

**COCHISE COUNTY PLANNING & ZONING COMMISSION
MINUTES
March 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 one Special Use docket carried over from the previous meeting, two new Special Use dockets and a Subdivision Tentative Plat Extension. 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 Joe Garcia) indicated their presence. Staff members present included Beverly Wilson, Planning Director; Elda Orduno, 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 February 12, 2014 meeting. **Action:** Approve. **Moved by:** Mr. Martzke **Seconded by:** Mr. Lynch

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

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

CALL TO THE PUBLIC:

Mr. Jack Cook of Bisbee spoke of various matters.

OLD BUSINESS

Item 1

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. Mr. Dennis explained the Applicant's proposed mitigation plan and other changes designed to reduce impacts on neighboring properties. He also provided examples of screening walls. He closed by listing factors in favor of and against approval and invited questions from the Commission. Ms. Weissler asked for examples of what the described decibel levels would equate to. Mr. Dennis provided examples and Mr. Gardner clarified the decibel system.

Ms. Weissler invited the Applicant to make a statement. Michael Cerepanya of Hereford spoke on behalf of the Applicant, Bob Workman of Hereford. Mr. Cerepanya presented the proposed mitigation plan. He detailed the restrictions on music, citing timeframe, location, and decibel limits. He explained that they had performed sound testing on site to provide data for the mitigation plan. Mr. Cerepanya explained the basis for the other mitigation requests, citing speaker and wall location. He provided examples of existing homes in the subdivision, using them as justification for the Applicant's desired wall. Mr. Cerepanya closed by providing an alternate sample motion. Mr. Workman then spoke, stating that he would not do anything to harm the community, noting that he currently owned the surrounding properties. He acknowledged that noise was the primary concern and emphasized the proposed mitigation measures. Mr. Workman closed by stating that he felt the project would be an asset rather than a detriment to the neighborhood. Ms. Weissler asked Mr. Cerepanya for confirmation that he had drafted the alternate sample motion. Mr. Cerepanya confirmed that he did. Ms. Weissler asked for clarification of the motion, and it was noted that there was a typographical discrepancy in the alternate motion that was changed to meet the Applicant's intent. Mr. Garcia asked if the structure was built for a commercial use. Mr. Cerepanya stated that it was begun as a home and explained the background of the structure. Mr. Workman provided further detail regarding the building. Mr. Garcia asked about the capacity of the building. Mr. Cerepanya stated that there was parking for 200. Mr. Garcia asked how many bathrooms were available. Mr. Workman stated there were six. Mr. Garcia asked if there was a septic system. Mr. Cerepanya stated that there two systems. Mr. Workman provided additional technical details regarding the septic systems. Mr. Cervantes asked for clarification regarding the changes to the alternate motion and the limits to speakers and decibels. Mr. Cerepanya explained the intent and the goal to limit decibels. Mr. Workman detailed their sound tests and the proposed music system based on the results of the test.

Ms. Weissler opened the Public Hearing. She opened with calling for speakers in favor of the docket.

Ms. Tracie Jerman of Hereford identified herself as a resident of the subdivision and supported the project.

She stated that she lived near the project and did not hear any disturbance when the sound tests were conducted. She stated that the facility would be a popular location for parties and weddings. Ms. Jerman stated she felt that the facility could increase property values.

Ms. Sarah Neyhart of Sierra Vista, a photographer, spoke in favor of the venue. She stated that it would keep business in Cochise County as opposed to going to Tucson.

There being no further speakers in support, Ms. Weissler asked for speakers in opposition.

