



**VALENCIA COUNTY PLANNING & ZONING COMMISSION
MINUTES**

**May 22, 2013
4:00 PM**

**Valencia County Administrative Offices
Commission Chambers
444 Luna Ave, Los Lunas, NM**

1. CALL THE MEETING TO ORDER
Commissioner Artiaga

2. PLEDGE OF ALLEGIANCE
Commissioner Gaudette

3. APPROVAL OF AGENDA
1ST Motion: Commissioner Gaudette
2nd Motion: Commissioner Baca

4. APPROVAL OF MINUTES: April 24, 2013
1st Motion: Commissioner Gaudette
2nd Motion: Commissioner Milam

5. SWEARING IN OF PARTICIPANTS
Commissioner Artiaga

6. ACTION ITEMS

A. REQUEST FOR A CONDITIONAL USE HOME OCCUPATION-DOG TRAINING & KENNEL FACILITY: Sonya Burr: Legal Description: T7N, R2E, Section 25, NMPM, Map 71; Tract 4-B2-A2 filed in Book 272, Page 61900, Also known as 8 Coyote Rd., Los Lunas, NM 87031; and Tract B1-A1 filed in Book 312, Page 9132 of the office of the Valencia County Clerk; also known as Land of Berry & Mary Helen Estes, Los Lunas, NM.

Ms. Burke stated her name is Sonya and she has been training dogs for nineteen years and would like to turn one of the out buildings into an indoor/outdoor kennel facility, add a septic system, pour concrete, add a new gutter system to allow the dogs to be cleaned daily and locked up at night, the dogs will be in six foot high dog runs with 9 gauge wire and in front of the kennel there will be a fence to keep any visual barking down, and most of the training is done off the property.

Commissioner Milam asked Ms. Burr how many dogs would be residing at the kennel at any point and time meaning staying over a 24 hour period of time.

Ms. Burr stated twenty five.

Commissioner Milam asked Ms. Burr if the horse shed/stall would be converted.

Ms. Burr stated yes.

Commissioner Milam asked Ms. Burr to explain the dog silencer pro.



VALENCIA COUNTY PLANNING & ZONING COMMISSION

Ms. Burr stated that it emits a sound so it interrupts the barking.

Commissioner Milam asked if he would be able to hear the dogs barking if he was sitting outside.

Ms. Burr stated the device is to stop the dogs from barking and it is a device that sits on a fence and emits a sound to stop the dogs from barking.

Commissioner Jaramillo asked if it is a high pitched sound that only the dogs can hear to keep them from barking.

Ms. Burr stated yes.

Commissioner Milam asked if Ms. Burr had gone to the Environmental Industries Division to apply for an additional septic tank system.

Ms. Burr stated no.

Commissioner Milam asked if Ms. Burr had applied for a building permit to reconstruct the existing building.

Ms. Burr stated no.

Commissioner Jaramillo asked what the purpose of the septic tank is and would there be a restroom in the outbuilding?

Ms. Burr stated it is for the gutters for washing the dog runs.

Commissioner Jaramillo stated that he not aware of whether a special septic permit is needed.

Mr. Martinez stated he is unaware of a special septic system for that.

Commissioner Milam stated that he was going by what Ms. Burr stated that she would comply with EID regulations.

Commissioner Jaramillo asked if Ms. Burr had spoken to EID.

Ms. Burr stated no.

Commissioner Milam asked Ms. Burr if the existing system is only for the house.

Ms. Burr stated yes.

Commissioner Milam stated with that many dogs he does not believe it environmentally friendly to wash that much feces on the ground.

Ms. Burr stated it is going into a gutter system that goes into a new septic system.

Commissioner Milam asked if it is to the house system.



VALENCIA COUNTY PLANNING & ZONING COMMISSION

Ms. Burr stated no to a new system.

Commissioner Artiaga asked if she read correctly that the feces would be picked up and put down a grey water system.

Ms. Burr stated she is putting in a septic system.

Commissioner Artiaga stated EID requirements would need to be met.

Commissioner Jaramillo asked if Ms. Burr would be willing to meet whatever conditions need to be met.

Ms. Burr stated yes she would.

Commissioner Baca asked what the duration of the twenty five dogs staying overnight is.

Ms. Burr stated it depends on the dog and could be between three months and nine months, a lot of them stay 9 months and go home and then come back.

Commissioner Jaramillo asked Mr. Martinez asked why this case is coming before the commission today.

