COCHISE COUNTY PLANNING & ZONING COMMISSION
MINUTES
Wednesday, October 9, 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 Vice-Chair Martzke at the Cochise County Complex, 1415 Melody Lane, Building G, Bisbee, Arizona in the Board of Supervisors' Hearing Room.

Due to the vacancy of the Chair, Vice-Chair Martzke chaired the meeting. He 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 was a Subdivision Tentative Plat Extension, two Special Use Dockets, and a Rezoning Docket on the Agenda. He explained the consequences of a potential tie vote and the process for approval and appeal.

ROLL CALL

Mr. Martzke noted the presence of a quorum and called the roll, asking the Commissioners to introduce themselves and indicate the respective District they represent; eight Commissioners (Tim Cervantes, Jim Lynch, Carmen Miller, Ron Bemis, Liza Weissler, Pat Edie, Jim Martzke, and Joe Garcia) indicated their presence. Staff members present included Beverly Wilson, Planning Director; Michael Turisk, Planning Manager; Keith Dennis, Planner II; Peter Gardner, Planner I and Britt Hanson, Chief Civil Deputy County Attorney.

APPROVAL OF THE MINUTES

Motion: Approve the minutes of the September 11, 2013.

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

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

Yes: Mr. Lynch, Mr. Cervantes, Mr. Bemis, Ms. Miller, Ms. Weissler, Ms. Edie, Mr. Garcia

No: 0

Abstain: Mr. Martzke

CALL TO THE PUBLIC

Mr. Martzke, with no objection from the Commission, opened the "Call to the Public."

Jack Cook spoke about various matters.

Jere Fredenburgh of Sierra Vista spoke, thanking the Commission for placing the Call to the Public at the beginning of the agenda.

She requested that statute numbers be kept in the zoning regulations, asked that any correspondence to the Commission be part of the public record either by being read into the record or by being provided to citizens prior to a meeting, and stated that the Ombudsmen recommended that the County Attorney's office provide additional guidance to the Commission regarding the Open Meeting Law. She referenced an email from then Chairman Lynch to the other Commissioners concerning the zoning regulations. Ms. Fredenburgh stated that the County Attorney's office had agreed to do so but had not yet done so.

Mr. Martzke called for the speaker of an unsigned form. Mr. Dennis and Mr. Gardner stated that the individual was outside.

Mr. Martzke called Gary Miller, who clarified that he wished to speak on Item 5.

Mr. Martzke closed the "Call to the Public."

NEW BUSINESS

Item 1

Item 1 – Election of Chair and Vice-Chair

Mr. Martzke explained that due to the resignation of Mr. Lynch as Chairman, a new Chair must be elected to fill the remainder of Mr. Lynch's term as Chair, until December. He then called for nominations. Mr. Bemis nominated Ms. Weissler. Mr. Martzke nominated Mr. Bemis, asking if Mr. Bemis would accept the nomination. Mr. Bemis did, as did Ms. Weissler. There being no further nominations, Mr. Martzke moved to close the nominations, and Mr. Lynch seconded. Mr. Martzke called for a vote by ballot. Mr. Hanson interjected that if the Commission voted by ballot that all ballots must be identified as the votes must be public. Mr. Martzke called for a vote by show of hands. Mr. Lynch, Mr. Cervantes, Ms. Weissler, and Mr. Bemis voted for Ms. Weissler. Mr. Martzke, Ms. Miller, Ms. Edie, and Mr. Garcia voted for Mr. Bemis. Mr. Martzke asked Mr. Bemis to explain his nomination of Ms. Weissler. Mr. Bemis explained his rationale, citing Ms. Weissler's participation and leadership. Mr. Martzke stated that he nominated Mr. Bemis due to Mr. Bemis' service to the citizens of the County. Mr. Lynch spoke in favor of Ms. Weissler's experience and skills. Ms. Miller echoed Mr. Martke's comments regarding Mr. Bemis. Another vote was held, with the same results as the first vote. Mr. Hanson explained the Commission's options to either continue voting or to table the election until the next meeting. Mr. Bemis suggested that he could acquiesce to Ms. Weissler. Mr. Martzke called for another vote, with the same results as the previous two votes. Mr. Martzke tabled the item to the next meeting, with no objections from the rest of the Commission.

