



COCHISE COUNTY PLANNING & ZONING COMMISSION MINUTES January 11, 2012

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

ROLLCALL

Chair Lynch noted the presence of a quorum. He instructed the Commissioners to identify themselves and their respective Districts.

1. **Present:** Mr. Mr. Martzke, Mr. Chair Lynch, Mr. Mr. Bemis, Ms. Ms. Edie, Mr. Montaña
2. **Absent/Excused:** Mr. Dan Abrams, Mr. Gary Brauchla

APPROVAL OF PREVIOUS MONTH'S MINUTES

Mr. Martzke moved to approve the minutes as written. Mr. Bemis seconded the motion and it passed unanimously. Mr. Martzke, Chair Lynch, Mr. Bemis and Ms. Edie voted to approve the minutes. Mr. Montaña abstained.

Motion: Approve the minutes of the December 14, 2011 meeting.

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

Vote: Motion passed (**Summary:** Yes = 4, No = 0, Abstain = 1)

Yes: Mr. Martzke, Chair, Mr. Bemis, Ms. Edie

No: 0

Abstain: Mr. Montaña

CALL TO THE PUBLIC

Chair Lynch opened the "Call to the Public"

Jack Cooke spoke about various matters.

Chair Lynch closed the "Call to the Public"

NEW BUSINESS

Election of Chairman and Vice-Chairman for 2012

Chair Lynch began the annual election for Officers by opening nominations for Chair.

Mr. Bemis nominated Chair Lynch for Chair, Ms. Edie seconded the nomination. There being no other nominations, Mr. Martzke moved to close the nominations. Mr. Bemis seconded. The vote was called and was unanimous. Mr. Martzke, Chair Lynch, Mr. Bemis, Ms. Edie, and Mr. Montaña voted to approve closing the 2012 nominations for Chair.

Motion: Motioned to close the 2012 nominations for Chair of the Planning & Zoning Commission.

Action: Approve **Moved by:** Mr. Bemis, **Seconded by:** Ms. Edie

Vote: Motion passed unanimously (**Summary:** Yes = 5, No = 0, Abstain = 0)

Yes: Mr. Martzke, Chair Lynch, Mr. Bemis, Ms. Edie, Mr. Montaña

No: 0

Abstain: 0

Nominations were opened for Vice Chair. Mr. Bemis nominated Mr. Martzke for Vice Chair, Chair Lynch seconded the nomination. There being no other nominations, Ms. Edie moved to close the nominations. Mr. Montaña seconded. The vote was called and was unanimous. Mr. Martzke, Chair Lynch, Mr. Bemis, Ms. Edie, and Mr. Montaña voted to close the 2012 nominations for Vice Chair.

Motion: Motion to close the 2012 nominations for Vice Chair of the Planning & Zoning Commission.

Action: Approve **Moved by:** Ms. Edie, **Seconded by:** Mr. Montaña

Vote: Motion passed unanimously (**Summary:** Yes = 5, No = 0, Abstain = 0)

Yes: Mr. Martzke, Chair Lynch, Mr. Bemis, Ms. Edie, Mr. Montaña

No: 0

Abstain: 0

Chair Lynch proposed to vote on the nominated slate since there are only two nominees, one for each position. Chair Lynch made the motion to approve the slate as nominated. The vote was called and was unanimous.

Motion: Approve the slate as nominated, Mr. Lynch as Chair and Mr. Martzke as Vice Chair.

Action: Approve **Moved by:** Chair Lynch

Vote: Motion passed unanimously (**Summary:** Yes = 5, No = 0, Abstain = 0)

Yes: Mr. Martzke, Chair Lynch, Mr. Bemis, Ms. Edie, Mr. Montaña

No: 0

Abstain: 0

Chair Lynch closed the 2012 Planning and Zoning elections.

