CITY OF ALBUQUERQUE
PLANNING DEPARTMENT
URBAN DESIGN & DEVELOPMENT DIVISION
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ZONING HEARING EXAMINER
NOTICE OF DECISION

Special Exception Number: VA-2026-00041

Project Number: PR-2026-000088

Hearing Date: October 20, 2026

Closing of Public Record: October 20, 2026

Date of Decision: November 4, 2026

Case Description: Eric Stebbins (Owner) & Michelle Negrette (Agent) request a Variance to the 50% opacity requirement for walls above 3 feet for Lot G1, Block 12, Vista Larga, located at 2212 Vista Larga Dr NE, zoned R-1 (J-16) IDO §14-16-5-7(D)(3)(a)2, Table 5-7-2.

On October 20, 2026, Eric Stebbins ("**Owner"**) and Michelle Negrette for Strata Design LLC ("**Agent**") were scheduled to appear before the Zoning Hearing Examiner ("**ZHE**") requesting a Variance to the 50% opacity requirement for walls above 3 feet ("**Application**") upon the real property located at 2212 Vista Larga Dr NE ("**Subject Property**"). Below are the ZHE's findings of fact and decision:

FINDINGS:

1. Applicant is requesting a Variance, 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 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 R-1 zone district which has a front wall height restriction of 3-feet.
13. Therefore, the requested solid wall or fence on the Subject Property taller than 3 feet along the front street requires a Variance pursuant to IDO Subsection 14-16-6-6(O).
14. The original ZHE decision on the Application, and on its two companion cases also listed under PR-2026-000088, were issued May 6, 2026.
15. The ZHE's decision on the Application was timely appealed to the City's Land Use Hearing Officer ("**LUHO**").
16. MZP-2026-00007 was not appealed.
17. The July 22, 2026 LUHO disposition remanded the two variance decisions for findings on actual height, the relationship between height and setback, each opacity-variance factor, and objective neighborhood evidence including security.
18. This notification of decision addresses only the variance identified above and does not reconsider MZP-2026-00007 or the other variance request.
19. The ZHE evaluated the matters directed by the LUHO in his remand instructions. In response to remand instruction 4, the ZHE considered the neighborhood comparison photographs, maps, and percentage analysis in this case record. Finding 18 of the unappealed May 6, 2026 MZP decision determined that the percentage requirement was satisfied; the analysis described in the April staff report identified two properties with qualifying front-yard walls among eight properties, or 25 percent. That permit determination remains undisturbed. The percentage requirement is not a separate variance approval criterion and does not itself establish entitlement to height or opacity relief. The comparison photographs show varied wall materials and configurations, but many taller comparison fences have greater setbacks. Accordingly, those photographs do not establish equivalent placement or visual effects. The comparison evidence is considered under the applicable variance criteria concerning public welfare, material adverse impacts, and the purposes of the IDO.
20. Applicant/Agent clarified at the October 20, 2026 hearing that a 3ft variance is requested, to allow a fence height of up to 6 feet.
21. The remand survey reports panel heights at A–J of 5.40, 5.30, 5.00, 4.80, 4.85, 4.70, 4.80, 4.90, 4.60, and 4.80 feet. These are decimal feet, not feet and inches.
22. Thus measured, panels vary from 4.60 to 5.40 feet, with two measurements above 5 feet; averaging them would not demonstrate compliance with the 5-foot maximum applicable under Table 5-7-2 at the requested alignment absent additional height relief.
23. Under IDO Section 14-16-7-1, Measurement Definitions, Wall Height, a front-lot-line perimeter wall is measured from finished grade on its public side; other covered walls use the side yielding the taller height. Allowed or required incidental posts or pilasters are excluded.

