



VALENCIA COUNTY PLANNING & ZONING COMMISSION MINUTES

September 26, 2012

4:00 PM

Valencia County Courthouse Commission Chambers
444 Luna Ave, Los Lunas, NM

1. CALL TO ORDER

Commissioner McCartney

2. PLEDGE OF ALLEGIANCE

Commissioner Edeal

3. APPROVAL OF AGENDA

Commissioner Artiaga

Commissioner Edeal

4. APPROVAL OF AMENDED MINUTES: August 22, 2012

Commissioner Artiaga

Commissioner Edeal

5. SWEARING IN OF PARTICIPANTS

Commissioner McCartney

6. ACTION ITEMS

A. REQUEST FOR CONDITIONAL USE-2ND DWELLING: Todd Perea: Legal Description: T7N, R2E, Section 26; NMPM; Zoned RR-2; Land Division Tract 2; Tract 2C; Filed in book 366, page 590; of the office of the Valencia County Clerk; Also known as 37-C Mountain Laurel Rd, Los Lunas, NM.

Mr. Perea stated that his name is Todd and his address is 37-C Mountain Laurel Los Lunas, NM, and he is requesting a 2nd dwelling where his mother lives at the address 37-C Mountain Laurel, and he is currently in the process of purchasing this property, and his mother has had a lot of medical problems these last couple of years, and when she has her medical problems she is down for months at a time and he had to move in with her. What he would like to do is move in another mobile home because it is hard to live with her he would rather live close by to be able to take care of her.

Commissioner McCartney asked Mr. Perea if he has approval from the environmental department.

Mr. Perea stated yes he does have approval from the environmental department.

Commissioner McCartney asked if the commissioner has any questions for Mr. Perea.

Commissioner Artiaga asked Mr. Perea where he intends to put the 2nd dwelling.

Mr. Perea stated that he is thinking about putting the mobile home within 30 or 50 feet away from his mother's house.

Commissioner Artiaga asked if he was going to put up an intercom system or use a baby monitor to know what is going on with his mother.

Mr. Perea stated that he is not going to do that right now because he is going to go and check on her every day and he is there every day right now and the only thing that he is wanting is his own space.

Commissioner Edeal asked if the address at 37-C Mountain Laurel is where his mother is currently living.

Mr. Perea stated yes.

Commissioner Edeal asked where exactly the mobile home would be on the property.



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Mr. Perea stated that he would be in the clear area.

Commissioner Edeal asked if there were any other relatives going to live in the area because there are two other mobile homes in that area.

Mr. Perea stated that they are not relatives.

Commissioner Edeal thanked Mr. Perea.

Commissioner Gaudette stated that Mr. Perea's application has permission from the people that own the property.

Mr. Perea stated that is correct.

Commissioner Gaudette asked if he is going to be in the process of purchasing the property.

Mr. Perea stated that they would be purchasing the property on a real estate contract between the owner and himself.

Commissioner Edeal asked if he would buy the property even if this conditional use is not approved.

Mr. Perea stated that he would buy the property anyway and at some point move in a larger mobile home but he does not know.

Commissioner McCartney asked if there were any other questions from the commissioners, no further questions from the commissioners. Then he asked if there was anyone in the audience that would like to speak for this application.

Mr. Potts stated that his name is Mike and his address is 35 Mountain Laurel, Los Lunas, NM, then stated that he understands what Mr. Perea wants to do and he and his son have lived there with his mother and he does not know how long but it has been quite some time. He had recently met them at the property some months ago dealing with some issues with the landlord, who cut some trees down that were damaging his property and he dropped a tree into his yard and damaged the fence and his power and still has not fixed the fence or cut the tree down. He is also concerned that at this point in time Mr. Perea is trying to purchase the property that he hasn't purchased yet, and already knowing the bad habits of the property owner and he is concerned that if they move in another mobile home if something goes wrong 6 months down the line would it would open up the door for the property owner to then say that there has always been a mobile home there and rent it. He also concerned about the added traffic because he is right at the end of the street and his property backs up to the south of Mr. Perea's property.

Commissioner McCartney stated that the purpose for this is a request for a conditional use permit that run with the applicant and it does not go with the land, for example if Ms. Perea were to pass away then the one of the mobile homes would have to go and this is something that is reviewed every two years, and if that mobile home does not get moved in the event that something like that happens then he could contact Mr. Martinez or Mr. Foster and let them know what is going on with that property.

Mr. Potts stated that is insurance and he knows where Mr. Perea intends to place the new mobile home because it cleared out and he does not know about the septic system is going to be okay to have the two houses on that property.

