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CITY OF SANTA FÉ
BOARD OF ADJUSTMENT
September 6, 2016**

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BOARD OF ADJUSTMENT
Tuesday, September 6, 2016 at 6:00 P.M.
200 Lincoln Ave. Santa Fe NM
City Council Conference Room

CALL TO ORDER

A regular meeting of the City of Santa Fe Board of Adjustment was called to order by Gary Friedman, Chair, at approximately 6:00 p.m., on Tuesday, September 6, 2016, in the City Council Chambers, 200 Lincoln Avenue, Santa Fe, New Mexico.

A. ROLL CALL

Members Present

Gary Friedman, Chair
Coleen Dearing
Patricia Hawkins
Donna Reynolds
Daniel H. Werwath

Members Excused

Rachel L. Winston, Vice-Chair [recused herself]
Douglas Maahs

Others Present

Dan Esquibel, Staff Liaison
Lisa Martínez, Land Use Director
Zachary Shandler, Assistant City Attorney
Carl Boaz, Stenographer

B. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited.

C. APPROVAL OF AGENDA

Member Werwath moved to approve the agenda as presented. Member Dearing seconded the motion and it passed by unanimous voice vote.

D. APPROVAL OF MINUTES: Minutes of August 2, 2016

Member Dearing moved to approve the minutes of August 2, 2016 as presented. Member Hawkins seconded the motion and it passed by unanimous voice vote.

E. FINDINGS/CONCLUSIONS: Case #2016-71. 27698 W. Frontage Road Special Use Permit and Variance.

[A copy of the Findings/Conclusions for Case #2016-71 are attached to these minutes as Exhibit 1.]

Member Hawkins moved to approve the Findings of Fact and Conclusions of Law for Case #2016-71 as presented. Member Dearing seconded the motion and it passed by unanimous voice vote.

F. NEW BUSINESS

- A. Case #2016-53. 1549 S. St. Francis Drive Special Use Permit. Secondary Learning Center, applicant, requests a Special Use Permit for a school use on 0.64+/- acres. The property is zoned C-1 PUD (General Office/Planned Unit Development). (Dan Esquibel, Case Manager)**

Staff Report

Mr. Esquibel presented the staff report for this case. A copy of the Staff Report for Case #2016-53 is attached to these minutes as Exhibit 2. Mr. Esquibel noted the new format for the staff report and requested feedback on its usefulness and clarity.

Mr. Esquibel said this is a school that originally started as a business for tutoring kids and in 2014, became an accredited school. He clarified that in the City's inspection system, they have only so many staff and can't get to all businesses. When they become a school, the State is supposed to inspect but the City has been doing them and in a sweep, found that many had no licenses, including this school so the school, and all schools in a C-1 zone, are required to secure a Special Use Permit which triggers a public hearing. They are still required to get a business license and meet all fire requirements associated with the school and the other conditions by DRT members. The school met all of Mr. Esquibel's requirements.

Recently, they had a previous case in this same PUD for a veterinary clinic where they did therapy for animals and it is in the same vicinity in the building at the far end.

Staff recommended approval, subject to the conditions listed and technical requirements. The maximum enrollment for the school is 23 students and student parking limited to two spaces. Typically, the City limit student population with the request of the application and here, because of limited parking for to be shared among all businesses, and students can drive in 11th and 12 grades, he wanted to make the special use permit would be fair to the other businesses in that area. Only one student drives now. Some are dropped off for physical fitness and a van that picks them up and brings them back to the school and picks up the other half. Then at end of the day, parents pick up all of them at the school location. He thought this was a reasonable solution.

Questions to Staff

Member Dearing was unsure. Her experience with juniors and seniors is that they all drive and was surprised that two spaces would be adequate for 23 students.

Mr. Esquibel explained this school is for 6-12 grades.

Member Dearing thought it appeared in the application that they were preparing kids for the ACT. That was where she got lost in it and couldn't figure out how two parking spaces could work for them.

Chair Friedman said it looked like there are 44 parking spaces there.

Mr. Esquibel said there are 34 spaces for building 1 and building 2 to accommodate the veterinary clinic, the attorney's office, etc. and those would continue to be used. The school is in building 1.

Chair Friedman asked if the special use applied to all of the area or just to building 1.

Mr. Esquibel said it is just for Building 1. He explained that the building can handle 49 people (students and staff) in Building 1 but they have limits with the current configuration for fire protection. The doors are not panic bar doors. Until they are able to fix all the anomalies, the fire marshal has limited to occupancy of 49.

Chair Friedman asked how this got to a 23-student limit.

Mr. Esquibel said that was the number they brought to the table and if they go beyond that, we need to re-evaluate the parking consideration and fire issues and know how large and what impact it would be to other businesses.

Chair Friedman asked if once they addressed those conditions if they could go up to 49 students.

Mr. Esquibel agreed but said the Board could allow 49 or 23 as suggested by Staff.

Chair Friedman figured that since only two students could park there, they would need to reconsider the parking situation.

Mr. Esquibel explained that the primary reason for the limit is that is what they had when they applied. It is very similar to the School for the Arts where they provided a number and the Board capped it at that.

Chair Friedman understood that if it is to increase beyond that, they have to come back.

Member Werwath said they needed to deal with the situation at hand on its own.

