

**COCHISE COUNTY PLANNING & ZONING COMMISSION
MINUTES**

Wednesday, July 10, 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 one Special Use request and one Master Development Plan and Rezoning docket 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; all nine Commissioners (Tim Cervantes, Pat Edie, Jim Lynch, Jim Martzke, Gary Brauchla, Carmen Miller, Ron Bemis, Liza Weissler, and Joe Garcia) indicated their presence. Staff members present included Beverly Wilson, Deputy Director; Michael Turisk, Planning Manager; Keith Dennis, Planner II; Peter Gardner, Planner I; Britt Hanson, Chief Civil Deputy County Attorney; and Pat Hoefler, Planning Tech.

APPROVAL OF THE MINUTES

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

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

Vote: Motion passed (**Summary:** Yes = 8, No = 0, Abstain = 1)

Yes: Mr. Martzke, Chairman Lynch, Ms. Edie, Mr. Cervantes, Mr. Bemis, Mr. Garcia, Ms. Miller, Mr. Brauchla

No: 0

Abstain: Ms. Weissler

NEW BUSINESS

Based on the relative numbers of persons present to speak on the two dockets, Chairman Lynch moved Item 2 to the front of the agenda.

Item 2

PUBLIC HEARING -- Docket MDP-13-01/Z-13-02 (Inde Motorsports Ranch): A request for a Master Development Plan (MDP) and Rezoning to Planned Development (PD) for the Inde Motorsports Ranch located west of Willcox. The project would include an additional racetrack and control facilities, aircraft hangers, clubhouse, up to 52 dwellings, and additional garages.

Chairman Lynch called for the Planning Director's report. Planning Manager, Mr. Michael Turisk presented the docket, explaining the background of the request utilizing photos, maps, and other visual aids. Mr. Turisk explained that the request was to allow the multi-year phased build-out of the site, including a second track with associated support structures, a clubhouse and restaurant, aircraft hangers, and a residential subdivision with detached homes and townhomes as well as dedicated open space. Mr. Turisk explained the access to the site and that the docket was transmitted to various agencies for comment. He also explained the correspondence that Staff had received regarding the proposal. Mr. Turisk noted that if the project is approved the residential component would still be required to progress through the subdivision process. He closed by inviting questions from the Commission. Mr. Bemis asked about the requirements for a subdivision in regards to water adequacy, which Mr. Turisk provided. Ms. Weissler asked about the location of the airport. Mr. Turisk clarified the location. Mr. Bemis asked if the Applicant was required to have a permit from the Federal Aviation Administration and if so did they currently possess the permit. Mr. Turisk stated that a permit was required, and that the Applicant currently possessed the permit.

Mr. Lynch invited the Applicant to make a statement. Ms. Kelly Lee of the Planning Center, Tucson, spoke on behalf of the Applicant. She noted that C.J. Dorland, the President of Inde Motorsports was present and available to answer questions. Ms. Lee further explained the existing and proposed structures. She explained the proposed residential structures and amenities. She also explained the proposed number of homes in relation to the number of homes that could be built on the site under the current zoning. Ms. Lee emphasized the preservation of open space proposed as well as the further water and energy conservation efforts that would be incorporated into the project. She also noted that a traffic analysis would be conducted which would show if off-site improvements would be required. She also noted that large setbacks were being preserved. She closed by noting that ADWR requirements would be followed regarding water, and that the Applicant had been in compliance with existing conditions regarding noise levels on adjacent properties.

Mr. Lynch opened the Public Hearing and asked if there were any members of the public wishing to speak in favor of the project. Mr. James Malone, Willcox, spoke in support of the project. He noted that he had lived near the track since its inception. He stated that he had no problems with noise or dust from the track. He also emphasized that the Master Development Plan process would lead to better growth than open-ended lot splitting. Mr. Malone also noted the economic benefits that the project would bring. Mr. Bemis asked Mr. Malone for clarification of a statement regarding seasonal use, asking when the season was. Mr. Malone explained that the season varied by individual. Mr. Lynch then asked for speakers in opposition. Mr. Fred Edington of Willcox spoke in opposition of the project.

He expressed concerns regarding his cattle and water use. He stated that he was unaware of the track project when he purchased his property.