Ms. Kori Henderson of Hereford spoke, noting that she owned several properties adjacent to the subdivision. She emphasized that the area was residential and spoke in favor of the quiet, rural environment. She expressed gratitude that further mitigation was being considered, though she stated that she felt it may be insufficient due to the slope of the area. She expressed concern that the public notice from the Applicant was incomplete and claimed that it was difficult to contact Mr. Workman. She further claimed that the information she had received from the Applicant was unclear and dismissive. Ms. Henderson noted that last year the Commission had rebuked the Applicant for failing to adhere to correct procedures for a previous Special Use. She stated that there was a “nepotistic relationship” with the developer, and that there were no CC&Rs to protect the homeowners. She also claimed that the developer had three times the votes as the homeowners and could therefore ignore their concerns. She closed by expressing concern for the process and the Applicant’s reticence to provide clear answers to her concerns. She also worried about recourse if the mitigation did not work.

Ms. Katherine Oakes of Sierra Vista explained that she owned property outside the subdivision. She expressed concern regarding the lighting and worried about losing her dark skies. She noted that while she did not live at the site, she was worried about the project decreasing the value of her property.

Ms. Connie Atkins of Hereford noted that she lived outside the subdivision. She expressed concern about the traffic and was concerned that patrons of the venue would get lost and would drive onto her property attempting to locate the venue. She explained her view of the subject property and expressed concern about the noise test, noting that she was not notified of the test and was not given the opportunity to participate and comment on the test. Ms. Atkins complained that she and other property owners were not given copies of the mitigation plan prior to the meeting. She again noted that the lights would be visible at her home. She expressed support for keeping the area free of commercial activity and preventing disruption to wildlife.

Mr. Robert Artuz of Hereford stated that he lived within the subdivision. He expressed concern that the project was very secretive. He expressed concern about lights from traffic entering and leaving the facility. He stated that he could hear other subdivision residents speaking in normal voices. Mr. Artuz claimed that he was never told that a commercial activity could occur on the property and further claimed that no one who supported the request “had to live there”.

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

Mr. Cerepanya stated that they had followed the County's regulations pertaining to the citizen notice, and that they would follow the County's lighting regulations. He noted that all parking lot lights would be low intensity, ground level lighting. Mr. Workman apologized for the appearance of secrecy and stated that the provision for commercial use of this property was in the CC&Rs and on the plat, as it was for his office. He stated that it was in the disclosures. Several audience members interjected that they were not in the subdivision and not party to any of that. Mr. Workman acknowledged that he knew that, and stated that he had not anticipated that there would be any objection to the proposal. He stated that the lighting would be present regardless of the use of the structure, and stated that there would eventually be intervening homes between this site and the objecting property owners. Mr. Workman stated again that he was not looking to harm the area and emphasized how many lots he owned in the area. He also noted that harming the area would not be in his best interest.

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

Mr. Martzke commented that he felt the Applicant had made a good effort to mitigate the impacts, and stated that if the objectors wanted the area to remain undeveloped they could purchase the properties to prevent development. He stated he felt that other outside impacts would cause more disturbance to the objecting property owners and emphasized that he felt the Applicant was moving in the right direction. He stated that in the past realtors were unable to "sell views" unless they could guarantee that the views would remain forever. Mr. Cervantes stated that he had seen similar uses in subdivisions, most commonly as clubhouses for the subdivision, and felt that they worked well. Ms. Weissler stated that she agreed with Staff's recommendation regarding the block wall around the building envelope. She stated that she understood the Applicant's concerns, but felt Staff was correct in their recommendation.

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 asked for clarification of the interaction of the Conditions and adoption of the Applicant's mitigation plan if adopted as a Condition. Mr. Dennis stated that the Commission would decide which one would take precedence. Mr. Lynch questioned the ability of the condition regarding speaker limitations as technically impossible. Mr. Cervantes provided clarification on options regarding speakers and decibel limits, suggesting a decibel limit at the property line. Mr. Brauchla stated that he felt he was not qualified to impose a technical limit. Mr. Watkins concurred that the technical condition was beyond the experience of the Commission, and asked if anything would prevent a homeowner from installing a large outdoor sound system on their residential property. Mr. Cervantes asked if the subdivision CC&Rs had any such provision. Mr. Workman explained that it would fall under the "noxious use" provision. Mr. Cervantes asked if they wanted to remove the sound limitation. Mr. Workman stated that the intent was to use ambient music outside, and would cover sound limits under the rental agreements. He stated the idea was a "piano bar", not "a rock band and a keg". A member of the public asked from the floor if there would be limits to the types of groups and parties permitted at the venue. Ms. Weissler asked the member to speak from the podium. Mr. Workman stated that "kids partying at spring break is not what we're looking for". Ms. Weissler stepped in to prevent a back and forth discussion between the Applicant and a member of the public.

