

PLANNING & ZONING COMMISSION
6:00 P.M. MEETING OF SEPTEMBER 20, 2010
EDGEWOOD COMMUNITY CENTER
26 E. FRONTAGE ROAD
MINUTES

1. **Call to order:** Chairman Wilhite called the meeting to order with a roll call at 6:00 P.M.
Commissioners Present: Bassett, Wilhite, Turner
Commissioners Absent: Jackson, Snyder
Staff Present: Ms. Karen Mahalick

2. **Approve Agenda:**

Chairman Wilhite asked if there were any proposed changes to the agenda. Commissioner Bassett suggested that items 5 and 6 be reversed to allow discussion of *CASE # SU-2010-4* to take place prior to the public hearing. Chairman Wilhite asked for a motion to make the suggested change. Ms. Mahalick requested an additional change; that the Commission agree to move *Matters from the Chair and Commission Members* next to the calendar update.

Action: Commissioner Turner made a motion to approve the agenda with the suggested changes. The motion received a second and was adopted with all Commissioners voting in the affirmative.

3. **Approve the Minutes of August 2, 2010:**

Chairman Wilhite asked if there were any changes to be made to the minutes. Commissioner Turner requested that a typographical error in item 4 be corrected. Chairman Wilhite asked if there were any other corrections; receiving none he then asked for a motion to approve the minutes.

Action: Commissioner Bassett made a motion to approve the Planning & Zoning Commission Minutes of August 2, 2010 with the correction noted. The motion received a second and was adopted with all Commissioners voting in the affirmative.

4. **P&Z CASE # SU-2010-04, Tim Oden Applicant/Agent requests Pre-application subdivision approval for 8.4 acres of Hillcrest Master Plan, Lots 1-5, Block 1 Unit 6 located adjacent to the south of East Venus Road.**

Mr. Oden presented sketch plat information for a pre-application discussion for a portion of land within Unit 6 of the Hillcrest Master Plan. The parcel is located about 600 feet east of HW 344 on the south side of Venus Road. After a brief description of the property, he went on to present conceptual information showing how he might want to develop the parcel. He presented the Commission with a drawing showing a grouping of small office spaces, sit down restaurants, and a theater complex with parking lots indicated in order to demonstrate that adequate space for parking exists.

Mr. Oden described how he intended to run lines from the south to a well house currently located in the parcel, and remarked that it would ultimately be converted into a booster station. Wastewater treatment would be processed in a package plant located in a 12 acre open space east of

the parcel. He stated his intention to pave East Venus Road from 344 to Hillcrest Boulevard, but at this time it is not clear whether he will contract for the paving himself or provide the Town of Edgewood with the funds necessary for paving that portion of East Venus Road. Next, Mr. Oden discussed electrical service to the parcel. The power lines located on East Venus Road are sufficient to provide power in the short term. However, he also discussed plans for ultimately placing power lines underground.

Another item discussed was his proposal to handle wastewater in the Hillcrest development by means of a decentralized series of package plants scattered throughout the area covered in the Hillcrest Master Plan. Commissioner Turner asked about how the effluent would be used. Mr. Oden replied that the effluent as well as storm runoff will be used to support extensive landscaping for trails and open spaces and would be accomplished through sub-irrigation lines approximately 7 inches below the surface. Commissioner Turner asked why he preferred a decentralized system. He explained that decentralized systems require fewer collection lines and pump stations than a single centralized system. Commissioner Turner asked what passersby would see at a package plant site. Mr. Oden responded that typical filtering units are about 400-600 square feet each, and appear as a flat rectangle 12-15 inches above the ground. Tanks and pumps are installed below grade. His best estimation of what it would look like is that it would be similar in appearance to that portion of a cellar which is visible above ground. Commissioner Turner then asked who would install and maintain the package plants. Mr. Oden replied that he proposes to install the package plants initially, and then contract with New Mexico American Water for maintenance thereafter.

Commissioner Bassett asked about paving Sunglow Drive the full length of the parcel. Mr. Oden stated that it is not necessary at this time since all the parking would be accessible from paved areas. Commissioner Bassett asked about the vacation of an easement which is shown on the sketch plat. Mr. Oden stated that an easement previously shown on the bulk plat granted for access a well house located within Unit 6 can now be vacated since one of the roads proposed for that section will serve that purpose. Commissioner Bassett suggested that the abandoned waterline and overhead power lines be shown on the preliminary plat submission when that is brought forward.

Chairman Wilhite asked if there were any further questions. Ms. Mahalick stated that she would like to offer comment:

- The Hillcrest properties were approved in June of 2003 with certain areas zoned commercial and that he is pre-approved for commercial development in portions of that Master Plan. She also reminded the Commission and those present that the zoning C-1 (formerly designated C-2) is the more intense of the two zones designed for intensive commercial development.
- That the theater shown on the conceptual plan would be a conditional use for that zoning category.
- What is offered is a conceptual plan only; there is no development review taking place.
- If Mr. Oden is, indeed, planning to put in a theater onto the parcel being discussed, he needs to begin planning now for future right of way needs.