Commissioner McCartney stated that insurance could offer him is that Mr. Perea did take the time out and go to the environmental department and get an approval for the septic system.



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Mr. Potts asked if this is going to be the type of dwelling that is going to Mr. Perea living there and his mother living in the other house or is there going to be whole entire families that are going to live there as well.

Commissioner McCartney stated that he will bring Mr. Perea back up and he could address all the questions that his has.

Mr. Potts stated that was okay and thanked him for letting him speak.

Commissioner Edeal asked Mr. Potts that with his experience with the land owner now and knowing his lack of ability does he think that it would be better for Mr. Perea to own it.

Mr. Potts stated that at this point he does not know and he has noticed that they have cleaned up one area where they are wanting to put that 2nd mobile home in other than that he does not know how responsible they are going to be to keep the property looking nice.

Commissioner McCartney asked the commissioner if they had any more questions for Mr. Potts. No more questions from the commissioners. Then he asked if there was anyone in the audience that would like to speak No more people had questions and asked Mr. Perea to come back up to the podium. Then he asked Mr. Perea if he had heard some of the issues that the neighbor had and would like him to address those issues for the commission.

Mr. Perea stated that his son does currently live there and it is only temporarily because he is closing on a house on the 1st of the month and he will be gone and it will be only him in one mobile home and his mother in the second one, and he does not have a lot of vehicles and he understand what Mr. Potts is talking about with all the trees and weeds and he has had a couple of people that they know to come get some of that wood and he does realize that there is a lot of brush there as well, if and when the property does become his he will do his best to get keep the property clean as quick as possible.

Commissioner McCartney asked the commissioner if they had any questions for Mr. Perea.

Commissioner Artiaga asked if it's just his mother and him living in the house and he is staying with her because of her condition.

Mr. Perea stated that is the way it started because of her condition.

Commissioner Artiaga stated that he is just looking for two mobile homes next to each other on an acre and a half of property so that he could be with his mother.

Mr. Perea stated that is correct and that the 2nd dwelling will not be near any of the neighbors' properties at all it is all going to be on one end of the property.

Commissioner Artiaga stated that she could see on the map and she could see where the neighbor's property is to the south.

Commissioner Edeal stated that the parcel is very large for what is currently on it.

Commissioner Artiaga stated that there are two people for the septic tank and she knows homes that have a husband and wife and 5 kids on one septic tank and she does not see that to be an issue.

Mr. Perea stated that there will be another septic tank installed because according to the environmental department if there is a 2 bed room mobile home which the one that he has currently is that size then he will have to install another tank.

Commissioner Edeal asked if they were going to do a well sharing.

Mr. Perea stated yes.



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Mr. Potts stated that the other question that he has is if there is a size limitation of the size of home is going to be put on this property.

Commissioner McCartney stated that Mr. Perea just said that the mobile home that he currently has is a 2 bedroom home.

Mr. Potts stated that what is one the property right now is a two bedroom.

Mr. Martinez stated that Valencia County has a minimum size of 840 square feet for any mobile home that is moving into the county.

Commissioner McCartney stated that is okay and he thought that he wanted something larger.

Mr. Potts stated that was his question if they were going to put in a big mobile home or where they going to have something that will suit his needs like a smaller home based on his needs.

Commissioner McCartney thanked Mr. Potts for his comments.

Mr. Perea stated that his going to go as small as the one that is already there because it is just going to be him living in the house.

Commissioner McCartney asked if there were any other questions from the commissioners, there were no other questions and he entertained a motion.

Commissioner Edeal made a motion to approve the conditional use for a 2nd dwelling.

Commissioner Artiaga seconded the motion.

Mr. Martinez called for a vote.

Commissioner Edeal stated yes.

Commissioner Artiaga stated yes.

Commissioner Gaudette stated yes.

Commissioner McCartney stated yes.

Mr. Martinez stated to Mr. Perea that his application for conditional use for a 2nd dwelling has been approved and he will receive a letter in the mail and to note that the date of the letter is the official approval date and there is also a 15 day appeal process.

Commissioner McCartney asked Mr. Martinez if the information he gave Mr. Potts that this would be a 2 year conditional use permit and that the conditional use will run with the applicant and not the land was correct.

Mr. Martinez stated that is correct.

Mr. Perea thanked the commissioners.

- B. REQUEST FOR VARIANCE ON SETBACKS: William T Harris:** Legal Description: T5N, R2E, Section 5&6; Map 93; NMPM; Land of Jerry Rogers; Tract 3; Zoned C-1; Filed in Book 365, Page 1657; of the office of the Valencia County Clerk; Also known as 06 Roper Lane, Belen, NM.

