

COCHISE COUNTY PLANNING & ZONING COMMISSION
FINAL MINUTES
February 12, 2014
REGULAR MEETING at 4:00 p.m.

The regular meeting of the Cochise County Planning and Zoning Commission was called to order at 4:00 p.m. by Chair Weissler at the Cochise County Complex, 1415 Melody Lane, Building G, Bisbee, Arizona in the Board of Supervisors' Hearing Room.

Chair Weissler admonished the public to turn off cell phones, use the speaker request forms provided, and to address the Commission from the podium using the microphone. She explained the time allotted to speakers when at the podium. She then explained the composition of the Commission, and indicated there was a proposed bylaw change and one Special Use Docket on the Agenda. She explained the consequences of a potential tie vote and the process for approval and appeal.

ROLL CALL

Ms. Weissler noted the presence of a quorum and the roll, asking the Commissioners to introduce themselves and indicate the respective District they represent; eight Commissioners (Tim Cervantes, Jim Lynch, Gary Brauchla, Liza Weissler, Pat Edie, Jim Martzke, Nathan Watkins, and Carmen Miller) indicated their presence. She then noted that Mr. Garcia was not present, and welcomed Mr. Watkins as a new Commissioner. Staff members present included Beverly Wilson, Planning Director; Adam Ambrose, Chief Civil Deputy County Attorney, Michael Turisk, Planning Manager, Keith Dennis, Planner II; and Peter Gardner, Planner I.

APPROVAL OF THE MINUTES

Motion: Approve the minutes of the January 8, 2014 meeting with the correction offered by Ms. Weissler. **Action:** Approve with correction. **Moved by:** Mr. Martzke **Seconded by:** Mr. Cervantes

Vote: Motion passed (**Summary:** Yes = 7, No = 0, Abstain = 1)

Yes: Mr. Lynch, Mr. Cervantes, Mr. Brauchla, Mr. Martzke, Ms. Weissler, Ms. Edie, Ms. Miller
No: 0 **Abstain:** Mr. Watkins

CALL TO THE PUBLIC:

Mr. Jack Cook of Bisbee spoke of various matters.

Ms. Jere Fredenburgh of Sierra Vista spoke, asking the Commission to leave the Call to the Public at the beginning of the meeting to facilitate dialogue.

NEW BUSINESS

Item 1

A PROPOSAL BY CHAIR WEISSLER TO AMEND THE PLANNING COMMISSION BYLAWS

Chair Weissler stated that she was proposing to relocate the Call to the Public from after Approval of the Minutes to after New Business. She stated that she had moved it in the past at her discretion and noted that she may do so in the future. She expressed a feeling that individuals dealing with dockets that involved fees and potentially their livelihood should be permitted to “go first”, and then invited discussion. Mr. Martzke expressed opposition, stating that very few people generally came for call to the public, and by having it at the beginning of the meeting allowed them to know when they would be permitted to speak without the uncertainty of waiting for dockets to be completed. Ms. Edie agreed with Mr. Martzke’s points, and added that she liked having the public to provide information prior to docket discussion, and worried that if call to the public were at the end, it would be used to lambast the Commission for decisions made during the meeting. Mr. Lynch agreed with the Chair, and noted that when he was Chair he usually moved call to the public to the end of the meeting. He also pointed out that the law did not require the Commission to have a Call to the Public. He felt that having it was a good idea, but felt that it was reasonable to be at the end of the meeting. Mr. Lynch also noted that most dockets have a public hearing that permits the public to weigh in. He also noted that Call to the Public topics should be related to matters under the jurisdiction of the Commission, and stated he felt the statements should be limited to such topics. He closed by concurring with the Chair that paying Applicants should be given precedent over Call to the Public. Mr. Cervantes agreed that dockets should be given priority and supported moving the Call to the Public to the end. Ms. Weissler stated that the Commission had received letters regarding the topic at hand. She discussed the matter of convenience for the speakers and expressed a belief that moving it to the end would be more convenient. Mr. Watkins asked the Chair if she could move the Call to the Public at her discretion. Ms. Weissler stated that she could. Mr. Watkins asked for an example of when she would move it, asking if Ms. Weissler reviewed the speaker request forms and moved it on the basis of the content. Ms. Weissler stated that she generally tried not to review the contents when making that decision, but focused on numbers of speakers. Mr. Watkins explained that he was on other boards that had Call to the Public, and stated that in his experience having it at the end allowed people to “fester” on an issue and added to their potential anger, whereas if it was early the speakers were generally calmer. He asked that due to the existing discretion of the Chair to move it, “why change it?” Ms. Weissler moved to amend the bylaws to move the bylaws from fifth to seventh, and Mr. Lynch seconded. Ms. Weissler called for a vote, and the vote failed 3-4, with Mr. Brauchla abstaining.