Mr. Martinez stated it would be operating as a business, people would be visiting the property even though most of the training is done off site, as well as the parking.

Commissioner Jaramillo asked how many employees there would be.

Ms. Burr stated two.

Commissioner Artiaga stated there is a comment from public works stating people should not park on the road, and is there a place for parking on the property.

Ms. Burr stated there is a circling driveway and additional parking in the back.

Commissioner Artiaga asked how many people Ms. Burr expected to have parked on the property at one time.

Ms. Burr stated about ten people due to the one obedience class once a week which last approximately one hour.

Commissioner Artiaga stated asked if there was anybody in favor of the petition who would like to speak.

Mr. Alumbaugh stated his name is Mike and he and his wife own the property in question, and that it is four acres in total and that therefore Ms. Burr would be in compliance with the requirements for the second septic system. Mr. Alumbaugh stated Ms. Burr has not gone ahead with building permits or started looking for a contractor or the septic system because they thought this was the first step to get through this process and Ms. Burr's intentions are to comply with all County requirements, and elaborated on the parking, the septic/sanitation, and noise barriers.



VALENCIA COUNTY PLANNING & ZONING COMMISSION

Mr. Neis stated that his name is Paul and has been and is currently a client of Ms. Burr and is present to support her.

Mr. Whitenberry stated his name is Michael and has been a friend of Ms. Burr for many years and is currently employed by New Mexico Kennels which Ms. Burr has managed for the last year and a half, and testified to her character, integrity and work ethic.

Mrs. Sena stated her name is Deborah and she lives directly in front of the property and never had any problems with noise or traffic when Mr. Alumbaugh used to train horses on the property and her concerns with noise and clean- up had been addressed earlier.

Commissioner Artiaga asked if there was anybody else who would like to speak in favor of the request. There were none.

Commissioner Ariaga asked if there was anybody who would like to speak in opposition to the request.

Mr. Peters stated that his name is Ken and he is not opposed to any business in the neighborhood, not just this one in particular, and he bought property because he wanted to live in a residential area not a mixed business area, and allowing this business in could possibly open up the door to future businesses. Mr. Peters also stated that this area is also designated a quiet area.

Commissioner Milam asked Mr. Peters where his property is located.

Mr. Peters stated he lives at 07 Palomas which is three houses down and across Jerome. Mr. Peters also stated that there was a problem with dogs killing sheep in the area as well as the safety of his children with that number of dogs in the area.

Commissioner Artiga stated that for anybody to operate a home based business would have to go through the process of coming before that Planning & Zoning Commission.

Commissioner Gaudette asked Mr. Peters if he understood that the applicant is not asking for zone change and that the area will still be considered residential.

Mr. Peters stated he is aware of that and this is a commercial business being ran out of a residential area and would like to know where the line gets drawn.

Commissioner Milam asked Mr. Peters if he was aware that there are six businesses within three hundred feet of the subject property.

Mr. Peters stated no.

Commissioner Jaramillo asked Mr. Peters how long he has lived there.

Mr. Peters stated twenty one years.

Commissioner Artiaga stated that one of the criteria for a home operated business is that it not be obtrusive.

Mr. Peters stated he understands that and apparently there are six other ones that are not obtrusive, and that in all honesty how could somebody not know there are twenty five dogs located there as well as the



VALENCIA COUNTY PLANNING & ZONING COMMISSION

extra traffic involved with the transportation of the dogs as well as the traffic generated by the weekly obedience classes.

Commissioner Milam stated he was incorrect on the number of businesses in the area and stated there are only five and named them.

Mr. Peters stated now that they are mentioned he recalls them and how could someone not notice that many dogs and a business there.

Mr. Martinez stated that for the record this is an RR-2 district, livestock shall be allowed in an RR-2 district including dogs and cats which is one dog per thirty five hundred separate square feet of surface area.

Commissioner Artiaga asked how many dogs would be allowed on this four acre lot.

Mr. Martinez stated on a two acre lot twenty four point eight dogs or cats are allowed on a four acre lot.

Mr. Cerkleski stated his name is Frank and would like to know what kind of dogs are these and what they are being trained for.

Ms. Burr stated Labrador retrievers being trained to hunt and retrieve birds.

Mr. Cerkleski asked if there would be any inspections and what assurances are there that the facility will be run the way it is being stated in the application.

