

 **Planning  
Commission**



# Cochise County Planning Commission

Cochise County Complex  
Board of Supervisors' Hearing Room  
1415 W. Melody Lane, Building G  
Bisbee, Arizona 85603

**Regular Meeting  
June 12, 2013  
4:00 p.m.**

## AGENDA

- 1. 4:00 P.M. - CALL TO ORDER**
- 2. ROLL CALL** (Introduce Commission members and explain quorum and requirements for taking legal action).
- 3. APPROVAL OF PREVIOUS MONTH'S MINUTES**
- 4. NEW BUSINESS**

**Item 1 - (Page 1) Introduce docket and notify the public who the Applicants are.**

**PUBLIC HEARING - Docket SU-13-08 (Vander-Heyden):**  
A Special Use request for a rental of an accessory living quarter in a Rural Zoning District located at 6580 East Ramsey Road in Hereford. The Applicants seek to rent an existing accessory living quarter on a long term basis. The Applicants are Leon and Laura Vander-Heyden.

**Item 2 - (Page 21) Introduce docket and notify the public who the Applicants are.**

**PUBLIC HEARING - Docket R-13-05 (Building Code Advisory and Appeals Board):** A resolution that proposes the establishment of a joint Building Code Advisory and Appeals Board.

**Item 3 - (Page 31) Introduce docket and notify the**

The Planning Commission meets the second Wednesday of the month at 4:00 p.m. in the Board of Supervisors' Hearing Room. All meetings are open to the public. Those who wish to speak are asked to complete a "Speaker Information" form (available at the meeting) and submit it to County staff before the Call to Order.

The order and/or deletion of any item on the agenda is subject to modification at the meeting. Actions of the Planning Commission may be appealed to the Board of Supervisors by any interested party by submitting an application for appeal within 15 days. An application for appeal is available this afternoon with the Clerk, at the Community Development Department's office Monday through Friday between 8 A.M. and 5 P.M., or anytime on our webpage in the "Permits and Packets" link.

Packets and staff reports are available for review at the Community Development Department. Questions or concerns may be directed to Planning Manager, Michael Turisk at 520.432.9240. Agendas and minutes are posted on Cochise County's home page in the "Public Meeting Info" link.

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.

**COMMUNITY DEVELOPMENT DEPT.  
HOURS OF OPERATION  
Monday through Friday  
7:30 a.m. to 5:00 p.m.  
Phone: 520.432.9240  
Fax: 520.432.9278**

**public who the Applicants are.**

**PUBLIC HEARING - Docket R-13-06 (Registrant Self-Certification Policy):** A resolution that proposes to provide an option for Applicants to submit all plans required for building any structure as having been 'self-certified' by a Professional Registrant in the State of Arizona.

**CALL TO THE PUBLIC** - Pursuant to A.R.S . § 38-431.01 (H) this is an opportunity for the public to comment. Individuals are invited to address the Commission on *any issue within the Commission's jurisdiction*. Since Commissioners may not discuss items that are not specifically identified on the agenda, Commission action taken as a result of public comment will be limited to directing staff to study the matter, responding to any criticism or scheduling the matter for further consideration and decision at a later date.

6. **PLANNING DIRECTOR'S REPORT, INCLUDING PENDING, RECENT AND FUTURE AGENDA ITEMS AND BOARD OF SUPERVISORS' ACTIONS.**
7. **CALL TO COMMISSIONERS ON RECENT MATTERS.**
8. **NOT A PUBLIC HEARING - Work Session:** Discussion, direction, and review of proposed revisions to Cochise County's Zoning Regulations.
9. **ADJOURNMENT**

## **DRAFT COCHISE COUNTY PLANNING & ZONING COMMISSION MINUTES**

Wednesday, May 15, 2013

### **REGULAR MEETING at 4:00 p.m.**

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

Chairman Lynch 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. He explained the time allotted to speakers when at the podium. He then explained the composition of the Commission, and indicated there were three Special Use requests on the Agenda in addition to the Work Session regarding the proposed changes to the Zoning Regulations. He explained the consequences of a potential tie vote and the process for approval and appeal.

### **ROLL CALL**

Chairman Lynch 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, Pat Edie, Jim Lynch, Jim Martzke, Liza Weissler, Ron Bemis, and Joe Garcia) indicated their presence. Staff members present included Beverly Wilson, Deputy Director; Dora Flores, Permit and Customer Service Coordinator; Keith Dennis, Planner II; Peter Gardner, Planner I; Britt Hanson, Civil Deputy County Attorney; Michael Turisk, Planning Manager; and Pat Hofer, Planning Tech.

### **APPROVAL OF THE MINUTES**

**Motion:** Approve the minutes of the April 10, 2013 meeting as presented.

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

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

**Yes:** Mr. Martzke, Chairman Lynch, Ms. Edie, Ms. Weissler, Mr. Cervantes, , Mr. Bemis, Mr. Garcia

**No:** 0

**Abstain:** 0

### **NEW BUSINESS**

#### **Item 1**

**PUBLIC HEARING - Docket SU-13-06 (Cavaliere):** A Special Use request for a guest lodging facility in a Rural Zoning District located at 121 and 117 W. Portal Rd in Portal. The Applicants seek to rent two existing cabins on a short-term basis. The Applicants are Bill and Dorothy Cavaliere. He called for the Planning Director's report. Mr. Peter Gardner presented the docket, explaining the background of the request utilizing photos, maps, and other visual aids. Mr. Gardner explained that the

request was to allow the use of several existing ranch cottages as guest lodging on the subject parcels. Mr. Gardner explained that the docket was transmitted to various agencies for comment. He also explained the correspondence that Staff had received regarding the proposal. He closed by listing the factors in favor of and against approval, explaining several conditions and requested modifications, and invited questions from the Commission.

Mr. Lynch invited the Applicant to make a statement. Mr. Cavaliere opted to ask if the Commission had any questions. There being no questions from the Commission, Mr. Lynch opened the Public Hearing and asked if there were any members of the public wishing to speak in favor of the project. There being none, Mr. Lynch then asked for speakers in opposition. There being no speakers in opposition, Mr. Lynch closed the Public Hearing and invited discussion from Commissioners. Mr. Lynch then called for the Planning Director's summary and recommendation. Mr. Gardner recommended Conditional Approval and explained the Conditions requested by staff. He also explained the three requested Modifications. Mr. Lynch called for a motion. Mr. Martzke made a motion for recommending Conditional Approval. Ms. Edie seconded the motion and Mr. Lynch called for a vote. The motion passed 7-0.

**Motion:** Motioned to approve with Conditions and Modifications the Special Use authorization for Guest Lodging

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

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

**Yes:** Mr. Martzke, Chairman Lynch, Mr. Cervantes, Ms. Weissler, Mr. Bemis, and Mr. Garcia.

**No:** 0

**Abstain:** 0

## Item 2

**PUBLIC HEARING - Docket SU-13-07 (Van Wart):** A Special Use request in a Rural Zoning District to legitimize an existing portable restroom and septic service business located at 144 S. Sundust Trail in St. David. The Applicants are Tom and Ashley Van Wart.

Chairman Lynch called for the Planning Director's report. Mr. Keith Dennis presented the docket, explaining the background of the request utilizing photos, maps, and other visual aids. Mr. Dennis noted the concerns of Highway Staff, and detailed the requested conditions and modifications. He also presented a map illustrating support and opposition. Mr. Dennis went on to explain the factors in favor and against approval, including a discussion of the Saint David area plan and off-site impacts. Mr. Dennis closed by inviting questions from the Commission. Mr. Lynch asked for clarification regarding the septic holding tank, which Mr. Dennis provided.

Mr. Lynch invited the Applicant to make a statement. A member of the public, Mr. Stuart Kershner interrupted to offer a correction to the Staff report. Mr. Lynch explained at which point he would be permitted to speak and directed him to hold his comments until then.

Mr. Tom Van Wort, Applicant, spoke regarding his project. He explained that he lived on the site, and went into detail about the evolution of the business and how it came to be on their property. Mr. Van Wort explained the scope of the business and of the storage that would occur on site. He also explained

his business and demonstrated how he served the local community. Mr. Van Wort explained his efforts at cleaning and maintaining his property. He also provided more information regarding day to day operations of the business including the rationale for the holding tank. He mentioned that he had received a great deal of positive feedback from the community for his services and demonstrated the care and maintenance he provides his property and equipment. Mr. Van Wort went on to speak regarding his knowledge of laws and regulations and how he felt his business fit within them and explained that his service was local and necessary. He then closed his statement by inviting questions from the Commission. Mr. Bemis asked about odors and insects associated with the holding facility. The Applicant explained the sealing system and how it prevented odors and insects. Mr. Bemis also asked about noise and times, and the Applicant explained that a pump is used for several minutes once or twice a day to empty the tank and stated that he felt the noise was not excessive. Mr. Cervantes asked about the process of cleaning the porta-pots and where this is done. Mr. Van Wort explained the process and that the cleaning is done off site prior to returning the units to his property. Ms. Weissler asked about why moving the business was moved without permits. Mr. Van Wort explained the history and rationale and professed ignorance regarding the permitting requirements and expressed his desire and willingness to comply with all regulations. Ms. Weissler also discussed the number of porta-pots owned and the potential for more to be stored on site. Mr. Van Wort explained that he would not want to store that many units for the sake of his own aesthetics, and also noted that if he had that many units in storage his business would likely be failing or would have outgrown his current location. Mr. Lynch asked when the Applicant had moved into the property. Mr. Van Wort stated about 5 years ago. Mr. Lynch also asked about permitting. Mr. Van Wort stated that he had been unaware and noted that he had not moved the business as is onto the site but rather that it had grown into its current state.

Mr. Lynch then opened the Public Hearing and asked for speakers in support. There being none present he asked for speakers in opposition.

Mr. Stuart Kershner, of Saint David, noted that Staff missed noting one letter of opposition on the support/protest map. He then noted he lived within 1500' of the subject property. He noted this was his third presentation against a special use and noted a philosophical disagreement with the process. He stated that he felt that Staff was ignoring regulations regarding this proposal. He addressed Chairman Lynch regarding a previous docket from several years ago, claiming that Staff did not mention the Saint David Plan in regard to that docket. He then claimed that proposal was in violation of the Saint David Plan. He then complimented Staff, stating that the reports were much better than in 2005. He then took issue with several conclusions in the Staff report. He disagreed with the assertion that the Saint David Plan supported the proposal and quoted the Plan. He disagreed with Staff's interpretation of the Plan and stated that he felt the business should be located in the Neighborhood Conservation area, which is 1.5 miles away from the proposed location. He suggested that the Applicant relocate the business and suggested that the Applicant lease or purchase another piece of property for the business. Mr. Lynch agreed to give Mr. Kershner more time to continue. Mr. Kershner noted that he believed there was no similar storage use within one mile of the Applicant's property. He also stated that the Applicant has "inadvertently or possibly intentionally" constructed a shelter for his trucks without a permit, and stated that the Zoning Enforcement Officer has not taken punitive action against the Applicant. Mr. Kershner also stated that the holding tank was installed without a permit from ADEQ. He also claimed that the Applicant had not taken any steps to correct the situation. He then stated he felt that a crew of several individuals with a backhoe could relocate the holding tank in the Neighborhood Conservation district and then be "good to go". He continued by noting that the Applicant possessed a small backhoe on the

property and complained that Staff had not noted the backhoe in the report. Mr. Kershner closed by stating that he felt that if the docket was approved the Applicant should be given a five year time limit for the business, should be limited in scope, should be required to install a concrete apron to wash the trucks, and should build an opaque fence concealing all porta-pots and equipment.

Mr. William Martinez of Saint David stated that he moved to the area 40-years ago and started paying property taxes shortly thereafter. He stated he owns 120-acres with Mr. White and explained that they have invested a great deal of money in the property. He stated he didn't want to see a porta-pot business located there because it was "convenient". He stated there were other areas in Saint David that were designated for business. Mr. Martinez stated that he didn't know why the Applicant had not gotten permits but claimed that if the Applicant had called ADEQ, that he would have been told that an underground storage tank could not be installed based on the zoning. He spoke regarding the tank and ADEQ referencing a memo in the report and ADEQ's designation of the tank and the permit required. Mr. Martinez claimed that Staff was "asking you guys [the Commission] to allow them [the Applicant] with a stroke of the pen to do whatever they [the Applicant] want". He stated that the proposal was not acceptable to them or the neighborhood. He noted their opposition to previous dockets and stated that they would appeal to the Board of Supervisors if the docket was approved. He stated that everyone in the rural area with a well was "terrified" of groundwater pollution and expressed concern regarding the holding tank. Mr. Martinez claimed that there had been no mention of the holding tank until the report was issued and the tank was shown on the concept plan. He stated that the Staff report did not mention the tank until several pages into the report. He noted that no one wanted septic systems to back up but "we shouldn't have to put up with this stuff, and this is an illegal tank that's in operation". He referenced Mr. Kershner and complained that the County had not "done anything to make them cease and desist" and noted that the Applicant was currently using the tank. Mr. Martinez wanted Staff to require the Applicant to cease and desist pending the Commission's approval. He claimed that it would be "nothing" for the Applicant to relocate the tank, and stated again that he didn't know why the Applicant had moved their business to the site. He claimed that the Applicant's only answer was "it was convenient" and protested that. He closed by asking the Commission to reject the proposal. He then made a comment regarding the Applicant's trucks claiming that the trucks were not correctly permitted by the State.