Mr. Cervantes stated that he felt the location and facility would self-regulate and would prevent the sorts of events that the neighbors were concerned about. He discussed his background in sound, and noted that he has an outdoor sound system in the neighborhood that he cannot use without complaint, and expressed support for the project. Mr. Watkins compared the project to a similar facility in Tucson. Ms. Weissler asked for modification to the Condition. Mr. Cervantes suggested a time and decibel limit at the property line. Mr. Dennis explained that such a performance standard was possible. Ms. Edie asked if Staff was still recommending a six-foot block wall on all sides. Mr. Dennis confirmed that this was still Staff's recommendation. Mr. Cervantes asked for clarification of the sound mitigation on the east side, which Mr. Workman provided, explaining that the house itself blocked noise to the east. Mr. Lynch asked for clarification of the concept plan, which Mr. Workman provided. Mr. Martzke asked where the Applicant was proposing to construct a six-foot wall. Mr. Workman demonstrated his proposal. Mr. Martzke asked about the other fencing. Mr. Workman explained the wrought iron fence he planned. Mr. Dennis asked the Applicant for clarification of the fence types, which Mr. Workman provided. Ms. Weissler summed up the discussion and called for a motion. Mr. Martzke made a motion for Approval of the Special Use with Conditions and Modifications given by Staff, with the Condition that music be limited to 50 decibels at the property line, with no restriction on equipment (a change to the impact mitigation plan) and removed the Condition pertaining to sound from Staff's recommendation, and replaced the requirement for a six-foot wall around the building envelope with a requirement for a six-foot wall around the courtyard. Ms. Edie seconded the motion and Ms. Weissler asked for discussion.

Ms. Weissler called for a vote. The motion passed 5-2, with one abstention.

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

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

Vote: Motion passed (**Summary:** Yes = 5, No = 2, Abstain = 1)

Yes: Mr. Cervantes, Mr. Martzke, Ms. Edie, Mr. Watkins, and Mr. Brauchla

No: Mr. Lynch and Mr. Garcia

Abstain: Ms. Weissler

NEW BUSINESS

Item 1

NOT A PUBLIC HEARING

Docket S-05-05 (La Marquesa) – A request for an additional one-year time extension for the La Marquesa Subdivision Tentative Plat. La Marquesa is a 103-lot Residential Conservation subdivision located on 317 acres, zoned RU-4 (Rural; one dwelling unit per 4 acres) and located at the north side of Three Canyons Road in Hereford, about one-mile east of Highway 92. The Tentative Plat was approved by the Board of Supervisors on February 5, 2007. The current Tentative Plat extension expired on February 5, 2014. The Developer is Mr. Patrick Kirk and the Project Engineer is Mr. Blaine Reely of Monsoon Consultants in Tucson.

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 closed by recommending approval.

Ms. Weissler asked if the Applicant wished to make a statement. Mr. Patrick Kirk, of Tucson, spoke to explain the request, expounding on current market conditions. He also discussed cost issues pertaining to the water company. Mr. Kirk closed by requesting another one-year extension.

Ms. Weissler then called for the Planning Director's summary and recommendation. Mr. Dennis recommended Approval. Mr. Watkins asked Staff if one year was sufficient. Mr. Dennis explained that the regulations permitted extensions on a yearly basis only. Ms. Weissler called for a motion. Mr. Lynch made a motion to grant a one-year extension to the Tentative Plat. Mr. Cervantes seconded the motion and Ms. Weissler asked for discussion. Ms. Weissler called for a vote. The motion passed 8-0.