Mr. Martinez stated according to the Home Occupation it doesn't allow for any nuisances that are already in the book so if there is a nuisance it will be investigated and a violation will be provided, for example if there are more dogs than allowed per the RR-2 a citation will be issued by Valencia County Code Enforcement.

Mr. Cerkleski asked what the process would be if there is a violation.

Mr. Martinez stated that a phone call would have to be made by the complainant, a code enforcement officer would be sent out, the code enforcement officer would investigate, the code enforcement officer would come back and report on that investigation and if a violation is found the code enforcement officer will send out a notice and allow up to thirty days to remedy that nuisance and if by the thirty days it is not remedied the violator will be taken to court.

Commissioner Artiaga asked to continue the scenario and suggest there is a complaint and the code enforcement officer came out and issued a violation, being as the conditional use runs for two years and can be administratively continued after that, if there were violations at this property would the violations have any effect on the renewal of the conditional use?

Mr. Martinez stated yes it would and the allowable amount of violations is three for the conditional use not to be renewed.

Mr. Swisher stated his name is Mike and is speaking on behalf of his mother as he lives in Albuquerque and his mother lives directly south of the property and is concerned due to the noise that twenty dogs could make as well as the potential for decrease in property value.



VALENCIA COUNTY PLANNING & ZONING COMMISSION

Mr. Medrano stated his name is Michael and he lives at 11 Coyote and is concerned with the potential noise, sanitation, and increase in traffic as well as the safety of his children and bought his property in this area because it is rural residential and would like it kept that way.

Mrs. Perea stated her name is Tammy and is concerned with the extra traffic and is not opposed to people training dogs just training dogs in her neighborhood and stated when one dog starts barking it sets off a chain reaction for all the other dogs in the neighborhood and at some point the kenneled dogs are going to bark.

Mrs. Cerkleski stated that her name is Trudy and her concern is that her home is at the end of the road and there is a potential vehicles coming to the subject property to use her driveway as a turnaround as well as the potential noise created by the dogs and the potential smell and sanitation.

Commissioner Artiaga asked if there were any others who would like to speak in opposition. There were none.

Commissioner Artiaga asked Ms. Burr how the dogs would be transported.

Ms. Burr stated in a dog truck with a dog trailer and each dog has its own individual box.

Commissioner Artiaga asked Ms. Burr how sure she is about the system in regards to the noise.

Ms. Burr stated when she lived in Aztec she used the same system and had the same issue with neighbors being close and there were not any problems.

Commissioner Gaudette asked if she went through the same process as she is today in Aztec.

Ms. Burr stated yes, that animal control had to go out to the property to do an inspection and at the time of the inspection she was not at the property and the animal control officer had to call because he couldn't find the dogs and he had driven by them. Ms. Burr stated the dogs being trained are boarded separately from the kenneled dogs (inaudible) and when those dogs bark her dogs don't bark, they don't echo the other dogs and her dogs will be locked in at night and it is not conducive to her training to allow them to bark and get stirred up and it is important for her to keep them quiet. Ms. Burr also stated she spoke with Eric who is charge of Animal Control and even though there are no criteria for an inspection, he will be going out to do one.

Commissioner Milam asked Mr. Martinez what happens if somebody calls three times in a row or say three times over a period of a year or less.

Mr. Martinez stated using the public nuisance noise nuisance ordinance, "non-vehicular noise nuisance in the area zoned residential and between the hours of seven a.m. and ten p.m. maximum permissible level intrusion noise of non-vehicular sources is eighty d.b.a.'s or ten d.b.a.'s above the ambient noise level, so if there is a call and complaint someone would go and check with a noise meter at the fence line or the property line of the property to see if does meet that and if it exceeds that a violation would be sent out. Mr. Martinez stated a violation under 154.168 which is the home occupation criteria, number thirteen C, "any departure from the uses and activities initially specified shall be considered grounds for revocation of the conditional use permit" so at any time the conditional use permit could be revoked. Mr. Martinez stated in the past code enforcement has provided time for the issue to be resolved and compliance to be met and this can be done up to three times and after the third time the conditional use



VALENCIA COUNTY PLANNING & ZONING COMMISSION

permit will be revoked and if compliance is not met within thirty days of the first violation the permit will be revoked as well.

Commissioner Milam stated he wanted clarity on that issue for Ms. Burr's sake as this will be a big investment on her part.

Commissioner Artiaga asked whose district this is in.

Mr. Martinez stated he would find out.