Mr. Joseph White of Saint David thanked the Commissioners for their service. He noted that he and Mr. Martinez own 110-acres in the area of the proposal and noted that they had a lot of money invested there. He stated it was "unbelievable that this could happen". He stated that he doesn't walk on a portion of his property anymore because he didn't like seeing the porta-pots and trucks. Mr. White stated he felt there was a place for the business, and it "was not in the middle of a residential neighborhood". He stated he felt the business was a major eyesore. He stated that he felt the Applicant was applying for the Special Use permit because they failed to take the time to go step by step through the proper permits or "take care of business in the proper fashion". Mr. White noted that the area was rural but this was "a Light Industrial Use they are trying to force down our throats" and that it was not acceptable. He made a comment about the weight of a full tanker truck and how it would impact the roads. He noted the site was four-acres and claimed it was "jammed up with equipment and buildings that didn't have a permit to be built". He stated he couldn't let that happen in the neighborhood. He then approached the Commission with a map and claimed that a number of neighbors hadn't heard about the proposal. He then claimed that the "planning people" came up later and added additional proposals that were not addressed in previous communications. He then aggressively questioned the Commission

and Staff how they would feel if the proposal was next to their houses. Mr. Lynch admonished Mr. White and asked him to return to the podium. Mr. White apologized for “getting a little carried away sometimes.”

Mr. John White of Saint David stated he represents his brother Joseph and Mr. Martinez in their real estate endeavors. He noted that having an “industrial use” in a “residential area” decreases property values when the property is sold. He referenced the proposed project as an eyesore and stated it would lower the “price they could potentially get” for their [the neighbors’] property.

Mr. Peter Moran of Saint David stated that he had been in front of the Commission before opposing other Special Use requests that had been denied. He stated that the property was RU-4 and “that meant you could build one house, not a business, not a riding stable, not a junkyard, whatever. One house.” Mr. Moran spoke regarding Special Uses and stated that “most people thought that was for an elderly parent”. He asked why we don’t “call it a business permit and forget about RU-4 and allow them to have business”. He spoke regarding Sybil Road and how trucks generate dust. He stated that this was a “neighborhood environment, not a business environment”. He identified himself as an author of the Saint David Plan and stated that the authors of the plan “really don’t want any businesses” and that they would allow the existing businesses and stated that he felt Saint David would agree when it came up for election and that it was RU-4 and “we don’t want a bunch of businesses”. He noted it was a Rural community and that he hoped that the Commission would deny the request. Mr. Moran also noted that he had been before the Commission seven times before opposing Special Use requests.

Mr. Cook asked to speak on another issue. Mr. Lynch asked him to hold his remarks until Call to the Public.

Mr. Lynch invited the Applicant to make a rebuttal. Mr. Van Wart went into detail regarding the septic holding tank. He explained how it was built, why it was built, and explained that no leaching occurred. He noted that aesthetics seemed to be an issue and noted that he had spoken with Mr. Kershner for over an hour via telephone regarding the project. Mr. Van Wart stated that Mr. Kershner had noted that screening the porta-pots would eliminate the eyesore. Mr. Van Wart emphasized that they would do “literally whatever it takes to make this right.” He stated that there was no intent to defraud or deface, or devalue anyone’s property. He stated that they were a small business trying to “make an honest living”. He stated that their growth and customer list was testament to the quality of their business. Mr. Van Wart admitted that he should have spoken with his neighbors and stated that if he had known that it would have caused an issue he would have done so. He spoke regarding the scope of the operation and the amount of material stored on site. He noted that he had communicated with several of the neighbors in opposition and had expressed a willingness to work with them. He stated he felt that they “simply do not like his presence there” and noted that he felt that there was nothing else he could do. Mr. Van Wart also noted that if the neighbor had “been sitting on property for 38-years, it didn’t look like he was trying to sell” and that property values were perhaps not the actual issue. He continued by claiming that his property was the best maintained and most attractive in the area. He stated that “just because it qualifies as agriculture doesn’t mean it’s aesthetically pleasing to other people”. He again expressed willingness to do whatever was necessary and apologized for any inconvenience.

Mr. Lynch closed the Public Hearing and invited discussion from Commissioners. Mr. Bemis asked Staff about ADEQ requirements, and what would happen if ADEQ denied a permit. Mr. Dennis

explained that there was no reason that the Applicant would not be able to receive the ADEQ permit. Mr. Garcia asked if everyone in Saint David has a septic system. Staff verified that there was no sewer system in Saint David, so every home would have a septic system. A member of the public interjected that they also has wells. It was noted that all the homes had septic systems and wells. Mr. Garcia noted that each of those septic systems with leach fields had at least as much chance of contaminating water as the Applicant's holding tank. Mr. Bemis asked about a condition regarding screening. Mr. Dennis noted that Staff had crafted a screening condition for use by the Commission, but had not recommended it. He also noted that any of the permitted as of right commercial uses in the RU district would not require screening in this area. He did note that Rural districts were not Residential, which is why screening was not required. Mr. Dennis did note that since this was a Special Use then conditions could be applied, and that while Staff was not recommending a screening condition, one had been prepared in the event that the Commission would like to add it. Mr. Lynch then called for the Planning Director's summary and recommendation. Mr. Dennis presented his summary, noting that Staff's position was to find a compromise. Mr. Dennis recommended Conditional Approval with several Modifications. Mr. Lynch called for a motion. Mr. Bemis made a motion for Approval with the Conditions and Modifications recommended by Staff. Ms. Edie seconded the motion and Mr. Lynch called for a discussion. Mr. Martzke asked for clarification regarding the holding tank and if it had a leach field. Mr. Dennis explained how varying agencies are using differing phrases for the same physical system, and noted that there was indeed no leach field. Ms. Edie noted that the tank was far enough from the property line that a modification was not required for the location of the tank. Mr. Dennis concurred. Mr. Garcia expressed support for the screening condition. Mr. Bemis made a motion to add the screening condition crafted by Staff to his previous motion and Mr. Garcia seconded. Mr. Hansen clarified procedure. Ms. Weissler asked to see the support/protest map, and expressed concern about odors. Mr. Lynch asked Staff about structures being built without permits and if the Commission was rectifying that. Mr. Dennis explained that the structures had been built without permits, and clarified that the structures would still need to have the structures permitted. Mr. Lynch then asked if the business could continue to operate before the permits were approved. Mr. Dennis explained that there was a deadline to apply for the permit, but that the Applicant would not have to cease and desist as long as they were working through the permitting process, similar to the time spent waiting for the Commission hearing. Mr. Bemis made a motion to Approve with Conditions recommended by Staff, the additional Condition 6 to include screening, and the requested modifications, and Ms. Edie seconded. Mr. Lynch asked for summations from the Commission. Mr. Martzke asked again about the storage tank and ADEQ's requirements and its setback. Mr. Lynch and Mr. Dennis reminded Mr. Martzke that the unit met zoning setbacks and would be moved if ADEQ required greater setbacks per condition 1. Mr. Bemis stated that he felt the Commission should consider the people that the Commission dealt with. He noted that he felt the Applicant was a "good citizen caught in the process" who was "trying to straighten things out" and expressed faith in ADEQ. Mr. Bemis also expressed a responsibility to the neighbors, and felt the screening requirement was a good compromise and expressed support. Ms. Weissler expressed concern for the neighbors' thoughts, and stated that she felt this was not the sort of business the neighbors might have expected. Mr. Martzke noted that the Use was permitted in a Rural district such as this. He noted that Staff had put in a great deal of effort, and that the Commission was in a position where someone was going to leave the meeting unhappy. He again expressed support for Staff's efforts and expressed support for the project and the Applicant's effort to correct the problem. Ms. Weissler countered that the Applicant had created the problem by moving the business without a permit. She also expressed concern that the Commission was often granting forgiveness rather than permission and felt that dockets shouldn't always be approved after the

fact because things were not done correctly the first time. Mr. Bemis spoke regarding Ms. Weissler's point, and spoke to the ease he felt that the public could run afoul of requirements and that the Commission should consider that as well. Mr. Cervantes countered that a business owner should be expected to ask many questions prior to starting a business and that the Applicants should be held accountable for not getting permits prior to beginning. Ms. Edie responded that the Applicant did not start the business and should perhaps not be held to that same standard as a new business. She stated that he may have been misinformed by the previous owner. Ms. Edie noted that even as a Commissioner she found the regulations confusing, and that it may not be reasonable to expect all citizens to know all of the regulations. Mr. Cervantes expressed a feeling that Staff was very helpful in that regard and reiterated that he felt that business owners should be expected to ask enough questions to meet all regulations upfront. Mr. Lynch concurred. Mr. Lynch summarized the motion and called for a vote. The motion passed (4-3). Mr. Lynch explained the appeal procedure.

**Motion:** Motion to Approve the Special Use Authorization with Conditions including condition 6 and Modifications.

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

**Vote:** Motion passed (**Summary:** Yes = 4, No = 3, Abstain = 0)

**Yes:** Mr. Martzke, Mr. Bemis, Ms. Edie, and Mr. Garcia.

**No:** Chairman Lynch, Mr. Cervantes, Ms. Weissler

### Item 3

**PUBLIC HEARING - Docket SU-13-05 (Workman):** A Special Use request for an Off-Site Advertising Sign in a Rural Zoning District in Hereford located at 10280 S. Wilderness Rd, at the west entrance of the Kings Ranch subdivision.

Chairman Lynch called for the Planning Director's report. Mr. Keith Dennis presented the docket, explaining the background of the request utilizing photos, maps, and other visual aids. Mr. Dennis noted that the sign was already in place, and clarified why the sign is regarded as Off Site and could not be considered as part of the Special Use for the same applicant several months prior. He also noted that the sign will be moved from its current location as it sits in one right of way and too close to another. Mr. Dennis closed by listing the factors in favor of and against approval and invited questions from the Commission.

Mr. Lynch invited the Applicant to make a statement.

Mr. Michael Cerepanya of Hereford spoke on behalf of RL Workman. He spoke to why the sign was not part of the previous Special Use to establish the Contract Construction Services, and explained the relocation and the height of the sign. Mr. Cerepanya also spoke to why the sign was installed without the correct permits and stated that the builder was unaware of the requirements.

Mr. Lynch also noted that there were no members of the public wishing to speak regarding this item and invited discussion from Commissioners. Ms. Edie asked about the location of the landscaping in the right of way, which Mr. Dennis explained was permitted. Mr. Lynch then called for the Planning Director's summary and recommendation. Mr. Dennis recommended Conditional Approval. Mr. Lynch

called for a motion. Mr. Bemis made a motion for Approval with Conditions recommended by Staff. Mr. Martzke seconded the motion and Mr. Lynch called for a vote. The motion passed unanimously (7-0).

**Motion:** Motioned to approve the Special Use Authorization.

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

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

**Yes:** Mr. Martzke, Chairman Lynch, Mr. Cervantes, Ms. Weissler, Mr. Bemis, Ms. Edie, and Mr. Garcia.

**No:** 0

## CALL TO THE PUBLIC

Chairman Lynch opened the "Call to the Public." Jack Cook spoke about various matters. Mr. Lynch noted that several speakers signed up to speak about water and explained that there would be a work session on the issue. He noted that while he was not required to permit it to be a topic for Call to the Public at this meeting he would permit it.

Mr. Winston Witwer thanked the Commission for bringing "the advisory board" to the attention of the Board of Supervisors and requested that the Commission take no action on the revised regulations, particularly water regulations until the advisory board was established and had an opportunity to "understand their role". He also requested multiple public hearings after the advisory board review all the rules and regulations currently in effect from 2004 on. Mr. Witwer also requested the process be delayed until after summer to allow citizens a chance to review the changes. He stated there was no rush to establish new regulations by quoting a study that claims that there has been no water drawdown in the last ten years. He explained that he lived in the County to avoid regulations. Lastly Mr. Witwer questioned the need for the current Planning and Zoning Regulations. Chairman Lynch asked Mr. Witer to clarify what advisory board he was speaking about. Mr. Witwer responded "the advisory board that we've been talking about". Mr. Lynch stated that when Mr. Witwer refers to an advisory board that is supposed to "review all the regulations" Mr. Lynch is unaware of any such Board. Mr. Witwer responded "the board that's supposed to be in place since 2004 as I understand". Mr. Lynch remarked that Mr. Witwer "must understand something I don't". Mr. Hansen interjected that Call to the Public should not involve a discussin, to which Mr. Lynch clarified that he was "just trying to understand what he's telling me".

Ms. Jere Fredenburgh had signed up to speak but was not present.

Mr. Mike Jackson of McNeal noted that he believed that the board Mr. Witwer was referring to was the Building Code Advisory Board. He expressed appreciation for the Commission's discussion of SU-13-06. Mr. Jackson continued by discussing the Building Code Advisory Board, admitting he spoke incorrectly about the issue in January. He stated that at that meeting the County Attorney advised the Commission that the Building Code could not be discussed at the time since it was not on the agenda and is separate from the zoning ordinance. He went on to claim that the Attorney's Office has stated that Zoning violations include Building Code violations and noted that the Board had approved a contract for a zoning hearing officer. He further claimed that the Attorney "improperly obstructed" the January meeting. Mr. Jackson then pivoted to an email discussion between himself, Supervisor Searle,

and another member of the public. He further discussed the background of the advisory and appeals. He stated that the Commission denied a previous proposal because “people shouldn’t judge appeals from rules they themselves wrote”. He stated that Staff was pushing the same idea to the Board despite the Commission’s reluctance. He reiterated his claim that the Supervisors have been continually and willfully breaking the law. He once again stated that the Commission’s work on the regulation would be wasted because of the lack of the advisory board. Lastly he thanked Chairman Lynch for setting up the several work sessions to review the proposed changes to the zoning regulations.