Mr. Edington also expressed complaints regarding the behavior of some of the pilots landing at the airstrip. Will Edington, Willcox, also spoke about water concerns regarding the project. The Applicant, C.J. Dorland, Willcox, spoke in rebuttal and explained the water conservation measures that the project would incorporate and the requirements from the Arizona Department of Water Resources regarding water in the proposed subdivision.

Mr. Lynch then closed the Public Hearing and invited discussion from Commissioners. Mr. Martzke explained his support for the request. Ms. Weissler stated that she felt a formal plan regarding water conservation should be required as a condition of Approval. Mr. Lynch reminded the Commission that the water issues were outside the jurisdiction of the Commission. Mr. Bemis asked if the zoning regulations covered groundwater recharge wells. Mr. Lynch stated that the engineering of the site was outside the purview of the Commission. Mr. Bemis agreed, but expressed a desire for Staff to investigate. Ms. Weissler clarified that she agreed with Staff's recommendation regarding water conservation planning. Ms. Wilson explained that the ADWR water adequacy requirement is part of the County Subdivision Regulations approved by the Board of Supervisors. Mr. Lynch then called for the Planning Director's summary and recommendation. Mr. Turisk recommended Conditional Approval and explained the Conditions and Waivers requested by Staff. He also explained that two separate motions were required to move this docket to the Board of Supervisors. Mr. Lynch called for a motion. Mr. Martzke made a motion for recommending Conditional Approval of the Master Development Plan. Mr. Brauchla seconded the motion and asked for discussion. Mr. Martzke and Mr. Bemis expressed their support for the project. Mr. Lynch called for a vote. The motion passed 9-0. Mr. Martzke then made a motion to recommend Conditional Approval of the Rezoning. Mr. Cervantes seconded, and the motion passed 9-0.

Motion: Motioned to recommend approval with Conditions and Waivers of the Master Development Plan

Action: Recommend Approval **Moved by:** Mr. Martzke **Seconded by:** Mr. Brauchla

Vote: Motion passed (**Summary:** Yes = 9, No = 0, Abstain = 0)

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

No: 0

Abstain: 0

Motion: Motioned to recommend approval with Conditions the Rezoning to Planned Development

Action: Recommend Approval **Moved by:** Mr. Martzke **Seconded by:** Mr. Cervantes

Vote: Motion passed (**Summary:** Yes = 9, No = 0, Abstain = 0)

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

No: 0

Abstain: 0

Item 1

PUBLIC HEARING -- Docket SU-13-11 (Dale): A Special Use request to construct and operate a dog and cat boarding facility. The subject parcel is located at 9185 S. Garber Dr. in Hereford. The Applicants are Joanne and Mike Dale.

Chairman Lynch called for the Planning Director's report. Planner II, Mr. Keith Dennis presented the docket, explaining the background of the request utilizing photos, maps, and other visual aids. Mr. Dennis explained that the request was to allow operation of a dog and cat boarding kennel. He discussed waste management issues and then a detailed explanation of public input regarding the proposal. He closed by listing the factors in favor of and against approval, explaining several proposed Conditions of Approval and requested Modifications, and invited questions from the Commission. Ms. Weissler asked for clarification regarding the public response within the mandatory notification zone. Mr. Dennis confirmed that all responses from within the notification radius were in opposition.

Mr. Lynch invited the Applicant to make a statement. The Applicants, Michael and Joanne Dale of Hereford spoke about the project, including the details of the proposal and their rationale for the business. Mr. Dale explained that his construction business was closing, and being unable to find other employment, he and his wife focused on animal boarding. He explained the need for a business of this nature in the area. He stated that he expected some opposition, but noted he was caught off guard by the level of the opposition. Mr. Dale stated that he felt that if the project was allowed to proceed the neighbors would find that their concerns were unwarranted and asked for the opportunity to prove as such. He then addressed the concerns that had been brought up by the neighbors. He addressed the noise concerns and their efforts to mitigate them through construction and location of the buildings. He explained that the profile of the buildings would be minimized to reduce visual impact. Mr. Dale then addressed traffic concerns and expressed willingness to maintain the road. He reiterated Staff's estimated traffic generation. He addressed dust concerns by promising to emphasize the maximum speed limit to his clients, and stated that the trouble with speeding and dust was generated by residents rather than visitors. Mr. Dale addressed the concerns regarding property values by emphasizing the low profile of the proposed structures and signs. He also stated that he felt his maintenance of the road would increase property values. Mr. Dale addressed contamination and odor issues by explaining planned procedures for mitigation. He closed by stating that there were a great many misconceptions regarding the project and felt that the concerns were based on those misconceptions.