PUBLIC HEARING, DOCKET SU-11-15 (Turquoise Valley): Senior Planner Keith Dennis presented this request for a special use permit to legitimize an existing utility pole with attached WI-FI equipment to facilitate wireless internet service for the Turquoise Valley Golf Course and RV Park. He explained that the pole was installed without a permit, which created a zoning violation that the Applicant wants to correct with this request. Mr. Dennis showed the Commission pictures of the pole and its location. He then presented modifications needed for this wireless communications tower to meet minimum site development standards. They included a waiver from the required minimum setback, which is equal to the height of the tower; the Applicant requested a zero-foot setback. Mr. Dennis stated the light on the pole is only used for special circumstances such as special night events and for maintenance purposes. The Applicant also requested a waiver of the screening requirement. Mr. Dennis indicated that Staff supports all requested modifications. Mr. Dennis presented the factors in favor of approval including conformity to the Naco Community Plan and the General Business District purpose statements. Mr. Dennis noted that the request complies with six of the

Special Use factors, with the conditions and modifications as recommended by Staff. Mr. Dennis cited as the second factor in favor of approval the Turquoise Valley Golf Course's position as a pillar of the economy for the area, and that the wireless communications tower will add value to the business and customers. He stated that the single factor against approval is that the tower was constructed without a permit and is in violation of the Zoning Regulations. Mr. Dennis completed his presentation and asked if the Commission had any questions.

Mr. Bemis asked if the pole fell would there be damage to any of the buildings in the vicinity. Mr. Dennis said it would not damage any buildings, but possibly a car. He also stated that the old San Pedro Railroad right-of-way was on the south side of this tower and it was wider than 65'.

Chair Lynch asked when the pole was placed. Mr. Dennis stated that it was installed in the fall of 2011,

Chair Lynch asked the Applicant to speak.

Mr. Milt Jensen from TransWorld Network Corporation spoke on behalf of Turquoise Valley Golf Course. He stated that he had researched the project before installing it, and they did not find any requirements for the pole.

Chair Lynch opened the meeting to the public. There being no one who wished to speak, he closed the public hearing.

Chair Lynch opened this item for Commission discussion. There being no comments, he closed the discussion.

Chair Lynch asked for Staff's recommendation. Mr. Dennis recommended conditional approval, and stated that all conditions are standard conditions that apply to all Special Uses. He also reminded the Commission of the requested modifications.

Mr. Martzke motioned to approve the docket with the conditions indicated by Staff. Ms. Edie seconded the motion. The motion passed unanimously.

Motion: Approve with conditions

Action: Approve **Moved by:** Mr. Martzke **Seconded by:** Ms. Edie

Vote: Motion passed unanimously (**Summary:** Yes = 5, No = 0, Abstain = 0)

Yes: 5

No: 0

Abstain: 0

PUBLIC HEARING, DOCKET Z-11-02 (Zerkle): As the Applicant was not present in the audience, Staff recommended the docket be postponed to a later position on the agenda. Chair Lynch agreed.

PUBLIC HEARING, DOCKET SU-11-13 (Rainbow Solar Energy): Interim Planning Manager Beverly Wilson informed the Commission that the Applicant (Josh Fields of Rainbow Solar Energy, LLC) was on the telephone from Santa Monica, California, and confirmed that he could be heard by all present. She then presented this Application for a Special Use Permit to construct a solar power plant west of Douglas, just northeast of the Cochise College Campus. She stated the Applicant has an option to purchase a 320.79 acre portion of a larger parcel, for this use. The Applicant plans to improve the access road from North Central Highway to the site with gravel, as required by the Zoning Regulations. Ms. Wilson showed a simplified version of how the photovoltaic solar system will function. She said there were two letters of support received for the Special Use, Rainbows End Ranch and Cochise Community College. One letter of protest was received from the only adjoining neighbor, Ms. Carol Riggs. Ms. Wilson stated the Applicant did communicate with the opposing neighbor, and has offered another 50' setback adjacent to her property line.

Ms. Wilson said that Staff was recommending site development standards modifications which included waiving the required maximum site coverage of 25%, as the majority of the site will be covered with solar panels; waiving the requirement for defined parking and a definable driveway entry and exit because the Applicant stated they will apply gravel to all surfaces. Ms. Wilson presented seven factors in favor of approving this Special Use Permit. Ms. Wilson stated that the two factors against approval included the lack of Interconnect or Power Purchase Agreements at this time, and that one letter of protest was received at the time the Staff memo was distributed. She completed her presentation and asked if there were any questions.

