

COCHISE COUNTY PLANNING & ZONING COMMISSION
DRAFT MINUTES
Wednesday, December 11, 2013
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 one Special Use Docket, and one Work Session regarding a Regulation Amendment 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 called the roll, asking the Commissioners to introduce themselves and indicate the respective District they represent; seven Commissioners (Tim Cervantes, Jim Lynch, Gary Brauchla, Liza Weissler, Pat Edie, Jim Martzke, and Carmen Miller) indicated their presence. Staff members present included Beverly Wilson, Planning Director; Adam Ambrose, Chief Civil Deputy County Attorney Keith Dennis, Planner II; and Peter Gardner, Planner I.

APPROVAL OF THE MINUTES

Motion: Approve the minutes of the November 11, 2013 with the addition of a statement from Mr. Douglas Behnke.

Action: Approve **Moved by:** Mr. Martzke, **Seconded by:** Mr. Lynch

Vote: Motion passed (**Summary:** Yes = 6, No = 0, Abstain = 1)

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

Abstain: Ms. Miller

CALL TO THE PUBLIC

Ms. Weissler opened the "Call to the Public."

Mr. Jack Cook of Bisbee spoke about various matters.

Mr. Robert Weissler of Hereford spoke. Chair Weissler stated for the record that Mr. Weissler was her husband. Mr. Weissler identified himself as the paid executive director of the Friends of the San Pedro River. He spoke in regards to the proposed water conservation regulations, stating that the Commission could create hardship exemptions. He spoke in favor of having similar regulations throughout the area. He explained the legislation that created the San Pedro Riparian

Natural Conservation Area, and explained that the legislation would preclude removing the cottonwood trees from the area as had been suggested at previous meetings. Mr. Weissler further explained the decline of wetlands in the southwest and explained the nature of changes in the river and its course and character. He closed by speaking in defense of the riparian area as opposed to simply the flow of water in a channel.

Mr. Theodore Morris of Hereford spoke, identifying himself as a member of the Environmental Affairs Commission for the City of Sierra Vista. He spoke regarding the City's adopted water conservation measures, explaining the background and intent of the regulations as they pertained to Fort Huachuca. He concurred with Mr. Weissler's statements regarding the riparian area and claimed that water conservation was critical to the future of the Fort. He stated that it made sense for county enclaves within City limits and county areas surrounding the City to have similar water conservation measures.

There being no one else wishing to speak, Ms. Weissler closed the "Call to the Public."

NEW BUSINESS

Item 1

PUBLIC HEARING -- Docket SU-13-19 (Barrett): A request for a Special Use to establish an equine-assisted learning facility in a SR-43 Zoning District located at 1566 N. Schiefflin Drive in unincorporated Tombstone. The Applicants are Lilla De Luca-Barrett and Kenn Barrett. Chair Weissler called for the Planning Director's report. Planner 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 also discussed concerns regarding restroom facilities, but noted that a full waiver would be outside the purview of the Commission. Mr. Dennis explained the modifications requested by the Applicants, and explained Staff's assessment of the requests and the support and opposition from neighbors. He also explained Staff's analysis of the Special Use factors. He closed by listing factors in favor of and against approval and invited questions from the Commission.

Mr. Martzke asked if there was anything in the zoning regulations that prohibited horses in this area. Mr. Dennis explained that there is no such prohibition. Mr. Lynch asked for clarification regarding the condition relating to ADA bathroom facilities.

Ms. Weissler invited the Applicants to make a statement. Mr. Kenn Barrett and Mrs. Lilla DeLuca-Barrett spoke. They explained the details of equine assisted therapy and the proposed use. They explained their request for the portable restroom facility as opposed to a permanent structure. Mr. Ambrose interjected with advice to the Commission regarding the restroom issue. He expressed sympathy to the Applicants' request, but noted that the requested waiver was not within the jurisdiction or powers of the Commission to grant. He further explained the legal basis for the requirement. He closed by noting that Staff's condition was exercising the maximum discretion permitted by law. Mrs. DeLuca-Barrett requested that they be permitted to use an existing restroom rather than construct a new structure near the area to be used for the therapy sessions.