Mr. Bemis asked the Applicant if the kennels would be heated and cooled, and Mr. Dale explained that they would be. Mr. Bemis also asked if Mr. Dale would maintain the road himself, or if he would contract it out. Mr. Dale explained that he would do it himself. Ms. Weissler asked Mr. Dale if there were CC&Rs on the property. Mr. Dale stated that there were, but felt that none of them applied, except for a setback requirement that he had changed his plans to comply with. Ms. Weissler noted that the CC&Rs prohibited commercial signs and that the proposed project included signs. She noted that the Commission did not enforce CC&Rs, but stated she felt the Commission should not be seen as overruling them.

Mrs. Dale noted that several of the neighbors were in violation of the CC&Rs. Ms. Weissler responded that she felt the community should work together to find CC&Rs they could all live with. Mr. Dale explained that he felt that the situation with the neighbors was so confrontational that there was no point trying to work with them after initial hostile reactions. He stated that he felt that pursuing the permit was the only way to work through the issue. He reiterated his proposed efforts to minimize impact for his neighbors. Ms. Weissler stated that she felt that Mr. Dale felt the CC&R's did not apply to him, and further stated that she was not concerned with the neighbors' adherence to them. Mrs. Dale explained their efforts to comply with them. Ms. Weissler brought up other CC&Rs and stated she felt they were not being complied with in general. Mr. Dale explained that they were still in process of working on their home, and would be in compliance when completed. Mr. Garcia asked about cleaning procedures. Mr. Dale explained their research and proposed processes for cleaning.

Chairman Lynch asked Chief Civil Deputy, Britt Hanson for clarification that the Commission did not get involved in CC&Rs but focused on the Zoning Regulations. Mr. Hanson concurred, quoting the relevant regulations. He also explained that the Commission's decision would not affect enforcement of the CC&Rs in court. Ms. Weissler expressed support for the concept of CC&Rs and stated that while she understood that the County could not enforce them she was uncomfortable with seeming to ignore them as the Commission was perceived as a higher authority. Mr. Hanson reiterated that the Commission's decision did not impact the CC&Rs. Mr. Lynch reminded the Commission again that CC&Rs were not under the purview of the Commission. He went on to ask Mr. Dale if the business was existing based on their website. Mr. Dale explained that they were in limited operation for test purposes, and stated that a number of his neighbors were operating businesses without permits. Mr. Lynch asked for clarification if they were in business. Mrs. Dale explained they did off-site pet sitting. Mr. Lynch noted that the website indicated otherwise. Mr. Dale expressed willingness to shut down that portion of the website.

Mr. Lynch then opened the Public Hearing. He reminded speakers that they were not required to use their entire allotted time if there was nothing new to add, and started with speakers in support.

Ms. Angela Moretz, Hereford, spoke in support of the project. She expressed a desire for more kennel space in the area, and thanked the Dales for supporting her family. She addressed the noise issue, explaining that the neighborhood was currently full of animals and animal noise. She also stated that traffic was already an issue and felt the kennel would not make the situation worse. She expressed surprise at the scope of opposition to the project.

Mr. Dale McLaughlin, Hereford, spoke in support based on the need for more kennel space in the area, and explained that he had already been a client of the Dales.

Ms. Dorathea Watkins, Douglas, spoke about the character of the Applicants. She also stated that she felt that the proposed kennel fit with the ranch-type character of the neighborhood.

Mr. Lynch moved on to speakers in opposition.

Mr. Tim McCarthy was called, but was not present.

Mr. Joseph Scelso, Palominas, introduced himself as a contributor to the Southern San Pedro Valley Area Plan, and went into the history of the plan. He emphasized peace and quiet and disputed Staff's finding that the project fit with the Area Plan. He reminded the Commission that previous Special Use requests in the area had been denied and emphasized consistency in findings. He disputed that other livestock made noise, and mentioned that dogs, including his, do.

Ms. Nicole Hall, Hereford, introduced herself as a realtor and stated that the project would decrease property values.

Mr. Chris Hauser, Sierra Vista, stated that he was neutral, but explained he was a civil engineer hired to evaluate Bloomfield Rd. He expressed general concern regarding dirt roads in the County.