Chair Lynch asked about the second letter of protest given to the Commission. Ms. Wilson stated it had been delivered just prior to the meeting.

Mr. Bemis asked about the hookup with APS, and why the Applicant applied for Special Use authorization in advance of the permit issuance from the State. Ms. Wilson deferred the question to the Applicant.

Chair Lynch asked for the Applicant's statement.

Mr. Josh Fields, representing Rainbow Solar Energy via telephone, introduced Mr. David Bohn from Kinetix and presented an overview of the parent company, SolarReserve, and the nature of the Special Use request. Mr. Fields stated this project is viable, and cost effective. He said Interconnect and Power Purchase agreements with Arizona Public Service (APS) will be signed later this year after completing the final study. David Bohn of Kinetix then gave a presentation on this specific project. He explained the positive benefits of the solar project include reduced fossil fuel use and emissions; little water usage; and the project will create jobs and generate tax revenue. Mr. Bohn also stated that it would not visually impair the skyline or impact the view of the night sky.

Chair Lynch then opened the meeting to the Public, and asked for comment in favor of this Special Use Project.

Ms. Smith stated from the audience she supported the project.

Mr. Kevin Butler, Vice President of Administration of Cochise College, spoke on behalf of the project. Mr. Butler stated Cochise College believes the project will benefit the College's future curriculum and training curriculum to place individuals in these types of jobs. He said there were concerns for the pilot training program as the solar project location is diagonal from the airport runway. He asked the developers to work with the College in resolving these issues. Mr. Butler stated Aviation and PV can exist together. He said after discussing it with the instructors and directors that the College is confident the facility can be developed without creating safety concerns for the College and the flight program.

Chair Lynch then opened the meeting for public comment against the project.

Ms. Madeline Carol Riggs, the neighbor adjacent to the east side of the project spoke against the project. Ms. Riggs asked Mr. Fields if there will be any Federal funding or tax credits. Mr. Fields commented yes. She asked him if there will be a NEPA report on the environmental study. Mr. Fields commented it will not be done since it is not needed. Ms. Riggs commented she believed it is required and asked if Mr. Fields would keep her on the mailing list for this report. Ms. Riggs stated her water flow will be affected by what has been proposed and it will also flood the other neighbor. Ms. Riggs asked Staff about other solar plants. Staff responded no other permits have been issued. Ms. Riggs stated the County Assessor told her that her property value would be diminished eventually after this power plant was built. Ms. Riggs said the land is also not flat from her viewpoint and the wildlife in this area may be affected.

Mr. Noble spoke against this Special Use docket. He presented large diagrams which he used to demonstrate that the water flow will be altered by the drainage and grading plan, as provided. He asserted that the detention basin will not be sufficient to contain the water and it will subsequently flood his property.

Chair Lynch offered Mr. Bohn the opportunity to rebut. Mr. Bohn addressed Ms. Riggs and Mr. Nobles' concern about water flow. He stated that the intent of the design is to retain all drainage generated from the new construction on site will be retained on site while historical flow will continue. He stated the increase of runoff from the panels will be contained on site; the intent of the design is the difference in volume from the water generated from the site will be retained on site, and the rest will continue with historical drainage patterns. Mr. Bohn addressed Ms. Riggs' concern with the location of the new solar plant to her property and discussed adjusting the site plan so she can have more space. Mr. Bohn stated that when dealing with endangered species, the protocol and surveys required by the State to meet the environmental standards will be met.

Chair Lynch asked Mr. Bohn if the 320 acres will be graded. Mr. Bohn said there is no intent to grade the entire site. Chair Lynch asked Mr. Bohn about the drainage plan. Mr. Bohn said pre-analysis was done on existing conditions and flow. Then post-analysis was done to determine the volume of storm water historically generated from a solar farm, the difference from post construction minus the volume of preconstruction, is the volume of stormwater for which adequate detention must be provided.

