



VALENCIA COUNTY PLANNING & ZONING COMMISSION

Tuesday July 28, 2015

4:00 PM

Valencia County Courthouse Commission Chambers

444 Luna Ave, Los Lunas, NM 87031

Roll Call

Present:

Chairman LeRoy Baca
Vice-Chairman Robert Q. Louie
Commissioner Michael McCartney
Commissioner Sue Moran
Jacobo Martinez (Not Voting)

Absent: Commissioner Carlos Montoya

1. CALL THE MEETING TO ORDER

Chairman Baca

2. PLEDGE OF ALLIGANCE

Commissioner

3. APPROVAL OF AGENDA

Action: Approve
Moved By: Commissioner McCartney
Seconded By: Vice-Chairman Louie
Motion Passed: Unanimously 4-0

4. APPROVAL OF MINUTES

March 3, 2015 (Correction-March 24, 2015)

April 28, 2015

June 23, 2015

Action: Approve
Moved By: Commissioner Moran
Seconded By: Vice-Chairman Louie
Motion Passed: Unanimously 4-0

5. SWEARING IN OF PARTICIPANTS

Chairman Baca

6. ACTION ITEM(S):

A. REQUEST FOR A CONDITIONAL USE-HOME OCCUPATION

Application: CUHO #2015202

Applicant: Arthur D. Cordova, Jr.

Address: 451 Jarales Rd., Jarales, NM

Purpose: To utilize the NW Corner of the property for used vehicle sales.

Legal Description: T5N, R2E, Section 32, N.M.P.M.; Land of James W & Violet Culbreth; Tract 5, 3.66 AC; Zoned RR-2; Filed in the office of the Valencia County Clerk.

This property is located approximately 0.10 miles SW of Castillo Rd. in Jarales, NM

This property falls with District III

County Commissioner Alicia Aguilar ♦ P&Z Commissioner Michael McCartney

Mr. Martinez stated Mr. Cordova would like a conditional use for a small car lot on his property. Mr. Martinez stated Mr. Cordova does not give any specifications of hours of operation or lighting. Mr. Martinez stated the application was first applied for as a zone change and after consulting with Mr. Cordova and the Commission it was determined that the scale of the operation did not warrant a zone change as this would cause an even bigger impact on the community than the small scale lot Mr. Cordova has in mind. Mr. Martinez also stated Mr. Cordova did indicate he wants to try this for a year to see how it works, and if after a year the scale of the business grows more than what is anticipated, then a zone



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change would need to be considered or Mr. Cordova would seek out a commercial property instead. Mr. Martinez stated there will only be about four to five vehicles parked on the property at a time and the vehicles being sold would be vehicles that have been purchased and used for Mr. Cordova's security company and have to be replaced with newer models. Mr. Martinez stated he does not believe there will be a major impact on excessive traffic and/or pedestrian impact for the community. Mr. Martinez stated there will be someone living on site and doing paper work within the house which meets the criteria for a home occupation.

Vice-Chairman Louie asked if there were any violations or conditional uses on the property.

Mr. Martinez stated there are weeds and due to the rains many properties in the area currently have weed violations as well as a second mobile home on the property which should have been removed many years ago, however, Planning & Zoning was unable to locate the permit as it was issued in 1997, and Mr. Cordova can be asked if the mobile home will be moved.

Mr. Cordova stated his name is Arthur. Mr. Cordova stated a new fence has been built around the property and the weeds had been cleaned up-however due to the rains the weeds had come back. Mr. Cordova stated he has bought other properties in the area and have cleaned them up as well and are hoping to improve the Jarales community. Mr. Cordova stated as one vehicle sells another vehicle will be bought.

Commissioner Moran stated the Fire Department review asked if there will be any repairs done on the property.

Mr. Cordova stated no repairs will be done as they will be late models vehicle, however, the cars will be washed and cleaned up on the property.

Chairman Baca asked if there are going to be two employees.

Mr. Cordova stated yes there will be two or three employees.

Commissioner McCartney asked if there will be somebody on site.

Mr. Cordova stated no there will not be.