Commissioner Jaramillo stated all the concerns are legitimate concerns and Ms. Burr addressed most concerns and it is pretty good incentive for Ms. Burr in regards to the question asked by Commissioner Milam and Mr. Martinez answered for her to comply with the ordinances the way they are or the permit will not be renewed.

Commissioner Gaudette stated not only renewed but also shut down.

Commissioner Baca asked Mr. Alumbaugh if he ever had any complaints from the neighbors during the time in which he was training horses.

Mr. Alumbaugh stated he had not.

Mr. Martinez stated the property is in district five and that would be Commissioner Baca's district.

Commissioner Artiaga stated her first home was in the area of the subject property and knows how quiet it is and feels that if somebody wants to have a home based business and be a good neighbor and meet all the criteria in this economy should be encouraged, and raising and training animals seems agricultural to her and there are other business in the area that have proved that they can be good.

Commissioner Jaramillo stated that he is glad to see Ms. Burr came to this process before she started her business as opposed to after.

Commissioner Baca made a motion to approve the application by Ms. Burr for a home occupation.

Commissioner Milam stated he would like to second the motion with the conditions that Ms. Burr comply with EID standards and acquire the necessary building permits.

Mr. Martinez stated there is a motion to approve the Conditional Use Home Occupation on the condition that the applicant meet EID standards and any required permits for building from the county and will now call for a roll call vote.

Commissioner Baca votes yes. Commissioner Jaramillo votes yes. Commissioner Gaudette votes yes. Commissioner Milam votes yes. Commissioner Artiaga votes yes.

Mr. Martinez stated to Ms. Burr there has been a vote for approval of the Home Occupation with conditions and a letter with that approval and please note the date of that letter is the date of the approval and there will be fifteen day period to appeal that decision.



VALENCIA COUNTY PLANNING & ZONING COMMISSION

B. REQUEST FOR A CONDITIONAL USE-OTHER RESIDENTIAL

CONDITIONAL USE: JUAN D. & JOSEPHINE JULIAN: Legal Description: T6N, R2E, Section 17, NMPM; Map 86; Block Q, Lot 20; Zoned RR-2; Filed in Book 364, Page 5823 of the office of the Valencia County Clerk; also known as El Dorado Estates, Los Lunas, NM.

Mr. Julian stated his name is Juan and he is here today to request a conditional other use residential use permit because there was a complaint about his recreational vehicle that is there for his caretaker of the property as he travels full time and was unaware that he was in violation of the ordinance.

Commissioner Artiaga asked where the RV is parked in relation to the road and the house.

Mr. Julian stated there is not a house on the property, just the RV.

Commissioner Milam stated for clarification there is a travel trailer with skirting around it, and does not know if it is a permanent structure, and there was a mobile home in the past.

Mr. Julian stated the previous property owner removed the mobile home and his seventy four year old uncle whom he moved down from Santa Fe to take care of does live in a twenty four foot RV-travel trailer and is the property care taker and does live there full time.

Commissioner Milam asked Mr. Martinez what the law states regarding having a travel trailer and utilizing it as a living quarters.

Mr. Martinez stated under RR-2 zoning 154.105(8) states (a) One recreational vehicle shall be permitted to be parked on any parcel in conjunction with a principal dwelling, and may be used for the temporary accommodations of guests for a period of up to 45 days total in any year and (b) In no case shall any recreational vehicle be used as a principal dwelling or rented unless and until the necessary permits have been obtained.

Commissioner Artiaga asked if this would be the necessary permit.

Mr. Martinez stated at this point there is not a process for a necessary permit and is bringing this before the commission to contemplate.

Commissioner Jaramillo asked Mr. Martinez if forty five days a year would be considered a temporary residence and of over forty five days is it considered permanent residence.

Mr. Martinez stated that is a matter that the commission should contemplate and according to the zoning language a principle dwelling is defined as “a primary dwelling on any parcel, according to the zoning definitions a dwelling is a building containing one dwelling unit designed for and occupied by one family only, the term dwelling includes a mobile home but does not include a hotel, motel, travel trailer, boarding, lodging or rooming house, private hospital, rest home or nursing home or other accommodations used for transient occupancy” and it should be contemplated if this is a permanent dwelling unit or not at this point.

Commissioner Gaudette stated it doesn't sound like it is from the definition and it says that a travel trailer is not a permanent dwelling.



VALENCIA COUNTY PLANNING & ZONING COMMISSION

Commissioner Artiaga asked Mr. Julian if the travel trailer is hooked in to the infrastructure of the property.