Chairman Lynch closed the “Call to the Public.”

## **PLANNING DIRECTOR'S REPORT**

Chairman Lynch then called for the Planning Director’s report. Deputy Director Beverly Wilson reported that the wind farm approved by the Commission in April would be appealed. She also noted that there would be one Special Use at the June meeting. Ms. Wilson also explained that a self certification proposal for Registrants and the proposal for the Building Code Advisory and Appeal Board would be presented. She also explained that Staff planned to have the final work session on the zoning regulations in June and would bring them for a vote in July. She explained several Staff issues as well.

## **CALL TO COMMISSIONERS**

Ms. Weissler asked for information on the wind farm appeal, which Ms. Wilson provided. Mr. Lynch made comments regarding the agenda and items the Commission wanted resolved in the zoning regulation changes.

## **WORK SESSION**

The Commission held a Work Session to continue reviewing proposed changes to the Zoning Regulations. The proposed Water Conservation measures was covered. Chairman Lynch noted that the Work Session was open to the Public, but was not a Public Hearing. He reiterated that there would be no action taken at this time. Ms. Wilson presented and explained the proposed changes. There were numerous requests for clarification and suggestions for minor changes from the Commission. There was also a discussion regarding what “encourage” meant in the regulations, and if it was not truly a regulation if it should be included. Another Work Session was proposed to review the proposed zoning regulations with the requested changes.

## **ADJOURNMENT**

Mr. Martzke moved to adjourn, Mr. Bemis seconded, and the meeting was adjourned at 7:15 p.m.



# COCHISE COUNTY COMMUNITY DEVELOPMENT

"Public Programs...Personal Service"

## MEMORANDUM

**TO:** Cochise County Planning and Zoning Commission  
**FROM:** Peter Gardner, Planner I *PMZ*  
**FOR:** Beverly J. Wilson, Deputy Director, Planning Division *(bw)*  
**SUBJECT:** Docket SU-13-08 (Vander-Heyden)  
**DATE:** May 28, 2013, for the June 12, 2013 Meeting

### APPLICATION FOR A SPECIAL USE

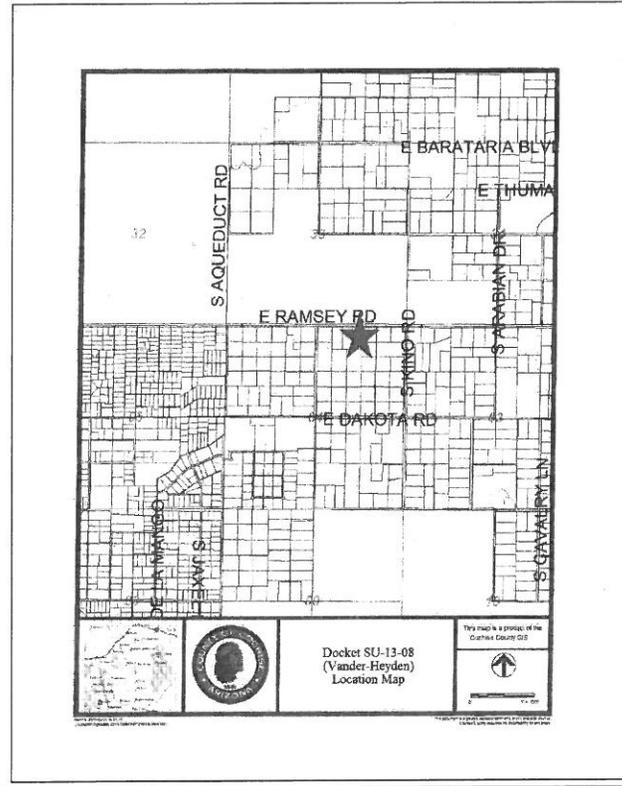
Applicants Leon and Laura Vander-Heyden seek Special Use authorization from the Planning and Zoning Commission to allow rental of an Accessory Living Quarter, per Section 203 of the Zoning Regulations. Their intent is to offer an existing, permitted Accessory Living Quarter for long term rental. The subject Parcel (104-82-017G) is located at 6580 East Ramsey Road in Hereford, AZ.

### I. DESCRIPTION OF SUBJECT PARCEL AND SURROUNDING LAND USES

Parcel Size: 4.00 Acres  
 Zoning: Rural (RU-4)  
 Growth Area: Category D (Rural)  
 Plan Designation: Rural Residential  
 Area Plan: None  
 Existing Uses: Single Family Home with Accessory Living Quarters and assorted accessory structures

#### **Surrounding Zoning and Uses**

Relation to Subject Parcel	Zoning District	Use of Property
North	RU-4	Vacant State Land
South	RU-4	Single-family residential
East	RU-4	Single-family residential/Vacant
West	RU-4	Single-family residential



*Location Map*

**II. PARCEL HISTORY**

- 1993 – Permit for manufactured home, septic system, and right of way.
- 1996 – Permit for addition, shop, and garage with guest quarters.
- 1998 – Permit to expand garage.

**III. NATURE OF REQUEST**

Mr. and Mrs. Vander-Heyden acquired the property in 2012 from the original owner. They live on the property and intend to offer the two bedroom apartment guest quarters for long-term rental. In 2012 the zoning regulations were amended to permit such rentals with Special Use Authorization from the Planning and Zoning Commission.



*The ALQ to be rented is the upstairs portion of the right hand building.*

**IV. ANALYSIS OF IMPACTS – COMPLIANCE WITH SPECIAL USE FACTORS**  
**(Section 1716.02)**

Section 1716.02 of the Zoning Regulations provides a list of 10 factors with which to evaluate Special Use applications. Staff uses these factors to help determine whether to recommend approval for a Special Use Permit, as well as to determine what conditions and/or modifications may be needed. Eight of the 10 criteria apply to this request. The project complies with all eight of the applicable Special Use factors.



*This photo shows a rear view of the structure, including the entrance.*

**A. Compliance with Duly Adopted Plans: Complies**

Although the project site is not within the boundaries of any area plans, the proposed use is compliant with various policies in the County’s Comprehensive Plan, including the appropriateness in Category D, Rural Residential areas of residential densities of one dwelling per two-acres or more, particularly in areas such as this with improved roads. This request also meets the goal of promoting safe and affordable housing in Cochise County.

**B. Compliance with the Zoning District Purpose Statement: Complies**

Section 601.04 of the Zoning Regulations specifies “to provide space for people, minimize traffic congestion, and preserve the existing rural environment of unincorporated areas of the county situated outside of existing communities” as a purpose of the Rural Districts. This request is more harmonious with these goals than an option of upzoning and splitting the land.

**C. Development Along Major Streets: Complies**

The property takes access from East Ramsey Road, a County-maintained, arterial road. The existing driveway has served the property since the main home was installed and the ALQ was permitted. The County Transportation Planner has determined that the traffic load will not exceed the typical range for a single-family dwelling and that the existing driveway is appropriate for the current and proposed use.

**D. Traffic Circulation Factors: Complies**

The property is accessed directly from East Ramsey Road via an existing 20-foot driveway. As noted above, Staff has indicated that the proposed use would not generate traffic in excess of the normal range for a single-family residential use.



*Existing 20-ft. driveway.*

**E. Adequate Services and Infrastructure: Complies**

This factor concerns the ability of the Applicant to provide for necessary street, water, sewer, and utility services on the property. All services currently exist on site, as the property is served by a well and septic system. SSVEC provides electric power, and the Fry Fire Department would provide fire protection. Condition #2 is a standard condition requiring compliance with all applicable standards, permitting or other requirements as may be necessary.

**F. Significant Site Development Standards: Complies**

The project is on a four-acre site within Hereford. This request will not alter the residential use of the property, nor will any of the existing site development standards require modification.

**G. Public Input: Complies**

The Applicant completed the Citizen Review process and received four letters of support. Staff has also received two letters of support from neighboring property owners.

**H. Hazardous Materials: Not Applicable.**

**I. Off-Site Impacts: Complies**

The rental of the ALQ will not create any substantial impacts beyond those that would appear if the unit was occupied by an individual who was ill, elderly, disabled,

**J. Water Conservation: Not Applicable**

There is no proposed additional development, as the project would use existing facilities.

**V. PUBLIC COMMENT**

The Department mailed notices to neighboring property owners within 1,500-feet of the subject property. Staff posted the property on May 23, 2013, and published a legal notice in the Bisbee Observer on May 23, 2013. To date, the Department has received two letters of support from neighboring property owners.

**VI. SUMMARY AND CONCLUSION**

**Factors in Favor of Approving the Special Use**

1. The request complies with all eight of the applicable Special Use factors;
2. The Rural Districts are established for such land use proposals, per Section 601.04 of the Zoning Regulations;
3. The request is supported by the Comprehensive Plan's goal of promoting safe and affordable housing in Cochise County;
4. The land use would generate no appreciable off-site impacts, and traffic would be minimal along a developed and maintained arterial roadway;
5. The proposed use would utilize existing structures; and
6. Staff has received two letters of support and the Applicant has received four letters of support for the project.

**Factor Against Allowing the Special Use**

1. None Apparent

**VIII. RECOMMENDATION**

Based on the factors in favor of approval, Staff recommends Conditional Approval of the Special Use request, subject to the following condition:

Within thirty (30) days of approval of the Special Use, the Applicant shall provide the County a signed Acceptance of Conditions form and a Waiver of Claims form arising from ARS Section 12-1134.

*Sample Motion: Mr. Chair, I move to approve Special Use Docket SU-13-08, with the Condition recommended by staff; the Factors in Favor of approval constituting the Findings of Fact.*

**IX. ATTACHMENTS**

- A. Special Use Application
- B. Location Map
- C. Concept Plans
- D. Agency Comments
- E. Citizen Review and Public Comment



# COCHISE COUNTY COMMUNITY DEVELOPMENT

*"Public Programs...Personal Service"*

## COCHISE COUNTY PLANNING DEPARTMENT COMMERCIAL USE/BUILDING PERMIT/SPECIAL USE PERMIT QUESTIONNAIRE (TO BE PRINTED IN INK OR TYPED)

TAX PARCEL NUMBER 104-82-0176

APPLICANT LEON / LAURA VANDER-HEYDEN

ADDRESS 6580 E. Ramsey Rd, HEREFORD, AZ 85615

CONTACT TELEPHONE NUMBER 520-378-0916

EMAIL ADDRESS: Two AZ Frogs @ power.C.net

PROPERTY OWNER (IF OTHER THAN APPLICANT) N/A

ADDRESS \_\_\_\_\_

\_\_\_\_\_

DATE SUBMITTED \_\_\_\_\_

Special Use Permit Public Hearing Fee (if applicable)	\$ _____
Building/Use Permit Fee	\$ _____
<b>Total paid</b>	<b>\$ _____</b>

### ----- PART ONE - REQUIRED SUBMITTALS

1. Cochise County Joint Application (attached).
2. Questionnaire with all questions completely answered (attached).
3. A minimum of (6) copies of a site plan drawn to scale and completed with all the information requested on the attached Sample Site Plan and list of Non-residential Site Plan Requirements. **(Please note that nine (9) copies will be required for projects occurring inside the Uniform Building Code enforcement area. In addition, if the site plan is larger than 11 by 17 inches, please provide one reduced copy.)**
4. Proof of ownership/agent. If the applicant is not the property owner, provide a notarized letter from the property owner stating authorization of the Commercial Building/Use/Special Use Application.
5. Proof of Valid Commercial Contractor's License. (Note: any building used by the public and/or employees must be built by a Commercial Contractor licensed in the State of Arizona.)

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6. Hazardous or Polluting Materials Questionnaire, if applicable.

**OTHER ATTACHMENTS THAT MAY BE REQUIRED DEPENDING ON THE SCOPE OF THE PROJECT**

1. Construction Plans (possibly stamped by a licensed Engineer or Architect)
2. Off-site Improvement Plans
3. Soils Engineering Report
4. Landscape Plan
5. Hydrology/Hydraulic Report
6. Traffic Impact Analysis (TIA): **Where existing demonstrable traffic problems have already been identified such as high number of accidents, substandard road design or surface, or the road is near or over capacity, the applicant may be required to submit additional information on a TIA.**
7. Material Safety Data Sheets
8. Extremely Hazardous Materials Tier Two Reports
9. Detailed Inventory of Hazardous or Polluting Materials along with a Contingency Plan for spills or releases

The Commercial Permit Coordinator/Planner will advise you as soon as possible if and when any of the above attachments are required.

**PART TWO - QUESTIONNAIRE**

In the following sections, thoroughly describe the proposed use that you are requesting. **Attach separate pages if the lines provided are not adequate for your response.** Answer each question as completely as possible to avoid confusion once the permit is issued.