Motion: Motioned to extend the Tentative Plat for one year.

Action: Extend the Tentative Plat **Moved by:** Mr. Lynch **Seconded by:** Mr. Cervantes

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

Yes: Ms. Weissler, Mr. Lynch, Mr. Cervantes, Mr. Brauchla, Mr. Martzke, Ms. Edie, Mr. Garcia and Mr. Watkins

No: 0

Abstain: 0

Item 2

PUBLIC HEARING

Docket SU-14-03 (Marshall): - A request for Special Use authorization to establish and operate a small-scale animal husbandry operation on an undeveloped, one-acre site. The intention is to construct a small tack shed/horse shelter to accommodate up to two horses on a seasonal basis. As the proposal is to establish a principal land use on the site, it is considered Animal Husbandry and requires Special Use approval. The subject parcel is unaddressed, but is located at the southwest corner of S. Barnett Road and Copper Ridge Road in unincorporated Bisbee. The Applicant is Mr. Steve Marshall.

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 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 closed by listing factors in favor of and against approval and invited questions from the Commission.

Ms. Weissler invited the Applicant to make a statement.

Mr. Steve Marshall of Bisbee explained his request and plans for the property.

Ms. Weissler opened the Public Hearing. There being no one interested in speaking, Ms. Weissler closed the Public Hearing and asked for discussion from the Commission.

Ms. Weissler then called for the Planning Director's summary and recommendation. Mr. Dennis recommended Conditional Approval and explained the Conditions recommended by Staff, including a Condition that the site be treated as a Residential Site. Ms. Weissler called for a motion. Mr. Watkins made a motion for Approval of the Special Use with Conditions given by Staff. Mr. Martzke seconded the motion and Ms. Weissler asked for discussion. Ms. Weissler called for a vote. The motion passed 8-0.

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

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

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

Yes: Ms. Weissler Mr. Lynch, Mr. Cervantes, Mr. Martzke, Ms. Edie, Mr. Watkins, Mr. Garcia, and Mr. Brauchla

No: 0

Abstain: 0

Item 3

PUBLIC HEARING

Docket SU-14-04 (Kitko): A request for Special Use authorization in order to offer a single-family home for short-term vacation rentals. The proposed use is considered Guest Lodging and requires Special Use approval. The subject parcel is located at 11943 S. Elk Horn Road in Pearce. The Applicant is Stephen Kitko.

Chair Weissler called for the Planning Director's report. Planner I, Peter Gardner presented the Docket, explaining the background of the request utilizing photos, maps, and other visual aids. He explained the Modifications requested by the Applicants, and explained Staff's assessment of the requests and the support from neighbors. Mr. Gardner 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.

Ms. Weissler invited the Applicant to make a statement. As the Applicant was not present, 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.

Ms. Weissler then called for the Planning Director's summary and recommendation. Mr. Gardner recommended Conditional Approval and explained the Conditions and Modifications recommended by Staff. Ms. Weissler called for a motion. Mr. Lynch 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. 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. Lynch **Seconded by:** Mr. Martzke

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

Yes: Ms. Weissler Mr. Lynch, Mr. Cervantes, Mr. Martzke, Ms. Edie, Mr. Watkins, Mr. Garcia, 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 Special Use Dockets, one Rezoning, and one Regulation Docket for the April meeting. She also noted that there would be a joint Work Session regarding the Light Pollution Code, and another on the Comprehensive Plan update. She also updated the Commission on the adoption of the water conservation regulations.

CALL TO COMMISSIONERS ON RECENT MATTERS:

No Commissioners wished to comment.

ADJOURNMENT – Chair Weissler called for a motion to adjourn: Mr. Lynch moved, Mr. Martzke seconded and the meeting was adjourned at 5:59 p.m.