Mr. Julian stated a new septic system and a new well have been put in and the travel trailer is hooked up to it.

Commissioner Jaramillo asked Mr. Julian if the care takers travel trailer is removed when he is there.

Mr. Julian stated no.

Commissioner Jaramillo asked Mr. Julian if the travel trailer is always there.

Mr. Julian stated the travel trailer is all the time but is not permanently mounted.

Commissioner Jaramillo asked Mr. Julian if the RV he uses for traveling is ever on the property for more than 45 days within a year.

Mr. Julian stated that in the three and a half years he has owned the property he does not think he has been there more than 45 days consecutively except for when there were two consecutive deaths in the family.

Commissioner Milam asked Mr. Julian how many days out of the year the care taker stays in the travel trailer.

Mr. Julian stated he may stay there three or four months and leave and then return but the travel trailer never leaves the property and has not left the property since he moved it in there.

Commissioner Artiaga asked if there is anybody who would like to speak in favor of the applicant.

Mrs. Jacobs stated her name is Dora and she lives across the street from the Julian's and they are model neighbors, keep the property neat, clean, and quiet and does not have a problem with the travel trailer being on the property nor does she have a problem with the gentleman that is staying in the travel trailer and would be in favor of adjusting the regulations to allow for this gentleman to continue living in the travel trailer.

Mr. Darrah stated his name is Michael and he owns the property directly North and adjacent to Mr. Julian, and has lived in many different places in the country and many different types of environments and had many different types neighborhoods and what he has to say about the Julian's is that they are one of the most courteous, responsible neighbors a person would like to have living next to them, they are very straight forward people to deal with, and Mr. Julian's uncle Jerry is the care taker and takes good care of the property, and the travel trailer is hooked up to the infrastructure of the property and hopes the commission will consider the circumstances and grant the conditional use.

Commissioner Artiaga asked Mr. Dyer if there has been a problem with crime out there as he stated the neighbors look out for each other.

Mr. Dyer said there are burglaries, the properties are close together and everybody watches out for each other.



VALENCIA COUNTY PLANNING & ZONING COMMISSION

Commissioner Artiaga swore in Michelle Darrah.

Mrs. Darrah stated her name is Michelle is lives next to the Julian's and there are several properties in the area that are run down and not taken care, except for the neighbors in the immediate area including the Julian's and they maintain their property and have put in gravel and trees and the property is lovely, and the variance should be granted.

Commissioner Gaudette asked Mrs. Darrah if the other neighbors and extended neighbors decided to tear down whatever dwelling house they have and put up a travel trailer and have that as their residence and all of a sudden now she is surrounded by travel trailers, would she like that.

Mrs. Darrah stated if they kept the property as nice as the Julian's, yes.

Commissioner Gaudette asked Mrs. Darrah if she wouldn't have a problem with travel trailers being...

Mrs. Darrah stated compared to some of the properties there right now she wishes they would tear them down and put a travel trailer there and put in nice people like the Julian's.

Commissioner Gaudette stated to Mrs. Darrah that she is not guaranteed that she would get as wonderful neighbors as the Julian's.

Mrs. Darrah stated that is not what was asked of her and what was asked if they were putting in a travel trailer would she be happy and she stated she would not.

Commissioner Gaudette reiterated if they put in a travel trailer she would not be happy.

Mrs. Darrah stated she would not be thrilled but she would certainly (did not finish statement) and stated that the commission is not looking at conditions for all but just for one neighbor.

Commissioner Artiaga if there was anybody who wanted to speak in opposition of the petition. There were none.

Commissioner Artiaga asked Mr. Julian to come forward and asked if any of the Commissioners had any questions, and stated that this is a new thing for the Commission and that they could possibly be setting a precedent as there is nothing to fit this into.

Commissioner Artiaga asked Mr. Julian being as he used to be a law enforcement officer for the county, did Mr. Julian come in right away when he got these notices.

Mr. Julian stated no he did not as he was out of state and was aware of the situation when the caretaker called him to inform him Code Enforcement had been to the property and that is when he knew there was a problem.

Commissioner Artiaga asked Mr. Julian if his statement was correct that prior to putting the RV in he had down and spoken to Ruben, the previous Planning & Zoning Administrator, before he bought the property.



