



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

Giao Hoang requests a conditional use to allow a family home daycare for Lot 5-P1, Los Antepasados, located at 715 Los Viejos DR SW, zoned R-1A [Section 14-16-4-2]

Special Exception No:..... **VA-2019-00282**
Project No: **Project#2019-002796**
Hearing Date: 10-15-19
Closing of Public Record: 10-15-19
Date of Decision: 10-30-19

On the 15th day of October, 2019, Kamisha Coleman, agent for property owner Giao Hoang (“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 715 Los Viejos DR SW (“Subject Property”). Below are the ZHE’s findings of fact and decision:

AMENDED FINDINGS:

1. Kamisha Coleman is requesting a conditional accessory 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. Kamisha Coleman 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. The request is for a Conditional Use to Allow Family Home Day Care; under Section 14-16-4-; **USE REGULATIONS**; Table 4-2-1; **Allowable Uses**; **Accessory and Temporary Uses**.
5. This use is regulated by Section 14-16-4-3(F)(7): **Use-specific Standards: Family Home Day Care**.
6. Kamisha Coleman, agent for Giao Hoang, property owner appeared and gave evidence in support of the application.
7. The address of the subject property is 715 Los Viejos Dr. SW.
8. The subject property is currently zoned R-1A.
9. The proposed project is family home day care up to 6 children.
10. All property owners within 100 feet and affected neighborhood association(s) were notified.
11. Southwest Alliance of Neighborhood Associations (SWAN); Westside Coalition of Neighborhood Associations; South Valley Coalition of Neighborhood Associations and Crestview Bluff Neighbors Association are the affected neighborhood associations.
12. The affected neighborhood associations were notified by e-mail dated July 25, 2019.
13. No response, nor request for meeting has been submitted.
14. A site plan, with accompanying photographs of the subject property play area and opaque fencing surrounding play area, were submitted in support of the Application.
15. Kamisha Coleman will be the operator of the use.
16. Kamisha Coleman is a certified provider for early childhood development with the NM CYFD, and has all City and State required licenses.
17. The subject property has a backyard play area, which is surrounded by a 6 foot tall, double opaque, screened fence for protection of the children.
18. Kamisha Coleman will pick up and drop off children in her case, so that parents will not cause a material, adverse impact to the adjacent properties and surrounding neighborhood,
19. The services will be provided to working parents from the surrounding community.
20. The proposed project will help create a healthy, sustainable community, within a mix of uses conveniently accessible from surrounding neighborhoods, which is consistent with **ABC Comp. Plan**, GOAL 5.2 **COMPLETE COMMUNITIES**, Policy 5.2.1: **Land Use**.
21. The proposed use is consistent with the ABC Comp. Plan, as amended, as required by Section 14-16-6-6(A)(3)(a).
22. 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).
23. 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).
24. 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(A)(3)(d).
25. The services will be provided from 7:30 am through 6:30 pm, Monday through Friday.

26. 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).
27. The proposed use will not negatively impact pedestrian or transit connectivity, as required by Section 14-16-6-6(A)(3)(f).
28. 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).
29. 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:

The use will comply with Use-Specific Standards contained in Section 14-16-4-3(F)(7) *Family Home Daycare*.

APPEAL:

If you wish to appeal this decision, you must do so by November 14, 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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