- When the project comes to the town, all aspects of the subdivision ordinance will need to be met.
- Ms. Mahalick noted that there are no minimum lot sizes in the commercial zone under discussion, and that the lot sizes as shown are in compliance with regulations.

Mr. Oden clarified to those present that he has no timeline in mind for going forward at this time. He is at present using conceptual plans as a part of the design process which is an aid in planning and estimating costs of providing infrastructure. He has had interest expressed in the uses shown on the sketch plat, but at the present time it is primarily conceptual in nature.

Chairman Wilhite asked if anyone from the public wished to make any comments or to ask Mr. Oden any questions. There being no one indicating a desire to do so, Chairman Wilhite stated for the record that the Commission and staff had made its comments to Mr. Oden who would return at some point in the future at a time of his choosing.

PUBLIC HEARING:

5. Zone Change from residential R-1 to residential R-3 for 8.6 acres located on the NW corner of Highway 344 and Venus Road.

Chairman Wilhite opened the public hearing by outlining the rules and procedures used by the Town of Edgewood's Planning and Zoning Commission during public hearings concerning land use. He asked if anyone objected either to his serving as Chairman or to the participation of either of the other Commissioners. Hearing no objections, Chairman Wilhite asked if anyone on the commission had conflicts of interest or had engaged in ex parte communications. Commissioners Turner, Bassett, and Wilhite all confirmed that they had no conflicts of interest, nor had they participated in any ex parte communication. At that point, Commissioner Turner conducted the swearing-in of those present who intended to give testimony during the public hearing.

Testimony from Mr. Tim Oden:

Mr. Oden began by introducing the people who accompanied him to the meeting. He then proceeded to describe the materials which had been provided to the Commission earlier as part of the application. He also provided Commission and Staff with three handouts during the hearing:

1. A Report of the Economic Impact of La Vida Vista in Santa Fe, New Mexico dated September 16, 2010. The report was prepared by the New Mexico Economic Development Department.
2. An executive summary of that same report.
3. Copies of The Santa Fe County Land Development Code; Section 4.

Mr. Oden told the Commission that he had previously distributed some of the information contained in his application packet to the Moriarty-Edgewood School District, The Edgewood Chamber of Commerce, Estancia Valley Economic Development Association, First Choice medical clinic, and the Edgewood Senior Center. He then described the subject property as well

as the zoning and general character of the property which surrounds it, and then described the project for which he seeking a zone change:

- An assisted living center to be built in two phases containing approximately 71 residential units each, yielding a total of approximately 142 residential units housed in two-story buildings which would also contain provision for common areas and ancillary services.
- Each two-story building would be approximately 50,000 square feet yielding a total of slightly under 100,000 square feet. The total developed footprint, including approximately 1.4 acres of parking lot, would cover about 5.5 of the 8.6 acres.
- The perimeter of the parcel would contain landscaping and walking space designed to act as a buffer between the structure and surrounding properties, especially to the north and to the west. The paved walking area would double as a fire lane.
- The landscaped areas would consist of evergreen and deciduous trees, shrubs, and native grasses. Those plantings would be watered by means of storm runoff and effluent from an onsite wastewater treatment facility.

Mr. Oden continued with a summary of the benefits of the proposed Assisted Living Center. He stated that he believes the proposal is in compliance with town ordinances and is consistent with the Comprehensive Plan. Further, he told the Commission that he feels this assisted living project will serve as an ideal buffer between the existing single family dwellings to the north and west of the parcel and the noise, glare and traffic of First Choice and Edgewood Middle School. He then referred the Commissioners and Staff to the booklet he had provided which details the application, and then enumerated those elements of the Comprehensive Plan which he believes are relevant to the request.

Mr. Oden then began a retrospective examination of land use policies which were in effect before the Town of Edgewood was incorporated. He discussed Section 4 of the Santa Fe Land Development Code, portions of which he handed out at the beginning of the public hearing. He explained the development node concept, and how the Santa Fe County performance based criteria differ from the system of zoning employed by the Town of Edgewood. He went on to explain that, under Santa Fe County's rules, this property as well as a considerable portion of the property surrounding the intersection of State HW 344 and Venus Road would be eligible for inclusion in the zone map as a non-residential district. He explained that these rules, often referred to as the node concept, were intended to discourage strip malls, controlling the number of access points to arterials, and to discourage residential development in what would otherwise be prime commercial development while at the same time protecting residential development from non-residential uses.

He went on to describe in detail how the property which he is seeking to re-zone would have been treated prior to Edgewood's incorporation and annexation into the town. He explained that Highland Stock farm and the Hill family believed that they had a qualifying intersection for a Community Center District which would have a radius of 1750 feet (approximately 80 acres) from the intersection of State HW 344 and Venus Road. He went on to describe a long list of possible ways the land might have been developed, some of which represented fairly intense uses.