Chair Lynch asked Staff about the drainage concerns raised. Carlos De La Torre, Director of Community Development, stated that the docket is a land use issue but in terms of flood control, the requirements condition the Applicant to meter the water, and retention and discharge must be based on historical flow by State statute. He stated the review of the Applicant's plan for drainage and hydrology is done during the commercial permitting processing.

Mr. Martzke questioned the Applicant on relocation of the water with drainpipes on each solar panel to relocate it somewhere else on the site.

Mr. Bohn responded that would be a question for the panel designers.

Mr. Bemis asked the Applicant if the road shown on the design was berms. Mr. Bohn answered no. Mr. Bohn stated the design was a schematic, the analysis hasn't been completed. However, accommodations for Ms. Riggs can be made for the historical flow onto her property. Mr. Bohn reiterated they will maintain the historical flow.

Chair Lynch closed the public hearing and asked for the Director's recommendations.

Ms. Wilson then presented Staff's recommendation for conditional approval. The first condition of approval is the standard condition for a Special Use, with the exception that the Applicant is allowed to apply for a building use permit within one year of approval; typically a shorter time is required. This will allow the Applicant adequate time to complete the application process with Arizona Public Service. The second condition is that the joint permit application must include a revised site plan conforming to all site development standards. The application must meet all requirements including any State and Federal requirements. Ms. Wilson said the third condition is that any changes to the approved Special Use, particularly in the type of solar energy power plant technology used, will require review by the Planning Department, and may require another meeting with the Commission. The final condition requires the Applicant to obtain a legal means of access prior to permit issuance.

Mr. Martzke asked if a condition can be placed requiring adjoining property owner's approval of the Floodplain report. Mr. De La Torre stated that the County has substantial Flood regulations and State

regulations which address those concerns. He said the County understands the concerns of the public in opposition. Mr. Martzke asked if there is sufficient Staff to adequately review the drainage and grading plans. Mr. De La Torre replied yes.

Mr. Bemis asked about Ms. Riggs' statement that property values would be reduced. Chair Lynch commented that technical issues are addressed with additional permitting processes. He said estimating the value of property at this time is difficult.

Mr. Noble requested notification on Floodplain changes during the permitting process.

Ms. Smith said she would like to donate land to the Applicant for this use within the same area.

Ms. Edie stated that she doesn't believe that people can control nature.

Mr. Martzke made a motion to recommend approval with conditions, Mr. Bemis seconded. Chair Lynch asked for the Commissioner's opinions.

Mr. Bemis stated that he is opposed; his trepidation is due to lack of communication between land owners and would have liked better engineering before it was presented to the Commission. He stated his concern about property values which the Cochise County Assessor, Mr. Leiendecker, has acknowledged. He asked if projects brought before the Commission could contain better detailed plans and engineering on water flow.

Ms. Wilson stated Mr. Leiendecker said the value of the property may drop, depending on what kind of development it is, not that the value of the property would definitely drop.

Mr. Martzke commented on the overall sentiment expressed over the years that property values are reduced because of development. He indicated that long-term values do not seem to be affected as far as he was aware after his many years of experience on this Commission.

Ms. Edie said that the solar projects she was aware of graded the land to accommodate solar panels.

Chair Lynch stated the Commission's role is to look at land use in the context of social impacts. Chair Lynch said there are organizations in place to deal with water flow, hydrology, and flood plain, and that this project has not worked through these processes yet.

Chair Lynch called for the vote, Mr. Martzke, Chair Lynch and Mr. Montañó were in favor, Ms. Edie and Mr. Bemis were opposed. The motion to approve passed.