Ms. Weissler opened the Public Hearing. There being no one wishing to speak, Ms. Weissler closed the Public Hearing and asked for discussion from the Commission. Mr. Martzke asked if a restroom in the home could be used to satisfy the requirement. Mr. Ambrose stated that it would, and expressed hope that another solution could be worked out within the time allotted. Mr. Lynch asked Mr. Ambrose about changes to ADA law. Mr. Ambrose clarified that he intended the changes to be to the site rather than to the law. Ms. Weissler asked if the condition would be enforced by the Commission or by Staff. Mr. Dennis stated that it would be handled administratively by Staff.

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. Martzke made a motion for Approval of the Special Use with Conditions and Modifications given by Staff. Mr. Lynch seconded the motion and Ms. Weissler asked for discussion. There being no discussion, Ms. Weissler called for a vote. The motion passed 7-0.

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. Martzke **Seconded by:** Mr. Lynch

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

Yes: Mr. Lynch, Mr. Cervantes, Mr. Martzke, , Ms. Weissler, Ms. Edie, Mr. Martzke, and Ms. Miller.

No: 0

Abstain: 0

Item 3

NOT A PUBLIC HEARING – WORK SESSION: Discussion and direction on a resolution that proposes revisions to Section 1820.02 of the Cochise County Zoning Regulations (Water Conservation Measures – Sierra Vista Sub-watershed Overlay Zone). The proposed revisions are intended to reflect more recent water conservation technologies for and methods of water conservation for uses within the Sierra Vista Sub-watershed.

Chair Weissler explained the procedures for the work session, noting that members of the public would have the opportunity to speak, and stating that she would not be setting time limits on speakers as long as speakers stayed focused and did not abuse the right to speak.

Ms. Weissler opened the session by addressing changes that had been proposed at the November 2013 meeting, or in writing in the interim. Ms. Jere Fredenburgh of Sierra Vista spoke against any change to the regulations, and cited a study that claimed County residents used less water than City residents did. She also stated that she believed that “Pat Call has stated there is no water shortage.” She questioned the need for regulations when all new devices available met the regulations. Ms. Fredenburgh also suggested thinning the cottonwoods along the river but not removing them all, as well as thinning mesquite and eradicating desert broom. She called on “moderating” the use of rain barrels claiming that their use prevented water from reaching the river. She also suggesting requiring golf courses to “go dry”. She again urged rejection of the