Item 2

NOT A PUBLIC HEARING -- Docket S-08-02 (Red Hawk III, Unit IV Tentative Plat): A request to extend the Tentative Plat for the Red Hawk III, Unit IV subdivision located south of I-10 in the J-6 Ranch area.

Vice-Chair Martzke called for the Planning Director's report. Planner I, Peter Gardner, presented the docket, explaining the background of the request utilizing photos, maps, and other visual aids. Mr. Gardner explained that the request was to retroactively extend the Tentative Plat for two years to bring its status current. He closed by listing factors in favor of and against approval and invited questions from the Commission.

Mr. Martzke invited the Applicant to make a statement. Mr. Jim Vermilyea, joining via telephone, explained the circumstances of the request and noted that other portions of his subdivisions were currently under development, but that this section was not going to be developed until other sections were complete.

Mr. Martzke then called for the Planning Director's summary and recommendation. Mr. Gardner recommended Conditional Approval and explained the Conditions requested by Staff that mirrors the Conditions of original approval. Mr. Martzke called for a motion. Mr. Bemis made a motion for Approval of the two one-year extensions to the Tentative Plat with Conditions given by Staff. Ms. Edie seconded the motion and Mr. Martzke asked for discussion. There being no discussion, Mr. Martzke called for a vote. The motion passed 8-0.

Motion: Motioned to approve two one-year extensions of the Tentative Plat with Conditions recommended by Staff. The new expiration date of this Tentative Plat is March 24, 2014.

Action: Approve with Conditions **Moved by:** Mr. Bemis **Seconded by:** Ms. Edie
Vote: Motion passed (**Summary:** Yes = 8, No = 0, Abstain = 0)
Yes: Mr. Lynch, Mr. Cervantes, Ms. Miller, Mr. Bemis, Ms. Weissler, Ms. Edie, Mr. Martzke, and Mr. Garcia.
No: 0
Abstain: 0

Item 3

PUBLIC HEARING -- Docket SU-13-16 (Stonebraker): A Special Use request to construct a 1,200-foot by 48-feet private airstrip. The subject parcel is located at 729 E. Stonebraker Road, south of Tombstone. The Applicant is Mark Stonebraker.

Chairman Martzke 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 explained that the request was to allow an existing driveway to be permitted as a private Airstrip. Mr. Dennis explained the access to and the conditions of the site and that the docket was transmitted to various agencies for comment. He noted that despite the requirement for a Non-Residential Permit, the site would remain essentially a Residential site and explained the requested Modification. Mr. Dennis discussed the issues with the restricted airspace from Fort Huachuca, noting that the Applicant's proposed aircraft could not climb into the restricted space, but explained a Condition that the Applicant meet with staff from the Fort to come to a working agreement. He also explained the correspondence that Staff had received regarding the proposal, and the public response to the Special Use request. He closed by listing factors in favor of and against approval and invited questions from the Commission.

Ms. Weissler asked for clarification of the Condition that the Applicant notify Army personnel prior to any takeoff or landing. Mr. Dennis explained that the details of communication would be worked out between the Applicant and the Army. Mr. Bemis asked if the specific airframe requirement could be expanded to allow similar aircraft. Mr. Dennis explained the request and noted that the Commission could alter the Condition at their discretion. Mr. Bemis also asked for clarification regarding the communication between the Applicant and the Army. Mr. Dennis clarified the Condition, stating that it required a relationship, but did not specify the details. Mr. Bemis also expressed concern regarding a Condition applying to fuel storage, asking if it was overly onerous by applying beyond fuel for any aircraft. Mr. Dennis explained how Staff had crafted Conditions based on historical Conditions. Mr. Bemis explained that he was concerned that the Condition would apply to any fuel on site and would place the Applicant out of parity with other residential property owners. Mr. Bemis and Ms. Weissler stated that they felt that specifying aviation fuel would clarify. Ms. Weissler also stated that any commercially available fuel container would meet the Condition. Mr. Garcia asked if the Applicant would also have to get a permit from the FAA. Mr. Dennis explained that the Applicant would have to do so as a Condition of the Special Use permit.

Mr. Martzke invited the Applicant to make a statement. Mr. Mark Stonebraker spoke, explaining his plans for the site. He stated that his only change would be to lengthen the runway for safety and for neighbor convenience. He stated that he was going to improve Stonebraker Road, but was not going to move the road, as he had believed that the road was not in the correct location. Mr. Stonebraker explained the certification process with the FAA and asked for support. Mr. Bemis asked Mr. Stonebraker about the Condition limiting the airframe. Mr. Stonebraker concurred that a more general condition would be preferable.