Motion: Motioned to Amend the Bylaws to relocate Call to the Public to after New Business.

Action: Amend the Bylaws to move call to after New Business **Moved by:** Ms. Weissler
Seconded by: Mr. Lynch

Vote: Motion failed (**Summary:** Yes = 3, No = 4, Abstain = 1)

Yes: Ms. Weissler, Mr. Lynch, Mr. Cervantes **No:** Mr. Martzke, Ms. Edie, Ms. Miller, and Mr. Watkins

Abstain: Mr. Brauchla

Item 2

PUBLIC HEARING

Docket SU-14-02 (Workman): A request for a Special Use authorization to establish and operate a special event venue in the Kings Ranch subdivision. The proposal is to use the 10,937-square foot existing home on the property for special events. This land use is deemed an indoor/outdoor recreation use, allowed by Special Use in the Rural Districts. The subject parcel (104-24-415) is located at 6121 E. Oak Loop in Palominas. The Applicant is R.L. Workman of Workman Homes.

Chair Weissler called for the Planning Director's report. Planner II Keith Dennis presented the Docket, explaining the background of the request utilizing photos, maps, and other visual aids. He explained access issues and solutions. He explained the Modifications requested by the Applicants, and explained Staff's assessment of the requests and the support and opposition from neighbors. Mr. Dennis also explained Staff's analysis of the Special Use factors. He explained offsite impacts and potential mitigation measures that may be applied. He closed by listing factors in favor of and against approval and invited questions from the Commission. Mr. Martzke asked if any of the immediately adjacent lots were developed. Mr. Dennis explained that they were not, and stated that the closest structures were the RL Workman headquarters structures, but noted that it was surrounded by a platted residential subdivision. Mr. Brauchla asked for clarification on the property being designated commercial. Mr. Dennis clarified that while the site was started as a single-family residence, the final plat for the subdivision noted that the site was designated for commercial use under a Special Use. Mr. Cervantes asked about the exterior lighting setup. Mr. Dennis stated that while there were a number of types of lights proposed, no pole-mounted lights were proposed.

Ms. Weissler invited the Applicant to make a statement. Michael Cerepanya of Hereford spoke on behalf of the Applicant. Mr. Cerepanya explained the background of the structure and how the current owner and Applicant had taken possession of it. He demonstrated where the site was in relation to existing homes outside the subdivision as well as other structures. He stated that the Applicant felt that the wall being requested by Staff would be detrimental to the site and would be unattractive. Mr. Cerepanya noted that the Applicant owned the vacant residential lots adjacent to the site, and stated that the Applicant had considered the same impacts being discussed and felt that they could be effectively mitigated. He noted that sounds seemed to be a major concern, and proposed using vegetative screening and wrought iron in lieu of a solid wall. He also explained how the Applicant planned to reduce the impacts generated by the parking area. Mr. Cerepanya again reiterated the desire not to build a solid wall, and stated that the Applicant felt that the venue would drive sales in the subdivision and the surrounding area, as well as provide additional economic benefits. He stated that the Applicant felt that the wall would detract from the area rather than compliment it. He further stated that an individual interested in purchasing an adjacent lot was aware of the request and was not concerned about the impacts from the facility. He closed by explaining a previous owner's intentions regarding recreational facilities and how this use would be a lower impact. He then invited questions from the Commission. Mr. Cervantes asked about the location of the proposed area for music, and asked if it would be live bands or disc jockeys. Mr. Cerepanya explained that users would be

contractually limited to a particular area for music, but the type of music was up to users. Mr. Cervantes asked if other events would be permitted.