**SECTION A - General Description** (Use separate sheets as needed)

1. What is the existing use of the property? Residential  
\_\_\_\_\_  
\_\_\_\_\_
2. What is the proposed use or improvement? Rental of ALQ  
\_\_\_\_\_  
\_\_\_\_\_
3. Describe all activities that will occur as part of the proposed use. In your estimation, what impacts do you think these activities will have on neighboring properties? None  
\_\_\_\_\_  
\_\_\_\_\_
4. Describe all intermediate and final products/services that will be produced/offered/sold.  
None  
\_\_\_\_\_  
\_\_\_\_\_

5. What materials will be used to construct the building(s)? (Note, if an existing building(s), please list the construction type(s), i.e., factory built building, wood, block, metal) N/A

6. Will the project be constructed/completed within one year or phased? One Year           
Phased      if phased, describe the phases and depict on the site plan.

N/A

7. Provide the following information (when applicable):

A. Days and hours of operation: Days:          Hours (from N/A AM to          PM)

B. Number of employees: Initially:          Future:           
Number per shift Seasonal changes N/A

C. Total average daily traffic generated:

(1) How many vehicles will be entering and leaving the site. N/A

(2) Total trucks (e.g., by type, number of wheels, or weight) N/A

(3) Estimate which direction(s) and on which road(s) the traffic will travel from the site? N/A

(4) If more than one direction, estimate the percentage that travel in each direction N/A

(5) At what time of day, day of week and season (if applicable) is traffic the heaviest N/A

Circle whether you will be on public water system or private well. If private well, show the location on the site plan.

D. Estimated total gallons of water used: per day N/A per year         

Will you use a septic system? Yes      No      If yes, is the septic tank system existing? N/A  
Yes      No      Show the septic tank, leach field and 100% expansion area on the site plan.

G. Does your parcel have permanent legal access\*? Yes \_\_\_ No \_\_\_ if no, what steps are you taking to obtain such access?

N/A

\*Section 1807.02A of the Cochise County Zoning Regulations stipulates that no building permit for a non-residential use shall be issued unless a site has permanent and direct access to a publicly maintained street or street where a private maintenance agreement is in place. Said access shall be not less than twenty (20) feet wide throughout its entire length and shall adjoin the site for a minimum distance of twenty (20) feet. If access is from a private road or easement provide documentation of your right to use this road or easement and a private maintenance agreement.

H. For Special Uses only - provide deed restrictions that apply to this parcel if any.

Attached \_\_\_ NA N/A

8. Identify how the following services will be provided:

Service	Utility Company/Service Provider	Provisions to be made
Water		Private well
Sewer/Septic		existing
Electricity		SPVER
Natural Gas		Propane
Telephone		Magic Jack
Fire Protection		Fry

**SECTION B - Outdoors Activities/Off-site Impacts**

1. Describe any activities that will occur outdoors.

Normal living activities

2. Will outdoor storage of equipment, materials or products be needed? Yes \_\_\_ No  if yes, show the location on the site plan. Describe any measures to be taken to screen this storage from neighboring properties. \_\_\_\_\_

3. Will any noise be produced that can be heard on neighboring properties? Yes \_\_\_ No  if yes; describe the level and duration of this noise. What measures are you proposing to prevent this noise from being heard on neighboring properties? \_\_\_\_\_

4. Will any vibrations be produced that can be felt on neighboring properties? Yes \_\_\_ No  if yes; describe the level and duration of vibrations. What measures will be taken to prevent vibrations from impacting neighboring properties? \_\_\_\_\_

\_\_\_\_\_

5. Will odors be created? Yes \_\_\_ No  If yes, what measures will be taken to prevent these odors from escaping onto neighboring properties? \_\_\_\_\_

\_\_\_\_\_

6. Will any activities attract pests, such as flies? Yes \_\_\_ No  If yes, what measures will be taken to prevent a nuisance on neighboring properties? \_\_\_\_\_

\_\_\_\_\_

7. Will outdoor lighting be used? Yes  No \_\_\_ If yes, show the location(s) on the site plan. Indicate how neighboring properties and roadways will be shielded from light spillover. Please provide manufacturer's specifications.

8. Do signs presently exist on the property? Yes \_\_\_ No  If yes, please indicate type (wall, freestanding, etc.) and square footage for each sign and show location on the site plan.

A. \_\_\_\_\_ B. \_\_\_\_\_ C. \_\_\_\_\_ D. \_\_\_\_\_

9. Will any new signs be erected on site? Yes \_\_\_ No  If yes, show the location(s) on the site plan. Also, draw a sketch of the sign to scale, show the copy that will go on the sign and **FILL OUT A SIGN PERMIT APPLICATION** (attached).

10. Show on-site drainage flow on the site plan. Will drainage patterns on site be changed? Yes \_\_\_ No

If yes, will storm water be directed into the public right-of-way? Yes \_\_\_ No \_\_\_

Will washes be improved with culverts, bank protection, crossings or other means? Yes \_\_\_ No

If yes to any of these questions, describe and/or show on the site plan.

11. What surface will be used for driveways, parking and loading areas? (i.e., none, crushed aggregate, chipseal, asphalt, other)

\_\_\_\_\_

12. Show dimensions of parking and loading areas, width of driveway and exact location of these areas on the site plan. (See site plan requirements checklist.)

13. Will you be performing any off-site construction (e.g., access aprons, driveways, and culverts)?  
Yes \_\_\_ No  If yes, show details on the site plan. **Note: The County may require off-site improvements reasonably related to the impacts of the use such as road or drainage improvements.**

**SECTION C - Water Conservation and Land Clearing**

1. If the developed portion of the site is one acre or larger, specific measures to conserve water on-site must be addressed. Specifically, design features that will be incorporated into the development to reduce water use, provide for detention and conserve and enhance natural recharge areas must be described. The Planning Department has prepared a *Water Wise Development Guide* to assist applicants. This guide is available upon request. If the site one acre or larger, what specific water conservation measures are proposed? Describe here or show on the site plan submitted with this application.

N/A

2. How many acres will be cleared? N/A  
If more than one acre is to be cleared describe the proposed dust and erosion control measures to be used (Show on site plan if appropriate.) \_\_\_\_\_

**SECTION D - Hazardous or Polluting Materials**

Some businesses involve materials that can contaminate the soil, air, water, waste disposal system or environment in general. Precautions must be taken to protect the environment when such products are distributed to or from the site, stored, manufactured, processed, disposed of, or released as raw materials, products, wastes, emissions, or discharges (When sold or incorporated in a product these materials are required to have Material Safety Data Sheets (MSDS) supplied by the manufacturer.) Examples of such products include but are not limited to paint, solvents, chemicals and chemical wastes, oil, pesticides, herbicides, fertilizers, radioactive materials, biological wastes etc.

Does the proposed use have any activities involving such materials?

Yes \_\_\_ No  If yes, complete the attached *Hazardous or Polluting Materials Use Questionnaire*.

**Note:** Depending on quantities, this question does not apply to ordinary household or office products or wastes such as cleansers, waxes or office supplies. Answer YES only if the materials are involved in the commercial or special use process or if landscaping or maintenance chemicals (pesticides, fertilizers, paints, etc.) will be present in quantities greater than 50 pounds (solids) or 25 gallons (liquids).

If you answer NO to this question but in the County's experience, the type of business proposed typically uses such materials, you will be asked to complete the *Hazardous or Polluting Materials Questionnaire* prior to processing this Commercial Use/ Building/ Special Use Permit.

**Applications that involve hazardous or polluting materials may take a longer than normal processing time due to the need for additional research. The Arizona Department of Environmental Quality Compliance Assistance Program can address questions about Hazardous Materials (1-800-234-5677, ext. 4333).**

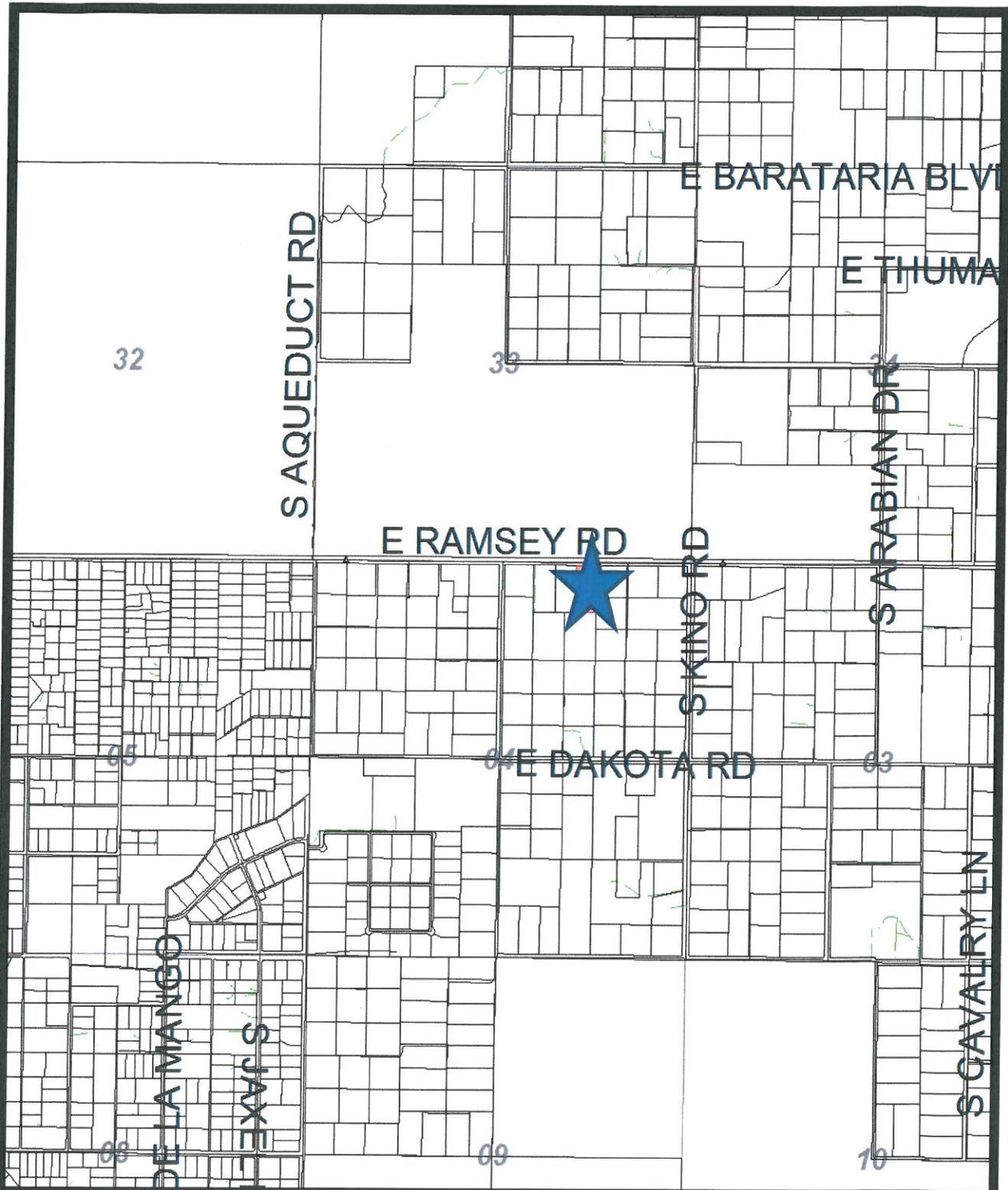
**SECTION E - Applicant's Statement**

I hereby certify that I am the owner or duly authorized owner's agent and all information in this questionnaire, in the Joint Permit Application and on the site plan is accurate. I understand that if any information is false, it may be grounds for revocation of the Commercial Use/ Building/ Special Use Permit.