Mr. Thomas Green, Hereford, expressed concern regarding noise and dust and worried about the inability to mitigate them.

Ms. Jan Wilson, Sierra Vista, expressed concern regarding property value, noise, and odors. She also claimed the Applicant had performed grading on her property without permission.

Ms. Elizabeth Bourlier, Sierra Vista, expressed concern for property values.

Ms. Mary Sue Scofield, Hereford, expressed concern regarding all the roads in the neighborhood. She also expressed concern regarding the collection of signatures from outside the area.

Ms. Mary Gutierrez, Hereford, expressed concern regarding traffic and issues regarding school buses.

Mr. William Viskocil, Hereford, expressed concern regarding traffic and noise, as well as property values.

Ms. Maria Abel, Hereford, expressed concern that off-site impacts could not be mitigated, and that a kennel was not appropriate in a residential area and would ruin lives. She expressed concern about noise. She stated that she felt that despite the proposed conditions, the kennel would ruin their property and stated that the County Transportation Planner was completely wrong in her analysis. She also expressed concern regarding the roads. She claimed that the Applicant showed no concern for neighbors' issues.

Mr. Earl Hopkins, Hereford, expressed concern regarding noise and stated the application was unfair. He stated he felt the Dales were not complying with their existing permit. He also expressed concern about the aesthetics of the site. Mr. Hopkins also faulted Staff's report on several details.

Mr. Keith Latam, Hereford, expressed concern regarding increased traffic and road deterioration.

Ms. Paula Latam, Hereford, declined to speak.

Mr. James Arellano, Hereford, expressed concern regarding quality of life for the neighborhood. He stated that the project was out of character and expressed further concern regarding the roads. He stated that the area was rural and it was not possible to mitigate the impacts.

Ms. Laura Arellano, Hereford, expressed concern regarding the state of the roads and regarding noise.

Ms. Maryjane Mahland, Hereford, expressed concern regarding boarding dogs and worried about additional noise.

Ms. Nancy LaMontagne, Hereford, expressed concern regarding design standards in the Southern San Pedro Valley Area Plan and felt that the proposal did not fit the area and that the Dales' structures did not fit the local aesthetics. She also noted issues regarding the Applicants' website.

Mr. Michael Saenz, Hereford, spoke claiming that the Applicants have not cooperated with the neighbors at all, and claimed numerous falsehoods in their application and Staff report. He also expressed concern regarding the CC&Rs. He admitted he was in violation of the CC&Rs, but felt that while he could remedy his violations the Dales would be unable to do so. Mr. Saenz also addressed previous denied Special Use permit requests in the area for similar projects and expressed concern regarding the lot size in relation to the number of animals.

Ms. Mary Beth Saenz, Hereford, accused the Applicants of destroying the community for their own benefit. She expressed concern that the Applicants were already in business. She also argued against granting forgiveness rather than permission. She expressed concern regarding the Dales' ability to control the dogs on their property. She finished by stating that the Commission should consider the CC&Rs as the community's opinion.

Mr. Stephen Burr, Hereford, reiterated the same concerns about the roads. He also expressed concern about the ability of the Applicants to mitigate the impacts and wondered about commercial activity in a rural neighborhood. He stated that he felt that the Application should not have come to the Commission without approval from the neighbors.

Ms. Gloria Dueltgen, Hereford, expressed concern about traffic over her private road.

Mr. Herbert Fehling, Hereford, expressed concern about traffic through his neighborhood on private, native-surfaced streets. He also disagreed with Staff's analysis regarding the project and public input. He stated that only immediate neighbors' opinions should be considered. Mr. Fehling also stated that he felt the Applicant had not been honest in their application and therefore the permit should be revoked.

Ms. Daffney Trujillo, Hereford, spoke about concerns in regards to traffic and children.

Chairman Lynch offered the Applicant an opportunity for rebuttal.

Mr. Dale answered concerns regarding traffic through private roads and mitigation. He answered the concerns regarding the construction of his home and its relation to the CC&Rs and the aesthetics of the structures. He reiterated his proposed noise mitigation measures and experience with other similar facilities. Mr. Dale explained his rationale for his limited engagement with the neighbors, and touched upon the road condition and lighting concerns. He also disputed questions regarding their honesty.

