



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

Maria Marquez requests a conditional use to allow a family home daycare for Lot 668, Block 29, Atrisco Village, located at 1219 Del Mastro DR SW, zoned R-1C [Section 14-16-4-2]

Special Exception No:..... **VA-2019-00128**
Project No: **Project# 2019-002290**
Hearing Date: 05-21-19
Closing of Public Record: 05-21-19
Date of Decision: 06-05-19

On the 21st day of May, 2019, property owner Maria Marquez (“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 1219 Del Mastro DR SW (“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(N)(1).
4. Erika Tarango, agent for Maria Marquez, property owner appeared and gave evidence in support of the application.
5. She is the daughter of the property owner, resides on the subject address, and is qualified and will be providing the services requested.
6. All property owners within 100 feet were notified.

7. There is no affected NA.
8. The subject property is currently zoned R-1C.
9. The requested use is regulated by Section 14-16-4-3(F)(7): Family Home Day Care.
10. A site plan was submitted in support of the Application.
11. The subject property address is 1219 Del Mastro Dr. SW.
12. The subject facility is a new construction dwelling.
13. The outdoor play area is enclosed by a 6 foot opaque fence.
14. The requested use is consistent with the ABC Comp. Plan Goal 5.2: Complete Communities; Policy 5.2.1; since it will help create a healthy sustainable community with a mix of uses conveniently accessible from the surrounding neighborhood.
15. Only residing household members will be providing care.
16. The Applicant will only allow drop off of children on a scheduled basis, so that only 1-2 cars will arrive at the same time, which will prevent and avoid traffic congestion in the neighborhood.
17. The hours of the use will be from 6:30 am until 6:00 pm, Monday through Friday.
18. The operator of the use has all required City and State permits and licenses.
19. An e-mail from Ross and Lee Ann Roberts, 1219 Del Maestro Dr. SW, dated May 13, 2019, was submitted in opposition to the request.
20. Mr. Roberts stated they are the adjacent neighbors directly to the south of the subject property.
21. Their primary objection is not wishing to have “a lot of children noisily playing outside.”
22. No one appeared in support or opposition to the Application.
23. The proposed use is consistent with the ABC Comp. Plan, as required by Section 14-16-6-6(A)(3)(a).
24. 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; and any conditions specifically applied to development of the property in any prior permit or approval affecting the property as required by Section 14-16-6-6(A)(3)(b).
25. The proposed use will not create significant adverse impacts on adjacent properties, the surrounding neighborhood, or the larger community required by Section 14-16-6-6(A)(3)(c).
26. 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 without sufficient mitigation or civic or environmental benefits that outweigh the expected impacts as required by Section 14-16-6-6(A)(3)(d).
27. The proposed use will not increase non-residential activity within 300 feet of a lot in any residential zone between the hours of 8:00PM and 6:00AM as required by Section 14-16-6-6(A)(3)(e).
28. The proposed use will not negatively impact pedestrian or transit connectivity, as required by Section 14-16-6-6(A)(3)(f).
29. 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).
30. 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 regulations within Section 14-16-4-3(F)(7): Family Home Day Care.

APPEAL:

If you wish to appeal this decision, you must do so by June 20, 2019 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 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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Erika Tarango, 1219 Del Mastro SW, 87121