Chairman Baca asked if there was anyone who would like to speak in favor of the application. There was no one.

Chairman Baca asked if there was anyone who would like to speak in opposition to the application. There was no one.

Mr. Martinez stated there is a motion to approve the application with the condition that not more than ten cars at a time may be on the property at a time.

Action: Approve
Moved By: Commissioner McCartney
Seconded By: Vice-Chairman Louie
Motion Passed: Unanimously 4-0

Roll Call Vote:

Vice-Chairman Louie-Yes
Commissioner McCartney-Yes
Commissioner Moran-Yes
Chairman Baca-Yes



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B. REQUEST FOR A CONDITIONAL USE-OTHER RESIDENTIAL CONDITIONAL USE

Application: CU #2015203

Applicant: Ridgeview, LLC

Address: 5 Sandia Dr.

Purpose: To allow for an assisted living facility.

Legal Description: T7N, R2E, Section 25, Map 71, N.M.P.M.; Lands Rudolph H & Lisa A. Lovato; Tract 1C2; 1.56 AC, Zoned RR-2; Filed in Plat Book L, Plat Number 1103 in the office of the Valencia County Clerk.

This property is located 0.15 miles SE of Calle Melon off of Togami Farm Rd.

This property falls with District V

County Commissioner Jhonathan Aragon ♦ P&Z Commissioner Robert Q. Louie

Mr. Martinez stated the applicant would like to open an elderly care facility to care for up to fifteen people. **Mr. Martinez** stated this would be considered a facility as defined by the public health act NMSA 24-1-1. According to our definition the facility should provide care for seven or more people in order to be considered a daycare facility. The applicant will need to obtain a state license for this type of use in the future. According to our code book, 154.105 (c) (3) Kindergarten, day nursery, or day care facility in conjunction with a principal dwelling on the same parcel, subject to the standards for day care facilities set forth in 154.169, and have provided in their application all the required documentation for 154.169, daycare facility. The Valencia County definition for a day care facility is an establishment or facility which has the primary function of providing care, services and supervision to 7 or more children for a period not exceeding 24 hours of any day; or any facility, as defined in the Public Health Act, NMSA 241-1, and elderly care facilities are defined in 154.169 and have provided all the documentations required. The Valencia County definition of a day care facility is an establishment or facility which has the primary function of providing care, services and supervision to 7 or more children for a period not exceeding 24 hours of any day; or any facility, as defined in the Public Health Act, NMSA § 24-1-1 and elderly care facility is defined in the NMPHA NMSA 24-1-1, therefor this fits within our conditional use for a kindergarten/day care facility process.

Commissioner McCartney asked Mr. Martinez what the zoning is.

Mr. Martinez stated RR-2 after showing the Commission an aerial view of the property and surrounding properties. Mr. Martinez also stated the applicant is present to answer questions and also pointed out the applicant would like to expand the current house in order to get the number of rooms needed in order to become a day care facility and the applicant is in a contract with the property owner stating Ridgeview, LLC will buy the land if the conditional use does go through. Mr. Martinez also stated that he had a conversation with Commissioner Moran earlier in which she asked if the conditional use goes with the land or the applicant and informed her the conditional use goes with the applicant for the home occupation regulations.

Commissioner McCartney asked what the size of the existing structure is now.

Mr. Martinez stated almost 3,000 sq. feet and the applicant wants to add more.

Commissioner Moran asked if this is a day care for seniors as it seems more like a nursing home.

Mr. Martinez stated it is not an elderly daycare facility, however under the Valencia County definitions a daycare facility is any facility, as defined in the Public Health Act, NMSA 24-1-1, and under this statute there is a list of facilities and an assisted living facility is one of those facilities found under daycare facilities, it is called a public health facility.

Commissioner Moran asked if the residents in this facility would just need assisted living and nothing beyond that.

Mr. Martinez stated that is his understanding.

Chairman Baca asked if the Commission has approved something in the past in which the property wasn't purchased yet.

Mr. Martinez stated yes.