VALENCIA COUNTY PLANNING & ZONING COMMISSION

Mr. Julian stated yes, that was correct and he had spoken to Ruben about this as he does one day want to build a house on the property or put a mobile home on it but is not ready to do so as he and his wife are still enjoying their retirement and traveling, and he also has a lot of tools and personal property he keeps stored on the property and felt this would be good opportunity to bring his uncle in as he is of age and cannot get around, and he takes him to and from the doctor, with the help of his niece and the local shuttle.

Commissioner Artiaga asked Mr. Martinez if the Commission voted to approve the conditional use so that the caretaker's RV could stay there to take care of the property, then what would the issue be when Mr. Julian pull's up the other RV next to it and both RV's are there at the same time, would it be ok or how does that work.

Mr. Martinez stated that at this point he would leave it up the discussion to see how that works with the commission and he brought this in front of the commission as he is unsure how to categorize this himself, or how to deal with this as a zoning officer, and thinks the contemplation and decision would best by the commission.

Commissioner Jaramillo asked why there was a violation and if there was a complaint on the property and would like to know could explain this to him.

Mr. Martinez stated the first he heard about the situation was when Mr. Julian came into the office and discussed it with him, and understood that there was a complaint made on the property and the code enforcement officer went and checked the property out and did over time notice that an RV had been there for a number of days and decided to then provide the violation.

Commissioner Milam stated for clarification purposes there is a real nice RV out there, and that is the one that goes in and out, and there is a travel trailer that is not permanently attached to the property but has not been moved and that one does not go in and out, it just stays there permanently and asked Mr. Julian if this is where his uncle stays at and does he live there seven days a week.

Mr. Julian stated yes.

Commissioner Milam asked Mr. Julian if his uncle lives there all year around.

Mr. Julian stated yes.

Commissioner Milam stated his next question is for Mr. Martinez and that it states temporary residence for the RV and would Mr. Martinez define temporary, and does it mean the forty five days.

Mr. Martinez stated that from the applicant he had understood that the caretaker lived there for six, for a temporary amount of time out of the year and was unaware that the applicant lived there year round and that is why he considered it temporary, and now with that bit of knowledge, take it as you will.

Commissioner Artiaga asked if this conditional use request is so that the RV could be there permanently to take care of the property.

Commissioner Gaudette stated he thinks it is for the travel trailer.



VALENCIA COUNTY PLANNING & ZONING COMMISSION

Mr. Martinez stated it is for the travel trailer and again he is going to refer the commission to 154.105F-8-Occupancy of Recreational Vehicle and under B it states that under no case shall a recreational vehicle be used as a principle dwelling or rented unless and until the necessary permits have been obtained.

Commissioner Artiaga asked if this would be a conditional use permit to allow this travel trailer to be set there with the caretaker in it so the conditional use request is to allow this RV to stay there with the uncle living in it.

Commissioner Milam asked the RV or the travel trailer.

Commissioner Artiaga stated it says RV permit on the agenda request.

Commissioner Milam asked Mr. Julian if this is for the nice fancy RV.

Commissioner Jaramillo stated motor home; it is referred to as motor home and travel trailer.

Mr. Julian stated they are both under the same classification.

Commissioner Jaramillo asked if Mr. Julian could refer to the RV as the one he brings in and out and the travel trailer as the one that is semi-permanently attached.

Mr. Martinez stated as far as he is concerned out of his department, he is not concerned about the RV, motorhome, travel trailer whatever he wants to call it that Mr. Julian takes in and out and travels in, the one he is concerned about is the travel trailer that is set on the property.

Commissioner Artiaga stated so this would be an RV permit to allow the travel trailer to stay on the property to allow the uncle to stay in the travel trailer and it would make it legal and that would be the end of the violations.

Commissioner Milam stated for forty five days.

Commissioner Artiaga stated no, this is a conditional use permit for two years and at the end of two years it would be reviewed again, and asked Mr. Martinez if that was correct.

Mr. Martinez stated correct and again it is under 154.105F-8-B in no case shall a recreational vehicle be used as a principle dwelling or rented unless and until the necessary permits have been obtained.

Commissioner Artiaga asked if this would be a conditional use permit.

Commissioner Gaudette asked Mr. Martinez what necessary permits are being talked about as they are not talking about this conditional use, this is an exception, and would like to know what other permits would be needed.

Mr. Martinez stated that is why he wanted contemplation from the board, as there is not a permitting process for this.

Commissioner Milam asked Mr. Julian if he knows if the complaint filed against him was against the motorhome or against the travel trailer that is on the property.