Mr. Cerepanya explained that the facility would not be restricted to weddings. Mr. Watkins asked if only vegetation was being used to direct foot traffic or if wrought iron would be used as well. Mr. Cerepanya stated that vegetation alone would be used. Mr. Cervantes asked again about the sound, noting a personal experience in the area regarding noise issues. Mr. Cerepanya again stated that a smaller enclosed area than requested by Staff would be more effective in sound mitigation. Mr. Cervantes asked if there was an alternative plan if the proposed wall did not effectively perform. Mr. Cerepanya answered that there was not and stated that they would consider placing additional restrictions on users after several events had occurred and been reviewed and placed responsibility to do so on the owner. He stated that it was “hard to anticipate” and that they were “hoping that most of the stuff is limited to daylight” and also stated that a curfew of 10:00 pm would be in place. Mr. Cerepanya suggested they would consider putting something in place to stop music before that time if it became a problem. He stated that it would be “lessons learned as we go”. Mr. Lynch asked if the facility would do catering at the location. Mr. Cerepanya explained that Pizzeria Mimosa would provide the catering so that the Applicant could control it. Mr. Lynch asked if the Applicant would be getting a liquor license. Mr. Cerepanya stated that he thought that would probably come through Mimosa and that special event licenses may be required. Mr. Lynch expressed concern for loud music and alcohol and noted that the facility could not limit who used the facility. Ms. Edie asked if the adjacent lots had been sold, and when Mr. Cerepanya answered that they had not, she asked if this project would not be detrimental to selling those lots. Mr. Cerepanya stated that the Applicant had considered that and felt that the venue would not be an obstacle to selling the lots. He also noted that there was full disclosure to any potential buyers within the subdivision.

Ms. Weissler opened the Public Hearing. She opened with calling for speakers in favor of the docket. There being none, she asked for speakers in opposition. Ms. Kori Henderson of Hereford spoke, noting that she lived in the closest residence to the proposed project, just outside the subdivision. She noted that there was no existing screening between the site and existing residential lots. She explained the relationship with previous owners of the site and stated that the current owner was not similarly accommodating and communicative. She stated that in past years noise and light pollution have increased, and stated that sounds carry very far in the area. Ms. Henderson stated that the proposed music location pointed directly at her home, and noted that the vegetation shown in photos was no longer present. She expressed concern about noise and lights, and stated that she felt that the wall requested by Staff would be insufficient to mitigate the noise. She noted that disclosure was occurring within the subdivision, but nothing was being done regarding lots outside the subdivision. Ms. Henderson further stated that the notification letter from the Applicant stated the use would be indoors, but when pressed, the Applicant admitted that activity would occur outside as well. She also stated that the Applicant’s answers to her questions were “vague and inconsistent”, and emphasized that the area was residential, and that the time when events would be scheduled was exactly when residents would be looking for peace and quiet. She closed by stating that she could not see how the proposal would directly benefit the local residents, nor how any of the impacts would be mitigated. Ms. Weissler asked Ms. Henderson how much noise she heard from the adjacent canyons. Ms. Henderson stated that she heard a great deal of noise from the canyons due to echoes. There

being no one else wishing to speak, Ms. Weissler invited the Applicant to rebut the speakers in opposition.

Mr. Cerepanya stated, "None of us know what the sound will be like" and stated that the Applicant felt that the impact to the area would be very positive. He stated that notification was sent out per County regulations, and asked the opposition to contact the Applicant directly. Ms. Henderson stated that the Applicant's letters requested neighbors to email with questions, but no email address was given. She had then tracked down a phone number, but had never been able to speak with the Applicant directly, but had always communicated through third parties. Mr. Cerepanya agreed that it was difficult to reach the Applicant directly. Ms. Weissler admonished both individuals that a back and forth discussion was not permitted. Mr. Cerepanya then closed by disputing the age of the pictures presented. Ms. Weissler asked if other disclosure was done on the subdivision lots regarding noise in the area. Mr. Cerepanya stated that they did not, and stated that buyers generally look around to try to get a feel for the area. He stated that the subdivision Home Owners' Association could mitigate any problems in the future.

