



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

Sagrario Rivas Hernandez requests a conditional use to allow a family home daycare for Lot 311-P1, Sierra Ranch Unit 2, located at 10839 Walnut Canyon RD SW, zoned R-1A [Section 14-16-4-2]

Special Exception No:..... **VA-2019-00161**
Project No: **Project#2019-002376**
Hearing Date: 07-16-19
Closing of Public Record: 07-16-19
Date of Decision: 07-31-19

On the 16th day of July, 2019, property owner Sagrario Rivas Hernandez (“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 10839 Walnut Canyon 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.
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. Sagario Rivas Hernandez, property owner appeared and gave evidence in support of the application.
5. The address of the application is 10839 Walnut Canyon Rd SW.
6. All property owners within 100 feet and affected neighborhood association(s) were notified.

7. Southwest Alliance of Neighborhood Associations; Westside Coalition of Neighborhood Associations and South Valley Coalition of Neighborhood Associations are the affected NAs.
8. There was no response, nor request for meeting as a result of the notification of the request.
9. The subject property is currently zoned R-1A.
10. A site plan with accompanying photographs were submitted in support of the Application.
11. The applicant will provide high quality day care for working parents, which will help sustain a health community, which enhances ABC Comp. Plan; Economic Policy 8.1.1; to support a variety of lower-density; lower-intensive services and jobs, ..., and to concentrate a variety of employment opportunities for a range of occupational skills and salary levels, which is consistent with the ABC Comp. Plan, as amended.
12. The Application complies with all applicable provisions of the IDO; and specifically complies with Use-Specific Standards contained in Section 14-16-4-3(F)(7).
13. Applicant will provide all day care services.
14. Several of the parents reside in the surrounding community and will walk to drop off their children.
15. There is adequate parking on the subject property driveway for parents to drop off their children.
16. The hours of operation are 6:00 am through 6:00 pm, daily.
17. The Applicant has obtained all City and State permits and licenses required to operate a home day care facility.
18. The Applicant is the property owner, resides in the household, and shall provide the home daycare services for the Application.
19. There is an outdoor play area which is enclosed by an opaque wall or fence or vegetative screen at least 6 feet tall.
20. Transportation reported no objection to the request.
21. No one appeared in opposition to the Application.
22. The requested use will not create significant adverse impacts of adjacent properties, the surrounding neighborhood, or the larger community.
23. The requested use will not create material adverse impacts on other land in the surrounding area, through increases in traffic congestion, parking congestion noise, or vibration.
24. 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).
25. The proposed use will not negatively impact pedestrian or transit connectivity, as required by Section 14-16-6-6(A)(3)(f).
26. 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).
27. 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 August 15, 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
Sagrario Rivas Hernandez, 10839 Walnut Canyon RD SW, 87121