



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

Norma Ochoa Dorame requests a conditional use to allow a family home daycare for Lot 37D1, MRGCD Map 37, located at 509 Gomez Ave NE, zoned R-1A [Section 14-16-4-2]

Special Exception No:..... **VA-2019-00245**
Project No: **Project#2019-002680**
Hearing Date: 09-17-19
Closing of Public Record: 09-17-19
Date of Decision: 10-02-19

On the 17th day of September, 2019, property owner Norma Ochoa Dorame (“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 509 Gomez Ave NE (“Subject Property”). Below are the ZHE’s findings of fact and decision:

FINDINGS:

1. Applicant 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. 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. 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. Norma Ochoa Dorame, property owner appeared and gave evidence in support of the application.
7. The address of the subject property is 509 Gomez Ave NE.
8. The subject property is currently zoned R-1A.
9. The subject property is within Character Protection Overlay Zone; Section 14-16-3-4(H): **MARTINEZTOWN/SANTA BARBARA – CPO-7.**
10. The proposed project is family home day care for up to 12 children.
11. All property owners within 100 feet and affected neighborhood association(s) were notified.
12. Santa Barbara/Martineztown Neighborhood Association and Martineztown Work Group are the affected neighborhood associations.
13. A letter from Loretta Naranjo-Lopez, President SBMTNA, dated July 22, 2019 stating support for the project was submitted in support of the Application.
14. Applicant is the property owner and will be the operator of the use.
15. Applicant is certified in Early Education and Child Development from Central New Mexico Community College, currently working to complete an Associate degree in this field.
16. Her husband is disabled, is also certified with NMCYFD as a certified provider, and is currently working to get additional certification for childcare.
17. He is a member of the household and will be also providing the child care services.
18. The subject property primary building has 580 sq. ft. available to provide the day care services, with connection to another 165 sq. ft. conditional use area, plus a bathroom for exclusive use of the children.
19. A private playground area of 630 sq. ft, which is enclosed by a 6-foot tall, double opaque barrier fence.
20. There are 6 main doors available for emergency exits.
21. A letter from Virginia Candelaria-Martinez, Developmental Specialist III at Inspirations Early Intervention Inc., dated July 24, 2019, indicating support for the proposed home day care, was submitted in support of the Application.
22. The subject address is located a short distance from CNM, Albuquerque High School, and other educational establishments, as well as convenient to main transportation corridors to work centers, which is consistent with the **ABC Comp. Plan, GOAL 5.2 COMPLETE COMMUNITIES, Policy 5.2.1: Land Use.**
23. The proposed project will help create a healthy, sustainable community, within a mix of uses conveniently accessible from surrounding neighborhoods, which is consistent with the **ABC Comp. Plan, GOAL 5.2 COMPLETE COMMUNITIES, Policy 5.2.1: Land Use.**
24. The proposed use is consistent with the ABC Comp. Plan, as amended, as required by Section 14-16-6-6(A)(3)(a).
25. 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).
26. The subject property has a driveway capacity for 8 vehicles, which means no parking congestion in the surrounding neighborhood will be created by the project.

27. 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(A)(3)(c).
28. It is anticipated that parents will require no more than 5 minutes to drop off their children.
29. 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).
30. The services will be provided from 5:15 am to 6:30 pm Monday through Saturday, with adjustable scheduling available for families with diverse working schedules.
31. Any potential increase of traffic congestion which might potentially be caused by the proposed non-residential activity before the 6:00 AM are fully and properly mitigated by the capacity of Applicant's driveway to accommodate 8 vehicles and the anticipated short period of time for drop offs.
32. 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(A)(3)(e).
33. The proposed use will not negatively impact pedestrian or transit connectivity, as required by Section 14-16-6(A)(3)(f).
34. 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).
35. 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 October 17, 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
Norma Ochoa Dorame, 509 Gomez Ave NE, 87102