



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

Yanitse Almaguer-Alvarez requests a conditional use to allow a family home daycare on Lot 1, Block 2, Dorado Village, Unit 2, located on 544 Nathan ST SE, zoned R-T [Section 14-16-4-2-1]

Special Exception No:.....**VA-2018-00030**
Project No:**Project#2018-001291**
Hearing Date:09-18-18
Closing of Public Record:09-18-18
Date of Decision:10-03-18

On the 18th day of September, 2018, property owner Yanitse Almaguer-Alvarez (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a conditional use to allow a family home daycare (“Application”) upon the real property located at 544 Nathan ST SE (“Subject Property”). Below are the ZHE’s findings of fact and decision:

FINDINGS:

1. Applicant is requesting a conditional use to allow a family home daycare.
2. The City of Albuquerque Code of Ordinances Section 14-16-6-6(A)(3) (Review and Decision Criteria– Conditional Use) reads: “*An application for a Conditional Use Approval shall be approved if it meets all of the following criteria:*
 - (a) *It is consistent with the ABC Comp. Plan, as amended;*
 - (b) *It complies with all applicable provisions of the IDO, including, but not limited to any Use-specific Standards applicable to the use in Section 14-16-4-3; the DPM; other adopted City regulations; and any conditions specifically applied to development of the property in any prior permit or approval affecting the property;*
 - (c) *It will not create significant adverse impacts on adjacent properties, the surrounding neighborhood, or the larger community;*
 - (d) *It will not create material adverse impacts on other land in the surrounding area, through increases in traffic congestion, parking congestion noise, or vibration without sufficient mitigation or civic or environmental benefits that outweigh the expected impacts;*
 - (e) *It will not increase non-residential activity within 300 feet of a lot in any residential zone district between the hours of 8:00 pm and 6:00 am;*
 - (f) *It will not negatively impact pedestrian or transit connectivity without appropriate mitigation.*
3. The Applicant bears the burden of ensuring there is evidence in the record supporting a finding that the above criteria are met under Section 14-16-6-4-(F)(2).
4. Yanitse Almaguer-Alvarez, owner appeared and gave evidence in support of the application.
5. All property owners within 100 feet and affected neighborhood association were notified of the application.
6. The subject property is currently zoned R-T.
7. Applicant met with the Singing Arrow Neighborhood Association.

8. Judy Young, 13309 Rachel Rd. SE, President of the Singing Arrow Neighborhood Association, appeared and gave evidence stating the Singing Arrow NA was in support of the application.
9. Ilena Estrella, 933 San Mateo NE, appeared and gave evidence in support of the application.
10. Paula Wiltgen, appeared and gave evidence in support of the application.
11. The applicant has all required state and city permits, certificates and licenses to operate the family day care.
12. The application complies with applicable use-specific standards of the IDO, the DPM; other City regulations.
13. There are no other conditions applied on the property by a prior permit or approval.
14. The outdoor play area is totally enclosed by an opaque fence, which is 6 feet tall.
15. No opposition to the application has been submitted.
16. The application will provide essential services to a diverse local community.
17. The application is consistent with the ABC Comp Plan, as amended as required by Section 14-16-6-6(A)(3)(a).
18. Parents dropping off children are scheduled at various and staggered times.
19. Parents are directed to park in a designated area.
20. All activities of the application will be conducted after 6:00A.M. and before 8:00P.M. on weekdays.
21. The application promotes the economic welfare of the neighborhood.
22. Having a convenient location for day care enables neighborhood parents to be able to work.
23. All children shall remain within the subject address during business hours.
24. Traffic has no objection to the request for the conditional use.
25. The proposed use complies with all applicable provisions of the IDO including, but not limited to, any use-specific standards applicable to the use in Section 14-16-4-3; the DPM; other adopted city regulations; any conditions specifically applied to the development of the property in a prior permit or approval affecting the property, as required by Section 14-16-6-6(A)(3)(b).
26. The proposed use will not create significant adverse impacts on the adjacent properties; the surrounding neighborhood, or the larger community, as required by Section 14-16-6-6(A)(3)(c).
27. The proposed use will not create material adverse impacts on other land in the surrounding area through increases in traffic congestion, parking congestion, noise, or vibration as requires by Section 14-16-6-6(A)(3)(d).
28. The proposed use will not increase non-residential activity within 300 feet of a lot in any residential zone between the hours of 8:00P.M. and 6:00A.M. as required by Section 14-16-6-6(A)(3)(e).
29. The proposed use will not negatively impact pedestrian or transit connectivity, as required by Section 14-16-6-6(A)(3)(f).
30. The ZHE finds that the proper "Notice of Hearing" signage was posted for the required time period as required by Section 14-16-6-4(K)(3).
31. The ZHE finds that the Applicant has authority to pursue this Application.

DECISION:

APPROVAL of a conditional use to allow a family home daycare.

CONDITIONS: Applicant shall comply with all applicable Use-Specific Standards Section 14-16-4-3(F)(7)(a)-(d).

If you wish to appeal this decision, you must do so by October 18, 2018 in the manner described below. A non-refundable filing fee will be calculated at the Planning Department's Land Development Coordination counter and is required at the time the Appeal is filed.

Appeal must be filed with the Planning Department within 15 days after the decision. The appeal shall specifically state the section of the Integrated Development Ordinance, City regulation, or condition attached to a decision that has not been interpreted correctly, as required by Section 14-16-6-4(U)(3)(a)(3) of the Integrated Development Ordinance. Appeals are taken at 600 2nd Street, Plaza Del Sol Building, Ground Level, Planning Application Counter located on the west side of the lobby. **Please present this letter of notification when filing an appeal.** When an application is withdrawn, the fee shall not be refunded.

Once an appeal is accepted by the Planning Department, it shall prepare and transmit a record of the appeal together with all appeal material received from the appellant to impacted parties and to the Land Use Hearing Officer (LUHO) through the Clerk of the City Council.

The LUHO shall then schedule a hearing on the matter within 30 consecutive days of receipt and notify the parties, pursuant to Section 14-16-6-4(U)(3)(d). The Planning Department shall give written notice of an appeal, together with a notice of the date, time and place of the hearing to the applicant, a representative of the opponents, if any are known, and the appellant.

Please note that 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.

You will receive notice if any other person files an appeal. If there is no appeal, you can receive building permits any time after the appeal deadline quoted above; provided all conditions imposed at the time of approval have been met. However, the Zoning Hearing Examiner may allow issuance of building permits if the public hearing produces no objection of any kind to the approval of an application. To receive this approval, the applicant agrees in writing to return the building permit or occupation tax number.

Successful applicants are reminded that other regulations of the City must be complied with, even after approval of a special exception is secured. This decision does not

constitute approval of plans for a building permit. If your application is approved, bring this decision with you when you apply for any related building permit or occupation tax number. Approval of a conditional use or a variance application is **void after one year** from date of approval if the rights and privileges are granted, thereby have not been executed or utilized.



Stan Harada, Esq.
Zoning Hearing Examiner

cc: Zoning Enforcement
ZHE File
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