



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

Sean & Lavina Montgomery Trustees,  
Montgomery Trust requests a Conditional  
Use for a Family Home Day Care for Lot  
16, Block 5, Tara Subdivision, located at  
10828 Barbara Ellen Avenue NE, zoned  
R-1C (G-21) (IDO Section 14-16-4-  
3(F)(8))

Special Exception No:.....	<b>CU-2025-00043</b>
Project No: .....	PR-2025-020179
Hearing Date: .....	01-20-2026
Closing of Public Record:	01-20-2026
Date of Decision:.....	02-04-2026

On January 20, 2026, Sean & Lavina Montgomery Trustees, Montgomery Trust (“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 10828 Barbara Ellen Ave NE (the “Subject Property”). Below are the ZHE’s findings of fact and decision:

FINDINGS:

1. Applicant is requesting a Conditional Use Approval to allow 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. Applicant has not duly authorized Agent to act on Applicant’s behalf regarding the Application.
4. Applicant is not required to offer a meeting to Indian Nations, Tribes, and Pueblos before filing the application, pursuant to IDO Section 14-16-6-4(B).
5. The Planning Director’s delegee has determined that the Application is complete, pursuant to IDO Section 14-16-6-4(G).
6. The analyses and studies listed in IDO Section 14-16-6-4(H) were delivered.
7. The Application was forwarded to commenting agencies pursuant to IDO Section 14-16-6-4(I).
8. The content of the notice of the Application satisfies IDO Section 14-16-6-4(J)(1).
9. Applicant has 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).
10. Applicant has sent a mailed notice to all property owners within 100 feet of the subject property as required by IDO Section 14-16-6-4(J)(3).
11. Applicant has posted sign notice(s) as required by IDO Section 14-16-6-4(J)(4).
12. The Subject Property is located at 10828 Barbara Ellen Ave NE in a R-1C zone district.
13. Therefore, a Family Home Daycare on the Subject Property requires a Conditional Use Approval pursuant to IDO Subsection 14-16-6-6(A).

14. 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.”*
15. 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).
16. 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).
17. Applicant appeared at the January 20, 2026 ZHE hearing on the Application and gave evidence in support of the Application.
18. Applicant appeared at the ZHE hearing on the Application and gave evidence in support of the Application.
19. 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. The proposed use provides in-demand services and employment opportunities in the community, consistent with the Comp. Plan.
20. 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 provided substantial evidence that the proposed use would be operated in compliance with all such requirements.
21. 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. No such impacts appear in the record without sufficient mitigation.

22. 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. The proposed use generates minimal traffic and the parents will drop-off and pick-up children at different times, further minimizing any potential impact. Applicant will advise parents to abide by all traffic and parking requirements.
23. 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 provided substantial evidence that the proposed use will not increase non-residential activity during prohibited hours.
24. 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. Applicant provided substantial evidence that no such resulting impacts will occur.
25. IDO Section 14-16-4-3(F)(8) requires the following Use-Specific Standards for a Family Home Day Care:
  - 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.*Applicant has demonstrated compliance with these use-specific standards
26. 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 Daycare.

#### APPEAL:

If you wish to appeal this decision, you must do so by February 19, 2026, 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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Robert Lucero, Esq.  
Zoning Hearing Examiner

cc: *(Prop Owner) Sean & Lavina Montgomery Trustees, Montgomery Trust*  
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*ZHE File*  
*Zoning Enforcement*