On the 15th day of January, 2019, property owner Norma Gaytan (“Applicant”) appeared before the Zoning Hearing Examiner (“ZHE”) requesting a conditional use to allow family home daycare for up to 8 children (“Application”) upon the real property located at 939 Wood Duck 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 for up to 8 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 Standards 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. A certified interpreter was sworn in and provided translation for Applicant.
7. Norma Gaytan, owner appeared and gave evidence in support of the Application.
8. All property owners within 100 feet and the affected neighborhood association were notified of the application.
9. Route 66 West Neighborhood Association is the affected NA.
10. The affected NA was notified by letter dated November 14, 2018.
11. Nothing was submitted by the NA.
12. The subject property is currently zoned R-1B.
13. The subject property is new construction.
14. Transportation reports no objection to the Application.
15. All child care will be provided by members of the residing household.
16. Several adjacent neighbors have called Applicant to express support for the Application.
17. All day care activities provided will be during regular work hours.
18. Parents have different drop off and pickup times in order to prevent traffic and parking congestion.
19. The residence is new construction.
20. There is a play area, which is enclosed by a 6 foot opaque fence.
21. The Application will help the surrounding community by helping working parents be able to provide a safe environment for their children.
22. Subject property is situated on a corner and there is plenty of adequate parking for parents.
23. No activities are done between 8:00 pm and 6:00 am.
24. The proposed activity will help working parents by proving convenient day care that allows them to work.
25. The applicant has all required state and City permits, certificates and licenses to operate a family home day care.
26. The application complies with applicable Use-Specific Standards of the IDO, the DPM and other City regulations.
27. There will not be any excess noise and the application will not negatively impact the adjacent properties or the surrounding area.
28. The play area has a high fence which ensures the safety of the children.
29. There are no other conditions applied on the property by a prior permit or approval.
30. The proposed use is consistent with the ABC Comp. Plan, as amended, as required by, Section 14-16-6-6(A)(3)(a).
31. 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).
32. 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).
33. 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).
34. 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).
35. The proposed use will not negatively impact pedestrian or transit connectivity, as required by Section 14-16-6-6(A)(3)(f).
36. 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).
37. 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 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
Norma Gaytan, 939 Wood Duck DR SW, 87121