



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

Edgar Vargas-Hinojos & Maria Parra request a Conditional Use for Family Home Daycare for Lot 27, Block 6, SUNSET WEST ADDN UNIT 2, located at 9015 SUN CT SW, zoned R-1B (Section 14-16-4-3(F)(8) Table 4-2-1)

Special Exception No: **VA-2025-00019**
Project No: **PR-2025- 011392**
Hearing Date: 02-18-25
Closing of Public Record: 02-18-25
Date of Decision: 03-05-25

On February 18, 2025, Edgar Vargas-Hinojos & Maria Parra (“**Applicant**”) was scheduled to appear before the Zoning Hearing Examiner (the “**ZHE**”) requesting a Conditional Use Approval to allow for a Family Home Day Care (“**Application**”) upon the real property located at 9015 SUN CT SW (the “**Subject Property**”). Below are the ZHE’s findings of fact and decision:

FINDINGS:

1. Applicant is requesting a Conditional Use Approval to allow for a Family Home Daycare, pursuant to City of Albuquerque Code of Ordinances Integrated Development Ordinance (“**IDO**”) Section 14-16-6-6(A).
2. Applicant has authority to pursue this Application, pursuant to 14-16-6-4(D).
3. The Planning Director’s delegee has determined that the Application is complete, pursuant to IDO Section 14-16-6-4(G).
4. The content of the notice of the Application satisfies IDO Section 14-16-6-4(J)(1).
5. No email address is on file with the Office of Neighborhood Coordination for any pertinent Neighborhood Association under IDO Section 14-16-6-4(J)(2).
6. Applicant provided evidence that they sent mailed notice to all property owners within 100 feet of the subject property as required by IDO Section 14-16-6-4(J)(3).
7. Applicant provided evidence that they posted sign notice(s) as required by IDO Section 14-16-6-4(J)(4).
8. The Subject Property is located in the R-1B zone, as to which IDO Table 4-2-1 lists Family Home Daycare as requiring a Conditional Use Approval.
9. Therefore, a Family Home Daycare on the Subject Property requires a Conditional Use Approval pursuant to IDO Subsection 14-16-6-6(A).
10. IDO 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 this 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, or there is a condition of approval that any Variances or Waivers needed to comply with any of these provisions must be approved or the Conditional Use Approval will be invalidated pursuant to Subsection (2)(c)2 above.

- (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) *On a project site with existing uses, it will not increase non-residential activity within 300 feet of a lot in any Residential zone district between the hours of 10:00 pm and 6:00 am;*
 - (f) *It will not negatively impact pedestrian or transit connectivity without appropriate mitigation.”*
11. Applicant bears the burden of providing a sound justification for the requested decision, based on substantial evidence, pursuant to IDO Section 14-16-6-4(E)(3).
 12. Applicant bears the burden of showing compliance with required standards through analysis, illustrations, or other exhibits as necessary, pursuant to IDO Section 14-16-6-4(E)(4).
 13. Applicant appeared at the February 18, 2025 ZHE hearing on the Application and gave evidence in support of the Application.
 14. Applicant has met the burden of providing evidence that established that the requested Conditional Use Approval is consistent with the ABC Comp. Plan, as amended. Specifically, Applicant’s written submittals support that it provides at-home daycare for local households and supports Section 6, Equity Plan, of the ABC Comp. Plan.
 15. Applicant has met the burden of providing evidence that establishes that the requested Conditional Use approval 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. Applicant confirmed in written submittals that the requested Conditional Use approvals would comport with all requirements.
 16. Applicant has met the burden of providing evidence that establishes that the requested Conditional Use approval will not create significant adverse impacts on adjacent properties, the surrounding neighborhood, or the larger community. Applicant confirmed in written submittals that the requested Conditional Use approvals would not create significant adverse impacts.
 17. Applicant has met the burden of providing evidence that establishes that the requested Conditional Use approval 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. Applicant confirmed in written submittals that the requested Conditional Use approvals would not create material adverse impacts.

18. Applicant has met the burden of providing evidence that establishes that the requested Conditional Use approval will not increase non-residential activity within 300 feet in any direction of a lot in any Residential zone district between the hours of 10:00 P.M. and 6:00 A.M. Applicant testified and confirmed in written submittals that non-residential activity will not increase in any prohibited manner.
19. Applicant has met its burden of providing evidence that establishes that the requested Conditional Use approval will not negatively impact pedestrian or transit connectivity without appropriate mitigation.
20. IDO Section 14-16-4-3(F)(7) requires the following Use-Specific Standards for a Family Home Daycare:
 - (a) *The operator of this use must obtain and maintain in effect at all times any city or state permit or license required for the operation of this use.*
 - (b) *Only members of the residing household may provide care.*
 - (c) *Any outdoor play area shall be enclosed by an opaque wall, fence, or vegetative screen at least 6 feet in height.*
 - (d) *Only a sign meeting the requirements for a home occupation is allowed.*
21. Applicant has met its burden of providing evidence that establishes that the operator of this use will obtain and maintain in effect at all times any city or state permit or license required for the operation of this use. Applicant testified and confirmed in written submittals the same.
22. Applicant has met its burden of providing evidence that establishes that only members of the residing household may provide care. Applicant testified to the same.
23. Applicant has met its burden of providing evidence that establishes that any outdoor play area will be enclosed by an opaque wall, fence, or vegetative screen at least 6 feet in height. Applicant testified that an opaque wall enclosing a lawn area is at least 6-feet tall.
24. Applicant has met its burden of providing evidence that establishes that only a sign meeting the requirements for a home occupation is allowed. Applicant testified to the same.
25. The City Traffic Engineer submitted a report stating no objection to the Application.

DECISION:

APPROVAL of a conditional use to allow a Family Home Day Care.

APPEAL:

If you wish to appeal this decision, you must do so by March 20, 2025, 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 the approval of a special exception is secured. This Notice of Decision does not constitute approval of plans for a building permit. If your application is approved, bring this Notice of Decision with you when you apply for any related building permit or occupation tax number. Approval of a Conditional Use is void after two (2) years from date of approval if the rights and privileges granted thereby have not been executed or utilized. Approval of a Variance

is void after one (1) year from date of approval if the rights and privileges granted thereby have not been executed or utilized.

A handwritten signature in black ink, appearing to read "Robert Lucero". The signature is fluid and cursive, written in a professional style.

Robert Lucero, Esq.
Zoning Hearing Examiner

cc: ZHE File
Zoning Enforcement
Edgar Vargas-Hinojos & Maria Parra, Mtpi89@outlook.com