Mr. Harris stated that his name is William and his address is 06 Roper Lane, Belen, NM, and he is requesting a variance on setbacks on his property they are a construction company and they use that yard for equipment and material storage and the setbacks would cause them to lose almost 20% of their usable property and they are bordered on the two sides with one side which is agricultural and the



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other side is commercial and what they would like to do is go to a 5 foot setback so that they could manage the weeds and upkeep of the property.

Commissioner McCartney asked Mr. Harris if all he is asking for is the variance on the setbacks and there is nothing that is going to be stored there that is flammable or anything like that.

Mr. Harris stated that right now there are vehicles that are parked there and they do not keep anything that is flammable, they are metal building contractors.

Commissioner McCartney asked the commissioners if they had any questions for Mr. Harris.

Commissioner Artiaga stated that she saw the site plan and it looks like he would like to build a storage building or a shelter along the side of the fence and then he would only have about 5 feet to keep clean.

Mr. Harris stated that is correct.

Commissioner Artiaga stated that she drove by there and took a look at the property and it is a very well kept facility, and asked if there are commercial properties on both sides of him.

Mr. Harris stated that the owner's residence is on the other side and there are two lots there and the lot to the west is Manzano Landscaping and they have contacted the neighbors all around them and they did receive verbal approvals from them and he could get letters from them if necessary.

Commissioner Edeal asked Mr. Martinez if everyone around the property received a Public Notice letter from the planning department.

Mr. Martinez stated that is correct.

Commissioner Edeal stated that he drove by there and everything looked good.

Commissioner McCartney stated that the Fire Marshall could not make the meeting today because he stated on his staff letter that he would like to inspect the property.

Commissioner Edeal stated that there is a commercial property that is completely clear like the back of the shop.

Mr. Harris stated that is correct and the shed is going to be on the right side of the property.

Commissioner Edeal asked Mr. Harris if he is still working.

Mr. Harris stated that he is trying to work but he cannot retire because he does not own a fencing company.

Commissioner McCartney asked if the commissioner had any questions for Mr. Harris, no further questions from the commissioners, then he asked if there was anyone in the audience that would like to speak in favor, no one came forward, and then he asked if there was anyone that would like to speak against the request, no one came forward. Then, he stated that he would like to entertain a motion.

Commissioner Gaudette stated that they have a letter from the rural addressor that says that the property should have an address number clearly posted so that if there is an emergency, vehicles could find the address quickly if they had to.

Mr. Harris stated that he does have a box that has 06 on it.

Commissioner Gaudette stated that he was just looking at the letter.



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Commissioner Edeal stated that he drove by there and the address was posted.

Commissioner McCartney stated that would like to entertain a motion.

Commissioner Artiaga stated that she would like to make a motion that they approve the request for a variance on setbacks to 5 feet.

Commissioner Edeal second the motion.

Mr. Martinez called for a vote.

Commissioner Artiaga stated yes.

Commissioner Gaudette stated yes.

Commissioner Edeal stated yes.

Commissioner McCartney stated yes.

Mr. Martinez stated to Mr. Harris that his request for a variance on setbacks has been approved and he will send out a letter and to please note that the date of that letter is the official approval date and there is a 15 day appeal process.

Mr. Harris thanked the commissioner for their time.

- C. REQUEST FOR CONDITIONAL USE-Elderly Care Facility: Anthony Sedillo:** Legal Description: T7N, R1E, Section 20; NMPM; Lands of Bruce Botkins; Lot 50D2; Zoned O-D; Filed in Book 364, Page 3409; of the office of the Valencia County Clerk; Also known as 4 Wild West Ct. Los Lunas, NM.

Mr. Sedillo stated that his name is Anthony and his address is 4 Wild West Los Lunas, NM and he is requesting a conditional use for an assisted living facility and this is about his 4th time before the commission. He has some pictures of the house if the commissioners would like to see them, and right now it is only going to be 3 people or less and it is going to be himself, a worker and the 3 elderly people that live there, he does not want a large facility at all. And it is a very nice place for it because it's very quiet there and the people really don't go outside and nobody comes to visit them and there is not traffic it is not a commercial business it's more like a residential business, he has upgraded the house and made the doorways up to code for the assisted living facility and he has spent over \$100,000 dollars to get the facility ready for people to move in.

Commissioner McCartney stated that for the record, he has come before the commission before for the same request.

Mr. Sedillo stated that is correct, but back then he was going to have 7 people or more but he decided to keep it small.

Commissioner McCartney stated that the only difference in the request is that he is asked that 3 people or less live on the property.