Motion: Approve with conditions and modifications

Action: Approve **Moved by:** Mr. Martzke **Seconded by:** Mr. Bemis

Vote: Motion passed (**Summary:** Yes = 3, No = 2, Abstain = 0)

Yes: 3

No: 2

Abstain: 0

PUBLIC HEARING, DOCKET SU-11-14 (Enriquez): Mr. Dennis presented the request to upgrade an existing Residential Care Home to a Residential Care Institution. Mr. Dennis said that the current Zoning Regulations requires, with the addition of a seventh resident, a Special Use Permit for a Residential Care Institution. Mr. Dennis said there is no new proposed construction, however, if the Special Use Permit is approved, nonresidential site development standards will apply. Mr. Dennis commented on site plan requirements, parking requirements and a commercial apron attaching the driveway to Golf Links Road, a

County-maintained road. Mr. Dennis also presented modifications to site development standards as requested by the Applicant for landscaping, screening, driveway standards and width. Mr. Dennis also presented the requested modification for parking.

Mr. Dennis said Staff supports the modifications as requested, and presented the factors in favor of approval, which include providing a small measure of additional capacity for elderly residents, the residential and low-impact nature of the use, and two letters of support for the project. One neighbor expressed opposition – this was the lone factor against approval. Mr. Dennis concluded his presentation and asked if the Commission had any questions.

Ms. Edie asked why County Regulations on occupancy differs from State Regulations. Mr. Dennis said the County mirrored the land use threshold to Building Code requirements as opposed to State requirements.

Chair Lynch asked for the Applicant's statement - Ms. Smith spoke for Rosa Enriquez, the Applicant, and requested the Commissioners approve this Docket. Ms. Smith said there is a lack of residential care homes in Douglas, and adding one additional space would allow this residential care home to be a viable business so she could continue living there.

Chair Lynch opened the public hearing. There being no one who wished to speak, he closed the public hearing.

Chair Lynch asked the Commission for discussion, there being none, he asked for Staff's recommendation.

Mr. Dennis recommended conditional approval and presented the conditions, including requiring the Applicant to provide an updated site plan and applying for and obtaining an approved permit within 18 months. In addition, the Applicant will be required to provide a commercial apron and obtain a Right-of-Way permit. Staff supports the modification requests as proposed.

Mr. Martzke motioned to approve the request with conditions and modifications as requested by the Applicant. Ms. Edie seconded the motion. The motion passed unanimously.

Motion: Approve with conditions

Action: Approve **Moved by:** Mr. Martzke **Seconded by:** Ms. Edie

Vote: Motion passed unanimously (**Summary:** Yes = 5, No = 0, Abstain = 0)

Yes: 5

No: 0

Abstain: 0

PUBLIC HEARING, DOCKET Z-11-02 (Zerkle): Mr. Dennis began by asking if the Applicant was in the audience. No one responded, so he began his presentation. This application was submitted as the result of a violation because a home was built without a permit. The Applicant does not want building code inspections, but could not qualify for the County Owner-Builder Amendment as his parcels are zoned TR-36. Mr. Zerkle has two of the seven parcels, and additional family members joined this request for down zoning. Mr. Dennis said the parcels are in a rural area of the County. He explained that the two letters of support that were received represent 55 neighboring parcels. He explained that the request complies with 7 of the 8 applicable zoning evaluation factors, and indicated that two letters of support were received. Mr. Dennis said the factors against approval include that it is a violation and is being driven by the Applicant's desire to opt-out of building inspections. Mr. Dennis said if the Commission votes to send a recommendation of approval to the Board of Supervisors, it will be a consent item on their January 24, 2012 agenda.

Mr. Martzke commented on the history of Planning & Zoning and how lots in decade-old subdivisions were zoned.

Chair Lynch opened and closed the public hearing, as there were no speakers.

Mr. Dennis said Staff recommends conditional approval, and that the Applicant is responsible for any other licenses or permits.

Mr. Martzke moved to forward the docket to the Board of Supervisors with a recommendation of conditional approval. Mr. Bemis seconded. The motion passed unanimously.

Motion: Recommend conditional approval to the Board.

