



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

DORA M.H. AYERVE FARFAN request(s) a special exception to Section 14-16-2-6(B)(5): a **CONDITIONAL USE** to allow a proposed family daycare home for up to 12 children in an R-1 zone on all or a portion of Lot(s) 6, Block(s) H, NEW HOLIDAY PARK zoned R-1, located at 12000 VIENNA DR NE (F-22)

Special Exception No:..... ***IR* 12ZHE-80023**
Project No: **Project# 1009114**
Hearing Date: 03-20-12
Closing of Public Record: 03-20-12
Date of Decision: 03-26-12

STATEMENT OF FACTS: The applicant, Dora M.H. Ayerve Farfan, requests a conditional use to allow a proposed family daycare home for up to 12 children in an R-1 zone. Rosa Barasa, agent for the applicant and President of the Early Care & Learning Association, testified that Ms. Farfan would like to start a family daycare home for up to 12 children in her home. She has a degree from Lima Peru University in Education and is in the process of becoming certified by the State of New Mexico as a childcare provider. The ages of the children in her care will be from six weeks to five years of age. The days and hours of her operation will be Monday through Sunday, 6:00 a.m. to 6:00 p.m. She has one dog on the property, but it will be kept separate from the children. There will be no transportation of any of the children to school. Ms. Farfan indicated that she has owned this home since 2000. With regard to the protection and safety of the children, the applicant stated that she has provided gates for the kitchen area so that any potential hazards are not realized. There will be no signage advertising this daycare. Also, this lot contains a 6' high wall in the rear yard so that the children may not leave her property. She stated that she has sufficient off-street parking for her clients when they are dropping off or picking up their children. Ms. Farfan states that a childcare business would enhance her neighborhood. The yellow sign was posted.

Jim Scales testified in opposition to this request. He stated that his mother currently resides next door to this property; however, she is in the process of selling her home. Concerns include the marketability of his mother's home with a family daycare home next door, parking, noise and signage advertising this business.

Based on all of the testimony and a review of the entire file, it is determined there is substantial evidence to make the following findings and conclusions:

FINDINGS AND CONCLUSIONS: I find that this request complies with Section 14.16.4.2.(C).1., for the granting of a conditional use upon a finding that the proposed use will not cause injury to the neighborhood, adjacent property or the community, nor will it be damaged by surrounding structures. For reasons stated above, this request is approved.

DECISION: Approved with conditions.

CONDITIONS:

1. No outdoor signage showing that there is a family daycare business.
2. Parking by patrons must be on the applicant's property.
3. Measures must be taken to minimize noise.

The approval is subject to the submitted site plan, as required. Any substantial changes to the site plan, as determined by the Zoning Enforcement Division, shall require the scheduling of an additional Public Hearing.

If you wish to appeal this decision, you may do so by 5:00 p.m., on April 10, 2012 in the manner described below:

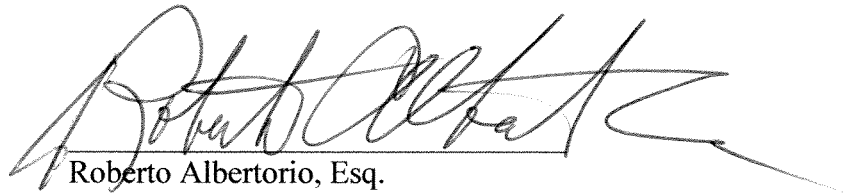
Appeal is to the Board of Appeals within 15 days of the decision. A filing fee of \$105.00 shall accompany each appeal application, as well as a written explanation outlining the reason for appeal and a copy of the ZHE decision. Appeals are taken at 600 2nd Street, Plaza Del Sol Building, Ground Level, Planning Application Counter located on the west side of the lobby. **Please present this letter of notification when filing an appeal.** When an application is withdrawn, the fee shall not be refunded.

An appeal shall be heard by the Board of Appeals within 45 days of the appeal period and concluded within 75 days of the appeal period. The Planning Division shall give written notice of an appeal, together with a notice of the date, time and place of the hearing to the applicant, a representative of the opponents, if any are known, and the appellant.

Please note that pursuant to Section 14. 16. 4. 4. (B)., of the City of Albuquerque Comprehensive Zoning Code, you must demonstrate that you have legal standing to file an appeal as defined.

You will receive notice if any other person files an appeal. If there is no appeal, you can receive building permits any time after the appeal deadline quoted above, provided all conditions imposed at the time of approval have been met. However, the Zoning Hearing Examiner may allow issuance of building permits if the public hearing produces no objection of any kind to the approval of an application. To receive this approval, the applicant agrees in writing to return the building permit or occupation tax number.

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.



Roberto Albertorio, Esq.
Zoning Hearing Examiner

cc: Zoning Enforcement
ZHE File
Dora M.H. Ayerve Farfan, 12000 Vienna Drive NE, 87111
Jim Scales, 12004 Vienna Drive NE, 87111