However, he went on to say that the land in question had been annexed into the town as R-1, and that in his opinion this might well have constituted a case of down-zoning if Santa Fe County used the concept of zoning, which it does not. At that point in Mr. Oden's testimony, Ms. Mahalick ask to be recognized for the purpose of asking several question of Mr. Oden:

- Was there any tax record showing how the land had been used?
- Was he asking the Commission to evaluate the requested based on the Santa Fe County's previous land use code?
- Did the Hill family ever petition the town for any zoning other than R-1 zoning in their annexation?

Mr. Oden replied that the land was taxed as being agricultural, that he was not asking the Commission to apply Santa Fe County regulations, and that he did not know whether or not the Hill family had ever requested anything other than R-1 zoning.

Chairman Wilhite asked if Mr. Oden wished to add anything. He told the Commission that since the land would have at one time been eligible for a variety of commercial uses that he considers R-3 zoning to be a good use of the property in that it will serve to buffer the property in Hermosa Montana from the effects of Moriarty Middle School, First Choice Medical Clinic, as well as future development in Hillcrest.

Mr. Oden went on to say that at a previous public hearing in which he sought to change the zoning of the parcel from R-1 to MU, the residents expressed dislike of traffic, noise, and glare from First Choice Medical Center and Edgewood Middle School. He stated that he is seeking by means of this project to buffer negative effects, and that the traffic, noise and glare coming from Section 16 were also a hindrance to his own efforts at developing the property in question in a residential fashion.

Mr. Oden stated his belief that the traffic generated by the assisted living facility would not be any greater than that posed by traffic to and from 8 single family one acre lots. He does not believe that the traffic generated by the assisted living facility would exceed the 80 TPD figure which would typically be applied to 8 single family dwellings. He expressed a belief that the assisted living facility with staff traffic, shift changes, and ancillary uses would be comparable to traffic generated by 8 single family homes. However, he did also say that it would require a traffic study to confirm the hypothesis.

Responses to Mr. Oden's testimony:

Commissioner Bassett asked if property located at intersections automatically qualified for any of the uses listed as possibilities under the Santa Fe County land use regulations. Mr. Oden replied that they did not. Owners of qualifying property were required to seek approval on a case by case basis.

Commissioner Turner asked if, given the number of residences projected at build out, if he was justifying his estimates of trips per day for an assisted living facility on the assumption that very few residents would be driving. Mr. Oden replied in the affirmative; he expects very few of the residents would be driving, that the majority of the parking spaces will be used by staff and

visitors, and that the residents would be using a shuttle for most of their travel needs. He stated that he expected the majority of the traffic would be generated by staff. Commissioner Turner then asked about the demographic profile, including income levels, of prospective residents. Mr. Oden deferred the question to Ms. Eaton. Commissioner Turner asked about the distance of the primary entrance from State HW 344, and also asked if the fire access entrance would be open to the public. Mr. Oden replied that there was no distance given on the illustrations provided, but that he guessed that it would be approximately 300 feet. The fire access entrance would be gated and secured so that only emergency responders could use it. He went on to say that it would require a new driveway permit.

Ms. Maureen Simmons asked if there had been any market studies done confirming that there are enough people in the area able to afford the facility, and asked upon what the statement of need for assisted living facilities was based. Citing former employment as a market research analyst with a large company providing assisted living, she pointed out that while it varied depending on the level of care needed, some residents in assisted living facilities do, in fact, drive. **Mr. Oden** replied that he quoted from the Edgewood Comprehensive Plan regarding need. He deferred questions about specific market analyses to Ms. Eaton.

Ms. Mahalick informed those present that information in the Edgewood Comprehensive Plan was provided by MRCOG in conjunction with UNM during the time that the comprehensive plan was being revised.

Mr. Chris Lueras asked if there were going to be open to Medicaid or Medicaid pending residents, would there be any skilled care offered, or if the residents would be private pay? He asked about acute care ambulance traffic on State HW 344 as well stating that he had concerns about buffering noise from ambulance traffic. Mr. Oden deferred to Ms. Eaton.

Commissioner Basset asked if there were would be any dementia patients, and if so, if there were plans to fence the perimeter of the property. Mr. Oden deferred to Ms. Eaton.

Testimony from Ms. DeAnn Eaton, Chief Financial Officer, La Vida Llena:

La Vida Llena is a faith-based, not for profit continuing care retirement community in Albuquerque which has been in existence for over 30 years. Their sole purpose for existence is to provide health care and housing for senior citizens. Their current mission includes expanding services outside Albuquerque. Ms. Eaton introduced the people who accompanied her, and went on to describe the services offered, which would initially consist of an assisted living facility. However, she anticipates that when the demand exists, it would be an option to add intermediate and skilled care. She also cited information from a study done by an independent contractor, Greenbriar, which identified a primary market which would draw on a seven zip code area surrounding Edgewood. Living in a LaVida facility of the type proposed would require an annual income of approximately \$35,000 to cover the monthly service fee. The parent organization, La Vida Vista, also a not for profit organization was created to oversee expansion projects. It possesses a BBB credit rating. New facilities and expansions of existing facilities are financed by tax exempt revenue bonds giving the organization access to funds over and above the normal operating revenue stream. She expressed confidence that the organization possesses sufficient

resources to make the project happen. The proposed Edgewood facility would be the organization's first expansion outside of Albuquerque, and would constitute a significant expenditure for her organization; an investment which she estimates to require approximately \$10 million. The estimated yearly payroll when the census level of the proposed facility reaches the maximum for the two phases would be approximately \$1 million per year.