Mr. Sedillo stated that is correct if the house is big enough.

Commissioner McCartney asked if that was about a year ago.

Mr. Sedillo stated that it has been quite a while.

Commissioner McCartney asked Mr. Martinez when the last time Mr. Sedillo came before the P&Z board.



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Mr. Martinez stated that it has been about a year and one month and there is a provision in the county's ordinance that does state that he could come before the commission again.

Commissioner McCartney asked if Commissioner Artiaga remembers this request.

Commissioner Artiaga stated that she does remember this case, and they approved and then someone had appealed.

Mr. Martinez stated that it was approved by the Planning & Zoning commission but that approval was appealed at the county commission, and the county commission upheld the appeal.

Mr. Sedillo stated that the property is a very neat place it is on a dead end and it's very clean.

Commissioner McCartney asked if the commissioners had any questions for Mr. Sedillo.

Commissioner Edeal asked why he has an electrical pole in the back and it looks like it's ready to hook up onto another mobile home.

Mr. Sedillo stated that the pole that he is referring to is a pole for antennas and things like that.

Commissioner Edeal stated that it look like there is going to be another mobile home there.

Mr. Sedillo stated that he is not going to put any more mobile homes there at all.

Commissioner Edeal stated that it does look really nice on the outside but it looks like there is another place for a mobile home there and everything there looks brand new.

Mr. Sedillo stated that it is just for lights in the back.

Commissioner Gaudette asked Mr. Martinez if this conditional use is granted could the commissioners put conditions on it that it would be strictly for Elderly Care.

Mr. Martinez stated that is correct.

Mr. Sedillo stated that it is going to be used just for an elderly care facility and nothing else and he has spent a lot of days with other elderly care facilities and the elderly do not even come outside, it's like if no one is even home. He does a lot of work for other elderly care facilities like Ambercare and those people do not even get out of their seats they eat they go to sleep and that is all. He has had about 10 requests of people that would like to stay there already but he just cannot get passed this process, and there is a big need for this because there are people that do not have a place to stay and the state pays for it and they would be the ones that help them find a place and the state will work with him to help him with it.

Commissioner McCartney asked if all the people that he would like to put in the elderly care facility are able to walk on their own.

Mr. Sedillo stated that is correct.

Commissioner McCartney asked if he is going to be required by the state to put in handicap accessible.

Mr. Sedillo stated that every house has to have handicap assessable facility.

Commissioner McCartney asked if the house is handicap assessable right now.

Mr. Sedillo stated that he has to put the braces on the doors in and he does have a few other things to do to come into compliance, and it is hard for him to do too much and then not be able to use it.



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Commissioner McCartney asked what state permits are he required to get.

Mr. Sedillo stated that he is required to obtain the county's permission then he would be able to put 3 or less people in there.

Commissioner McCartney asked if there would be inspections from the state to do something like this.

Mr. Sedillo stated that they would have to have to house inspected and he has already done that and all they did was wave it.

Mr. Martinez stated that the way he understands it is that the state has an exemption for 3 or less.

Mr. Sedillo stated that it is not a big thing with 3 or less or 4 if the house is big enough.

Commissioner McCartney asked if the commissioners had any more questions for Mr. Sedillo.

Commissioner Artiaga asked Mr. Sedillo if he already has the people chosen that he would like to live there.

Mr. Sedillo stated that the worker is already chosen and they have had people that wanted to stay there but they have moved on but he could find more right away because there is so much people that want to stay there and Ambercare calls him every other month and ask if he got his approval.

Commissioner Artiaga asked if this going to consist of 3 people plus him and his worker.

Mr. Sedillo stated that it is going to be 3 people plus the worker.

Commissioner Artiaga stated that it would be a total of 4 people in this double wide, and asked what the size of the mobile home was.

Mr. Sedillo stated that the house is about 2000 square feet, and it is fully restored for assisted living the door have been widen and there is no steps and that's the reason that people want to live there now, and if they do not have a ramp the first time they ask you if you don't have a ramp then people want to move in right away.

Commissioner McCartney asked the commissioner if they have any more questions for Mr. Sedillo. No more questions from the commissioners, and then asked Mr. Sedillo to please take a seat and he asked if there was anyone that would like to speak in favor of this request, no one was in favor of this request, then asked if there was anyone in opposition.

