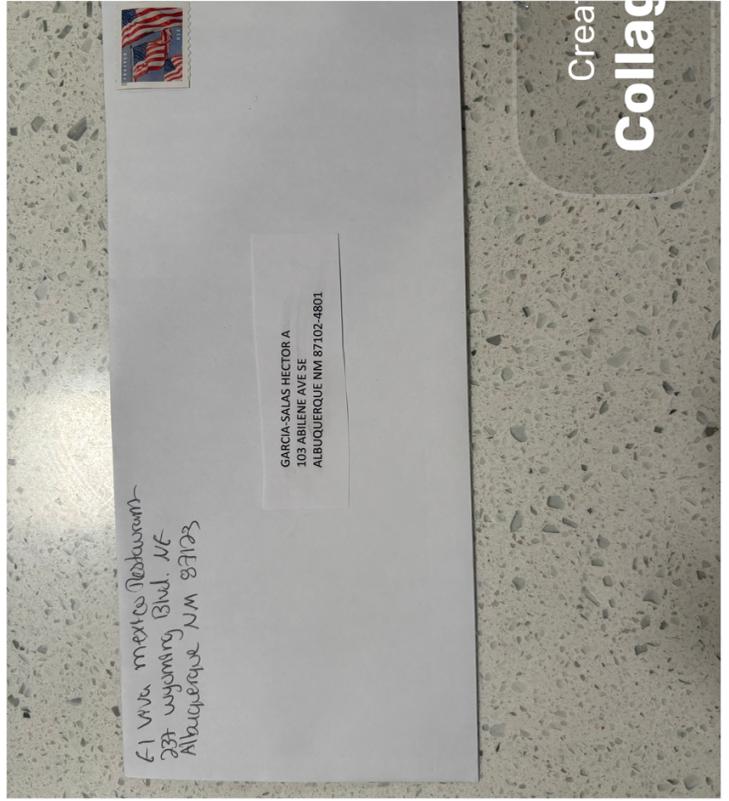
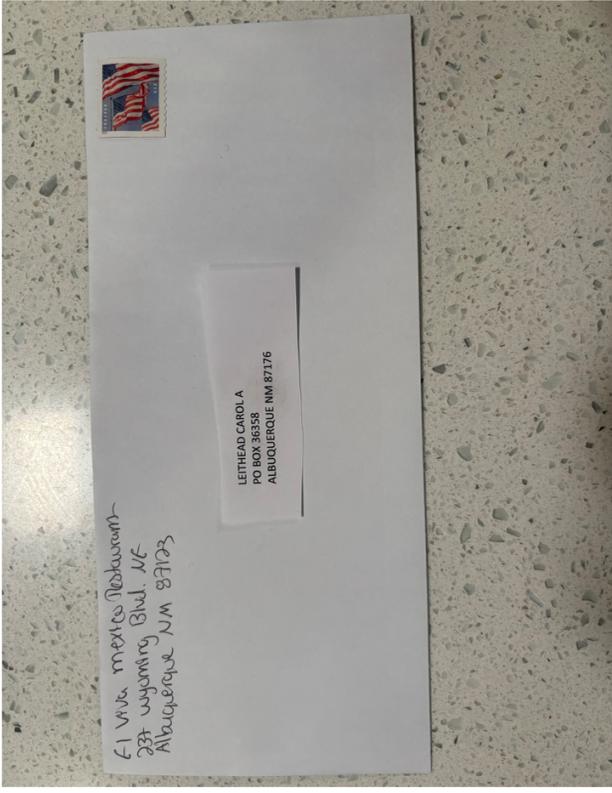
MAILING LIST OF PRPERTY OWNERS



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Collageable



Created in
Collageable



Created in
Collageable



Zoning Hearing Examiner Hearing

MINUTES

December 16, 2025

Zoom Meeting

City Staff Present:

Robert Lucero – Zoning Hearing Examiner

Leslie Naji – Acting ZHE Principal Planner, Planning Department

Adam Sena – ZHE Senior Planner, Planning Department

Misa Bloom – Planner, Planning Department

Nichole Maher – Acting ZHE Hearing Monitor

ZHE - Robert Lucero: (53:36) Agenda item 8 is VA-2025-00162. Fidel Chacon and Delilah Solis request a variance of 3 feet to the 3-foot wall height maximum on the front property line for lot 25-A-1, Block 9, plat of Lot 25-A-1, Block 9, Mesa Verde Edition. Located at 237 Wyoming Boulevard NE, which is zoned MX-M. Do we have the applicants here this morning?