There being no further speakers, Mr. Lynch closed the Public Hearing and invited discussion from Commissioners. Ms. Weissler reiterated her views regarding CC&Rs and spoke regarding asking forgiveness rather than permission. She explained her concern about moving forward in face of significant opposition.

Mr. Bemis asked Staff about a discrepancy regarding power companies. Staff explained the issue, noting it was a Staff typographical error rather than a misrepresentation in the application. Chairman Lynch then called for the Planning Director's summary and recommendation. Mr. Dennis presented a recommendation of Conditional Approval and laid out the proposed Conditions and Modifications. Mr. Lynch asked for clarification of the Condition regarding hours of operations. Ms. Weissler asked about private maintenance agreements and liability. Mr. Hanson explained the legal issues. Mr. Brauchla asked about the hours of operation and penalties for failure to comply with Conditions. Mr. Dennis explained that Conditions gave the County enforceability on such permits. Mr. Dennis presented a clarified Condition regarding hours of operation. Mr. Garcia expressed concern about the limited hours of operation. Mr. Lynch advised the Commission not to over focus on specific hours. Mr. Bemis expressed empathy for the Applicant, but felt that the issues could not be mitigated to the satisfaction of the community. Mr. Martzke commented regarding the previously denied projects and the similarities with the current proposal. He concurred with Staff's recommendation but felt as a Commissioner he could not support the project. Mr. Lynch spoke regarding the Commission's mandate to consider both technical and human elements regarding applications, and stated that he could not support the project in the face of the opposition.

Mr. Lynch then called for a motion. Mr. Martzke made a motion to recommend approval with the Conditions and Modifications recommended by Staff. Ms. Edie seconded the motion and Mr. Lynch called for a discussion. Mr. Brauchla asked for clarification of the motion and the results of a particular vote. Mr. Lynch called for a vote. The motion failed (0-9).

Motion: Motion to approve the Special Use for Animal Husbandry with the Conditions and Modifications recommended by Staff.

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

Vote: Motion failed (**Summary:** Yes = 0, No = 9, Abstain = 0)

Yes: .

No: Mr. Bemis, Mr. Brauchla, Mr. Cervantes, Chairman Lynch, Ms. Miller, Ms. Weissler, Mr. Garcia Ms. Edie and Mr. Martzke

CALL TO THE PUBLIC

Chairman Lynch opened the “Call to the Public.”

Jack Cook spoke about various matters.

Chairman Lynch closed the “Call to the Public.”

CALL TO COMMISSIONERS

There were no Commissioner comments.

WORK SESSION

The Commission held a Work Session to continue reviewing proposed changes to the Zoning Regulations. Director, Beverly Wilson reported that several controversial items were being removed from the proposed zoning regulation changes, including water conservation and animal husbandry issues. A joint working committee was announced to address the animal issue. Ms. Weissler asked when the water issues would be addressed. Ms. Wilson explained that County Administration would drive the decision and ventured a three-month time frame. Mr. Lynch asked Mr. Bemis for clarification of the issues that Mr. Bemis had raised at the previous Work Session. Mr. Bemis expressed that the County ensure that it was not over-regulating rural areas. He expressed concerns that regulation may be shaping up to benefit Staff and Officials rather than the public and that the regulations may not be appropriate at the present time. Ms. Weissler asked Mr. Bemis for a copy of his statement. A discussion occurred among the Commission and Counsel regarding the Open Meeting Law to clarify the legality of inter-Commission communications. Mr. Martzke discussed how the Boards of Adjustments interact with the regulations. Mr. Lynch reminded the Commission of their jurisdiction and asked them to review cases on that basis. Mr. Lynch and Ms. Edie discussed the origin of regulations. Mr. Lynch also reminded the Commission that the Board of Supervisors sets policy, and that Commissioner should take policy concerns to the Supervisors.

PLANNING DIRECTOR'S REPORT

Chairman Lynch then called for the Planning Director’s report. Director Beverly Wilson informed the Commission that the two Regulation dockets from the previous month had been approved by the Board of Supervisors. She also explained that the August meeting would have one Special Use, and the final copy of the Zoning Regulations up for vote. She also gave the Commission a status report on the Appeal of a previous docket and the date of the Board’s action on the Master Development Plan heard by the Commission tonight.

ADJOURNMENT

Mr. Bemis moved to adjourn, Ms. Weissler seconded and the meeting was adjourned at 7:58 p.m.