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

Special Exception Number: VA-2026-00152

Project Number: PR-2026-000182

Hearing Date: 10-20-26

Closing of Public Record: 10-20-26

Date of Decision: 11-04-26

Case Description: Wynn Parners LLC (Owner) & Julie K Pham (Applicant) request a Variance to setback for a tall wall/fence for Lots 27, 31, 29, 30, 28, 26, Block 35, Tijeras Place Addition, located at 5715 Central Ave NE, zoned MX-M (K-18), IDO β 14-16-5-7 (D)(3)(c)].

On October 20, 2026, Wynn Parners LLC ("**Owner"**) & Julie K Pham ("**Applicant"**) were scheduled to appear before the Zoning Hearing Examiner ("**ZHE**") requesting a Variance for a 10-foot setback to allow a 6-foot-tall wall/fence to be built in the front lot line ("**Application**") upon the real property located at 5715 Central Ave NE ("**Subject Property**"). Below are the ZHE's findings of fact and decision:

FINDINGS, VARIANCE TO SETBACK:

1. Applicant is requesting a Variance of 10 feet to the required 10-foot setback in a Mixed Use zone district for a 6-foot-tall wall/fence to be built in the front lot line of the property pursuant to the 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 not duly authorized an Agent to act on Applicant's behalf regarding the Application.
4. The Planning Director's delegee has determined that the Application is complete as of September 29, 2026 pursuant to IDO Section 14-16-6-4(G).
5. The Application was forwarded to commenting agencies pursuant to IDO Section 14-16-6-4(I).
6. The content of the notice of the Application satisfies IDO Section 14-16-6-4(J)(1).

7. 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).
8. Applicant has sent a mailed notice to all property owners within 100 feet of the subject property as required by IDO Section 14-16-6-4(J)(3).
9. Applicant has posted sign notice(s) as required by IDO Section 14-16-6-4(J)(4).
10. The Subject Property is located at 5715 Central Ave NE in the MX-M zone district.
11. Pursuant to IDO Section 14-16-5-7(D)(3)(c), in the MX-M zone district, a 5-foot-tall Wall/Fence in the front of the property is allowed with a minimum setback of 10 feet.
12. Therefore, a 6-foot tall Wall or Fence on the front lot line of the Subject Property requires a Variance pursuant to IDO Subsection 14-16-6-6(O)(3).
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.*
    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."*

14. 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).
15. 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).
16. In order to be approved, the Application must also meet the general review and decision criteria in IDO Subsection 14-16-6-4(M).
17. Applicant appeared at the October 20, 2026 ZHE hearing on the Application and gave evidence in support of the Application.
16. 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 Subject Property is an historic property with historic structures built very close to the public right of way on and around Central Ave. SE, an area of high vehicular and pedestrian activity, regularly trafficked by unhoused persons and potential trespassers onto the Subject Property. The continuous conditions create elevated safety risks, excessive noise, and reduced privacy that are not experienced by similarly zoned properties located. These circumstances are not self-imposed, but rather are the result of the property's location. Strict application of the standard setback requirements creates a practical difficulty because of the encroachment of historic structures and improvements onto the normal setback area.

17. 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, and will enhance public safety by providing a physical barrier between the residence and the busy area outside the Subject Property, protecting children, pedestrians, and animals. The wall will be constructed consistent with IDO requirements, and will not obstruct visibility for motorists or pedestrians.
18. 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 proposed wall will be constructed entirely on private property, and will not encroach into public right-of-way or interfere with existing or planned infrastructure. The design and materials will be compatible with the surrounding area and will not negatively affect drainage, access, or utilities.
19. 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 in compliance with all IDO requirements.
20. 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.
21. The City Traffic Engineer made an objection that the wall should be at least 50% transparent at both sides of entrance for 11 ft.
22. The Applicant has revised their request to include metal pickets which meet the view-fencing criterion.

DECISION:

APPROVAL of PR-2026-000182, VA-2026-00152 of a Variance for a setback of 10 feet to allow a 6-foot-tall wall/fence to be built in the front lot line of the subject property for Lots 27, 31, 29, 30, 28, 26, Block 35, Tijeras Place Addition, located at 5715 Central Ave NE.

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.



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Zoning Hearing Examiner

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ZHE File
Zoning Enforcement