Ms. Trujillo stated that her name is Mandie and her address is 25 Wild Wolf Ct. Los Lunas, NM, which is in the subdivision there were Mr. Sedillo is wanting to put in this assisted living facility, they have been here before where the county commission had denied him this request, and he stated now that what has changed is that he was asking for 7 people last time and when the P&Z approved this request there was a condition on it and he was allowed to have 4 people in the home, but the county commission still denied that request. Mr. Sedillo stated that the home is about 2000 square feet and she has an MLS sheet that shows the house being 1400 square feet. To answer Commissioner Edeal's question from the onset Mr. Sedillo had a partner that he was dealing with and the partner when things got bad between them, his partner told them that it was his intention all along to add on property so that he could house more people there, and now that he says that he would like 3 or less and once everything is said and done he was planning on and doing whatever he wanted to that property and it costs up to 5000 dollars a month for an elderly person to stay in a facility, and it was Mr. Sedillo's intent to get as much money as he could monthly and house more people in there. Every time that Mr. Sedillo has said that he was going to something it has been the opposite.



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Commissioner McCartney stated to Ms. Trujillo that this is a public meeting and they do not want to get involved with the integrity of anyone or anything personal just the objections he understand that they have some personal issues.

Ms. Trujillo stated that she was leaning towards that right now, they have restricted covenants in that area that Mr. Sedillo was provided with when he purchased the property and they strictly say that it is for residential use only, he was aware of that but he went forth with this anyway, the well went down and they were all without water for 3 months because they had to go down 700 feet and it cost about 28,000 dollars they had to revised the covenants and Mr. Sedillo signed them and it has his signature stating that they are for residential use only and he agreed to that. What she is saying is that if Mr. Sedillo is aware of that and he is just going to ignore that and everything that they have worked on what's going to keep him from what he wants out there by making that a full blown assisted living facility. They are zoned Outland District and in the OD zoning is for low density residential facility and agricultural and that is the zoning that they are in San Clemente. By law the commissioner are to treat everyone equally and there was another permit this year on 06 Wild Wolf by and Elise Hensley for a commercial use and she was denied by this committee. If the Commission allows Mr. Sedillo to go ahead and do this, then Ms. Hensley will come back and they cannot deny them because they have to treat everyone equality, they are going to be turning they little community into a commercial community. They are the ones that maintain the roads out there if the commissioners approve this request they will be putting a burden on them as a community, and they feel like they have to realie on some kind of regulations. The county ordnance on section 154.004 under interpretation there is a section that states; where ever the requirements of this chapter are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances, deed restrictions, or covenants the more restrictive or that imposing the higher standard shall govern. The commission shall have the authority and duty to interpreted and enforce the previsions of this chapter. She would like to say that under subsection (b) of that same section it is giving a definition for the word "shall" which is used and it states; the word "shall" is mandatory and the work "may" is permissive. According to the county's own language the county should be under this prevision enforcing the higher standard of the two which is the covenant it should not be placed on the property owners to have to pay for something like that when the commissioner have the authority by the county's regulations. There is an issue of safety a study that the CDC conducted showed that about 1/3 of people that are transported to the hospital are 65 years or older, and there has been several incidents out there where there has been an accident and it took the ambulance about 20 minutes to get out there because they are not in the city limits, and once it took the sheriff's department 30 minutes to get out there. Mr. Sedillo clearly knows about these problems because he has been investing in properties for a long time and he knows that there are better place around the county for a facility like this. She would like the commissioners to think about the facility with all the issues that she just voiced and asked if they would put their family members in a place like this. One of the variance use facilities one of the conditions it has on there is to make sure that there are public utilities available, and at this subdivision there are no public utilities everything is privet.

Commissioner McCartney asked Ms. Trujillo how many people actually live out there.

Ms. Trujillo stated that there are 12 lots and there are 10 homes on them right now.

Commissioner McCartney asked if they have a home owners association.

Ms. Trujillo stated that they do not have a home owners association they only have the covenants and in order to form a HOA it is quite expensive.

Commissioner McCartney stated that he didn't mean that it was an actual HOA but they do get together and talk about the covenants.

Ms. Trujillo stated that is correct just in the 12 unit subdivision because they have a shared well there is an association that is in San Clemente that is constantly fighting to keep commercial businesses from coming in this area.

Commissioner McCartney asked the other commissioners if they have any questions for Ms. Trujillo.



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Commissioner Artiaga asked Ms. Trujillo if there is a restriction with their covenants for the other homes that are there as to how many people could live in a home.

Ms. Trujillo stated no.

Commissioner Artiaga asked if there are any homes there with more than 4 people in them.

Ms. Trujillo stated that the largest family is a family of 4.

Commissioner Artiaga stated that there is one family of 4, and it is really quiet, because she lives in a neighborhood where all the lots are one or two acres each.