Ms. Eaton expressed her organization's desire to be a good neighbor in Edgewood, and told the Commission that they wish to offer services which can be afforded by local residents. Their market research indicates that approximately 85% of the projected residents would come from the local area with the remaining 15% being made up of people relocating to the area in order to be near adult children. Ms. Eaton told the Commission that their preliminary market study indicates that there is a sufficient population possessing the necessary income in the target area to support the facility through private pay residents.

In answer to several other questions previously asked of Mr. Oden, she told those present that Medicaid does not pay for assisted living except when developmental disabilities are present. In answer to Commissioner Bassett's previous question on the subject, Ms. Eaton replied that it is not necessary or desirable to fence the entire perimeter in order to care for patients requiring memory support. Rather, there are sections within the facility set aside to provide secure indoor and outdoor areas designed for use by dementia care residents. In reply to other questions, she replied that Medicaid payment is an option which at present is only available in their skilled care facilities. She stressed that the first stage would be assisted living only and would focus on private pay patients.

Responses to Ms. Eaton's testimony:

Ms. Mahalick asked about impact on EMS services. Ms. Eaton responded that she did not have exact data, but with 85% of the residents were projected to already be residents of the area, it would leave only the remaining 15% to be accounted for in projecting needs for additional service. Ms. Mahalick asked about noise containment of ambulance sirens. Ms. Eaton responded that usually transport was provided without lights and sirens.

Commissioner Turner asked about plans for future expansion of services to include higher levels of care. Ms. Eaton responded that the primary market analysis indicated a need for assisted living services only at this time. At such time as secondary market analyses indicates a need for adding levels of care they would contemplate expansion. Ms. Eaton believes that the current site being considered would allow for expansion beyond Phase II. However, she reiterated that at the present time, only assisted living is being anticipated. Commissioner Turner asked what type of employee classifications they would seek to fill. Ms. Eaton replied that the goal is to provide 100% of care on site. Employees they would be hiring would include dining, nursing, activities, maintenance, housekeeping, and administrative staff. She went on to say that average pay would be \$13.39 per hour with a high end of \$32.78 per hour, and a low end of \$8.74 per hour plus 20 % benefits.

Commissioner Bassett asked about the shuttle services. Ms. Eaton replied that the service is offered in-house and is available to take residents to appointments and to scheduled events. In

answer to a question on ambulance service, Ms. Eaton said that ambulance service is usually arranged through a patient's primary care provider. He also asked about their relationship with First Choice Medical Clinic in Edgewood. Ms. Eaton replied that she hoped they would accept residents as patients. She expects that the 85% of the residents who are projected to come from the area will have established medical care arrangements already, but that those moving to Edgewood might well want to seek medical care as closely and conveniently as possible.

Mr. Chris Lueras asked about the cost of services, and if the facility would offer skilled nursing care or accept Medicaid patients. He also asked about the availability of therapy. Ms. Eaton replied that, initially, the facility would offer only assisted living, explained that this category is suitable for residents who require assistance with at least two necessary tasks of daily living, and would be supported by private pay patients. She said that physical, occupational, and speech therapy are covered by Medicare. Residents would be free to choose any Medicare approved provider whether out in the community or in-house at such time as the facility might contract for services to be provided at the facility.

Testimony from the owners of adjacent properties and those living nearby in Hermosa Montana Subdivision:

Seven persons owning property on or near the northern and western boundaries of the subject property gave testimony in the hearing. The persons giving testimony were part of a larger group from the neighborhood present at the meeting. Those spoke were: Mr. Steve Foxe, Ms. Jennifer Morgan, Mr. Frank Barbera, Ms. Beverly Barbera, Ms. Maureen Simmons, Ms. Patricia Simmons, and Mr. Chris Lueras.

Their concerns about what they believe will be negative effects which will be caused by this project if it were to be approved and built are summarized as follows:

- The proposed zoning would be incompatible with established use of the adjacent R-1 property.
- The residents of Hermosa Montana purchased their R-1 property at a time when the parcel which is the subject of hearing was also zoned R-1.
- That the previous owners of the property for which a zone change is being sought and received R-1 zoning at the time the parcel was annexed into the town.
- The project is of a size and scale such that its presence will reduce the value of the R-1 property nearby through detrimental effects on the viewshed and the proximity of a large, hotel-like structure very close to nearby homes. They felt this situation would put residents of Hermosa Montana at a comparative disadvantage to other, otherwise similar properties in Edgewood when selling their properties.
- The project will create excessive noise in the form of increased vehicular traffic and HVAC equipment.
- The project will create traffic congestion at an already busy intersection.