Dalila Solis: Yes, I'm here.

ZHE - Robert Lucero: Good morning. Would you please state your full name and mailing address for the record?

Dalila Solis: Yes, Dalila Solis, 237 Wyoming Boulevard, Northeast, 87123.

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

Dalila Solis: Yes, I do.

ZHE - Robert Lucero: Thank you. Please tell me about the variance request.

Dalila Solis: Yes, so we're requesting an extra 3 feet to the 3-foot allowance for, in order, in hopes to be able to put up a fence all along the property line. So, this is for a restaurant, and we've just been having lots of problems with homeless people sleeping on the property, and trespassing, overnight. Even over the summer, we had somebody, climb up on the roof, and steal well, destroy two of our AC units. So, we're just thinking that this is gonna help limit them. They won't be able to vandalize the property as much. I know it won't be able to stop them completely if they really want to get in, but I just think it would really help us.

ZHE - Robert Lucero: And, tell me about the site itself. Where is it located? How is it shaped? Tell me a little bit about the site.

Dalila Solis: Like, for the do you mean, like, the restaurant, or, like...

ZHE - Robert Lucero: Yeah, the property itself, the lot, yeah.

Dalila Solis: Yeah, so our property line goes all the way to the sidewalk, so we're just hoping to be able to put the fence all along the front property line.

ZHE - Robert Lucero: Okay. Let's see, and are you, is this is a corner lot, is that... or are you just in the middle of the...

Dalila Solis: We're, like, in the middle of the street, yeah, It's not a corner lot.

ZHE - Robert Lucero: Oh yeah, I see it here. Okay. Let's see, now, could, could, you probably heard the comments on the last case about, you know, there's a hesitancy on the part of the City to put the, to allow fences right up along the sidewalk just because of streetscape and concerns for pedestrian safety, etc. and, you know, looking at sort of the renderings of where the fence is, it looks like it might be able to be placed back, set back, could... is that right? Could it be setback?

Dalila Solis: Possibly a little bit, but not too much, because the restaurant is pretty close to the property line. I know, I had gotten an email from somebody asking if we would be willing to set it back. I can't remember how many feet, but that was just, that would just put it, like, right along the restaurant. and like I said, we had somebody over the summer climb up on the roof and destroy our AC units, so I feel like that would make it easier for them to, like, be able to access the restaurant through the roof, possibly, If they really wanted to, so we're just trying to protect our property as much as we can, and the building itself.

ZHE - Robert Lucero: Okay.

ZHE - Robert Lucero: And then, so you're looking to do a 6-foot. fence, is that right?

Dalila Solis: Yes

ZHE - Robert Lucero: Okay. would 5 foot, high be enough to deter folks, and if not, why not?

Dalila Solis: I think the 6 feet is, like, a good height in order to stop people, and it's something that you can see all around, like, around us as well. People do the 6 feet rather than the 5. I just think it allows for more protection for the property, for the building.

ZHE - Robert Lucero: Okay. Anything else that you'd like to add before I call for public comment?

Dalila Solis: No, I don't think so.

ZHE - Robert Lucero: Okay, well, let's see if there's any public comment, and then if there is, you'll have the chance to respond.

Dalila Solis: Thank you.

ZHE - Robert Lucero: So, for everyone here, this is Agenda Item 8, and it's a request to allow a variance for a taller wall at the front property line at 237 Wyoming Boulevard NE. Please raise your hand to speak on that item. Scrolling through the participants, and I don't see anyone with a hand raised. Again, please raise your hand if you'd like to speak on Agenda Item 8. That's last call for public comment on Agenda Item 8. Okay, Ms. Solis, it doesn't appear that there's any public comment. Is there anything that you'd like to add in closing?

