Mario and Mercedes Terrazas request a conditional use to allow for a family home daycare with up to 12 children for Lot 261-P1, Sierra Ranch Unit 2, located at 10751 Four Mile RD SW, zoned R-1A [Section 14-16-4-2]

Special Exception No:........... VA-2018-00201
Project No:..................... Project# 2018-001833
Hearing Date:..................... 01-15-19
Closing of Public Record:..... 01-15-19
Date of Decision:............... 01-30-19

On the 15th day of January, 2019, property owners Mario and Mercedes Terrazas (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a conditional use to allow a family home daycare up to 12 children (“Application”) upon the real property located at 10751 Four Mile RD 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 up to 12 children.
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 applicable Use-Specific Standard for Family Home Daycare is Section 14-16-4-3(F)(7).
4. 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).
5. A site plan was submitted.
6. Mario and Mercedes Terrazas, owners appeared and gave evidence in support of the application.
7. All property owners within 100 feet and the affected neighborhood association were notified of the application.
8. Westgate Heights Neighborhood Association and Anderson Heights Master Association, Inc. are the affected NAs.
9. Both NAs were notified by letter dated October 30, 2018.
10. Nothing has been submitted by the NAs.
11. The subject property is currently zoned R-1A.
12. The residence is new construction.
13. The play area is screened by 6 foot high opaque wall and fence.
14. Only members of the residing household are providing child care.
15. The Application will help create a healthy, sustainable community with a mix of uses accessible to the surrounding neighborhoods.
16. Drop off and pickup times for parents will be scheduled 15 minutes apart to prevent traffic and parking congestion in the surrounding community.
17. Parking for parents will be first provided in the residence driveway.
18. The hours of operation will be weekdays from 7:30 am to 6:00 pm.
19. There will be no activities in the surrounding neighborhood between 8:00 pm and 6:00 am.
20. Transportation reports no objection to the Application.
21. The applicant has all required state and City permits, certificates and licenses to operate a family home day care.
22. The application complies with applicable Use-Specific Standards of the IDO, the DPM and other City regulations.
23. There will not be any excess noise and the application will not negatively impact the adjacent properties or the surrounding area.
24. The play area has a high fence which ensures the safety of the children.
25. There are no other conditions applied on the property by a prior permit or approval.
26. The proposed use is consistent with the ABC Comp. Plan, as amended, as required by Section 14-16-6(A)(3)(a).
27. 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).
28. 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).
29. The proposed use will not create material adverse impacts on other land in the surrounding area through increased traffic congestion, parking congestion, noise or vibration as required by Section 14-16-6-6(A)(3)(d).
30. 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).
31. The proposed use will not negatively impact pedestrian or transit connectivity, as required by Section 14-16-6-6(A)(3)(f).
32. 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).
33. The ZHE finds that the Applicant has authority to pursue this Application.

**DECISION:**

APPROVAL of a conditional use to allow a family home daycare up to 12 children.

CONDITIONS: Applicant shall comply with all applicable Use-Specific Standard Sections, specifically Section 14-16-4-3(F)(7) **Family Home Daycare**.

**APPEAL**

If you wish to appeal this decision, you must do so by February 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.

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Stan Harada, Esq.
Zoning Hearing Examiner

cc: Zoning Enforcement
ZHE File
Mario and Mercedes Terrazas, 10751 Four Mile Rd SW, 87121