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

Special Exception Number: MZP-2026-00061

Project Number: PR-2026-000165

Hearing Date: 10-20-26

Closing of Public Record: 10-20-26

Date of Decision: 11-04-26

Case Description: Annahi Batista Garcia ("**Owner**") requests a Permit – Wall or Fence – Major for Lot 22, Block A, Blake Road Mobile Home, located at 4301 Rudy Rd SW, zoned R-MC (N-10) IDO β 14-16-5-7 (D)(1)

On October 20, 2026, Annahi Batista Garcia ("**Owner**") was scheduled to appear before the Zoning Hearing Examiner ("**ZHE**") requesting a Permit – Wall or Fence – Major (**"Application"**) upon the real property located at 4301 Rudy Rd SW ("**Subject Property**"). Below are the ZHE's findings of fact and decision.

FINDINGS, PERMIT – WALL OR FENCE – MAJOR:

1. Applicant is requesting a Permit – Wall or Fence – Major, pursuant to City of Albuquerque Code of Ordinances Integrated Development Ordinance ("IDO") § 14-16-6-6(H).
2. Applicant has authority to pursue this Application, pursuant to IDO § 14-16-6-4(D).
3. Applicant has not duly authorized Agent to act on Applicant's behalf regarding the Application.
4. Applicant is not required to offer at least 1 meeting to Indian Nations, Tribes, and Pueblos no more than 1 calendar year 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 § 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 forwarded 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. Applicant has sent an electronic mail notice to the email addresses on file with the Office of Neighborhood Coordination for Neighborhood Associations within 660 feet 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 at 4301 Rudy Rd SW in the R-MC zone district.
13. For low-density residential development, IDO § 14-16-5-7(D)(3)(a)2 allows a 5-foot wall less than 10 feet from the property line if a Permit – Wall or Fence – Major is approved, and view fencing is used for the portion of the wall above 3 feet.
14. Therefore, a 5-foot wall or fence in the front and side setback of the Subject Property requires a Permit – Wall or Fence – Major pursuant to IDO § 14-16-6-6(H), as well as a Variance – ZHE, for a variance to view fencing requested separately (VA-2026-00134).
15. IDO § 14-16-6-6(H)(3) (Review and Decision Criteria) reads: *"An application for a Permit – Wall or Fence – Major for a wall in the front or street side yard of a lot with low-density residential development in or abutting any Residential zone district that meets the requirements in Section 14-16-5-7(D)(3)(a)2 (Exceptions to Maximum Wall Height) and Table 5-7-2 shall be approved if all of the following criteria are met.*
    (a) The wall is proposed on a lot that meets any of the following criteria:
        1. The lot is at least ½ acre.
        2. The lot fronts a street designated as a collector, arterial, or interstate highway.
        3. For a front yard wall taller than allowed in Table 5-7-1, at least 10 percent of the properties with low-density residential development with a front yard abutting the same street as the subject property and within 330 feet of the subject property along the length of the street the lot faces have a front yard wall or fence over 3 feet. This distance shall be measured along the street from each corner of the subject property's lot line, and the analysis shall include properties on both sides of the street.
        4. For a street side yard wall taller than allowed in Table 5-7-1, at least 20 percent of the properties with low-density residential development with a side yard abutting the same street as the subject property and within 330 feet of the subject property along the length of the street the lot faces have a street side yard wall or fence over 3 feet. This distance shall be measured along the street from each corner of the subject property's lot line, and the analysis shall include properties on both sides of the street.
    (b) The proposed wall would not be injurious to adjacent properties, the surrounding neighborhood, or the larger community.
    (c) The design of the wall complies with any applicable standards in § 14-16-5-7 (Walls and Fences), including but not limited to § 14-16-5-7(E)(2) (Articulation and Alignment), § 14-16-5-7(E)(3) (Wall Design), and both of the following criteria:
        1. The wall or fence shall not block the view of any portion of any window on the front façade of the primary building when viewed

from 5 feet above ground level at the centerline of the street in front of the house.

2. *The design and materials proposed for the wall or fence shall reflect or enhance the quality of walls and fences in the surrounding area.*

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. In order to be approved, the Application must also meet the general review and decision criteria in IDO Subsection 14-16-6-4(H).
19. Applicant appeared at ZHE hearing on the Application and gave evidence in support of the Application.
20. Based on the evidence presented by Applicant, the Subject Property meets at least one criterion in IDO Section 14-16-6-6(H)(3)(a): For a front yard wall taller than allowed in Table 5-7-1, at least 10 percent of the properties with low-density residential development with a front yard abutting the same street as the subject property and within 330 feet of the subject property along the length of the street the lot faces have a front yard wall or fence over 3 feet.
21. Regarding the requirement that the proposed wall not be injurious to adjacent properties, the surrounding neighborhood, or the larger community, as required by IDO Section 14-16-6-6(H)(3)(b), the traffic engineer notes that all portions of the wall over 3-feet tall within the clear sight triangle must be view fencing as defined by the IDO.
22. Based on evidence presented by Applicant, the design of the wall does not comply with IDO Section 14-16-6-6(H)(3)(c), because it is not view fencing. However, Applicant could comply with this requirement if all portions of the wall within the front yard were view fencing.

DECISION:

APPROVAL WITH CONDITION of PR-2026-000165, MZP-2026-00061 of a Permit – Wall or Fence – Major for Lot 22, Block A, Blake Road Mobile Home, located at 4301 Rudy Rd SW.

CONDITION:

All portions of the wall over 3-feet tall within the front yard must be view fencing as defined by the IDO.

APPEAL:

If you wish to appeal this decision, you must do so by November 19, 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

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ZHE File
Zoning Enforcement