Ms. Weissler closed the Public Hearing and asked for discussion from the Commission.

Mr. Cervantes talked about such facilities in Scottsdale, but noted that all music was contained inside and expressed concern about how sound travelled in the area. Mr. Lynch suggested that a local rock band be contracted to play on the site to test what the sound would actually be like. Mr. Watkins concurred with Mr. Cerepanya's concerns regarding the appearance of the wall, and expressed approval of the concept of a sunken patio. He also concurred with Mr. Cervantes regarding how the sound travelled. Ms. Weissler noted that she lived in the area, and had moved there for the peace and quiet, but it was rarely actually peaceful or quiet. Ms. Edie expressed concern regarding all of the cars in the parking lot leaving at once and creating light and sound problems.

Ms. Weissler then called for the Planning Director's summary and recommendation. Mr. Dennis recommended Conditional Approval and explained the Conditions and Modifications recommended by Staff. Ms. Weissler called for a motion. Mr. Cervantes made a motion for Approval of the Special Use with Conditions and Modifications given by Staff. Mr. Martzke seconded the motion and Ms. Weissler asked for discussion. Mr. Lynch stated that he would vote against the use as he felt it was inappropriate and was too open ended to adequately mitigate impacts to surrounding properties. Ms. Weissler asked Mr. Dennis for the regulations pertaining to screening. Mr. Dennis explained that the regulations required a six-foot high solid screen. Mr. Brauchla asked if that was three sides, and Mr. Dennis replied it was all four. Ms. Wilson clarified that a solid wall was recommended to block noise, as vegetation does not block noise. Ms. Weissler asked if music could be contained. Ms. Wilson stated that the Commission could impose such a Condition. Ms. Miller agreed with Mr. Cervantes' comment regarding similar venues, and suggested a Condition to move the music indoors. She also agreed that the wall may not be appropriate. She suggested that a more detailed mitigation plan regarding lights and noise might be helpful. Mr. Cervantes withdrew his motion, and Ms. Miller moved to table the docket until the next regularly scheduled meeting.

Mr. Brauchla seconded, and Mr. Lynch noted that his vote might be influenced by experimental data regarding sound. Ms. Weissler called for a vote. The motion passed 8-0.

Motion: Motioned to grant the Special Use with the Conditions and Modifications as recommended by Staff.

Action: Approve with Conditions and Modifications **Moved by:** Mr. Cervantes **Seconded by:** Mr. Martzke

Vote: None – Motion Withdrawn by Mr. Cervantes **Yes:** N/A **No:** N/A

Abstain: N/A

Motion: Motioned to Table the Docket until the next regularly scheduled meeting.

Action: Table to Time Certain **Moved by:** Ms. Miller **Seconded by:** Mr. Brauchla

Vote: Motion passed (**Summary:** Yes = 8, No = 0, Abstain = 0)

Yes: Ms. Weissler Mr. Lynch, Mr. Cervantes, Mr. Martzke, Ms. Edie, Ms. Miller, Mr. Watkins, and Mr. Brauchla **No:** 0

Abstain: 0

Item 4

PLANNING DIRECTOR'S REPORT:

Planning Director Beverly Wilson offered the Director's Report, informing the Commission that there would be two additional Special Use Dockets for the March meeting. She also stated that there would be a Tentative Plat extension request. She also updated the Commission on the pending water conservation regulations. Ms. Wilson also introduced the new Building Official, Mike Izzo. Ms. Weissler asked if anything would be upcoming regarding light pollution. Ms. Wilson stated that work was in progress, but the Code would not be going to the Commission for review, as it was not a zoning matter.

CALL TO COMMISSIONERS ON RECENT MATTERS:

Ms. Weissler again welcomed Mr. Watkins.

ADJOURNMENT – Chair Weissler called for a motion to adjourn: Mr. Martzke moved, Mr. Lynch seconded and the meeting was adjourned at 5:17 p.m.