Applicant's Signature Leon Vander Heyden

Print Applicant's Name LEON VANDER-HEYDEN

Date signed 4-12-13

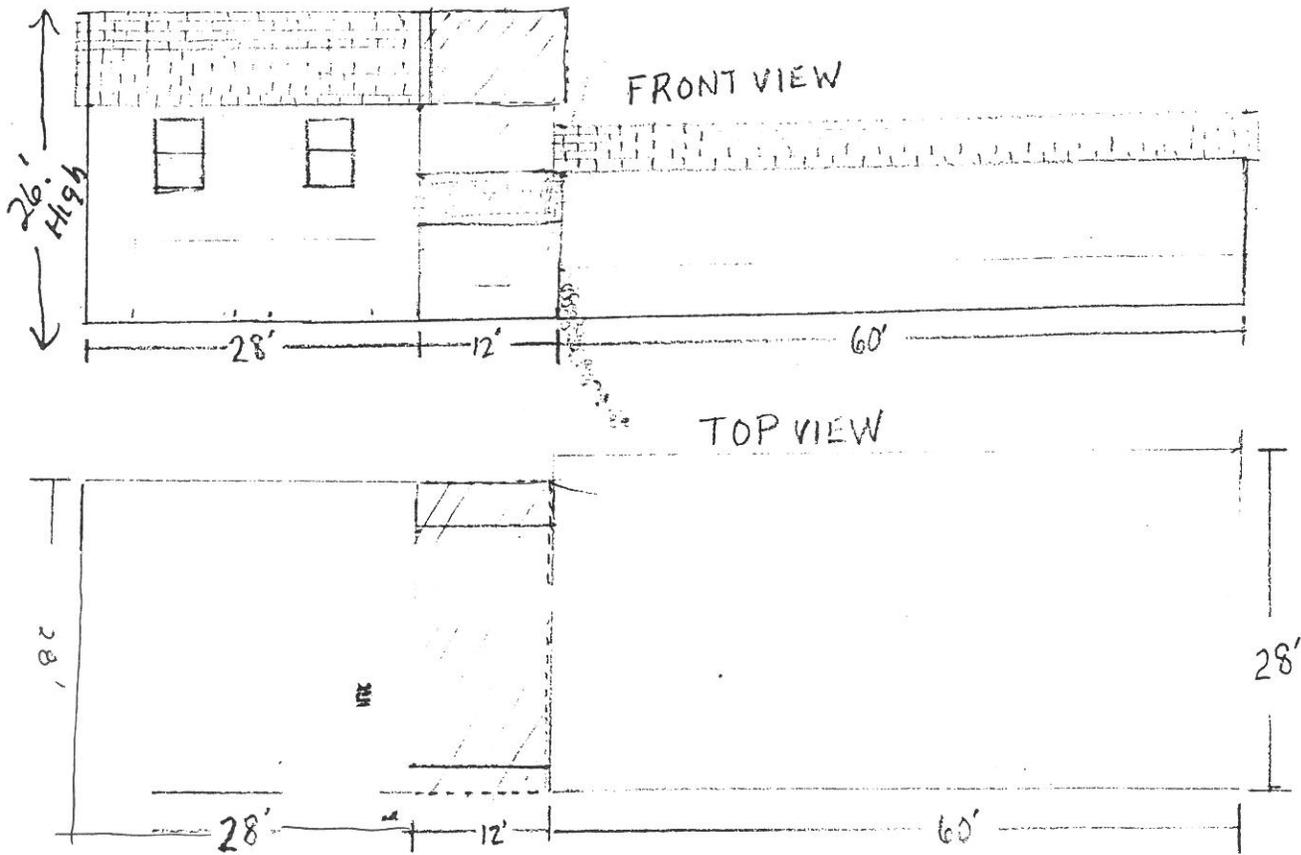


Docket SU-13-08  
(Vander-Heyden)  
Location Map

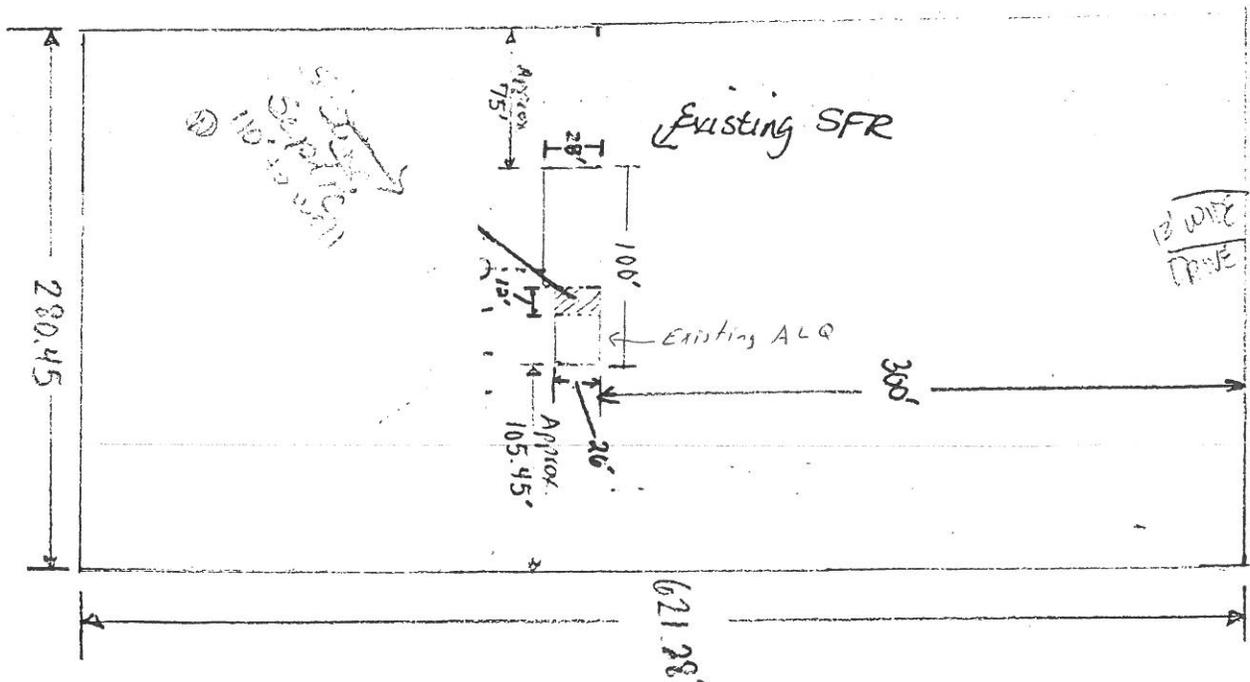
This map is a product of the Cochise County GIS




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PARCEL VIEW



6550 RAMSEY ROAD

## Gardner, Peter

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**From:** Marinez, Frances  
**Sent:** Thursday, May 30, 2013 2:00 PM  
**To:** Gardner, Peter; Cratsenburg, Diane; Lamberton, Karen  
**Cc:** Ellis, Ronald  
**Subject:** RE: ALQ Rental in Hereford SU 13-08

The information I gave you yesterday, Peter, is incorrect. BP from 93 constitutes an existing history so long as the ROW was included and paid for back then. NO PERMIT AT THIS TIME

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**From:** Gardner, Peter  
**Sent:** Thursday, May 30, 2013 1:55 PM  
**To:** Cratsenburg, Diane; Lamberton, Karen  
**Cc:** Marinez, Frances; Ellis, Ronald  
**Subject:** RE: ALQ Rental in Hereford SU 13-08

I've gotten conflicting direction on this. What's the final decision, Permit or not?

### Peter Gardner, Planner I

Cochise County Community Development Department  
Planning, Zoning, and Building Safety Division  
1415 Melody Lane, Building E  
Bisbee, AZ 85603  
Phone: 520-432-9240  
Fax: 520-432-9278  
"Public Programs, Personal Service"  
[www.cochise.az.gov](http://www.cochise.az.gov)

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**From:** Cratsenburg, Diane  
**Sent:** Thursday, May 30, 2013 1:21 PM  
**To:** Gardner, Peter; Lamberton, Karen  
**Cc:** Marinez, Frances; Ellis, Ronald  
**Subject:** RE: ALQ Rental in Hereford SU 13-08

You are correct - if the ROW was in with the BP back in 1993, then there is permit history, and an info permit is not necessary, so long as the existing = the site plan from 1993.

Diane

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**From:** Gardner, Peter  
**Sent:** Tuesday, May 28, 2013 1:33 PM  
**To:** Lamberton, Karen  
**Cc:** Cratsenburg, Diane  
**Subject:** RE: ALQ Rental in Hereford SU 13-08

Karen,

As I am writing the report and going through the file for this request I notice that the permit to install the manufactured home in 1993 has a right of way permit attached. The permit is BP-930522, and at the time the parcel was 104-82-017A. Could this be why we were unable to find a permit on file? I know the requested ROW permit is no charge, but if we already have one from the permit in 1993 that would seem to make things easier for everyone. Thanks,

**Peter Gardner, Planner I**

Cochise County Community Development Department  
Planning, Zoning, and Building Safety Division  
1415 Melody Lane, Building E  
Bisbee, AZ 85603  
Phone: 520-432-9240  
Fax: 520-432-9278  
"Public Programs, Personal Service"  
[www.cochise.az.gov](http://www.cochise.az.gov)

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**From:** Dennis, Keith  
**Sent:** Thursday, May 09, 2013 7:09 AM  
**To:** Gardner, Peter  
**Subject:** FW: ALQ Rental in Hereford SU 13-08

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**From:** Lamberton, Karen  
**Sent:** Thursday, May 09, 2013 12:40 AM  
**To:** Dennis, Keith  
**Cc:** Cratsenburg, Diane  
**Subject:** ALQ Rental in Hereford SU 13-08

Please see attached memo containing both the Highway Dept. and County Transportation Planner comments. Although we have no conditions for the Special Use Authorization, and support any waivers the applicant may wish to request regarding driveway width and surfacing, there will be a need for a revised site plan and a no-fee info ROW permit at the Commercial Permit stage. We have provided the applicant with advisory guidance regarding these two items in this memo.

If you have any additional questions please let us know.

**Karen L. Lamberton, AICP**

County Transportation Planner  
Community Development Department  
1415 Melody Lane, Building E  
Bisbee, Arizona 85603

520.432.9240 FAX 520.432.9278

Public Programs, Personal Service  
[www.cochise.az.gov](http://www.cochise.az.gov)

Special Use: Docket SU-13-08 (Vander-Heyden)

COCHISE COUNTY

MAY 2 2013

PLANNING

YES, I SUPPORT THIS REQUEST

Please state your reasons:

My understanding is that this is an elderly couple, who will benefit from added income. Do not believe approval will, in any way have any negative affect on anyone in the area.

Highly endorse approval.

NO, I DO NOT SUPPORT THIS REQUEST:

Please state your reasons:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(Attach additional sheets, if necessary) (SPOUSE)

PRINT NAME(S): ALFONSO S. + CIARISA O. RENTERIA

SIGNATURE(S): Ciarisa O Renteria  
Alfonso S. Renteria

YOUR TAX PARCEL NUMBER: 104.82.016F (the eight-digit identification number found on the tax statement from the Assessor's Office)

Your comments will be made available to the Planning Commission. Upon submission this form or any other correspondence becomes part of the public record and is available for review by the applicant or other members of the public. **Written comments must be received by our Department no later than 4 PM on Thursday, May 30, 2013 if you wish the Commission to consider them before the meeting. We cannot make exceptions to this deadline, however, if you miss the written comment deadline you may still make a statement at the public hearing listed above. NOTE: Please do not ask the Commissioners to accept written comments or petitions at the meeting, as they do not have sufficient time to read materials at that time. Your cooperation is greatly appreciated.**

RETURN TO: Peter Gardner, Planner I  
Cochise County Planning Department  
1415 Melody Lane, Building E  
Bisbee, AZ 85603

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**Gardner, Peter**

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**From:** T Hatfield [git\_thr@msn.com]  
**Sent:** Friday, May 24, 2013 9:24 AM  
**To:** Gardner, Peter  
**Subject:** Docket SU-13-08 (Vander-Heyden)

We do not object to this request.

Therese and Jeffrey Hatfield  
5901 S Red Tail Lane  
Hereford, AZ 85615



COCHISE COUNTY  
**COMMUNITY DEVELOPMENT**

*"Public Programs...Personal Service"*

**TO:** Planning and Zoning Commission

**FROM:** Beverly Wilson, Deputy Director Planning Division 

**SUBJECT:** Building Code Advisory and Appeals Board

**DATE:** May 30, 2013, for the June 12, 2013, Commission Meeting

**BACKGROUND**

In 1970, the Arizona Legislature enacted A.R.S. 11-861 establishing into Arizona Law the legislative authority for Arizona Counties to adopt codes, provided that they have already adopted zoning. The codes specifically outlined in this law include "...building codes and other related codes to regulate the quality, type of material and workmanship of all aspects of construction of buildings or structures...." Furthermore, ARS 11-862 specifically states that: "Any code adopted pursuant to this article **shall contain a provision for an advisory board** consisting of at least five members in order to determine the suitability of alternative materials and construction and to permit interpretations of the provisions of such code."

On December 14, 2004, the Board of Supervisors implemented a plan to expand the existing 2003 International Building Code county-wide to promote the public health, safety, and welfare of the Citizens of Cochise County. This version of the IBC contains language that allows for a Board that will indeed be able to determine the suitability of alternative materials and construction and to review interpretations of the Building Code. Perhaps the span of time between the enactment of ARS 11-862 and Section R112 of the 2003 IBC resulted in this Board being called a "Board of Appeals." Regardless, so far nine of the 15 Arizona Counties have combined these functions to form a "Building Code Advisory and Appeals Board."

Docket R-13-05 is a recommendation for the formation of this Building Code Advisory and Appeals Board, establishing the By-Laws, and approving the necessary documentation for the Public to file appeals. Per statute:

- Members of the Building Code Advisory and Appeals Board shall be appointed by the Board of Supervisors;
- Members shall be appointed for a term of four years, some initially for shorter terms, so that terms may be staggered to allow for at least one but no more than two terms to expire each year. Vacancies shall be filled for an unexpired term in the manner in which original appointments are required to be made;
- The Board will be formed of at least five, but not more than seven members;

- The Board shall include an architect duly registered in Arizona, a professional engineer registered in Arizona, a general contractor duly licensed in Arizona, a person representing the public and a resident of Cochise County, a person engaged in the electrical, mechanical, or plumbing trade, and additional members who may be engaged in the construction and design industry; and
- The County Official charged with the enforcement of the building code shall serve, without vote, as an ex officio member of the board and shall act as the secretary.

Furthermore, all positions will be filled to the extent that the persons meeting the qualifications are available within the county and are residents of the county. Each appointee shall have substantial experience in the field covered by the building code. The functions and duties of the advisory board may be specified by regulation by the Board of Supervisors, and are outlined in the attached By-Laws. The newly formed Board will hear and decide appeals of orders, decisions or determinations made by the County Building Official; hear and determine the suitability of alternative materials and construction methods, if denied by the Building Official; and act as an Advisory Board to the Planning Division of Community Development, the Building Official, and the Board of Supervisors on any proposed revisions or additions to Adopted County Codes.

