



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

Daniel Hernandez requests a conditional use to allow a family home daycare with up to 12 children for Lot 9, Block 6, Wood-Beverly Addn, located at 6013 Princess Jeanne NE, zoned R-1B [Section 14-16-4-2]

Special Exception No:..... **VA-2019-00194**
Project No: **Project#2019-002484**
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 Daniel 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 6013 Princess Jeanne NE (“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 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. Martha Anguiano, agent for Daniel Hernandez, property owner appeared and gave evidence in support of the application.
5. All property owners within 100 feet and affected neighborhood association(s) were notified.
6. ABQ-Park Neighborhood Association; Alvarado Park Neighborhood Association; Classic Uptown Neighborhood Association; Inez Neighborhood Association; Mark Twain

Neighborhood Association; Quigley Park Neighborhood Association; Snow Heights Neighborhood Association; Winrock South Neighborhood Association; and Winrock Villas Condo. Association are the affected NAs.

7. No response nor request for meeting was submitted.
8. The subject property is currently zoned R-1B.
9. The subject property address is 6013 Princess Jeanne NE.
10. The hearing is being interpreted in real time by Louis Ollivier, certified court Spanish interpreter.
11. The request is for a conditional use to allow family home daycare up to 12 children in a residential district.
12. The Applicant currently rents the subject address where the childcare services are to be provided.
13. Applicant is currently providing care for 4 children.
14. Applicant currently resides in the residence and lives with her daughter.
15. She and her daughter will provide the care.
16. Hours of service are from 6:00 am through 6:00 pm daily.
17. A site plan with accompanying photographs were submitted in support of the Application.
18. Applicant wishes to expand her services to make child care available to more parents, which will help them keep their jobs, knowing their children would be safely cared for.
19. She intends her services to be provided in nearby neighborhoods, which would help expand and preserve economic vitality and opportunity to a greater number of residents.
20. An e-mail from Russell J. Martin, 6019 Princess Jeanne NE, dated July 2, 2019 was submitted in opposition to the Application.
21. An e-mail from Mike McWhorter, 6022 Princess Jeanne NE, dated Jun 29, 2019, was submitted in opposition to the Application.
22. An e-mail from Thomas DiFrancesco, dated July 9, 2019, was submitted in opposition to the Application.
23. Thomas DiFrancesco, 6026 Princess Jeanne NE, appeared and gave evidence in opposition to the request.
24. They live on a small residential street, where there are seniors owning and occupying 8 of the 11 houses in the neighborhood.
25. He stated he is over 60 and cannot stand young kids.
26. He stated several neighbors oppose the request stating that a business should not be allowed to operate in a residential neighborhood.
27. They object to the fact that Applicant is a renter of the subject house and that the business has been operating for over a year already.
28. The primary objections are increased traffic congestion, children unsupervised in the front yard, lots of noise, and the back yard, he does not feel is adequate for young kids.
29. Charles G. Rose, 6018 Princess Jeanne NE, appeared and gave evidence in opposition to the request.
30. He has been living in the neighborhood for over 40 years.
31. He summarizes his complaints to trash cans being left in the front, people and older kids coming and going all the time, toys left on the front yard, dogs barking all the time, and the back yard is hot concrete with no grass.
32. Applicant responded to the oppositions raised.

33. There are no older children that are on the property, and all of her clients are younger children.
34. Applicant responded that there are 3 off-street parking spots available for parents when they drop off children.
35. The drop-off times are coordinated and staggered to prevent excess traffic problems.
36. Children are never left in the front yard, unsupervised.
37. The playground area does have a tree and Applicant plans to plant a garden for the enjoyment of the children.
38. Rosa Barraza, NM Early Care and Learning Association, affiliated with New Mexico Children, Youth & Families Div. appeared and gave evidence in support of the request.
39. Her agency works directly with CYFD to provide training and support for child home care providers.
40. Applicant and her daughter have completed all required courses, (45 hours of training and classes before certification), which include health, nutrition, first aid with emphasis on the safety of children.
41. CYFD has surveyors, who periodically check with the providers regarding any issues or problems.
42. The duty of the surveyors are to check inside and outside to make sure children are safe and well cared for.
43. Applicant and her daughter are registered with CYFD.
44. The Application is consistent with the ABC Comp. Plan, as amended.
45. The Application 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.
46. The Application will not create significant adverse impacts on adjacent properties, the surrounding neighborhood, or the larger community.
47. 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).
48. The proposed use will not negatively impact pedestrian or transit connectivity, as required by Section 14-16-6-6(A)(3)(f).
49. 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).
50. 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
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Thomas DiFrancesco, 6026 Princess Jeanne Ave NE, 87110
Charles Rose, 6018 Princess Jeanne Ave NE, 87110
Martha Anguiano, 6013 Princess Jeanne NE, 87110