Mr. Esquibel said this has a maximum of 49 according to the fire marshal and ranges from elementary through high school and shares the parking lot with other businesses. It needs to be in harmony with what is there and we didn't want pick up/drop off to impact too much for the other uses in the PUD. The 23

students are within what the driveway can handle but they didn't go in front of the other neighbors to address 49 students and that impact. At the ENN, there was concern about condo insurance policy not covering a school and they would have to reevaluate the policy and it is private issue with the condo association. That person didn't like the idea of students playing in the parking lot and the applicant has addressed that.

Chair Friedman asked if there were designated spaces.

Mr. Esquibel didn't think so.

Member Dearing asked if the load of 49 includes teachers and administration staff.

Mr. Esquibel agreed. They could ask the applicant about teachers' parking needs.

Applicant's Presentation

Present and sworn, was Mr. Antony Berzack, 1549 South St. Francis Drive, Santa Fe, who said he didn't know that they were coming with a 23 student limit. He would like to expand that to 31 and said he could explain why. Also, in general, if this is about fire inspection or impact, on neighbors and parking as big issues, he could answer those questions.

Member Dearing asked if he could answer the question about total capacity. The total capacity of students and teachers and staff is how many?

Mr. Berzack said it is 49 but they currently have 23 students from 8 a.m. to 3 p.m. along with part-time staff. So at any given time, there are only three staff, one of which would be him. They stay for two-hour periods: one with upper division students and one hour to the lower division.

Chair Friedman asked if there are contracted educators.

Mr. Berzack said there are 12 who come in for one hour per week. The maximum number of educators at any one time would be four, including himself. He added that if they need to prohibit students from driving to school, it would not be a problem.

Member Dearing said she misread the application. What they used to do is what she thought they were applying for a license to do.

Mr. Berzack offered to set whatever rules the Board required them to have. The parking lot being a good example.

Chair Friedman asked if it would be okay to prohibit any students from playing in the parking lot.

Mr. Berzack said that was okay with him and had already been taken care of.

Member Werwath asked if the Board could make that a condition.

Mr. Esquibel agreed.

Mr. Berzack said he would hate to have a neighbor come to find kids playing in front.

Mr. Esquibel noted that the neighbor was an attorney who has a business there. He had not heard from her since the ENN so he assumed the school had satisfied her concern.

Member Dearing asked if increasing the limit to 31 students would be within the guidelines.

Mr. Esquibel said the Board could accept the condition as written or modify it or eliminate it or add the Board's own condition. It is up to the Board to determine how the applicant will meet the three standards for the Special Use Permit. He was being conservative with it but said he could be overly conservative.

Chair Friedman asked if there is enough space now in the building to have 31 students or if the 31 included the adults.

Mr. Berzack said they were asking for up to 34 total. 30 is their maximum student load and although they haven't hit that number yet, he would like to keep it at that amount

Member Hawkins understood he was asking for up to 31 students plus staff. So the total use of the building would be 35 in the building that has a 49 occupancy limit.

Mr. Berzack agreed.

Member Werwath said limiting the student population is what makes the impact. That is what should be regulated.

Member Hawkins wondered if more students might mean more staff.

Member Werwath said the fire code is the standard for building occupancy. And limiting students doesn't seem to have an impact except for the drop-off traffic and it already has an occupancy of 49 to accommodate that traffic.

Mr. Esquibel said that just to get to understand it, Exhibit C has a photo of the site. There are three entry places and first one is where the school is located. The white rectangle in the photo is the school van. Continuing to the north and the break between buildings is the end of the PUD. So when you squeeze that much intensity in, it will have an impact on the adjacent businesses. They discussed how much would be too much and how much is reasonable without compromising the school or the businesses there.

Member Werwath asked if they are allowed to use the entire driveway to exit.

Mr. Esquibel agreed but parking is limited to the area shown.

Chair Friedman asked if there is a wall between the buildings.

Mr. Berzack agreed.

Public Comment

Chair Friedman opened the public hearing, noted there were no public members present, and closed the public hearing.

Mr. Esquibel clarified that 31 student maximum is okay with Staff.

Action of the Board

Member Werwath moved in Case #2016-53, Secondary Learning Center at 1549 So. St. Francis, to approve the Special Use Permit subject to staff conditions and that the student enrollment be limited to a maximum of 31 and student parking limited to two spaces. Member Dearing seconded the motion and it passed by unanimous voice vote.

Chair Friedman clarified that they are approved by the State.

Mr. Berzack agreed.

G. STAFF COMMUNICATIONS

Mr. Esquibel asked the members for their thoughts on the new format.

Chair Friedman said he liked the new format.

Ms. Martínez said they are simplifying the Staff Reports for all committees in order to provide the most critical elements on the first page. So it is experimental and they are looking for feedback on it. She asked them to let her know if they thought there is a better way to do that.

Chair Friedman thought this is easy to read and in the box is the condensed version. The recommendations are right up front to make it better and the executive summary helps. It looks good.

Ms. Martínez said they want to make it easier for the boards and committees to make good decisions.

H. MATTERS FROM THE COMMISSION

There were no matters from the Board.

I. ADJOURNMENT

The meeting was adjourned at 6:33 p.m.

Approved by:

Gary Friedman, Chair

Submitted by:



Carl Boaz for Carl G. Boaz, Inc.