Staff also recommends that any party that disagrees with the decision of the Building Board be provided with the right to appeal that decision to the Board of Supervisors by delivering a request for an appeal in writing, together with the written decision of the Board of Appeals, to the Clerk of the Board of Supervisors within seven (7) days of receipt of the decision. The Board of Supervisors would then be required to hold a hearing on the appeal within thirty (30) days of receipt of the appeal.

ARS 11-862E states that “The functions and duties of the advisory board may be specified by regulation by the board of supervisors.” A sample of the Ordinance prepared for the Board to review is attached, as well as the proposed By-Laws. Docket R-13-05 is scheduled and has been advertised to be heard by the Board of Supervisors at their June 25<sup>th</sup> scheduled meeting.

### **SUMMARY**

Arizona Statutes clearly state that if a County adopts a Building Code, the Board of Supervisors may specify by regulation the functions and duties of an Advisory Board. Creation of a Building Code Advisory and Appeals Board is within the scope of that authority. Staff has been directed to create the documentation for this purpose, and has provided a draft set of By-Laws, as well as a Draft Ordinance. Staff is requesting that the Commission forward this request to the Board with a recommendation for approval.

### **ATTACHMENTS:**

By-Laws and Rules of Procedure  
Appeal to Building Code Board of Appeals Form  
Board of Appeals Decision Form

**BYLAWS AND RULES OF PROCEDURES  
FOR COCHISE COUNTY  
BUILDING CODE ADVISORY AND APPEALS BOARD**

**ARTICLE 1-PREAMBLE**

The Cochise County Building Code Advisory and Appeals Board (“Building Board”) was established by the Board of Supervisors pursuant to A.R.S. §§ 11-861 and -862 and pursuant to Ordinance No. 13-\_\_\_. The functions of the Building Board are i) to hear and decide appeals of orders, decisions or determinations made by the Building Official relating to the application and interpretation of the adopted Cochise County Building Codes; ii) to determine the suitability of alternative materials and construction and to permit interpretations of the provisions of the Building Codes; and, iii) to advise the Building Official and the Planning Department on any proposed revisions or additions to the Cochise County Building Safety Codes.

The purpose of these *Bylaws and Rules of Procedure* shall be to implement Ordinance 13-\_\_\_.

**ARTICLE 2 – MEMBERSHIP**

1. Composition: Members of the Building Board shall be appointed by the Board of Supervisors. It shall be composed of seven (7) members with the following qualifications:
  - A. An architect duly licensed in the state of Arizona.
  - B. A professional engineer duly licensed in the state of Arizona.
  - C. A general contractor duly licensed in the state of Arizona.
  - D. A person representing the public and a resident of the county.
  - E. A person engaged in the electrical, mechanical, or plumbing trade.
  - F. A contractor with experience in green building.
  - G. A representative from a Fire Department or with a specialized knowledge of fire codes.
  
2. Removal from Office: The Board of Supervisors may remove any member for neglect of duty, inefficiency, or misconduct in office.
  
3. Vacancy: Vacancies created by any cause shall be filled for the unexpired term by appointment of the Board of Supervisors, and in the case of Officers by election by the Building Board from their membership.

### ARTICLE 3 – OFFICERS

1. The officers of the Building Board shall be:
  - A. Chair: The Chair shall preside at all meetings and public hearings of the Building Board, have general supervision of the conduct of the affairs of the Building Board, and perform such other duties as are usually exercised by the Chair of a board.
  - B. Vice-Chair: In the Chair's absence, the Vice-Chair shall perform the duties of the Chair. In the event that both the Chair and Vice-Chair shall be absent, then the members present shall choose one from among their number to be Chair pro-tem for that meeting.
  - C. Secretary: The Building Official shall serve as an ex-officio member of the Building Board, without vote, and serve as the secretary to the Building Board. Duties shall include keeping a written record of all business transacted, notify members of all meetings, keep on file all official records and be responsible for serving legal notice of all public hearings.
  - D. The officers shall be elected each year from among the members of the Building Board for a one-year term at the Annual Meeting, with the exception of the Secretary who shall be appointed.
2. Legal Counsel: The County Attorney shall render all legal counsel, and shall defend the Building Board in all legal actions. Advice of legal counsel shall be received and entered in the minutes before disposition of any question of law, or matter requiring legal interpretation or advice unless the Building Board has obtained the advice of legal counsel in Executive Session.
3. Conflict of Interest Policy: All Members and Officers shall be governed by the Conflict of Interest Policy set forth in Title 38, Chapter 3, Article 8 of the Arizona Revised Statutes.

### ARTICLE 4 – MEETINGS AS ADVISORY BOARD

1. Annual Meetings: In its capacity as the Advisory Board, beginning in 2013, the Building Board shall hold an annual meeting each August or September. The installation of new members and election of officers shall be held at the annual meeting.

Other Meetings: Meetings other than the annual meeting are to be held on an "as needed" basis as determined by the Chair, the Building Official, the Community Development Director, or the Board of Supervisors.
2. Meetings Open to the Public: All meetings and hearings shall be open public meetings pursuant to the requirements and procedures of Arizona's open meetings laws; and all official votes or actions must be in session open to the public. Executive sessions may be

convened by the affirmative vote of the majority of the members present only pursuant to the requirements and procedures of the Arizona Revised Statutes.

3. Notifications: Notice of all meetings shall be furnished to each member at least 48 hours in advance of a meeting. The attendance of a member at a meeting shall constitute a waiver of notice of such meeting, except where a member attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Docket packets shall be furnished to each member at least 48 hours in advance of any meeting.
4. A Quorum: A majority of four (4) members shall constitute a quorum.
5. Minutes & Records: The Building Board shall keep minutes and records of all its resolutions, transactions, findings, and determinations and, if the vote is not unanimous, the vote of each member present shall be recorded with each order or resolution. Votes taken may be by roll call at the discretion of the Chair and the Chair shall be the last to vote. The minutes, records, resolutions, transactions, findings and determination shall be of public record.
6. Decisions of the Building Board: Majority votes on any matter shall be the final decision of the Building Board.
7. Recommendation to Board of Supervisors: All recommendations shall be forwarded by the Secretary to the Planning Director and Board of Supervisors.
8. Rules of Order: These *Bylaws and Rules and Procedures* shall govern the proceedings of all meetings, subject to interpretation by the Chair.
9. Adjournment: A motion to adjourn shall always be in order, and shall be carried by a majority vote of members present.
10. Other Procedures: If nothing in these by-laws or statute governs a particular situation, the Chair, in consultation with the Secretary or the County Attorney, shall prescribe a procedure to address the situation, which procedure shall do substantial justice to the persons and entities affected.
11. Order of Business:
  - A. Call to Order by Chair or Vice-Chair
  - B. Roll Call
  - C. Determination of a Quorum
  - D. Approval of Minutes of last preceding meeting
  - E. Call to Public
  - F. Old Business
  - G. New Business
  - H. Adjournment

The above order of presenting business may be changed by the Chair to accommodate persons to be heard on matters for consideration before the Building Board.

12. Writings Required: Every matter on which the Building Board is authorized or required to act, brought before it by any person, official, organization or agency, shall be presented in writing or on forms provided for the purpose, and shall include all information necessary for a clear understanding and intelligent action by the Building Board. Such information may include maps, surveys, drawings, plans, charts, and other descriptive data.
13. Posting of Agenda: The agenda of cases to be heard shall be posted in the physical location required for posting other legal notices for the Board of Supervisors not less than 24 hours before each regular or special meeting.

#### **ARTICLE 5 – MEETINGS AS APPEALS BOARD**

1. Appeals: Appeals to the Building Board, in its capacity to hear appeals from orders, decisions or determinations made by the Building Official relating to the application and interpretation of the adopted Cochise County Building Codes of Appeals, may be filed by any property owner or tenant or other designee, or by any government officer, department, board, or bureau.
2. Thirty Day Limit: Appeals must be filed within thirty (30) days from the date the Building Official makes the order, decision or determination that is being appealed. An appeal shall be made using the appeal form attached hereto as Exhibit A. Any communication purporting to be an appeal shall be deemed a mere notice of intention to file and shall not be deemed a filing to comply with the requirements of timely filing.
3. Materials Deadline: Materials for the Board of Appeals in support of or in opposition to an appeal must be received five (10) calendar days prior to the scheduled meeting. Failure to supply the required information within the time indicated may be considered by the Board as a failure to comply with this rule and the case may be dismissed for failure of timely filing.
4. Hearings Scheduling: Hearings shall be scheduled within 30 days of receiving an appeal form.
5. Who May Appear: The appellant and any person who may be affected by the case may appear on his own behalf or be represented by counsel.
6. Failure to Appear: If the appellant fails appear at the hearing, the Board may continue the hearing or dispose of the matter on the record before it and hear those who have appeared in response to the notice of hearing.
7. Lack of Quorum: Where four members are not present to hear an appeal, either the appellant, the appellant's representative or the Building Official shall have the right to

request a postponement of the hearing. Absent a request, the appeal shall be heard and decided by the members who are present.

8. Order of Proceedings: Each appeal shall be heard in the following order subject to the discretion of the Chair:
  - A. The Chair shall call the docket number and describe the docket.
  - B. The Building Official will summarize relevant information and issues.
  - C. The appellant or appellant's representative may make a statement in support of the appeal.
  - D. The Building Official, or representatives, may be heard.
  - E. The appellant may be heard in rebuttal.

Questions and discussion from Building Board members, followed by a vote; provided, however, the Board may take a case under advisement for later consideration and determination, or may defer action whenever it concludes that additional evidence is needed or further study is required, but in all events the Board should decide a case within seven (7) days of the hearing. The Board's decision shall be recorded on the form attached hereto as Exhibit B.

9. Burden of Proof: The burden of proof shall rest with the appellant.
10. Simple Majority: A simple majority of legal votes cast by those members present and voting, a quorum being present, shall be required in order to carry all motions. A member may disqualify himself or herself from voting whenever he/she has a personal or monetary interest in the property concerned in the case, or will be directly affected by the decision of the Board, or believes any conflict of interest exists. Such disqualification shall not operate to defeat the existence of a quorum.
11. Appeal to Board of Supervisors: Any party that disagrees with the decision of the Building Board may appeal that decision to the Board of Supervisors by delivering a request for an appeal in writing, together with the written decision of the Board of Appeals, to the Clerk of the Board of Supervisors within seven (7) days of receipt of the decision. The Board of Supervisors shall hold a hearing on the appeal within thirty (30) days of receipt of the appeal.

**ARTICLE 6 – AMENDMENTS OF BYLAWS & RULES OF PROCEDURE**

These *Bylaws and Rules of Procedure* may be amended by the Board of Supervisors at any time.

ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2013

\_\_\_\_\_  
Ann English, Chair  
Cochise County Board of Supervisors

**ATTEST:**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Katie A. Howard,  
Clerk of the Board

\_\_\_\_\_  
Britt Hanson,  
Chief Civil Deputy County Attorney

**APPEAL TO BUILDING CODE BOARD OF APPEALS**  
Cochise County Community Development Department

DATE: \_\_\_\_\_, 20\_\_

STREET ADDRESS: \_\_\_\_\_

PARCEL #: \_\_\_\_\_

OWNER: \_\_\_\_\_

OWNER'S REPRESENTATIVE (if any): \_\_\_\_\_

I hereby wish to appeal to the Building Code Board of Appeals from an order, decision, or determination of the County Building Official.

Give a brief statement of the work involved or County action taken which prompted you to appeal. Include the Technical Code and Section involved if known. You may attach additional information if needed.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Applicant: \_\_\_\_\_ Phone Number: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Email Address: \_\_\_\_\_

**NOTICE TO APPLICANT:** You are hereby notified of your right and opportunity to submit additional information to clarify and define the issues from your perspective. This additional information, if submitted, must be available to the staff secretary for delivery to the board members at least five calendar days before the hearing date. The County staff will be providing a staff report to the board members to clarify the staff's position on the issues. A copy of this report will be provided to you at the same time. If you wish for the report to be emailed to you rather than mailed as a hardcopy, please check this box: \_\_\_\_.

COCHISE COUNTY BUILDING CODES  
BOARD OF APPEALS  
**DECISION**

DOCKET NO: \_\_\_\_\_

DATE: \_\_\_\_\_

TO:

Notice is hereby given that your appeal of the order, decision, or determination of the Cochise County Building Official, at the premises designated as

\_\_\_\_\_

is hereby (approved or rejected) on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ . The reasons are as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Chair, Board Of Appeals

ATTEST:

\_\_\_\_\_  
Cochise County Building Official

cc: Board of Appeals Members  
Director, Community Development Department



COCHISE COUNTY  
**COMMUNITY DEVELOPMENT**

*"Public Programs...Personal Service"*

**TO:** Planning and Zoning Commission

**FROM:** Beverly Wilson, Deputy Director Planning Division 

**SUBJECT:** Docket R-13-06 (Registrant Self-Certification Policy)

**DATE:** May 30, 2013, for the June 12, 2013, Commission Meeting

**BACKGROUND**

The Registrant Self-Certification Policy is intended to offer an option for plan review of the construction documents required to issue a building permit for commercial and residential buildings and structures. This Policy has been developed for Professional Registrants, allowing them to "self-certify" that they have reviewed their construction plans for building code compliance prior to submittal to the County for a permit.

To be eligible for the Registrant Self-Certification program, the Registrant must be licensed with the Arizona State Technical Board of Registration. They shall have performed work within Cochise County, and be familiar with the permitting, plan review, and inspection processes as adopted by Cochise County with the current Building Code, on December 14, 2004. The Registrant shall be competent in their discipline, and will take responsibility for any work performed on their plan set by another Registrant.