Ms. Trujillo stated that they are all 1.76 acre lots.

Commissioner Artiaga stated that in the area where she lives, she has 4 acres and her neighbor also has 4 and they are spread out like that, and with the 4 people that would be living there the 3 elderly people that would be living there would not be driving so there would be someone that would take them to the doctor or to check on them, and it's not like there are going to be 5 cars parked there, and asked if that would be her issue on the road.

Ms. Trujillo stated there are other houses with more than one car, and the issue is speculation, because they could talk all day long about what is going to be coming in and out of there and obviously they are going to need oxygen tanks and larger vehicles on their road and Ms. Hensley when she came in and did work on her property they completely pulled out all the gravel and within the first month the rain made a big mud pit in the middle of the road.

Commissioner Edeal stated that he seen the mobile home but he does remember seeing a commercial business at the end of the road and asked Ms. Trujillo if she knew what that was.

Ms. Trujillo stated that it is not a commercial business that is Mr. Chauveau's property and he has a shop.

Commissioner Edeal stated that the property looked very commercial to him but he could speak for it and if they are going to have the covenants it should be applied to everyone that lives there.

Ms. Trujillo asked Commissioner Edeal if he seen her property when he drove by.

Commissioner Edeal stated that he was only looking for this address.

Ms. Trujillo stated that they have a big shop on their property and her husband uses it to store his equipment.

Commissioner McCartney asked if the commissioner had any more questions. No more questions from the commissioners and he thanked Ms. Trujillo for her comments, and asked if there was anyone else that would like to speak.

Mr. Chauveau stated that his name is Ed and his address is 5 Wild West Ct, and he is the one that has the large garage on his property and it is just a garage and he invited the commissioner to come take a look at it if they wanted to. There is an 18 wheel tractor parked next to it and that is not leased to anyone that will pull his 35 foot 5th wheel that is parked behind the garage. His concerns are very simple because it is a residential area and it is not a commercial area. Mr. Sedillo is going to open a business and he is not going to live there because he is going to have the caregiver live there and he is going to make a profit. That is not the description of a residential neighborhood, they do not want a commercial business out there because that is not what this subdivision was built for, if was built for people that wanted a quiet place to live. He would like to enjoy the peacefulness of his property and not hear the sounds of other cars coming up and down that road, they do not want commercial out there.



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Commissioner McCartney asked if the commissioners, no other questions from the commissioners.

Mr. Chauveau thanked the commissioners.

Ms. Kaylor stated that her name is Annette and her address is 4 Wild West Ct. and she is across the street from Mr. Sedillo, and he has lived in the house for a while and he has been very nice to them and they intended to help him as well but there she has some questions that she would like answered because she thought that he was going to buy the house next door to her and then also the house next to Ms. Trujillo for his business and she thought that they were here because the parcel was already commercial and she didn't think that the property was residential. She signed the covenants 8 years ago and when she lived in Belen she ran her business out of her home and that was something that she did not want to do anymore because she was getting her business life and personal life involved, and when they moved to San Clemente she used the covenants because they protect the community. A commercial business will raise their taxes and there are 8 homes that cannot afford a 3rd utility bill and they struggle to pay their propane, and it will affect them a lot, and she cannot afford to pay higher property taxes if a commercial business goes up their neighborhood. If Mr. Sedillo wanted to live in his home and care for 3 elderly people that is fine and that is his business but he did say that there were going to be 3 residents and one caregiver living there, where is going to live? And if he buys the house next door and the other house next door to Ms. Trujillo then all the houses are going to be commercial properties and it will affect all the properties that are adjacent. Mr. Sedillo signed the covenants as well as everyone else that lives in the neighborhood, everyone knew what they signed and everyone does not want commercial they all want to be in a rural way of life. Mr. Sedillo is a very nice gentleman and he has lived across the street but he has told a couple of different stories and they do not want commercial in their neighborhood.

Commissioner McCartney asked if the commissioners had any questions for Ms. Kaylor. And thanked Ms. Kaylor for her comments.

Commissioner Gaudette asked if they had a copy of the covenants in their area.

Ms. Trujillo stated that she has a copy.

Commissioner Gaudette asked if he could see them.

Commissioner Artiaga stated that Mr. Sedillo is not asked to change to zone to commercial he is just asked for conditional use.

Mr. Martinez stated that it is a conditional use and it is not going to change the zoning.

Commissioner McCartney stated that the business will be a commercial entity.

Commissioner Artiaga stated that it is a conditional use, if the zone does not change then the neighbor's property taxes will not go up.