Dalila Solis: No, that's it. Thank you so much.

ZHE - Robert Lucero: Well, thank you very much for your testimony today and all the submittals. I'll take it all under consideration and issue the written decision in 15 days.

Dalila Solis: Okay, thank you.

ZHE - Robert Lucero: Thank you. That concludes Agenda Item 8.



NOTICE OF APPEAL

January 22, 2026

TO WHOM IT MAY CONCERN:

The Planning Department received an appeal on January 15, 2026. 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 Nichole Maher, Planning Sr. Administrative Assistant, (505) 924-3845 or nmaher@cabq.gov.

Please refer to the enclosed excerpt from the Land Use Hearing Officer Rules of Procedure and Qualifications for any questions you may have about this 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 Michelle Montoya, Clerk to the City Council, (505) 768-3100 or mmmontoya@cabq.gov.

CITY COUNCIL APPEAL NUMBER: AC-26-02

**PLANNING DEPARTMENT CASE FILE NUMBER: [VA-2025-00162 \(ZHE – Variance\)](#),
[VA-2026-00006 \(Appeal\)](#)**

SUBJECT PROPERTY: 237 Wyoming Blvd NE, Albuquerque, NM 87123

APPLICANT: Delila Solis

giselle864@yahoo.com

CC: Alan Varela, avarela@cabq.gov
Andrew Coon, acoon@cabq.gov
James Aranda, jmaranda@cabq.gov
Jessica Enriquez, jenriquez@cabq.gov
Leslie Naji, Lnaji@cabq.gov
Michelle Montoya, mmmontoya@cabq.gov
Mikaela Renz-Whitmore, mrenz-whitmore@cabq.gov
ZHE File



AGENDA

PUBLIC HEARING ZONING HEARING EXAMINER CITY OF ALBUQUERQUE

Notice is hereby given that the Zoning Hearing Examiner, Robert Lucero, Esq., City of Albuquerque, will hold a public hearing via <https://www.zoom.us/> on Tuesday, December 16, 2025 beginning at 9:00 a.m.

Join Zoom Meeting

<https://cabq.zoom.us/j/9756087372>

Meeting ID: 975 608 7372

Attend by Phone

+1 (719) 359-4580

Meeting ID: 975 608 7372

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

Please contact City Planning staff via the information below for any of the following:

- To request details about the cases below.
- At least 72 hours prior to the hearing:
 - For individuals with disabilities to request special assistance to participate at the public hearing.
 - To request interpretation into other languages at the hearing.

Contact Information

- Email: PlanningZHE@cabq.gov
- Phone: 505-924-3860, option for Boards and Commissions, or TTY 711

To submit written comments on any of the cases below, please submit by 5 PM on Wednesday, November 12, 2025.

- Mail: Robert Lucero, Esq., Zoning Hearing Examiner, c/o ZHE Administrative Assistant, Planning Department, P.O. Box 1293, Albuquerque, NM, 87103
- Email: PlanningZHE@cabq.gov
- Online: Visit <https://cabq.gov/zhe-public-comment> to submit a comment about a case online.

The following items will be considered:

| <u>INTERPRETER NEEDED:</u> | | | |
|-----------------------------------|---------------------------------|--|---|
| 1. | CU-2025-00034 | PR-2025-020134 APPROVAL | Barbara Goddard and Maria Molinar De Bailon request a Conditional Use for a Family Home Day Care for Lot 5, 6, Unit No. 7A, Jade Park Mobile Home Subdivision, located at 6816 Elona Drive NE, zoned PD (D-18) (IDO Section 14-16-4-2, Table 4-2-1; 14-16-4-3(F)(8)) |
| <u>OLD BUSINESS:</u> | | | |
| 2. | VA-2025-00142 | PR-2025-020105 APPROVAL | Joseph Martarese & Sarah Bernhard (Agent: Kevin Evans, Annex General Construction) requests a Variance of 2 ft to the 6 ft requirement for a front courtyard wall, for Lot 24, Block 38, University Heights Addition, located at 301 Bryn Mawr Drive SE, zoned R-1C (IDO Section 14-16-5-7(D)(3), Table 5-7-2) |
| 3. | VA-2025-00143 | APPROVAL | Jamie Leigh & Shane Robert Meihaus requests a Variance of 10 Ft to the required 15 Ft side yard setback in the Character Protection Overlay Zone-13 for Lot 5-A & 5-B, Block 6, Unit 18, Cliffs Subdivision located at 6612 Kimmick Drive NW, zoned R-1D (IDO Section 14-16-3-4(N)(3)) |
| 4. | MZP-2025-00026 VA-2025-00172 | PR-2025-020150 APPROVAL APPROVAL | Salena Vela requests a Carport Permit and a Variance of 1 foot to the 3-foot front setback requirement for Lot 19, Block 29, Inez Addition, located at 8007 Indian School Road NE, zoned R-1C (H-19) (IDO Section 14-16-5-5(F)(2)(a)(3)(c)) |
| <u>NEW BUSINESS:</u> | | | |
| 5. | CU-2025-00038 | PR-2025-020152 APPROVAL | 6401 Uptown, LLC and Tim Wright – Nusenda Credit Union (Joe Slagle, Architect – Agent) request a Conditional Use for a Drive-through or drive-up facility for Tract B-1-A-1 Plat of Tracts A-2-B-1-A & B-1-A-1 Dale K Bellamah’s Jenedale Unit 5, located at 6401 Uptown Boulevard NE, zoned MX-H (H-18) (IDO Section 14-16-4-2, Table 4-2-1; 14-4-3(F)(5)) |

| | | | |
|-----|---------------|-----------------------------------|--|
| 6. | VA-2025-00154 | DENIAL | Matthew Cunningham requests a Variance to install a 5 foot 10 inch perimeter steel fence for Map 36, Tracts 36B1A & 36B2, Lots 3 thru 6, Block 2 Towner Addition & East 7 feet Vacation Alley Adjacent and Lots 7 & 8 Block 2 Towner Addition and West 7 Feet, located at 2513 4th Street NW, zoned MX-M, NR-C (H-14) (IDO Section 14-16-6-6(O)) |
| 7. | VA-2025-00161 | DEFERRAL | Slavin Family, LLC (Augustine Grace, Ace Engineering – Agent) requests a Variance for a courtyard wall height variance of 6 inches to the required 3-foot wall maximum for Lot 8, Block 3, Buena Vista Heights, located at 2128 Silver Avenue SE, zoned MX-T (K-15) (IDO Section 14-16-5-7(D)(3); Table 5-7-2) |
| 8. | VA-2025-00162 | DENIAL | Fidel Chacon and Dalila Solis request a Variance of 3 feet to the 3-foot wall height maximum on the front property line for Lot 25-A-1, Block 9, Plat of Lot 25-A-1 Block 9 Mesa Verde Addition, located at 237 Wyoming Boulevard NE, zoned MX-M (K-19) (IDO Section 14-16-5-7(D); Table 5-7-1). |
| 9. | VA-2025-00165 | PR-2025-020145 APPROVAL | City of Albuquerque and Raphael Martinez, N4Arts, request for a Variance of 10 feet to the 10-foot front setback requirement for a wrought iron view fence for MRGCS Map 32 Tract 147A1B & 147A2, located at 4904 4TH ST NW, zoned MX-M (F-14) (IDO Section 14-16-5-7(D)(3)(c)1) |
| 10. | VA-2025-00166 | PR-2025-020151 DEFERRAL | Rio Grande Realty & Investment, LLC (Todd Kruger, Elevated Mechanical Services – Agent) requests a variance of 15 feet to the 25-foot rear setback requirement to construct a single-car garage addition for Lot 1 Plat of Lots 1, 2 & 3 Lands of Frances & Theresa, located at 3741 San Isidro Street NW, zoned R-A (G-13) (IDO Section 14-16-5-1; Table 5-1-1) |