- Questions were raised about the adequacy of Venus Road due to its relatively narrow width, the short distance to the intersection, and the fact that it is paved for only a short distance.
- Another concern stated was the fact that there will be only one regular means of ingress and egress, with an emergency entrance requiring a gated driveway on SH 344.
- Concerns about peak water use, the adequacy of the wastewater treatment system proposed, and whether or not there was sufficient provision for storm water runoff were expressed.
- Those speaking questioned whether or not this application was appropriate given that there exist findings from a previous application to the Commission for a less intensive land use which proposed townhouses with MU zoning on this same land. That proposed zone change had been unanimously denied recommendation.
- The neighbors disagreed with Mr. Oden's belief that the proposed project would act as a buffer between Hermosa Montana and uses across the road; they denied that there exists a need for any buffer other than single family homes for which the property is currently zoned.
- They expressed concerns about odors from the commercial kitchen, laundry, wastewater system, and dumpsters of a size necessary to serve the proposed facility.
- The question was raised about why this project was not being proposed along the sewer corridor which would place it closer to Interstate 40 and Route 66, a location which would provide better access, and would also be nearer to existing town services.
- Another point raised was that Edgewood is not entirely without assisted living opportunities for the elderly as a project located on the sewer and closer to town services had recently been approved.
- Questions were raised about whether or not this parcel would support the expansion Ms. Eaton anticipates.
- Several people stated that they bought in Edgewood in order to have a sense of community and live in a rural atmosphere, that the R-1 zoning on the parcel which is the subject of the hearing influenced their decision to locate in Hermosa Montana, and that they would not have purchased property there if plans for rezoning had been made known to them.
- The current Zoning Ordinance language citing the prevention of overcrowding, preservation of property values, and encouraging of appropriate land use as being desirable goals was referred to with the conclusion that this proposed use for the land worked against those goals.
- A number of sections of current ordinances and the Comprehensive Plan whose language encourages preservation of natural environmental and scenic elements, and discourages high density development adjacent to lower density neighborhoods was cited to balance Mr. Oden's use of the language in the Comprehensive Plan.
- Concerns were expressed about the need for night-time security lighting requirements and the impact this would have on the night sky.
- Questions were asked about any need for transfer of water rights in order to serve the proposed development.

- Opinions based on experiences with similar facilities prompted several to voice concerns about the volume of traffic which would ensue when combining shift changes, visitors, delivery trucks, and incidental trips as well as trips made by residents who drive are taken into account.

Testimony from the general public:

Ms. Linda Finklestein, who spoke on behalf of First Choice Medical Clinic at the behest of the corporate office, told those present that she was not there to express a personal opinion about the “building or the density,” and wished to make a number of things clear:

- First Choice is happy to accept patients seeking treatment there, Ms. Finklestein wants the public to be aware that the clinic is a primary care clinic; it is not an urgent care facility nor does it have an X-Ray machine. She included this information in response to earlier testimony about a patient with a possible broken bone having been turned away.
- First Choice does not have a vested interest in the property either way.
- First Choice is a neighbor who received notification because of their proximity to the land in question. As commercial tenants, the people who work in the building are not present in the evening or most of the weekend and would not, therefore, be greatly affected by this project.
- First Choice realizes that it sits very near a residential area, and desires to be a good neighbor; they have no wish to anger anyone.
- With regard to the question before the Commission, Ms. Finklestein said that First Choice does not wish to take a position in support of or in opposition to the building or the density, but they do believe that Edgewood needs additional elderly housing.
- First Choice is not now, nor does it expect in the future to enter into any contracts to offer services to any entity.
- First Choice does not seek to intervene in Edgewood’s land use decisions.

Response to Ms. Finklestein’s Testimony:

Mr. Frank Barbera asked to speak. He wished to clarify the fact that he considers First Choice to be a good neighbor; he has no problems with having the clinic located near his home. He expressed his regret that his remarks earlier in the evening might have created an impression that he felt otherwise.

Mr. Phil Anaya gave testimony in favor of the zone change as an individual not as a member of the Moriarty-Edgewood School Board. He spoke of the town’s need for revenue in order to provide services, and stated that this project would enhance the community’s financial status. He also spoke to a need for retirement housing. He stated that he sees nothing but good coming from this project; especially jobs and possible new students in the schools. He spoke of the initial opposition to Wal-Mart and balanced that with current enthusiasm for the business as well as the great good it has done for the town. He talked about the plans for development on Section 16 that he believes will add substantially to the traffic. For the benefit of newer residents he recounted

some of the history of the town, and predicted that 344 would eventually build out in a manner similar to portions south of Dinkle. He asked the neighbors to drop their opposition to the project for the greater good of the community. Mr. Anaya concluded by asking the commissioners to act as good stewards and to consider the financial benefit to the community.

Response to Mr. Anaya's Testimony:

Mr. Steve Foxe responded to Mr. Anaya's call for the neighbors to drop their opposition by saying that his opposition was not inspired by a NIMBY mindset, but the fact that what is being proposed next to his backyard is a large, two-story building with the appearance of a hotel which he feels does not fit into the area. He stated that his opposition was not to the project being located in Edgewood; rather he and his neighbors object to the location chosen and to the zone change. He asked Mr. Anaya and the Commission to consider the fact that Edgewood has an abundance of land which would be, in his opinion, more suitable for this project and stated his dismay that other options seem not to have been explored.