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Commissioner McCartney stated usually in these situations the sale/purchase of the land is contingent on the approval of the P&Z Commission.

Commissioner Louie if the site plan was reflecting the additions being proposed.

Mr. Martinez stated yes and that it would add up to about 5,672 sq. feet with the additions.

Commissioner Louie asked if P&Z had asked for parking.

Mr. Martinez stated there is proposed parking in the site plan in the packets.

Commissioner McCartney asked if the numbered spaces represented the parking spaces.

Mr. Martinez stated yes.

Chairman Baca asked how big the property is.

Mr. Martinez stated it is 1.5625 acres and are on city services.

Chairman Baca stated he thought he read somewhere there is building to parking ratios.

Mr. Martinez stated there are parking requirements in the zoning book.

Chairman Baca asked if the ratio of employees to patients was going to be 7 to 1.

Mr. Martinez stated yes and there were going to be up to 15 residents and 2 employees.

Chairman Baca asked if that meets the requirements.

Mr. Martinez stated yes it does.

Commissioner Moran asked if it was assumable the residents would not have vehicles.

Mr. Martinez stated it would be best to ask the applicant.

Ms. Martinez stated her name is Carla Lee. (At this point in the testimony the court recorder ran into a glitch and had to be restarted.) With assisted living facilities the care is not nursing home levels, as there are different levels of care. **Ms. Martinez** stated assisted living is activities of daily living, which is A.D. L. such as bathing, feeding, basics activities the residents cannot do themselves. **Ms. Martinez** stated the residents will not be driving hence the reason they are in assisted living since they do need assistants however there will be family members coming to visit, potential residents coming to tour the facility, hospice and/or in home providers coming in to see the residents. **Ms. Martinez** stated in home providers are preferred as it is a lot of stress and tax on the residents and utilize the providers in the community. **Ms. Martinez** stated by creating a place that is a home it creates a home-like environment for the residents and has found residents do a lot better physically and emotionally in these environments and enjoy each other's company since they are not in a hospital like facility and there are planned activities for the residents. **Ms. Martinez** stated per state requirements and the department of health the approval of the home occupation is the first step toward the next step of building and each step of building the NM Department of Health sends someone out to do inspections. **Ms. Martinez** stated a sprinkler system will be installed as well as windows and emergency exits. **Ms. Martinez** stated per stated requirements there will be planned activities which will require more caregivers who will be trained per state requirements as well as background checks and continuing education for the staff. **Ms. Martinez** also stated the state requires a licensed administrator operate the building, who is someone that is in the building daily managing the caregivers and residents and ensuring there is compliance as well as reporting any compliance issues. **Ms. Martinez** stated the property will be made more aesthetically pleasing and landscaping will be added. **Ms. Martinez** stated there will be security features as the facility will be set up for dementia and memory care so the residents can age in place rather than having to move from facility to facility which is stressful on the residents.

Commissioner Moran stated **Ms. Martinez** sounds as though she has done this before.

Ms. Martinez stated she has read the NM regulations and is very familiar with them as the company also runs a facility in Albuquerque and all people on staff are trained and licensed by the state which is required and the company will not do anything outside what the state requires.



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Chairman Baca asked how many square feet the building will be.

Ms. Martinez stated including the patios is going to be 5, 672 sq. feet, as the state requires each resident has to have a certain amount of living space and bedroom space which for a single resident is a minimum of 100 sq. feet and 80 sq. feet per resident per shared room and the living space has to be 40 sq. feet per resident for common areas such as the living room, dining room and patio area for outdoor time. **Ms. Martinez** stated from the front the house will look like one big house so that it provides curb appeal as well as security for the residents since they so have dementia and memory loss. **Ms. Martinez** stated there will be a total of 5 bathrooms even though the state only requires there to be one bathroom.

Commissioner McCartney asked if the facility will be handicapped accessible throughout the multiple entries and exits.

Ms. Martinez stated yes as the bathrooms must be ADA compliant and the bathrooms will have roll in showers as well as bathtubs as the state requires the residents must have a choice of bathing facilities.

