



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

Gulisa Najera requests a Conditional Use Special Exception No: **VA-2025-00015**
for Family Home Day Care for Lot 16, Project No: **PR-2025-011388**
Riverview Heights Addn, located at 1431 Hearing Date: March 18, 2025
Crescent Dr NW, zoned R-1C (Section 14- Closing of Public Record: March 18, 2025
16-4-3(F)(8) Table 4-2-1) Date of Decision: April 2, 2025

On March 18, 2025, Gulisa Najera (“**Applicant**”) was scheduled to appear before the Zoning Hearing Examiner (the “**ZHE**”) requesting a Conditional Use Approval to allow for a Family Home Daycare (“**Application**”) upon the real property located at 1431 Crescent Dr NW (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. Evidence in the record indicates Applicant sent an electronic mail notice to the email addresses on file with the Office of Neighborhood Coordination for each pertinent Neighborhood Association as required by IDO Section 14-16-6-4(J)(2).
6. Evidence in the record indicates Applicant 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. Evidence in the record indicates Applicant posted sign notice(s) as required by IDO Section 14-16-6-4(J)(4).
8. The Subject Property is located in the R-1C zone.
9. Therefore, pursuant to IDO Table 4-2-1, 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 March 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. Evidence supports that the requested use would provide 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. The ZHE previously deferred this matter, because it appeared that the proposed outdoor play area for the requested use would be in the front yard, thereby requiring a variance for the required opaque enclosing wall, fence or screen. However, Applicant revised the Application to request that the outdoor play area be located in the backyard, which is enclosed by a proper opaque wall and would require no variance. Applicant testified and submitted evidence that the requested use would comply with all other regulations.
 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. Neighbors testified and submitted written correspondence stating that Applicant’s spouse has a diesel semi-truck that is often left idling and that leaks fluids at the property. While this may be a matter for City Code Enforcement to explore, it does not bear on the merits of whether the requested Family Home Day Care itself would create significant adverse impacts. Neighbors also submitted evidence asserting that traffic and parking in the neighborhood would become problematic if the Family Home Day Care were approved. However, Applicant testified that any traffic or parking concerns would be mitigated by the fact that

not all parents of the children to be served by the Family Home Day Care would arrive to drop-off or pick-up their child(ren) at the same time, but rather would be spaced throughout the day.

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. See finding 16, above. Also, there appears no substantial evidence that noise or vibration would result from the requested use. In addition, the civic benefit of having additional childcare available in the community outweigh any nominal increase in traffic or parking congestion that might result despite mitigation.
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 that the proposed use would not operate during the protected hours.
19. Applicant has met their burden of providing evidence that establishes that the requested Conditional Use Approval will not negatively impact pedestrian or transit connectivity without appropriate mitigation. There appears to be no transit infrastructure adjacent to the Subject Property and no evidence of negative impact to pedestrians, given that the proposed use will not obstruct or alter sidewalks.
20. IDO Section 14-16-4-3(F)(8) 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 demonstrated compliance with these use-specific standards.
22. The City Traffic Engineer submitted a report stating no objection to the Application.

DECISION:

APPROVAL of a Conditional Use to allow for a Family Home Day Care.

APPEAL:

If you wish to appeal this decision, you must do so by April 17, 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 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.



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