

CITY OF ALBUQUERQUE
PLANNING DEPARTMENT
URBAN DESIGN & DEVELOPMENT DIVISION
600 2nd Street NW, 2nd Floor, Albuquerque, NM 87102
PO Box 1293, Albuquerque, NM 87103
Office (505) 924-3860



ZONING HEARING EXAMINER

NOTICE OF DECISION

Special Exception Number: VA-2026-00063

Project Number: None

Hearing Date: 07-21-2026

Closing of Public Record: 07-21-2026

Date of Decision: 08-05-2026

Case Description: Los Arboles Real Estate Investments (Owner) & Roman Guzman (Applicant) request a Variance of 5 feet to the required 5-foot setback to install a steel 6-foot 6-inch fence for * A 10 Duke City Industrial Area (Being A Replat of the Westerly Portion of Block 1 Continuous, located at 3333 Los Arboles Ave NE, zoned NR-C (H-16) IDO β 14-16- 5-7(D)(3)(d)

On July 21, 2026, Los Arboles Real Estate Investments (Owner) & Juan Bazan (Applicant) were scheduled to appear before the Zoning Hearing Examiner (the “ZHE”) requesting a Variance of 5 feet to the required streetside setback of 5 feet for a 6-foot fence in the NR-C zone (“Application”) upon the real property located at 3333 Los Arboles Ave NE (the “Subject Property”). Below are the ZHE’s findings of fact and decision.

FINDINGS, VARIANCE TO MINIMUM REAR SETBACK:

1. Applicant is requesting a Variance of 5 feet to the required streetside setback for a 6-foot 6-inch fence in an NR-C zone pursuant to City of Albuquerque Code of Ordinances Integrated Development Ordinance (“IDO”) § 14-16-6-6(O).
2. A 6-foot 6-inch fence is within the acceptable deviation of 6 inches for a wall/fence pursuant to IDO β 14-16-4(N), Table 6-4-1
3. Applicant has authority to pursue this Application, pursuant to IDO § 14-16-6-4(D).
4. Applicant has not duly authorized Agent to act on Applicant’s behalf regarding the Application.

5. The Planning Director's delegee has determined that the Application is complete pursuant to IDO § 14-16-6-4(G).
6. The analyses and studies listed in IDO § 14-16-6-4(H) are not required.
7. The Application was referred to commenting agencies pursuant to IDO § 14-16-6-4(I).
8. The content of the notice of the Application satisfies IDO § 14-16-6-4(J)(1).
9. According to the Office of Neighborhood Coordination, no Neighborhood Associations are located within 660 feet so notification was not applicable as required by IDO § 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 § 14-16-6-4(J)(3).
11. Applicant has posted sign notice(s) as required by IDO § 14-16-6-4(J)(4).
12. The Subject Property is located in the NR-C zone district.
13. Walls taller than allowed require a Variance – ZHE pursuant to IDO § 14-16-6-6(O).
14. Therefore, a Variance – ZHE is required for a 6-foot 6-inch wall on the property line.
15. IDO § 14-16-6-6(O)(3)(a) (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 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.”*
16. Applicant bears the burden of providing a sound justification for the requested decision, based on substantial evidence, pursuant to IDO § 14-16-6-4(E)(3).
17. Applicant bears the burden of showing compliance with required standards through analysis, illustrations, or other exhibits as necessary, pursuant to IDO § 14-16-6-4(E)(4).
18. 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).
19. 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).
20. 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, and 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, as required by Section 14-16-6-6(O)(3)(a)(1). The location of the subject property and pre-existing improvements create increased visibility, lack of privacy and risk of trespass and security risks, which constitute special circumstances that create practical difficulties that would result from strict compliance with the minimum standards.

21. 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(O)(3)(a)(2). The fence design is attractive and in line with the architectural character of the neighborhood.
22. 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(O)(3)(a)(3). The wall provides for security and views without causing adverse impacts.
23. 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(O)(3)(a)(4). Applicant testified the proposed wall will be built and maintained in compliance with all IDO requirements.
24. 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(O)(3)(a)(5). Any smaller fence would be insufficient to provide for security and mitigation of negative circumstances.
25. The City Traffic Engineer submitted a report stating no objection to the Application.

DECISION:

APPROVAL of a Variance of 5 feet to the required 5-foot setback for a 6-foot 6-inch fence in an NR-C zone district.

APPEAL:

If you wish to appeal this decision, you must do so by August 20, 2026. Pursuant to IDO § 14-16-6-4-(U), you must demonstrate that you have legal standing to file an appeal.

PERIOD OF VALIDITY:

Approval of a Variance is valid for one (1) year from date of approval.

OTHER REQUIREMENTS:

THIS NOTICE OF DECISION DOES NOT CONSTITUTE APPROVAL OF PLANS FOR A BUILDING PERMIT REQUIRED FOR A FENCE OVER 6-FEET TALL. Successful applicants are reminded that other regulations of the City must be complied with, even after approval of a special exception is secured. If your application is approved, submit this Notice of Decision when you apply for any related building permit or other necessary permit.



Robert Lucero, Esq.
Zoning Hearing Examiner

cc: Roman Guzman, Pueblo Fruits
foodsafety@pueblofruits.com
John Bazan, Pueblo Fruits
jbazan@pueblofruits.com
ZHE File
Zoning Enforcement