Commissioner McCartney stated in the proposal letter it states the employee to resident ratio during the day will be 1 to 7 and 1 to 15 in the evening.

Ms. Martinez stated during the daytime there are more activities going on such as feeding, bathing and medications and at night time there isn't as much activities going on as most of the residents are sleeping and a few may need to get up and use the restroom in which case the staff is required to be awake, they are not sleeping because nobody can be living there other than the residents 24 hours a day. **Ms. Martinez** stated that in the evening the staff is cleaning, preparing food, etc.

Commissioner McCartney stated that even in the evenings with the size of the house there are problems that could arise at two different sides of the house and would like to know how one person is supposed to take care of two people.

Ms. Martinez stated that is a very good question.

Commissioner McCartney asked if there were cameras in the room.

Ms. Martinez stated cameras are not allowed in the rooms but there will be a monitoring system that will be in the office that will monitor the common areas and hallways.

Commissioner McCartney stated that if there is only one caregiver at night and they are tending to one resident and something happens at the other end of the house because they cannot see the monitors it could be a matter of life or death.

Ms. Martinez stated the company could reconsider having two caregivers at night even though the state requirement is 1 to 15 and they are already exceeding those requirements on 1 to 7.

Commissioner McCartney stated he likes the 1 to 7 ratio during the day but that even in the evenings he feels there would be less stress on the caregiver and better for the residents.

Ms. Martinez stated they could definitely reconsider having 2 caregivers at night and does like the idea.

Commissioner McCartney stated for the benefit of the community they should go above and beyond.

Ms. Martinez stated she agrees.

Commissioner McCartney stated he just wanted to make it clear that if he had a relative in the facility, especially someone with dementia, that if there is one person that sleep walks they could get up and walk out the door and nobody would notice if there was only one caregiver who was with another patient on staff at night, and people with dementia do tend to get up a lot at night and could just walk right out.

Ms. Martinez stated as protocol there is a security code system in place for anyone coming in or out of the building and does agree having two caregivers at night would be more secure for the caregivers and the residents.

Commissioner McCartney asked Ms. Martinez what her role in the facility is.



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Ms. Martinez stated it is to set up the business and ensure everything is running properly with caregivers and staff.

Chairman Baca asked if there will be outdoor lighting.

Ms. Martinez stated there will be "light" lighting and explained there will be security walls and cameras as well.

Vice-Chairman Louie asked if the parking spaces are for residents or staff.

Ms. Martinez stated the parking is for staff, hospice, nurses, visitors, etc. as the residents will not be driving.

Vice-Chairman Louie asked if there will be somewhere for family members to spend the night.

Ms. Martinez stated family is not allowed to spend the night as they do not have background checks and will not risk the safety of the other residents and it is not allowed by state law.

Vice-Chairman Louie asked if there will be safety/emergency switches in the bedrooms.

Ms. Martinez stated there will not as it is not required by the state, only sprinkler systems and fire pulls.

Vice-Chairman Louie asked how residents notify the caregiver if there is a problem.

Ms. Martinez stated the caregivers are required to check on each resident every hour which is part of the company's policies and procedures manual which is currently at the state waiting on approval.

Vice-Chairman Louie asked if the residents are not expected to leave the bedrooms.

Ms. Martinez stated yes they will be leaving their rooms and went over a proposed activity list for the residents.

Commissioner Moran stated she wanted to verify the room sizes of 100 sq. feet for single occupancy and 160 sq. feet for double occupancy.

Ms. Martinez stated that is correct.

Chairman Baca asked if there is anybody who would like to speak on behalf of this venture. There was nobody.

Chairman Baca asked if there is anybody who would like to speak against of this venture.

Mr. Gonzales stated his name is Greg and lives on 1 Sandia Rd. two houses down from the property in question and is an Albuquerque Fire Fighter and his concerns are first that he does not know if there is certificate of occupancy for the home in question, second that the property owner circumvented the system and is on city water and sewer when the rest of the area is on sewer and septic per the Togami Farms CCR's, and that this is a commercial venture in his opinion.