Mr. Martinez stated that the assessor's will assess the land and they do not go by what zoning so if there is a commercial zone is would not change the taxes there have been cases that he has seen in the county where there is a commercial lot in a residential zone because it might have been grandfathered in and the assessor's office will assess it as a commercial property.

Commissioner McCartney asked Mr. Martinez about what Ms. Trujillo had read in regard to whatever is stricter then the commissioners have the authority to enforce is that correct? He just wanted to make sure because there are people in different areas of the county that have covenants that the county will not enforce.

Mr. Martinez stated that it has not been the practice of the county to enforce covenants.

Commissioner McCartney stated that now that the ordinance was written that Ms. Trujillo read.



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Mr. Martinez stated that it will be up to the commissioners to interpret that paragraph.

Commissioner Edeal stated that he is concerned about communities that have covenants and they think they are protected, and if this is a residential neighborhood it shouldn't be meant for something else because all the residents in that neighborhood did sign the covenants, and these residents are bringing this to the attention of the commissioners that this type of business is not allowed per their covenants that Mr. Sedillo in fact did sign and the commissioners should honor their covenants.

Commissioner McCartney stated that there are other subdivision with covenants and at one time the VIA would enforce their covenants they did not use the county.

Commissioner Artiaga stated that she owns a lot of property in a big subdivision and they have covenants and two of her neighbors takes care of her niece that is handicapped and she is paid for doing this service, and her other neighbor had 2 elderly people living in her home and she also got paid for this service, and it's not against the covenants to rent a room to someone and it seems to her that day care centers where the children come in and elderly care is residential use, they are using utilities just like anyone would while living in a house.

Commissioner Edeal stated that he is more concerned with the covenants being broken because there is not a reason that they should be.

Commissioner Artiaga stated that her comment is that she thinks that having 3 elderly people live in a house whether they are paying or living there for free is a residential use.

Mr. Chauveau asked Commissioner Artiaga if the neighbor that she is talking about had the elderly people living with her?

Commissioner Artiaga stated yes.

Mr. Chauveau stated that Mr. Sedillo is not going to live there with the elderly people, he is going to have a caregiver living there that he is going to pay, and the residential house or elderly care facility will be a business it will have to have a tax ID number, a business license, registered with the IRS. He used to be a truck driver and he had to have a federal ID number, he was registered as a lease and he was in business for himself. This is going to be a business a profit producing business, this is a residential area they are not a commercial area. He is concerned about fire, ambulance, and police response.

Mr. Martinez stated that they have brought this up in front of the board today because Mr. Sedillo did come into the office to ask for a business license for this property.

Commissioner McCartney stated that he understands and thanked Mr. Chauveau for his comments, and asked Mr. Sedillo to come back to the podium.

Mr. Sedillo stated that this is not a commercial business taking care of a grandma and grandpa he does not understand why they keep bringing that up.

Commissioner McCartney stated that Commissioner Gaudette has a question for him, and he wanted to address the fact that Mr. Sedillo is not going to take care of his own grandma and grandpa these people are not even retaliated to him, these are going to be 3 people that are looking for a place to live and asked Mr. Sedillo to please not insult his intelligence by saying that he is going to care for his grandma and grandpa, and this is what happened to him at the last meeting he got hostile and upset and he starts making statements that are just out of this world and he would like Mr. Sedillo to address the issue, and asked him if he is going to make money off this business.

Mr. Sedillo stated that he will probably make some money off this.



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Commissioner McCartney stated that was simple and he should not say that he is going to take care of his grandma and grandpa.

Mr. Sedillo stated that it is not going to change the zoning or anything.

Commissioner McCartney stated that he understands that.

Mr. Sedillo stated that this is not a commercial business.

Commissioner McCartney stated that Mr. Sedillo is going to make a profit it is considered a business.

Mr. Sedillo stated that it is a residential business, taking care of people like, and there are a lot of people that take care of their family in their own homes and they make money off that and is that considered a commercial business.

Commissioner McCartney stated that it is a totally different thing because they are taking care of their family.

Mr. Sedillo stated that just like Commissioner Artiaga said that her neighbor took care of 2 people in her home.

Commissioner McCartney stated that he is not going to argue with him, and no one is saying that this is a zone change.

Mr. Sedillo stated that everyone that came up to speak said it was a commercial business.

Commissioner McCartney stated that is his opinion.

Mr. Sedillo stated that if they were in his position and he would tell them that this was a commercial business he is sure that they would not like that either.

Commissioner McCartney asked Mr. Sedillo if he read the covenants when he purchased the property.

Mr. Sedillo stated that there is nothing in the covenants about not being able to take care of 3 elderly people in your home, and there are hundreds of houses in the valley that do this same kind of business.