Ms. Maureen Simmons responded by citing the dissimilarities of size; by comparing the square footage of her dwelling to the parcel it sits on to the much larger ratio of the proposed assisted living center to its land. She stated that she believes that the facility would be better located on a larger parcel of land allowing it to spread out instead of build up.

Mr. Chris Lueras reminded the Commission that once the property is rezoned there is no going back, that the facility proposed will not serve those low income residents in the area who are land rich and cash poor. Finally, he asked that the Commission honor his desire to enjoy a rural lifestyle even if it's only a small portion.

Mr. Terry Hill, who now lives in Albuquerque, but used to live on the property in question asked to make a statement in reply to Mr. Lueras. He supports the building of an assisted living facility, and reminded those present that many of the people in the community who value their rural lifestyle today are able to do so because his family gave up some of its rural lifestyle.

Mr. Tim Oden's concluding remarks:

Mr. Oden asked to address a few of the comments offered previously.

- The proposed building is two-story, but the grade of the land is such that he believes impact on the neighbors will be minimal.
- Mr. Oden believes that there will be no odor from the wastewater treatment facility, but if necessary, it can be treated for smells.

- He asked for clarification about procedure for rezoning; Ms. Mahalick clarified the next step which would be to send the Commission's recommendation to the Council, and she referred him to the specific language in the ordinance.
- He stated that the wastewater treatment facility would be located between the building and the south-east corner of the lot, and stated that he disagreed with Mr. Barbera's characterization of the situation regarding water and wastewater requirements for the project.

Commissioner Bassett asked about the water will-serve letter and for confirmation that sufficient water rights are presently available for use in this project. Mr. Oden could not confirm the details of water service; he informed the Commission that he did not have a water letter with him. Mr. Oden stated that he had e-mailed the letter. Ms. Mahalick replied that she did not receive Mr. Oden's letter; therefore, the Commissioners did not have it either. She informed Mr. Oden that she would obtain a copy for the Council packets for the October 6 Council meeting. In answer to Commissioner Bassett's question, Ms. Mahalick replied that the town currently had nothing on file concerning a will-serve letter for this project.

Mr. Frank Barbera asked to be recognized for the purpose of enquiring of Mr. Oden whether or not he had other land available on which this project could be built. The question to Mr. Oden was ruled irrelevant because to require Mr. Oden to answer such a question would be outside the scope of the public hearing.

At that point, Chairman Willhite asked if there were any more comments. Ms. Patricia Simmons asked to submit a letter into the record, and was allowed to do so. Chairman Willhite then suggested a brief recess. Ms. Mahalick reminded the audience that the Commissioners were not to discuss the case during the break.

[The commission recessed for 10 minutes]

When the hearing reconvened, Chairman Willhite asked Ms. Mahalick to summarize the staff report. She covered the following items:

- Mr. Oden and the Commissioners had all received copies of the staff report.
- The Commission would forward its recommendation to the Council for consideration at the October 6 Council meeting.
- The applicant was proposing to enter into a real estate contract with the ultimate goal of constructing an assisted living facility sometime in the future.
- The present matter before the commission being a rezoning, the plan presented is solely a conceptual plan with no guarantee attached that it will, in fact, be built.
- Once the property is re-zoned, the use of the property would not be limited to that of an assisted living facility; all permissive uses for the zoning would be allowed.
- She then read the particulars of the staff report including suggested findings, conclusions, and conditions. She concluded with a reading of the Commission's zone change policy adopted 12/11/09.

- She then summarized the grounds on which neighboring property owners were requesting that the zone change be denied: view shed protection, property values, intensity of usage, high traffic, and water usage.
- She stated that the Town supports this type of development; that the plan is attractive.
- She said that the Commission must also consider the impact on the adjoining properties.

Commission deliberation on the application to rezone the property:

Following the report from staff, the Commissioners discussed the evidence presented by those objecting to the proposed zone change, and acknowledged that those persons had submitted a number of concerns which are pertinent to specific items contained in the Commission's policy for considering re-zonings. They also acknowledged the difficulties presented by the lot's configuration and current zoning to the current owner, Mr. Oden. Furthermore, they acknowledged the desirability of the project and the fact that an additional assisted living facility would provide great benefit to the community. The Commission's discussion of the evidence presented is summarized below:

- The Commissioners were concerned about the lack of a will-serve letter as well as a lack of clarity about information regarding available water rights; that this lack constitutes grounds for concluding that the application is incomplete.
- Another issue raised was the question surrounding ambulance service, and the fact that there was as yet no preliminary review from Santa Fe County Fire Department. Again, a conclusion that the application is incomplete is indicated.
- The lack of any traffic study was cited, particularly in light of the fact that a single entrance only 300 feet from SH 344 is proposed; that this entrance will be directly opposite the First Choice entrance and very close to one of the entrances to Edgewood Middle School. Moreover, evidence has been presented which questions the data on trips per day anticipated by the applicant. Therefore, a third indication exists that the application is incomplete.
- Commissioner Turner expressed reluctance to engage in de facto policy making regarding the approval or placement of package plants absent a policy declaration by the Council of how such decisions conform with current ordinances as well as the Comprehensive Plan.
- The Commissioners questioned feasibility of the applicant's stated intention of eventually expanding the facility to include higher levels of care on this site; they questioned whether or not the parcel is large enough, and questioned whether or not there would be sufficient access to the property if existing buildings were expanded or new ones built.
- Commissioners agreed that the proposal is, indeed, in conformance with several goals of the comprehensive plan, but cited concerns about the noticeable differences in scale and intensity of use should a project the magnitude of the one being proposed be placed adjacent to an established subdivision zoned R-1.
- Commissioners Bassett and Turner engaged in a discussion of where to draw the line between lower and higher intensity land use and whether or not there was a substantial discontinuity between the R-1 and the proposed R-3 uses. They concluded that existing

streets can serve as a buffer between the homes in Hermosa Montana and the non-residential uses south of Venus Road and proposed development east of SH 344.

- Citing the principle of doing no harm, Commissioners concluded since the owners of R-1 properties to the north and west bought property with the understanding that the property in question is also zoned R-1, that to seek rezoning with the intent to build an institution of the size and scale being proposed would create a negative impact on the R-1 properties adjacent.
- Another concern cited by the Commissioners was the fact that even if it adopted all the proposed conditions enumerated in the staff report, there was nothing limiting any other permissive uses described for R-3 zoning should the current buyer elect to not build and ultimately re-sell the property in question.

Deliberation concerning the substance and wording of the motion:

Following the Commission’s deliberation on the testimony and evidence presented in the hearing, the Commissioners discussed the items which they felt would be appropriate to include in a motion. The Commissioners concluded that, given the nature of the testimony, it would be appropriate to adopt Facts 1-10 as they appear in the staff report. They also concluded Fact 11 should be adopted with points (a) and (d) stricken, and with the addition of a point (e) stating “the application as presented is incomplete.” They then discussed adopting the conclusions, but on advice of staff adopted only the first conclusion on the grounds that the second conclusion was better moved to the findings, thereby rendering the third conclusion irrelevant. Finally, the Commission discussed conditions to be placed upon the motion, and after voting to amend a previous motion, the conditions recommended in the staff report were adopted.

Following a previously established policy that all motions shall be offered using affirmative language in the form of moving to approve requests placed before the Commission, Commissioner Bassett offered a motion containing three parts. The motion was to adopt Facts 1-10 as written in the staff report, to adopt Fact 11 as amended, to adopt a single conclusion regarding its jurisdiction in the matter, and move to approve the request for a zone change with four conditions attached. Commissioner Bassett’s motion was seconded by Commissioner Turner.

Facts adopted by the Commission:

- **FACT 1:** The property is located on the northwest corner of Highway 344 and Venus Road.
- **FACT 2:** The subject property is identified as being located in the SE1/4 of Section 9,T10N, R7E, N.M.P.M.
- **FACT 3:** The property is zoned R-1, Residential. The surrounding properties are zoned as follows:
 - NORTH - Residential R-1
 - SOUTH - Special Use (SU-school) and Master Plan (MP)
 - EAST - Master Plan (MP)
 - WEST - Residential R-1

- **FACT 4:** The application has not been reviewed by Santa Fe County Fire for adequacy of emergency services.
- **FACT 5:** The zoning ordinance allows for assisted living uses within an R-3 residential zone area.
- **FACT 6:** Section 39.C.5. of the Town of Edgewood Zoning Ordinance states that all zoning changes or amendments, including zoning, rezoning, amendments shall be required to post zoning change signs. The property has been posted with zoning notification signs as specified.
- **FACT 7:** The Commission adopted policies for the consideration of a zone change on 12/11/09.
- **FACT 8:** The 2008 Comprehensive Plan under Housing Strategies (7) calls out the need to identify and incentivize future opportunities for assisted living facilities.
- **FACT 9:** Public Improvements-applicant will be required to construct public improvements prior to receiving development approval.
 - Sidewalks-not required
 - Hike & Bike Trails-not required
 - Utilities-All utilities necessary for this development, and as determined by the Fire review and the Town Engineer. Central wastewater service is not available in this area, the applicant will construct an onsite wastewater system.
 - Water service is through Thunder Mountain Water-commercial fire flow will be required-a water commitment letter is not included in the application.
 - Roads-Access will be from Highway 344 and Venus Road, applicant will be required to upgrade Highway 344 as per the New Mexico Department of Transportation requirements and Venus Road as per Edgewood Ordinance requirements. Internal road system will be compliant with the Santa Fe Fire requirements.
- **FACT 10:** The Planning & Zoning Commissions' recommendation should be based upon the facts presented by the applicant, and testimony heard during the public hearing.
- **FACT 11:** The Planning & Zoning Commission may deny the application if it finds that the facts and information submitted at the hearing more probably than not:
 - will substantially injure the value of adjoining or abutting property, or
 - will not be in harmony with the area in which it is to be located, or
 - the application as presented is incomplete.

