



CITY OF ALBUQUERQUE
PLANNING DEPARTMENT
ZONING HEARING EXAMINER
NOTIFICATION OF DECISION

SILVIA VASQUEZ request(s) a special exception to Section 14-16-2-6(B)(5): a CONDITIONAL USE to allow up to 12 children for a proposed home family day care for all or a portion of Lot(s) 14-A, LOMAS DEL CIELO zoned R-T, located on 1724 ROSS CT SE (L-15)

Special Exception No:.....**12ZHE-80264**
Project No:**Project# 1009409**
Hearing Date:10-16-12
Closing of Public Record:10-16-12
Date of Decision:.....10-31-12

On October 16, 2012, Silvia Vasquez appeared before Zoning Hearing Examiner, Joshua J. Skarsgard, requesting a Conditional Use to allow up to 12 children for a proposed home family day care at 1724 Ross Ct SE. Below are the findings of facts.

FINDINGS:

1. Silvia Vasquez requests a conditional use to allow up to 12 children for a proposed home family day care at 1724 Ross Ct SE.
2. Ms. Vasquez testified that she is proposing to expand from a six children home family day care (which is currently permissive in the zoning designation upon the property) to up to twelve children to allow some of the kids in her neighborhood an opportunity to join the family day care operation which is currently focused on providing day care to family members.
3. Ms. Vasquez testified that she has owned the property for 18 years.
4. Ms. Vasquez testified that she is licensed by CYFD and has logged 45 hours of training.
5. Ms. Vasquez testified that she will have one more person help her care for the children.
6. The proposed hours of operation of the family day care will be from 6:00 am to 6:00 pm Monday thru Friday.
7. Mr. Vasquez testified that the 6 current children that are utilizing the family day care services range in age from 12 weeks to 12 years old.
8. Ms. Vasquez testified the house is surrounded by an 8' to 6' wall in the rear yard play area which will provide safety to the children and buffer any noise or visual impairment that may result from the family day care services.
9. Ms. Vasquez testified that she is in contact with the Fire Marshall's Office for proper sprinkling and house safety issues pertaining to the family day care operations. There is also a gate that separates the children from the kitchen per fire code regulations.
10. Ms. Vasquez testified that she does not transport children to the family day care at this time. She indicated that some of the children live in the neighborhood and are walking distance to the family day care (which reduces the impact of vehicles dropping off and picking up the children).
11. There was a facilitated meeting between Ms. Vasquez and neighbors. The main issue was if there was adequate parking at the site. Ms. Vasquez testified that 5 kids live on

- the same street and she as 4 grandchildren, so parking will not be an issue at this site because only three of the children will need to be “dropped off” at the site.
12. The City of Albuquerque Code of Ordinances Section § 14-16-4-2 (C) (1) (a) “SPECIAL EXCEPTIONS” reads in part: “*A conditional use shall be approved if and only if, in the circumstances of the particular case and under conditions imposed, the use proposed will not be injurious to the adjacent property, the neighborhood, or the community.*”
 13. Ms. Vasquez testified that the conditional use request (proposed day care for up to 12 children) will not be injurious to the surrounding community and not be invasive to the neighbors enjoyment of their properties. She represented that the three parking spaces within her driveway would help this proposed use not to be injurious to the traffic and parking needs within the cul de sac.
 14. The City of Albuquerque Code of Ordinances Section § 14-16-4-2 (C) (1) (b) “SPECIAL EXCEPTIONS” reads in part: “*A conditional use shall be approved if and only if, in the circumstances of the particular case and under conditions imposed, the use proposed will not be significantly damaged by surrounding structures or activities.*”
 15. Ms. Vasquez testified that the proposed expansion of the family day care services (up to 12 children) would not be significantly damaged by the surrounding structures within the neighborhood or the adjacent activities of her neighbors.
 16. Paula Welsh, who lives at 1200 Buena Vista SE, testified that she did not even know that Ms. Vasquez had a daycare business.
 17. Ms. Welsh testified that her concerns are parking limitations, noise, and traffic flow since there is only one way into the property and one way out.
 18. Isabel Cabrera, Vice President of Clayton Heights Neighborhood Association, is concerned about parking and the number of children at the house.
 19. The yellow “Notice of Hearing” signs were posted for the required time period as articulated within the City of Albuquerque Code of Ordinances Section § 14-16-4-2.
 20. The Applicant has adequately justified the CONDITIONAL USE to allow up to 12 children for a proposed home family day care for all or a portion of Lot(s) 14-A, LOMAS DEL CIELO zoned R-T, located on 1724 ROSS CT SE (L-15)

DECISION:

APPROVAL WITH CONDITIONS of the CONDITIONAL USE to allow up to 12 children for a proposed home family day care for all or a portion of Lot(s) 14-A, LOMAS DEL CIELO zoned R-T, located on 1724 ROSS CT SE (L-15)

CONDITIONS OF APPROVAL:

1. The Applicant shall only be allowed up to **10 children** for the proposed home family day care.
2. The Applicant shall require employee(s) and caretakers dropping off children to park for extended periods of time within the driveway of the subject property, to alleviate parking congestion (if any) on the surrounding cul de sac.
3. The Hours of Operation of the Home Family Day Care shall not be earlier than 6 a.m. MST, and shall not be later than 6 p.m. MST.

If you wish to appeal this decision, you may do so by 5:00 p.m., on November 16, 2012 in the manner described below:

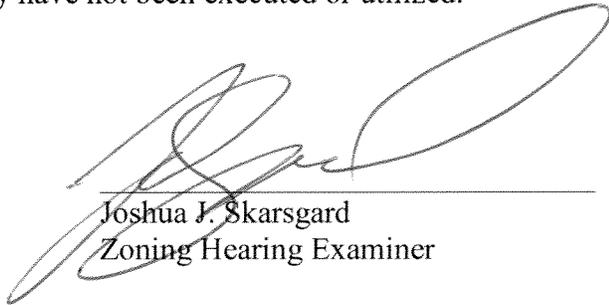
Appeal is to the Board of Appeals within 15 days of the decision. A filing fee of \$105.00 shall accompany each appeal application, as well as a written explanation outlining the reason for appeal and a copy of the ZHE decision. Appeals are taken at 600 2nd Street, Plaza Del Sol Building, Ground Level, 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.



Joshua J. Skarsgard
Zoning Hearing Examiner

cc: Zoning Enforcement
ZHE File
Silvia Vasquez 1724 Ross Ct SE, 87106
Paula Welsh, 1200 Buena Vista Dr SE, 87106