The program is outlined to function as follows:

- The Cochise County Self-Certification Policy is voluntary.
- Both Registrant and Property Owner must agree to participate in this Option.
- The Registrant shall apply in writing to the Cochise County Building Official requesting approval to participate in this self-certification program. This letter of application shall include:
  - Information regarding previous work completed within Cochise County.
  - The disciplines that the Registrant shall perform.
  - A list of sub-contract Registrants normally used by the Applicant.
- The Building Official shall maintain a current listing of eligible Registrants.
- If submitted work is deemed to contain life safety violations, the Registrant may be removed from the listing by the Building Official.
- Upon formal notice from the Building Official of removal, a Registrant may appeal this decision to the Board of Appeals.

The process of submitting Self-Certified plans is as follows:

- A letter shall be submitted by the Registrant for each project proposed to be Self-Certified, requesting a building plan review waiver, at time of plan submittal. It shall contain the following information:
  - A listing of the Building Code being utilized.
  - A listing of all Sub-Registrants, whose work is included in this request.
  - The letter shall declare oversight under control of the Registrant or if that oversight shall be controlled by a General Contractor.
  - The letter shall be stamped with the Registrant's seal, signed, and dated.
  - The letter shall hold the County harmless for any consequence of this process.
- It is intended that any self-certification of plans is all inclusive, and shall not allow for partial waiver of reviews for any trade or discipline.
- An Owner's Release form shall be submitted with each project indicating that the Owner understands and accepts the Registrant's liability. This form shall be provided by the County.
- There shall be no plan review fee collected to participate in this program.

Building inspectors shall inspect construction as per normal inspection procedures to ensure conformance with the plans, building code requirements, and letter of self-certification. Any deficiencies shall be corrected in the field and the Professional Registrant in responsible charge shall submit as-built drawings reflecting those changes to the Building Safety Division.

If the Professional Registrant does not agree with a code requirement imposed by an inspector, that requirement may be appealed to the Building Official. Further appeals may be made to the Building Code Board of Appeals.

At final completion of a building permit issued under this Self-Certification program, a Certificate of Occupancy will be issued, and shall note that the plans were not reviewed by County plans examiners but were certified by the Registrant.

### **SUMMARY**

The Registrant Self-Certification Policy will offer an option to plan review for Registrants and the public as well as relief from the associated fees. Staff has been directed to create the documentation for this purpose, as attached. Staff is requesting that the Commission forward this request to the Board with a recommendation for approval.

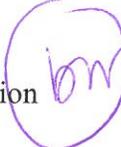
XC: Jim Vlahovich, Deputy County Administrator  
Adam Ambrose, Chief Civil Deputy County Attorney  
Karen Riggs, Interim Community Development Director



# COCHISE COUNTY COMMUNITY DEVELOPMENT

*"Public Programs...Personal Service"*

## MEMORANDUM

**TO:** Cochise County Planning and Zoning Commission  
**FROM:** Keith Dennis, Planner II   
**FOR:** Beverly J. Wilson, Deputy Director Planning Division   
**SUBJECT:** Zoning Regulation Update  
**DATE:** May 30, 2013, for the June 12, 2013 Meeting

### COMMISSION-DIRECTED CHANGES TO THE ZONING REGULATION UPDATE

Below is a list of the changes made by staff to the 2013 Zoning Regulation Update, as directed by the Planning Commission.

- Added "for non-residential purposes" to the definition of Anemometer.
- Added the word "domesticated" to the definition of Animal Husbandry.
- Removed the (4) from the sign standard under the Home Occupation definition.
- Under definition of Recycling/Solid Waste Transfer Facility, removed the word "recycled" and changed "storage" to "stored."
- Removed the word "manufactured" (products) from the definition of Wholesaling, Warehousing, Distribution or Storage.
- Added the word "not" (instead of "no") to the definition of Winery, Small Production.
- Changed the wording of Section 402.02.B to clarify that the Enterprise Plan Designation is for areas with a majority of commercial and/or industrial land uses.
- Changed Article 4 to reverse the proposed abbreviation of Master Development Plans throughout the document.
- Changed Articles 6 and 7 to specify an informational permit requirement for fences on corner lots above three feet in height. "Setbacks do not apply" language was left in place in order to allow fences to be placed on the perimeter of a lot.
- Added Farmers' Markets as a Special Use in Article 7.
- Added Commercial Plant Nurseries as a Special Use in Article 8.

- Corrected the numbering of Special Use section in Article 14.
- Changed Article 17, Section 1704.01.N, to require an informational permit for fences on corner lots above three feet in height.
- Article 18 Water Conservation Changes: See Attached
- Replaced “appurtenant to” with “associated with” in Section 1908.15 (Off-Site Permanent Sign).
- Removed the words “be prepared” from Section 2204.02.D.

## **18201819 Water Conservation Measures**

### **182019.01 County-Wide Water Conservation Measures**

The following measures will be applied to residential and non-residential uses:

- A. New pools will be required to have a cover. The permit application shall note the type of pool cover proposed, and the permit shall be conditioned to ensure that the pool shall be covered when not in use.
- B. ~~For all~~ if a non-residential projects is installing urinals during new construction, they shall be waterless pursuant to Arizona State Plumbing Code (currently Appendix C of the 1994 Uniform Plumbing Code), or County Health Department requirements, the required urinals shall be waterless urinals. This regulation is applicable to new construction only. ~~Single and multiple-household dwellings are exempt.~~ (STAFF COMMENT: The AZ State plumbing code is no longer in force, and urinals are not required – they are a substitution for a water closet (a toilet). Staff is saying that IF you chose a urinal, it will be waterless.)
- C. For all non-residential projects either requiring landscaping pursuant to Article 1806, or where landscaping is not required but is proposed, the landscaping shall be composed of drought-tolerant plants and materials and shall comply with the following:
  1. Permit applicants shall include a detailed landscaping plan showing the location, species, and container size of all plants on site, an irrigation plan, and planting method.
  2. Only plants included in the County's approved list of drought-tolerant plant species, or similar plants that have been specifically approved by the County Zoning Inspector, shall be planted and maintained on any such site.
  3. The County Zoning Inspector, in consultation with Water Wise and other similar programs, shall maintain a list of drought tolerant plants suitable for this area. Any plant species proposed in a landscaping plan, and not included in the County's list of approved drought tolerant species, shall be accompanied with documentation sufficient to demonstrate that it would be appropriate to add the species to the County's list of drought tolerant species.
  4. Grass types listed in the plant list shall be used for the purposes of erosion control and seeding detention basins.
  5. Substitution of plant species for those that have been approved in a landscaping plan is prohibited.
  6. The use of turf (all irrigated grasses) in non-residential projects is allowed only for golf courses per the requirements of Section 18187 and multi-family developments. The use of turf (all irrigated grasses) in multi-family developments is restricted to common use areas. Larger play areas are encouraged to use a non-living material.
- D. Rainwater harvesting systems are encouraged for all residential and non-residential uses. (STAFF COMMENT: This language was initiated by Staff.)

1820.19.02 Water Conservation Measures – Sierra Vista Sub-Watershed Overlay Zone

The following measures will be applied to residential and non-residential uses in the Sierra Vista Sub-Watershed Overlay Zone Only. (STAFF COMMENT: The following language is taken from Sierra Vista's adopted Water Use Regulations)

A. New Construction – Residential: All interior plumbing in new construction shall meet the following requirements:

1. All toilets and hot water fixtures shall be WaterSense labeled. Urinals, if used, shall be waterless.
2. Hot water pipe insulation with a minimum thermal resistance (R-value) of R-4 shall be applied to the following:
  - a. Piping larger than 3/8-inch nominal diameter.
  - a-b. Piping located outside the conditioned space.
  - b-c. Piping located under a floor slab.
  - d. Buried piping.
  - e. Supply and return piping in recirculation systems including branches to each fixture.

2-3. The following shall apply to all hot water distribution systems:

- a. Plan sets shall clearly demonstrate that the water usage limit specified herein is met for all hot-water fixtures except bathtubs.
- b. Nominal 1/2 inch line is required for all faucet and lavatory fixtures.  
(STAFF COMMENT: Staff is recommending 1/2" instead of the 3/8" in SV Code.)
- b.c. One of the following systems is required:
  - i. Whole-house Manifold.
    - (a) The system shall be designed such that less than 0.38 gallons (6 cups) of water are in the piping between the manifold and any hot water fixture.
  - ii. Demand-Controlled (On-Demand) Hot Water Recirculating systems.
    - (a) The system shall be designed such that less than 0.13-gallons (2-cups) of water are in the piping between the hot water circulation loop after being primed, and any hot water fixture.
    - (b) Pump activation switches shall be permanently mounted on walls in all bathrooms and the kitchen. Remote switches may be used in addition to the permanent switches.
    - (c) A dedicated return line shall be used with a minimal line size of nominal 1/2 inch diameter.
    - (d) All systems shall require instructions for use to be displayed on the hot water heater unit. (STAFF COMMENT: Staff has initiated this language.)

iii. Alternative systems may be considered and approved by the County Zoning Inspector and permitted in lieu of the use of a manifold or demand-controlled (on-demand) system. These systems may include, but are not limited to:

- a. Point-of-use water heaters. Must be located at all bathrooms and at the kitchen. Back-to-back systems sharing one heater shall be considered.
- b. Core Plumbing Systems that minimize pipe volume between the hot water source and any hot water fixture to 0.38 gallons (6 cups) or less.
- c. Systems that utilize a single-trunk recirculation system with a single length of nominal ½ inch piping running from the top of the water heater to each fixture in turn and back to the bottom of the water heater. Such systems shall use an on-demand pump meeting the requirements of item ii. above.
- d. New technology that improves upon any of the above, as determined by the County Zoning Inspector.

3-4. Should the homebuilder install a clothes washer, the clothes washer must be Energy Star qualified and be rated as having less than or equal to the lowest current Energy Star Water factor.

4-5. New single-family construction shall not offer evaporative coolers as the only source of cooling. Maximum rate of unit cannot exceed 3.5-gallons of water per ton-hour of cooling.

5-6. Water softeners, if installed, must meet NSF/ANSI 44, including the voluntary efficiency standards in Section 7, therein.

7. Drinking water treatment systems, if installed, shall meet NSF/ANSI standards. Such systems shall yield at least 85-gallons of treated water per 100-gallons processed.

**Comment [b1]:** Research shows that majority of all new construction includes air conditioners. This statement allows evap coolers - the current policy of the Comp Plan for SV Subwatershed discourages evap coolers...this note reflects the new efficiency of evap coolers.

B. New Construction -- Commercial, Industrial, Multi-Family, and Public Development.

1. Existing public, commercial, multi-family residential common-use, and industrial building restroom remodels or retrofits shall convert existing urinals to waterless urinals.

2. In existing buildings or premises in which plumbing installations are to be replaced, such replacement shall comply with all code requirements for water-saving devices.

3. All new commercial car wash facilities, including those accessory to automobile dealerships, shall use water recycling systems which recycle a minimum of 75-percent of water used. This requirement does not apply to small operation auto detailers or similar uses.

4. Automatic toilet flushing fixtures without sensors shall not be permitted in new or retrofit construction.

5. Kitchens in which dishwashers are installed must use Energy Star rated dishwashers.

**Comment [b2]:** This language is referring to new construction - new buildings or remodeling existing.

6. -All facilities installing clothes washers are required to install Energy Star qualified commercial clothes washers rated equal to or below the lowest current Energy Star Water factor.

4-7. The use of air cooling misters is prohibited in commercial and industrial developments.

8. All new multi-family development exceeding four units shall provide independent-unit metering (water meter for each dwelling unit), with the following exceptions:

a. Multi-family complexes providing 80-percent or more low- to moderate-income housing units, as defined by the federal office of Housing and Urban Development, may provide alternative water-saving design methods in lieu of the use of independent-unit metering. The burden of proof is on the applicant to show that an equivalent, or greater, water savings will be achieved.

b. Alternative water-saving methods to include, but not be limited to the following, may be considered by the Zoning Inspector and permitted in lieu of the use of independent-unit metering:

i. Point-of-use water heaters. Must be located at all bathrooms and at the kitchen. Back-to-back systems sharing one heater shall be considered. (STAFF COMMENT: Staff initiated this language, to allow flexibility.)

ii. Super insulation.

iii. Short hot-water line run distances (core plumbing systems).

iv. Ratio Utility Billing Systems (R.U.B.S. – as allowed under applicable state law).

Comment [b3]: See handout.

#### C. Existing Buildings.

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in existing buildings or premises in which plumbing installations are to be replaced, such replacement shall comply with all code requirements for water-saving devices.

Comment [b4]: Added to "B" above.

#### C. Outdoor Areas

1. Outdoor Recreation uses, parks, and subdivision common areas shall use medium- and low-water use plants as per the requirements in Section 1806 or as allowed by the County Zoning Inspector. Turf (all irrigated grasses) or other restricted plants shall be allowed only in those areas with heavy usage, such as athletic fields and playgrounds. (STAFF COMMENT: This is a compilation of existing language and language from Sierra Vista.)

2. Artificial Water Features: New artificial water features such as ponds, lakes, water courses, and other types of decorative water features are prohibited in any new commercial construction or in common user areas of multi-family housing unless their sole source is harvested rainwater. This provision does not pertain to required storm water detention/retention facilities or permitted swimming pools and spas. (STAFF COMMENT: This is existing language.)