regulations as a whole. Failing that, she requested that all regulations for existing homes be rejected and evaporative coolers continue to be permitted to be replaced. She spoke against “requiring air conditioning on solar homes”, and expressed concern about historic buildings that required new plumbing and invited questions from the Commission. Ms. Weissler clarified Ms. Fredenburgh’s suggestion regarding evaporative coolers. Ms. Fredenburgh expressed concern that existing homes could not replace existing evaporative coolers. She expressed confusion regarding the written regulations pertaining to “new construction”. Mr. Dennis offered clarification that “new construction” was not limited to construction of a new home, but included work done on existing homes. Ms. Fredenburgh stated that she felt the regulations pertaining to existing homes were unenforceable. After further discussion to define new versus remodels, Mr. Lynch offered a change in organization. Ms. Wilson explained that “new construction” includes remodeling on existing structures. Mr. Lynch suggested changing the heading to include language clarifying that it included remodeling work that requires a building permit. Ms. Wilson clarified when building permits are not required, noting the existing \$1,000 threshold. Ms. Weissler suggested adding a note to that effect to the section. Mr. Lynch expressed concern that changes would be difficult to track. Ms. Wilson explained that the number was located within the zoning regulations. Mr. Martzke asked for further clarification regarding permit thresholds, which was provided by Staff. Mr. Martzke also expressed concern about work done on older homes. Ms. Wilson explained existing exemptions that covered the concerns that Mr. Martzke had raised. Mr. Ambrose also noted that the dollar limit was statutory. Ms. Fredenburgh noted that some residents prefer evaporative coolers to air conditioners. She stated that she had attended the Building Code Advisory and Appeals Board meeting and noted that “commercial sprinkler systems” were required for homes over 3,600 square feet. She claimed that such a system raised home insurance costs due to the risk of leakage being high. She claimed that the requirement for air conditioning would add unacceptable cost to home building. Ms. Wilson explained that the BCAAB was recommending relieving the existing Building Code requirement relevant to the sprinkler systems. There was discussion regarding possible language addressing efficiency standards, but nothing specific was proposed. Ms. Fredenburgh stated that a solar powered home would use more electricity to run air conditioning than evaporative cooling. Ms. Edie inquired about single pass evaporative coolers. Ms. Wilson explained what they were and what the alternatives are. A discussion of alternatives to evaporative coolers was discussed. Ms. Fredenburgh claimed that solar homes could not support air conditioning. She also claimed that the EPA was “about to limit or close down the Apache Power Plant that supplies all the electricity to Cochise County” and that we’d have to buy electricity somewhere else. Ms. Weissler asked for clarification of Ms. Fredenburgh’s comments on solar and air conditioning. Ms. Fredenburgh again stated that “solar electric does not create enough power to run air conditioning”. Ms. Weissler and Ms. Wilson both disputed the assertion, stating that their systems do so. Mr. Lynch pointed out that solar can power a city, and can therefore power an air conditioner. Ms. Fredenburgh asked if the homes ran entirely off of solar or a combination. Ms. Weissler explained that her home was purely solar during the day when the air conditioner was in use. She stated that the size of the system and battery packs would permit the home to run air conditioning. Mr. Cervantes commented that evaporative coolers use 100-400 gallons of water a day in the local climate. Mr. Lynch asked counsel for clarification as to how consensus may be determined at a work session without voting. Mr. Ambrose suggested procedures for the next meeting to vote on individual changes. Mr. Cervantes and Ms. Weissler stated they felt the requirement for evaporative coolers to not be the only method of cooling for new construction

should remain, but were unsure about keeping the requirement on existing construction. Mr. Mike Jackson of McNeal questioned the enforceability of the requirement, stating that nothing would force a homeowner to use the air conditioner. Mr. Cervantes asked about the requirement for cooling. Ms. Wilson stated that heating and cooling was required in each room in a new home per the Building Code. Mr. Cervantes and Mr. Jackson discussed the intent and potential loopholes. Ms. Wilson stated that she was incorrect, and that the Building Code did not have any requirements for cooling; only heating. Ms. Tricia Gerrodette of Sierra Vista, president of the Huachuca Audubon Society spoke in favor of separating remodel from new construction. She stated that the intent was to cover new construction and that if minimizing water use was the goal then maximum efficiency should be required. Mr. Lynch noted that cooling was the most contentious item before the Commission and recommended splitting cooling from the rest of the regulations to make more progress. Ms. Fredenburgh again asked about replacement being covered in the section regarding new construction. Mr. Martzke asked what power the Board of Adjustment would have over the regulations. He stated that he received numerous complaints from neighbors regarding items approved by the Board of Adjustments. He also asked how the proposed regulations applied to manufactured homes, and if they did not apply, “why should they apply to stick built homes?” He suggested that manufactured homes should meet the same standards, and asked if “we can get the manufactured home association to do that” and suggested that the answer was no. Mr. Douglas Behnke of Sierra Vista stated that the state constitution required the Commission to protect individual rights, and that these regulations would take away rights and stated that he wished the regulations should be recommendations rather than “shall statements.” Mr. Lynch asked Mr. Behnke if he felt that this should “be the case for red lights at traffic intersections?” Mr. Behnke responded “yes I do”. Mr. Lynch asked if Mr. Behnke meant that it would be his “option to go through the red light?” Mr. Behnke responded that he felt there should be “a vote on where that red light is put. If you want to put a light at every intersection like the city council is trying to do, that’s ridiculous.” Mr. Cervantes returned the discussion to evaporative coolers. Ms. Weissler stated that she felt removing the line about “or replacement” had consensus. Mr. Cervantes asked for clarification regarding replacement with a permit. Ms. Weissler recommended removing remodels completely. Ms. Fredenburgh expressed concern about hot water circulation pump switch locations. Mr. Cervantes suggested setting a standard for performance rather than specifying particular systems to achieve the performance. He suggested that there were less expensive and simpler ways to achieve the desired result in new homes. Ms. Weissler noted that Cado Daily’s written suggestions concurred with Mr. Cervantes’ suggestion. Mr. Brauchla stated that he felt despite being an engineer and contractor, he was not qualified to address the design of water conservation systems. He stated that Sierra Vista had done a great deal of work to create their program. He wondered if the requirements were driven by Building Code. Mr. Dennis asked for clarification of Watersense standards from those more familiar with them. Mr. Cervantes explained the difference between the standard being applied to the individual fixtures and the design of the home on how the water was delivered to the fixtures. He stated that many people enjoyed the convenience of the instant hot water more than they referenced the water savings. There was further discussion regarding the Watersense standards and County Code and how they interacted in the end design. Ms. Weissler relayed a question from Cado Daily about why only hot water fixtures required a Watersense label as opposed to all water fixtures. Mr. Cervantes explained that the requirement was in a section regarding hot water and not wasting water waiting for hot water. Ms. Weissler moved onto commercial requirements. She noted that Cado Dailey and Joanne Daley expressed concern