Action: Approve **Moved by** Mr. Martzke **Seconded by** Mr. Bemis

Vote: Motion passed (**Summary:** Yes = 5, No = 0, Abstain = 0)

Yes: 5

No: 0

Abstain: 0

PUBLIC HEARING, DOCKET R-11-09 (Legal Non-Conformance): Interim Planning Director Michael Turisk presented the proposed amendments for legal non-conforming uses which include land use, lots, parcels or structures which lawfully existed prior to July 1, 1975. Mr. Turisk said Staff is proposing two amendments to Article 20, to make it easier for landowner to demonstrate or provide Staff with evidence of pre-existing use. the first is that evidence must be submitted that the use existed at least ten years prior to the date of the determination of nonconforming use, and second, extending the time of discontinuance of use from 12 months to 36 months.

There were no questions from the Commission.

Chair Lynch opened the Public Hearing.

Mr. Cooke commented on the historical aspects of the time period before January 1, 1975.

Chair Lynch closed the public hearing.

Mr. Turisk stated that Staff recommends the Planning and Zoning Commission forward the docket to the Board of Supervisors with a recommendation of approval. All of the Regulation changes approved by the Commission will be heard on February 14, 2012 by the Board of Supervisors.

Mr. Bemis made the motion to forward Docket R-11-09 with a recommendation of approval to the Board of Supervisors. Mr. Martzke seconded the motion. The motion passed unanimously with Mr. Martzke, Chair Lynch, Mr. Bemis, Ms. Edie and Mr. Montañó voting for approval.

Motion: Forward a recommendation of approval to the Board of Supervisors.

Action: Approve **Moved by** Mr. Bemis **Seconded by** Mr. Martzke

Vote: Motion passed (**Summary:** Yes = 5, No = 0, Abstain = 0)

Yes: 5 **No:** 0

Abstain: 0

PUBLIC HEARING, DOCKET R-11-08 (Bylaws and Ordinance): Commission continues to review, update, and suggest revisions to the Bylaws and Rules of Procedures for County Planning and Zoning Commission, Cochise County, Arizona. The Commission will also review and may possibly make recommendations to the Board of Supervisors to update the County Planning Commission Ordinance, dated November 20, 1969.

Chair Lynch requested that the Commissioners submit final comments to him on changes to the proposed language of the Bylaws and Ordinances. He requested that Staff put together a clean copy for the next meeting. Mr. Martzke suggested removing terms of less than 2 or 3 years, since all are now appointed for 4 year terms, and changing the words “first meeting”, on page 119 of Packet, to “first meeting of the year”. Mr. Martzke pointed out several sections that should be rewritten. Chair Lynch indicated that those sections have been rewritten.

Chair Lynch closed the discussion and again, directed Staff to prepare a clean copy for discussion in February.

PLANNING DIRECTOR'S REPORT, INCLUDING PENDING, RECENT AND FUTURE AGENDA ITEMS

Mr. Turisk reported that the Board of Supervisors approved a three-year extension of the Copper Sky Development Plan. Mr. Turisk also stated the Dockets for February’s meeting will be a rezoning, removal of the tabled Walnut Gulch airstrip, a recommendation to the Commission for a requested waiver for the Kings Ranch at Coronado subdivision plat, and a possible amendment to the Zoning Regulations. He stated that a possible work session with Mark Apel from the University of Arizona’s Cooperative Extension regarding their Renewable Energy Opportunity Analysis for solar facilities may be held.

CALL TO COMMISSIONERS ON RECENT MATTERS

Mr. Martzke motioned to adjourn the meeting. Mr. Bemis seconded the motion. The motion passed unanimously. Mr. Martzke, Chair Lynch, Mr. Bemis, Ms. Edie and Mr. Montaña all voted to adjourn.

ADJOURNMENT 6:36

Pursuant to the Americans with Disabilities Act (ADA), Cochise County does not, by reason of a disability, exclude from participation in or deny benefits or services, programs or activities or discriminate against any qualified person with a disability. Inquiries regarding compliance with ADA provisions, accessibility or accommodations can be directed to Chris Mullinax, Safety/Loss Control Analyst at (520) 432-9720, FAX (520) 432-9716, TDD (520) 432-8360, 1415 Melody Lane, Building F, Bisbee, Arizona 85603.