VALENCIA COUNTY PLANNING & ZONING COMMISSION

Mr. Julian stated he did not know and the code enforcement officer should be asked as he has not been able to discover who the complainant is as nobody has come forth against his petition.

Mr. Martinez stated he does not know that name of the complainer and they may have called anonymously and said there is ... as of right now there is a violation of a travel trailer on that property that is permanently set and we are trying to go through the proper permitting process for that.

Commissioner Artiaga asked if there were any more questions for Mr. Julian. There were none.

Mr. Julian stated as he is in Commissioner Eaton's district he does not know who the Planning & Zoning Commissioner is for his district.

Commissioner Jaramillo stated he is.

Mr. Julian stated now he knows but before he did not.

Commissioner Artiaga stated this is the time now that the commissioners are going to talk and that they would be setting a precedent here and that is seems similar to her as allowing a small second dwelling next to the house to take care of an elderly patient, but this is different, this is an RV, and it's for a caretaker to stay on the property, and that each one of these would have to come up separately if the commission started doing that.

Commissioner Jaramillo stated that when he first saw the case he thought it was a little bit simpler, but what kind of precedents would the commission be setting because this is kind of subjective because anybody who wants to park an RV on a property, and is this opening it up for everyone who wants to park an RV on any property and live in it permanently and though this seems easy and he would like to say yes the commission can approve it but he does not want this to open the flood gates and every month have a couple of cases where somebody want to park an RV in family property and state this as evasive.

Mr. Martinez stated to verify again parking an RV on a piece of property is allowed.

Commissioner Jaramillo stated but not to live it, and would not like to set a precedent such as this.

Commissioner Artiaga stated so by describing it as a caretaker, she thinks that is important because if the commission can establish that there is crime in the area, and she has property in the area that is constantly vandalized and had over a hundred police reports last year on a piece of property she has in Belen, and it is constantly being vandalized, and if Mr. Julian has private property on his land and needs somebody there to keep an eye on it she understands the need for a caretaker, and maybe this is the proper way to do this and also understands the caretaker is an elderly gentleman and needs a place that's small that he can stay in and this is kind of setting a precedence because they will be calling this the permit according to the ordinance for someone to live in an RV.

Commissioner Jaramillo asked Mr. Julian if there is anything else on the property.

Mr. Julian stated he has a storage shed with several livestock hauling trailers, a pick-up, tools and so forth.

Commissioner Milam asked Mr. Julian how long he thinks it would be before he decides to build or put a mobile home on the property, is there a projected date.



VALENCIA COUNTY PLANNING & ZONING COMMISSION

Mr. Julian stated he does not know as he and his wife plan to travel at least another ten years depending on their health, and what the circumstances might be at the time, but at least another five to six years.

Commissioner Milam asked Mr. Julian if he understands what Commissioner Jaramillo is stating by saying the commission is setting a new guide line if approved and what are his thoughts, being a former law enforcement official, and taking himself away from the property, what would his feedback be on this.

Mr. Julian stated that as long as the people that live there are good people and keep their property like it should be it would be fine, and feels that since he moved onto the property he feels that the crime has reduced a little bit.

Commissioner Artiaga asked Commissioner Jaramillo what he thinks.

Commissioner Jaramillo stated he is thinking how does the commission differentiate between people and say that the next guy is not a nice guy, is not a guy that is not going to take care of it, and if Mr. Julian was the only one and that is where it stopped he would say give him the variance but the concern he has is that the next guy may not be the nice neighbor, he may not take care of his property but the commission would have set a precedence for this, allowing for this and it is not easy to tell the next guy no and he is just trying to justify to himself how the commission can do that and be consistent and see's this case and feels Mr. Julian is great for the neighborhood but how is done next time.

Commissioner Gaudette stated he does not feel the commission can, and is not the lawyer for the commission, he is just a commissioner, and if legal advice is needed they should look to the county lawyer, but his read of this is RV's are not to be used as a personal, permanent residence and may misunderstand how some of this county works, and did they not outlaw single wide trailers coming into the county. Is that no longer allowed, maybe he misunderstood all that, but the county is trying to establish what is a living residence, and the next thing you know throughout the county people are thinking oh hey I can put a travel trailer or recreational type dwelling, in a general sense, on my property and I am going to call that home, and that is going to start popping up everywhere and he does not feel this is what the county wants, and he does not know how to distinguish between Sheriff Julian, thank you for your service, and the next guy and he for one does not want to live in a county where travel trailers are becoming residences for families and does not think that is the way the county wants to go and if a straw vote were taken right now he would deny the application or be opposed to the application for this conditional permit, and does not think the rules, the way they are written contemplate someone coming in and saying I'm going to make this travel trailer my permanent residence and the county is going to say ok, that is not the way he reads the rules.