Commissioner McCartney stated that he is not going to argue with Mr. Sedillo and asked if he had anything else he would like to add.

Mr. Sedillo stated that he would like to add that this is not changing the zone at all and it is not fair to him, and if any of the neighbors that spoke against this wanted to take care of their grandma or grandpa they wouldn't listen to him.

Commissioner McCartney stated that if it is your own grandma or grandpa that is family and that would be different than what he wants to do.

Mr. Sedillo asked if Commissioner McCartney thinks that he is not going to take care of these people as if they were not his family and there are hundreds of people that need this kind of attention it's not like he is going to make a car lot or something they won't even have to see these people, and he is not to waste the commissioners time or his own he wants to do this project and he doesn't think that this is fair to him.

Commissioner McCartney asked if the commissioner have any other questions for Mr. Sedillo. No further questions from the commissioners.



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Mr. Sedillo stated that he would like to say that this request should be able to go through because if he gets over 3 people then he will come back or the county could shut his business down it is going to only be 3 people or less and he is not going to add on to the house and the only thing that would be added might be a porch and that's all, and he is granted the conditional use he guarantees the commissioners that they will not have to worry about that facility. The lady across the street there is a house that the owner wants him to buy and do the same thing so that she knows who is taking care of the place and that it is kept up.

Commissioner McCartney thanked Mr. Sedillo and stated that he would like to entertain a motion.

Commissioner Gaudette stated that this is in his commissioner's district, he does not live in that district and under his rules he would like to proposal to deny the application for conditional use.

Commissioner Edeal second the motion.

Mr. Martinez called for a vote.

Commissioner Gaudete stated yes.

Commissioner Edeal stated yes.

Commissioner Artiaga stated no.

Commissioner McCartney stated yes.

Mr. Martinez stated to Mr. Sedillo that his application for conditional use has been denied and the planning and zoning office will send out a letter and to note that the date of that letter is the official date of denial and there is a 15 day appeal process.

7. DISCUSSION:

Commissioner McCartney asked if there is any discussion. **Commissioner Gaudette** stated that it was a very interesting situation today, he understand the zoning issue it's not zoned commercial but this is going to be a building that he is not going to be living in, that the sole purpose is a financial arrangement. Mr. Martinez asked if it was a rental property it might be different. **Commissioner Gaudette** stated that is correct, but this is where he will be contracting and inviting in 3 separate people and this is a single family covenant property, and he agrees that this is a business. **Commissioner Edeal** stated that they have leakage of this county with properties that have covenants, but he thinks that they should honor them and does believe that Mr. Sedillo is going to hire someone and he is going to leave and he thinks the covenants state that. **Commissioner Gaudette** stated that the covenants were not clear cut and they did talk about single family dwelling.

Commissioner Edeal stated that the other guy did have a commercial yard with a large garage and where do you draw the line for covenants in this county. **Commissioner Artiaga** stated that along with the discussion, there is such a need for something like this business she has two rentals, one of them is 300 a month and the other is 250 a month and it is elderly people that are on a fixed income and they cannot afford anything more because they are not disabled yet but they have nowhere to go and no one to take care of them.

Commissioner McCartney stated that he thinks safety was an issue, because San Clemente the roads are not very good and these people maintain the road out of pocket, and the last time that Mr. Sedillo was here and got smart and hired an attorney and then the attorney couldn't even help him because he gets too worked up and telling the commission that he was going to take care of his grandma and grandpa and that's not true, if he wanted to take care of his family that's his own business but when he is getting a check from the state for 3000 a head that's a business, and the thing of it is his attitude is what gets to him because he is the same as he was before. **Commissioner Artiaga** stated that she hopes that this does not set a precedent. **Commissioner McCartney** stated that if he would have come in and followed the covenants and everyone agreed then there would not be a problem. **Commissioner Gaudette** asked Mr. Martinez if he had come in to get a business license. **Mr. Martinez** stated that he came to get the license and he would not be able to get the state permits because he needed the business license first. **Commissioner Gaudette** stated that he needed a business license before he started this project and that defeats the while purpose of the covenants. **Commissioner Artiaga** agreed with that. **Commissioner Edeal** stated that the previous for the 2nd dwelling the area is very rough and the neighbor was complain about little things and this would probably be in improvement to that



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area. **Commissioner Artiaga** stated that this was an interesting meeting. **Commissioner Artiaga** made a motion to adjourn the meeting. **Commissioner Edeal** second the motion.

8. NEXT MEETING: October 24, 2012

9. ADJOURN