Conclusion adopted by the Commission:

The requested application recommendation is within the jurisdiction of the Commission to issue.

Motion on the question placed before the Commission:

To approve a recommendation for a zone change from residential R-1 to residential R-3 for 8.6 acres located on the NW corner of Highway 344 and Venus Road with four conditions:

1. The rezoning will take effect upon the completion of sale for the expressed purpose of building an assisted-care facility.

2. The applicant and operator of the establishment shall fully comply with all of the requirements of this order together with any other applicable state or local rules, ordinances, laws and regulations of whatever nature.
3. If any of the conditions affixed to the rezoning or conceptual development plan become void, the rezoning shall become void and of no effect.
4. The applicant must comply with the Santa Fe Fire Department requirements for development and the State of New Mexico building requirements.

Action:

A motion having been made by Commissioner Bassett and seconded by Commissioner Turner, Chairman Wilhite then initiated a roll call vote. Commissioner Turner voted no. Commissioner Bassett voted no. Chairman Wilhite voted no. The motion being unanimously defeated, the Edgewood Planning and Zoning Commission will convey to the Mayor and Town Council of Edgewood results of its vote; that it **does not recommend** granting the request for rezoning.

OUT OF PUBLIC HEARING

At the conclusion of the public hearing, as the Commission prepared to take a brief recess, Ms. Mahalick pointed out that it was nearing 10:30 P.M., and given that the Commission's policy is to require a vote to extend when meetings go past 10:00 P.M., it would be advisable to vote on whether or not to postpone the remaining agenda items or to extend the meeting as needed. Chairman Wilhite asked Mr. Oden his preference because one of the remaining items concerned him. Mr. Oden expressed a desire to complete the evening's business. Chairman Wilhite asked for a motion. Commissioner Turner offered a motion to extend the meeting's duration as needed in order to conclude the agenda. The motion received a second and was adopted with all Commissioners voting in the affirmative.

6. P&Z CASE # SU-2010-05, Tim Oden Applicant/Agent requests Pre-Application subdivision approval for 51.2 acres into 4 tracts; Lands of Padilla Tract 1 off Horton and Mountain Shadows roads, section 20, T10N, R7E, N.M.P.M.

Mr. Oden began by asking for clarification of the pre-application questions being proposed by the Commission for use in its deliberations. He stated a preference for breaking pre-application discussion into two parts; an initial technical review with staff which would be followed with a sketch-plat review with the Commission. The Commission and Staff agreed with his suggestion.

Ms. Mahalick informed the Commission that there may be a problem regarding access to this property, given that the Council is in the process of examining road standards policies. Commissioner Bassett expressed his belief that a site visit for the parcel was indicated. He also said that if the other commissioners agreed to a site visit he thought it would be best to postpone the rest of the pre-application discussion to the October 4 meeting. Chairman Wilhite asked for a motion to call for a site visit and to postpone the remainder of the pre-application discussion. Commissioner Bassett so moved. The motion received a second and was adopted with all Commissioners voting in the affirmative. Mr. Oden and Ms. Mahalick discussed the forthcoming staff report and Mr. Oden stated that he did not feel that he needed to be present at the site visit.

7. Calendar Update:

Ms. Mahalick stated that she would contact Commissioners Jackson and Snyder to find out if they would be able to attend the site visit at 5:00 P.M. on October 4. She informed the Commission that the Impact Fee Report would be provided to Commissioners before the next meeting. The Commissioners decided to assemble all the comments about the pre-application and subdivision review process and discuss them at the next meeting.

8. Matters from the Chair and Commission Members:

The Commission discussed the use of the new water will-serve letter format and whether or not it would be appropriate to ask for that information as part of requests for zone changes as well as during the subdivision review process. Ms. Mahalick and the Commissioners discussed those portions of the ordinance which specify that it is within the scope of the Commission's authority to request of an applicant confirmation that necessary infrastructure can be provided both during requests for zone changes and as part of the subdivision review process.

Commissioner Bassett asked for feedback from the other Commissioners and from Ms. Mahalick regarding the flow chart with annotations from the ordinance which he had constructed to illustrate the typical procedure for subdivision review. He also asked for opinions on how such material might best be used. The Commissioners agreed that the information would be useful to Commissioners, as well as to the Council when it reviews Commission actions. They also discussed adding material showing the process which is used for expediting simple requests. Ms. Mahalick stated that the information should also be provided on the town website. Due to the lateness of the hour, Commissioner Bassett then suggested that the Commission adjourn immediately.

9. Adjourn: Chairman Willhite agreed that a speedy adjournment would be desirable.

Action: Commissioner Basset having so moved; the motion received a second and was adopted with all Commissioners voting in the affirmative. The meeting was adjourned at 11:02 P.M.

[Reference to agenda items 6 and 7 from the previous page of these minutes: As discussed in those items, Ms. Mahalick will advertise a site visit for 5:00 P.M. on October 4, 2010 to take place at the property described in agenda item 6. She will also include the pre-application discussion on the agenda for the regular meeting of October 4, 2010 at 6:00 P.M. in the Edgewood Community Center.]

Doyce Wilhite, Chairman