about the requirement for waterless urinals at the previous meeting, stating that such urinals were troublesome if not properly maintained, and alternative such as custodial flushing urinals were discussed. Mr. Lynch asked why, if the regulations required efficient dishwashers in commercial construction, why they were not required in residential construction. The Commission discussed the availability of non-qualified units, and how the efficiency standards were figured. Ms. Fredenburgh again asked about the point of having such a requirement if the efficient units were “virtually all you could buy.” Mr. Cervantes posed a scenario of an individual building from out of the area and possibly being unaware of the efficiency standards. Ms. Fredenburgh reiterated her question, and Mr. Cervantes explained that it was possible to buy non-rated units. Ms. Fredenburgh again stated that most of them are rated as such so she felt the requirement was not necessary and stated she felt it should be a suggestion and homebuilder should have the option of buying the non-efficient models. Ms. Weissler asked Ms. Wilson for clarification regarding the requirement for residential units and why Sierra Vista had not added such a requirement. Ms. Wilson explained that the City Staff had stated it was an oversight, and recommended that the County add the requirement. Mr. Cervantes and Mr. Lynch asked about homeowners bringing existing appliances to a new home versus a homebuilder installing new units and how the rules would apply. Mr. Martzke disputed that Energy Star had any water component. Mr. Cervantes verified that this was correct. Mr. Martzke expressed concern that the regulations were unnecessary. The Commission addressed Cado Daily’s comment about widening the commercial ban on misters by removing the language referring to “air cooling misters”. Mr. Cervantes returned to Energy Star dishwashers after discovering that water conservation was one of the factors in the rating. Mr. Jackson asked about the efficiency of air cooling misters versus air conditioning. Ms. Weissler explained that the misters were used for outdoor cooling rather than indoor cooling such as an air conditioner would. There was further discussion regarding how to handle new construction versus remodel under the proposed regulations. Ms. Fredenburgh asked what the dollar threshold for a commercial permit was. Mr. Gardner explained that there was no minimum threshold for commercial; any such work requires a permit. Mr. Ambrose presented a suggestion on procedure to vote on an amended document by voting on each amendment individually. Mr. Cervantes commented that hardship exemptions may be requested, but felt that if someone was building a new home, a hardship would be unlikely. Mr. Lynch commented that the City of Bisbee was currently considering the same changes. There being no further discussion, Ms. Weissler closed the work session.

PLANNING DIRECTOR'S REPORT

Ms. Weissler then called for the Planning Director’s report.

Director Beverly Wilson informed the Commission that the next meeting would have one Special Use for a halfway house near Kansas Settlement and the water regulations.

CALL TO COMMISSIONERS

Ms. Weissler asked for further discussion. There being none, Ms. Weissler called for a motion to adjourn.

ADJOURNMENT: Mr. Lynch moved to adjourn, Mr. Brauchla seconded and the meeting was adjourned at 6:20 p.m.