24. The Subject Property is Lot G1, Block 12, Vista Larga Subdivision, Second Replat, located at 2212 Vista Larga Dr NE, zoned R-1D. The Application concerns a wood perimeter fence along its curved street frontage.
25. Table 5-7-2 allows view fencing at most 50 percent opaque above 3 feet under its taller-wall option. Applicant seeks a complete waiver for solid wood panels. That departure requires a Variance pursuant to IDO Section 14-16-6-6(O), independent of the separate height request.
26. 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."*
27. 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).
28. 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).
29. In order to be approved, the Application must also meet the general review and decision criteria in IDO Subsection 14-16-6-4(M).
30. Applicant and Agent appeared at the October 20, 2026 remand hearing. The opposing appellants also appeared.
31. Section 14-16-6-6(O)(3)(a)(1) is met. The combined curved and extended frontage, rising grade, limited rear-yard space, and home placement are special circumstances not generally applicable to properties in the same zone district and vicinity and not created by the fence. Ms. Negrette (Applicant's agent) testified that the grade exposes patio occupants through upper view fencing and relocation would affect trees, yard area, and visibility. Evidence concerning sheriff escorts and threats to Applicant's children establishes credible security concerns. These facts establish practical difficulties in reasonably using the outdoor front yard space with privacy. The difficulty arises from the physical configuration, not modification costs. Relocation of the fence to 10 feet from the street front lot line is impracticable, because it would negatively affect mature trees, yard area, and visibility.

32. Section 14-16-6-6(O)(3)(a)(2) is met. The City Traffic Engineer submitted a report stating no objection to the Application. City Historic Preservation opposes the Application based on the historic character of the neighborhood and the placement of the fence. However, the photographs, survey, and Transportation's no-objection comments demonstrate that solid fencing limited to 5 feet will not be materially contrary to public safety, health, or welfare. Opinion testimony of neighbors regarding potential negative effects on property values are not dispositive.
33. Section 14-16-6-6(O)(3)(a)(3) is met. Site photographs and Transportation comments demonstrate that opacity relief limited to 5 feet will not cause significant material adverse impacts on surrounding properties or infrastructure. The support letters from neighbors, corroborate this finding. Fleischmann's and Scott's appearance and statements of concerns do not establish significant material harm; speculative property-value effects are not adopted as facts.
34. Section 14-16-6-6(O)(3)(a)(4) is met for opacity relief limited to 5 feet. The ZHE considered the Historic Preservation staff opposition, the neighborhood's open-front-yard character, the long opaque frontage, and the greater setbacks of certain comparison fences. Solid panels above 3 feet reduce visual transparency and views into the outdoor living area. The photographs and Agent testimony nevertheless establish that the rising grade preserves views between the elevated residence and the street over the fence, retaining meaningful passive surveillance. The 5-foot maximum limits the barrier's visual effect. Considering those retained views and the practical difficulty and minimum necessary relief established in other findings of this notification of decision, the limited opacity exception will not materially undermine the purposes of the IDO or the R-1D district.
35. Section 14-16-6-6(O)(3)(a)(5) is met for the limited approval of 100% opacity to the maximum height of 5 feet. . Agent's testimony, supported by the survey and photographs, establishes that upper view fence openings would expose occupants of the elevated outdoor area along the curved frontage. From that evidence, the ZHE finds that required view fencing openings or intermittent solid screening would leave the privacy difficulty unresolved. Solid screening from 3 feet to a maximum of 5 feet is the minimum necessary relief. The record does not establish a need for a sixth foot; Applicant's separate height variance is denied.
36. Under IDO Section 14-16-6-4(M)(1) and (2), the findings, above, establish sound justification supported by substantial evidence and compliance with all five specific variance criteria for this approval.
37. The unappealed May 6, 2026 MZP decision remains undisturbed, while the Application is approved and the companion application for height variance is denied.
38. The result of these decisions is that Applicant may keep the solid fence where located, but must reduce its height to 5 feet tall.

DECISION:

APPROVAL WITH CONDITION of a Variance from the 50-percent maximum opacity requirement for fence portions above 3 feet, allowing 100-percent opacity through a maximum fence height of 5 feet at the existing alignment, for Lot G1, Block 12, Vista Larga, located at 2212 Vista Larga Dr NE.

CONDITION:

Fence height shall not exceed 5 feet, measured pursuant to IDO Section 14-16-7-1, Measurement Definitions, Wall Height. Only decorative or incidental features allowed or required by the IDO are excluded from that measurement. This approval does not authorize existing solid panels exceeding 5 feet.

APPEAL:

If you wish to appeal this decision, you must do so by November 4, 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.



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