3. Flowing water used in fountains, waterfalls, and similar features shall be recirculated. (STAFF COMMENT: This is language from Sierra Vista Code.)

~~4. Agricultural irrigation shall be required to follow Best Management Practices as defined by the Arizona Department of Water Resources. (STAFF COMMENT: This is Staff initiated language.)~~

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5. Gray Water Applications. (STAFF COMMENT: Staff has added this language from the City of Tucson gray water standards.)

- a. All new single-family households shall include either a separate multiple-pipe outlet or a diverter valve, and an outside "stub-out" installation on clothes washing machine hookups, to allow separate discharge of gray water for direct irrigation. Stub-outs shall be clearly labeled as such to encourage use by occupants.
- b. All new single family residential dwelling units shall include a building drain or drains for lavatories, showers, and bathtubs, segregated from all drains for all other plumbing fixtures, and connected a minimum of 3-feet from the limits of the foundation, to allow for future installation of a distributed gray water system. Stub-outs shall be clearly labeled as such to encourage use by occupants.
- c. All gray water systems shall be designed and operated according to the best management practices as provided by the Arizona Department of Environmental Quality (ADEQ), and subject to the provisions of the Arizona Administrative Code, where applicable.

6. Turf (all irrigated grasses) Restrictions. (STAFF COMMENT: Staff added this language – some from the Sub-Watershed Policy language.)

- a. Turf (all irrigated grasses) in new single-family residential development shall be limited to rear yard areas only.
- b. Turf (all irrigated grasses) in commercial uses, subdivision common areas, or medians along subdivision streets shall be prohibited.
- c. The use of artificial turf (all irrigated grasses) is encouraged.

Comment [b5]: Added this definition

## 7. Rainwater Harvesting.

- a. All permits for new principal non-residential buildings and uses shall include a passive, on-site stormwater capture system that will provide all or a significant portion of landscape irrigation needs constructed according to an approved rainwater harvesting plan.
- b. The rainwater harvesting plan shall be submitted concurrently with the site plan and landscape plan.
- c. Active rainwater harvesting (containerized) shall be encouraged; no permits will be required.
- d. A separate water meter connected to the main water supply; or an irrigation sub-meter will be installed if ground water is being utilized.

~~8. The rainwater harvesting plan shall include a landscape water budget and an implementation plan. (STAFF ADDED THIS LANGUAGE FROM THE CITY OF TUCSON.) (TO APPLY TO NON-RESIDENTIAL (COMMERCIAL) ONLY)~~

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~~a. The landscape water budget shall calculate the estimated volume of water required yearly for all site landscaping detailed in the development and/or landscape plan.~~

~~b. The implementation plan shall show how any combination of capture, conveyance, storage, and distribution will be utilized on-site to harvest rainwater. Implementation plans shall comply with applicable development standards for water harvesting applications.~~

~~c. The implementation plan shall also provide for water metering of all onsite landscape water through either:~~

~~i. A separate water meter connected to the main water supply; or~~

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~~ii. An irrigation sub-meter.~~

~~iii. The rainwater harvesting plan shall be submitted concurrently with the site plan and landscape plan.~~

~~iv. The County Zoning Inspector may authorize alternative compliance with development standards when conditions of topography, site soils, or ratio of landscape area to total site area would make strict adherence to standard provisions unreasonable and the alternative compliance advances the spirit of this Article.~~

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~~v. All permits for new principal non-residential buildings and uses shall include a rainwater harvesting system constructed according to an approved rainwater harvesting plan.~~

~~vi. No later than three 3-years from the date of issuance of a final certificate of occupancy, and for every year thereafter, fifty percent of the estimated yearly landscape water budget shall be provided by rainwater harvested on-site by a rainwater harvesting system constructed pursuant to an approved rainwater harvesting plan. The fifty percent landscape budget provision shall not apply in any calendar year in which the annual precipitation has fallen below the amount determined in the applicable development standards.~~

~~vii. Within three 3-years from the date of issuance of a final certificate of occupancy, the applicant, or a successor in interest, may request to revise the rainwater harvesting plan. The request shall be submitted to the County~~

Zoning Inspector. The request shall be granted only if one of the following is true:

1. A mathematical or engineering error was made in the calculation of water required for on-site landscaping.

2. A variance related to landscape requirements, and which impacts the landscape water budget, is obtained subsequent to the approval of a submitted rainwater harvesting plan.

viii. Additional data on site conditions or performance relevant to the subject.

ix. Site has been obtained, and results indicated a needed change in water budget calculations in the rainwater harvesting plan.

8. Outdoor Sprinkler Systems: Any new installation or replacement of an automatic outdoor sprinkler system shall also include the installation of a rain or humidity sensor that will override the irrigation cycle of the sprinkler system when rainfall has occurred in an amount sufficient to negate the need for irrigation at the scheduled time. Where there are multiple areas with a sprinkler system watered from one controller, the sensor must be installed at the largest area. (STAFF COMMENT: This is existing language.)

9. Landscaping: Any new landscaping proposing irrigation installation or re-installation in a median or similar strip of permeable surface less than fifteen feet in any horizontal dimension, adjacent to a roadway, sidewalk, parking area or other paved or impermeable area, shall be irrigated by a subsurface (drip), non-sprinkling irrigation system. (STAFF COMMENT: This is existing language.)

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*Sierra Vista Sub-Watershed  
Water Conservation and Management  
Policy Plan*

FINAL

*Adopted by the Board of Supervisors*

*March 21, 2006*

Resolution 06-

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7. The County will work with agencies and organizations throughout the County, as necessary, to address regional water resources issues as they relate to growth and protection of the County's natural resources.
8. **The County may develop additional water conservation and management policies to be applied to all new development on a sub-watershed by sub-watershed basis.**
9. **Overlay zoning districts may be used by the County as a tool to implement such additional water conservation and management policies, through the enforcement of applicable provisions of adopted building codes and specific site development standards for all residential and non-residential development, where appropriate.**

#### **Plan Area Boundaries:**

The Sierra Vista Sub-watershed Area Water Management and Conservation Plan will apply to the Sierra Vista Sub-watershed, as defined by the Arizona Department of Water Resources and the USGS. In general, the "plan area" is defined by the sub-watershed boundary that extends from the Mule Mountains and Dragoon Mountains along the eastern boundary, to the Huachuca and Whetstone Mountains along the western boundary, the international boundary with Mexico to the south and the sub-watershed boundary slightly north of Highway 82.

#### **Reasons for Creating the Plan:**

1. In November of 2003, Congress passed legislation currently referred to as Section 321 of the National Defense Authorization Act of 2004 (PL-108-136, herein referred to as Section 321), recognizing the Upper San Pedro Partnership and its members, including Cochise County, as the vehicle for mitigating water use impacts in the sub-watershed. Section 321 calls for the Secretary of the Interior, in consultation with the Secretaries of Agriculture and Defense and in cooperation with the Upper San Pedro Partnership, to report on the water use management and conservation measures that have been implemented and are needed to restore and maintain the sustainable yield of the regional aquifer by and after September 30, 2011, so as to protect the San Pedro River.
2. In addition to community responsibilities referred to in Section 321, the County has agreed to assist Fort Huachuca, a major local economic contributor, in meeting its goals to eliminate deficit groundwater pumping attributable to the existence of the fort under a Biological Opinion with the U.S. Fish and Wildlife Service.
3. Arizona Revised Statutes §11-821.C(3) (Growing Smarter amendments) allows all counties to specifically plan for development as it relates to available water resources.
4. The Cochise County Comprehensive Plan, Section 201 D allows for the establishment of other plan areas and plans, which may "have policies, elements or standards which modify, replace or supersede those in otherwise applicable growth areas or plan designations."

## 2. Water Management and Conservation General Policies

The regional aquifer of the plan area is the County's sole source of water for residential and non-residential development. The regional aquifer also supports the perennial and intermittent flows of the San Pedro River, especially through the federally-designated San Pedro Riparian National Conservation Area.

The existing zoning of any property throughout the plan area provides a baseline for determining what the potential ground water impacts may be if the area were developed under current, permitted densities. Therefore, future requests for increased densities and/or intensity of uses should take this into consideration and should not increase groundwater withdrawals in the plan area beyond these baseline assumptions.

**Policy 2.1** Reduce potential ground water pumping within the Plan area to a level that will contribute, on a cumulative basis, to the Upper San Pedro Partnership's target of reducing the Sierra Vista Sub-Watershed's projected annual deficit which is based on projected growth in the area.

**Policy 2.2** With the exception of storm water detention basins, water harvesting facilities, or effluent recharge basins, or other similar technologies, new development shall not incorporate major common area open water facilities or water features, such as ponds, fountains, "misting" features, or inefficient watering systems for landscaping.

**Policy 2.3** New development shall meet or exceed County Highway and Floodplain Department standards to preserve existing watercourses within the plan area and as identified in the Hydrologic Protection Areas Final Report, adopted in 2001 by the Upper San Pedro Partnership.

**Policy 2.4** New residential development proposed in rezonings to higher density shall incorporate an integrated design system of ground water, wastewater and storm water management for each parcel and for entire subdivisions or development such that, in the aggregate, on-site potable water systems are designed to use the same or less water than would be used if the property were developed under existing zoning. This determination shall be based upon the County's and Arizona Department of Water Resources' (ADWR) best available estimates of water use. Proposed and verified effluent recharge and/or a legal and verifiable transfer, retirement or purchase of development rights, executed by the applicant, on property within the plan area may also be used to off-set projected demands. Proposals for rezoning shall include details on how the project will be designed to conform with this policy, including the intent of forming a water company or improvement district, or extending an existing water company, improvement district or municipal water provider.

**Policy 2.5** New residential development proposed as subdivisions or in rezonings to higher densities shall conserve water use by incorporating efficient, effective and integrated water pumping, distribution, metering and recharge systems as well as water conservation Best Management Practices (BMPs). Until such time the County requires

- f. Use outdoor drip irrigation systems;
- g. Use air conditioners rather than evaporative coolers

**Policy 2.7** Any new commercial development proposed as a special use or in rezonings wherein on-site use of ground water is integral to the processes, function or product of the commercial development is discouraged. Car wash operations, commercial water bottling operations, recreational water activities or industrial processes consuming large amounts of water are not appropriate for development under this plan. New commercial development proposed as a special use or in rezonings, wherein net water use is expected to exceed 200 gallons per day per acre for all uses, shall incorporate an integrated design system of ground water, wastewater and storm water management, including recirculation and capture of water for reuse and recharge, for each project. Proposals shall include descriptions of planned water management measures designed to demonstrate how projected water use over 200 gallons per day per acre shall be off-set to the extent feasible.

### 3. Growth Category Specific Policies

The following policies shall be applied to the Growth Categories already in place in the plan area, notwithstanding the policies set forth in Section 2 of this plan.

**Policy 3.1** Within existing Growth Category A and B boundaries, requests for increases in residential density over and above existing zoning shall not exceed a gross density of one residence per acre unless:

- a. The request is accompanied by a proposal to connect to an existing or new wastewater treatment facility that incorporates effective recharge or reuse of treated effluent; or
- b. The request is accompanied by a legal and verifiable transfer, retirement or purchase of development rights, executed by the applicant, on property within the plan area. The transfer, retirement or purchase of development rights should include the number of housing units, as permitted under the existing zoning of said property, equal to or greater than the number requested over and above the gross density of one unit per acre.

**Policy 3.2** Within Category D areas of the plan area, no rezonings to higher residential densities will be permitted where pumping is proposed within two (2) miles of the San Pedro Riparian National Conservation Area boundary.

**Policy 3.3** Master development plan requests are treated as any Comprehensive Plan amendment and are subject to the procedures set forth in the Cochise County Zoning Regulations. Within the plan area, requests for increases in residential density over and above existing zoning shall not exceed a gross density of one residence per acre unless:

- a. The request is accompanied by a proposal to connect to an existing or new wastewater treatment facility that incorporates effective recharge or reuse of treated effluent; or

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## Ratio Utility Billing (RUBS)

### A fast way to boost net operating income

A **ratio utility billing system** or RUBS billing is a method of calculating a resident's utility bill based on occupancy, apartment square footage, number of beds, or some combination of factors.

Using RUBS to bill residents for water, gas and/or electricity expenses has several advantages including:

- Requires no capital investment to get started
- Enables owners to recoup a large portion of the overall utility expense
- Can be implemented quickly
- Immediately improves cash flow.

**Ratio Utility Billing vs. Submetering**

Many existing apartments have a utility configuration that does not support the installation of submetering equipment. For example, hi-rise apartment complexes and older condominium units can have multiple pipes supplying water to a single unit. It's cost prohibitive to install several water meters to measure total water usage for each residence. In these cases, RUBS presents an excellent alternative for the owner or association to recover appropriate utility costs and increase cash flow at the property.

**Learn how to Calculate a RUBS Water Bill**

If you'd like to learn how a RUBS water bill is calculated, read [this article](#) on our blog. It includes two videos that show you how the calculations are made and what you need to do to implement a RUBS billing method at your multifamily complex. It also includes a [free spreadsheet](#) you can use to calculate a RUBS water/sewer bill for up to ten units.

**Is RUBS Right For You?**

[Contact us](#) to discuss RUBS billings opportunities at your multifamily complex.

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