Mr. Gonzales also is concerned that there will be increased traffic in the neighborhood and as this is a dirt road not maintained by the county is concerned with the increased wear and tear on it. **Mr. Gonzales** also stated he is concerned the value of his home and other homes in the area will be altered as well as the increased strain it will put on County services such as EMS and Fire.

Mrs. Di-Matteo-Brown stated her name is Rosa and also has the same concerns as well the safety of the school children who live on the road and the school that is just up around the corner. **Mrs. Di-Matteo Brown** also stated she feels this would negatively impact the quality of life for the current residents of the area as the lighting from the facility would obscure the night sky view and ambulances and fire trucks with their sirens coming to the facility at night would disturb the quietness of the neighborhood.

Mrs. Otero stated her name is Janelle she also has the same concerns as well as the fact that this venture would negatively impact the rural community and one of the reasons she purchased her land and home in the Togami Farm area was for the quiet agricultural environment. **Mrs. Otero** also stated she does not think the CCR's for the Togami Farms allows for this type of venture as this is in the middle of farm land and agricultural property.

Vice-Chairman Louie asked **Mrs. Otero** if she was given a copy of the CCR's when she bought her property.

Mrs. Otero stated yes.



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Chairman Baca asked **Ms. Martinez** to step forward again and please address the concerns.

Ms. Martinez stated the facility is closely monitored by the state of New Mexico and the state comes in and does random checks and surprise visits to ensure that all protocols are being met. **Ms. Martinez** stated the traffic is mostly staff and family coming to visit and is a very quiet venture for the most part.

Chairman Baca asked how the traffic for the trash trucks, the cleaning people etc. is going to be handled.

Ms. Martinez stated the property is still residential and there will not be dumpsters on the property, just the regular city garbage containers and the cleaning is done by staff as well as the meal preparations and laundry will be done at the facility as well so these will not impact traffic

Commissioner McCartney asked **Ms. Martinez** if she was aware of the restrictive covenants.

Ms. Martinez stated she was not aware of those and when she looked them up...

Commissioner McCartney this should have been part of the research on the companies' behalf because they are basically disrupting the quality of life in the area. **Commissioner McCartney** asked what about the trucks and the ambulances and the caregivers when these people are out riding their horse as it is very dangerous for the rider when a horse gets spooked.

Commissioner Moran asked if the mobile home is still on the property and would like to know if it is going to stay.

Ms. Martinez stated she does not believe it is on the property any longer.

Commissioner Moran asked **Mr. Martinez** if a certificate of occupancy could be produced.

Mr. Martinez stated P&Z does not have a certificate of occupancy for the property and has not researched it either to make sure there is one and is certain that before they could move in the state would need to issue one.

Chairman Baca asked if everybody within the area was notified of the hearing.

Mr. Martinez stated per the notification process P&Z must notify everyone within 100 feet of the property lines and go beyond that by going out 300 feet to try to notify more people.

Vice-Chairman Louis asked **Mr. Martinez** if the petitioner would have to accept the CCR's when they purchase the property.

Mr. Martinez stated that whoever owns the property is going to have to accept them through contract.

Chairman Baca asked if the County can overrule the CCR's.

Mr. Martinez stated no.

Chairman Baca asked if the decision should be tabled.

Commissioner McCartney stated the Commission should vote on it as the County cannot get involved with the covenants and that **Ms. Martinez** should have done her research on the covenants and the residents who purchased the surrounding property did so knowing they had these covenants to protect them.

Action: Denial of application for an Assisted Living/ Day Care Facility on proposed property.
Moved By: Commissioner McCartney
Seconded By: Chairman Baca
Motion Passed: Unanimously 4-0

Roll Call Vote:

Vice-Chairman Louie-Yes to deny application
Commissioner McCartney-Yes to deny application
Commissioner Moran-Yes to deny application
Chairman Baca-Yes to deny application



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7. **DISCUSSION**

8. **NEXT MEETING:**

Tuesday August 24, 2015 @ 4:00 PM

9. **ADJOURNMENT**

Moved By: Commissioner McCartney

Seconded By: Vice-Chairman Louie