Commissioner Jaramillo stated he agrees and it seems it is not up to the commission because of that and it far exceeds the forty five days and is a permanent residence and does not meet the standard because it is an RV and is trying to make this work but because it is so much of a stretch, that if a home was being built in a year and the RV was parked there and that was the permanent residence for a year he could see that but for many different reasons he does not feel there is a way to approve this.

Commissioner Gaudette stated that from a legal standpoint he does not see it.

Commissioner Jaramillo asked if anybody else has a different point of view on the situation.

Commissioner Artiaga asked Mr. Martinez and Mr. Foster if there was a sign above the travel trailer or a garage or barn and the travel trailer was parked there with a sign that stated "Security" or "Caretaker" would that still be the same issue that a human being is living in an RV?



VALENCIA COUNTY PLANNING & ZONING COMMISSION

Mr. Martinez stated yes.

Commissioner Jaramillo asked Mr. Martinez if he could give the commission a point of view which brought the case before the commission.

Mr. Martinez stated (referencing the above ordinance) it contemplates a permitting process by which a person can obtain something that will give them the ability to use the RV as a principal dwelling and when he read that he felt that it contemplated that reach and that is why he was confused on it and needed clarification.

Commissioner Gaudette stated he believes that is up to the county lawyer and is not willing to go beyond what he believes to be the definitions of what constitutes a dwelling home and it clearly states a travel trailer is not.

Commissioner Jaramillo stated if there was a complaint there is obviously somebody in opposition and that they could appeal this to a court and that the commission does not have real basis to approve it.

Commissioner Milam stated that Mr. Julian should buy a mobile home and put it on the property until such time as he decides to build or live there because what the commission is facing at the moment he does not foresee it either and what is written there is written and this would be opening the door for a lot of other people to come into the county and say it is ok to come to our county and put a fifth-wheel on a piece of property and live in it. And at this point cannot see himself granting the condition use permit either.

Commissioner Baca asked Mr. Martinez if in the ordinance wording in regards to necessary permits being obtained if that is something that was added.

Mr. Martinez stated he cannot say why it was added as he was not here when it was written and is trying to understand it himself and does not know how it was added into the ordinance but it does exist in the ordinance.

Commissioner Gaudette stated it is unknown what the necessary permits are and is not willing to extend the law, using a very loose interpretation, and the way he sees it Mr. Julian can appeal to the Commission, the Commission can ask for a legal opinion from its County lawyer and move on, but from a legal standpoint he cannot.

Commissioner Artiaga stated she would like to add her comment and that she has been a victim of crime continually the last ten years and understands the need for a caretaker, if that indeed is what this gentleman is doing, taking care of the property, and a conditional use permit sounds like a permit and this might be a permit way to allow for a caretaker on a piece of property and it is going to be up to the commission and believes this is a permit, a conditional use permit, and does not see anybody present in opposition to it and there were nine people that were notified and nobody came in opposition to it, and will leave it up to the commission and a conditional use permit in her mind is a permit and a caretaker is valuable if the landowner is absent and it sounds like this would work, but does not know if she wants to set this precedence.

Commissioner Jaramillo stated to Mr. Julian that his suggestion is that he take Commissioner Gaudette's suggestion and appeal this to the board of County Commissioners and maybe they have a different angle, and understands what he is trying to do and would like to help but for the reasons that



VALENCIA COUNTY PLANNING & ZONING COMMISSION

there is not a basis and the commission would have to be setting a precedence he is going to have to make a motion to deny this request.

Commissioner Gaudette seconds the motion.

Mr. Martinez stated there has been a motion to deny the request and a second on that motion and will call for a vote on that motion.

Commission Milam votes yes.

Commissioner Gaudette votes yes.

Commissioner Jaramillo votes yes.

Commissioner Baca votes yes.

Commissioner Artiaga votes no.

Mr. Martinez stated there has been a motion to deny the application and Mr. Julian will be sent a letter and the date on the letter will be the official decision date and he will have fifteen days to appeal the decision.

8. Discussion

9. Next Meeting:

July 24, 2013 @ 5:00 pm

Commissioner Jaramillo made a motion to adjourn.
Commissioner Gaudette seconds.

10. Adjourn