Mr. Martzke opened the Public Hearing and asked if there were any members of the public wishing to speak in favor of or in opposition to the project.

Mr. James Sullivan of Tombstone spoke in support, stating that he appreciated the airstrip as an extra emergency access.

There being no further speakers, Mr. Martzke then closed the Public Hearing and then called for the Planning Director's summary and recommendation. Mr. Dennis recommended Conditional Approval and explained the Conditions and Modifications recommended by Staff. At Mr. Bemis' request, the Condition regarding airframe was expanded to allow similar aircraft. Mr. Dennis also changed the fuel storage condition to limit the Condition to aviation fuel. Mr. Martzke called for a motion. Mr. Bemis asked for clarification regarding the changes to the Conditions. Mr. Hanson explained that the motion must specify the changes. Ms. Weissler made a motion for recommending Approval of the Special Use with the Conditions and Modifications given by Staff, allowing aircraft of similar performance and adding the language specifying aviation fuel. Mr. Lynch seconded the motion and Mr. Martzke called for a vote. The motion passed unanimously.

Motion: Motioned to approve the Special Use request with Modifications and Conditions recommended by Staff, removing the restriction on specific airframe selection and altering the fuel storage Condition as discussed.

Action: Approve with Conditions and Modifications **Moved by:** Ms. Weissler **Seconded by:** Mr. Lynch
Vote: Motion passed (**Summary:** Yes = 8, No = 0, Abstain = 0)
Yes: Ms. Miller, Mr. Bemis, Ms. Weissler, Ms. Edie, Mr. Lynch, Mr. Cervantes, Mr. Garcia, and Mr. Martzke.
No: 0
Abstain: 0

Item 4

PUBLIC HEARING -- Docket SU-13-17 (Salem): A Special Use request to use an existing single-family dwelling for a short-term rental. The proposal requires a change of land use to Guest Lodging. The subject parcel is located at 10323 E. Rock Creek Lane in Pearce. The Applicant is Suzanne Salem.

Mr. Martzke 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 an existing home to be used as a short-term rental guesthouse. He 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. Gardner also explained the Modifications requested by the Applicant, as well as the public response to the Special Use request. He closed by listing factors in favor of and against approval and invited questions from the Commission.

Mr. Martzke invited the Applicant to make a statement. Ms. Suzanne Salem spoke, explaining the location of the property and the nature of the request. Ms. Weissler asked Ms. Salem for clarification regarding Ms. Salem's residence. Ms. Salem explained that they had a home in Glendale as well as a home near the site in question.

Mr. Martzke opened the Public Hearing and asked if there were any members of the public wishing to speak in favor of or in opposition to the project. There being none, he closed the public hearing and asked for Staff's recommendation. Mr. Gardner recommended Conditional Approval and explained the Conditions and Modifications requested by Staff. Mr. Lynch asked for details regarding the location of the site, and upon receiving clarification from the Applicant, Mr. Lynch stated that he felt the Private Maintenance Agreement for one mile of non-maintained road was onerous for such a limited use. He asked for clarification regarding such agreements, which Mr. Gardner provided. Mr. Bemis asked about ownership of the road. Mr. Gardner stated that the road was an easement along several parcels. Mr. Bemis explained that he uses the road often and agreed with Mr. Lynch and stated that he felt the Agreement should be dropped. Mr. Martzke called for a motion. Mr. Lynch made a motion for recommending Approval of the Special Use with the Conditions and Modification given by Staff, striking the Condition requiring a Private Maintenance Agreement. Ms. Edie seconded the motion and Mr. Martzke asked for discussion. Mr. Bemis asked for clarification of the Condition being struck, which Mr. Lynch provided. Mr. Martzke called for a vote. The motion passed unanimously.

Motion: Motioned to approve the Special Use request with Conditions and Modifications recommended by Staff, removing the Condition requiring a Private Maintenance Agreement.
Action: Approve with Conditions and Modifications **Moved by:** Mr. Lynch **Seconded by:** Ms. Edie
Vote: Motion passed (**Summary:** Yes = 8, No = 0, Abstain = 0)
Yes: Chairman Lynch, Mr. Cervantes, Ms. Miller, Mr. Bemis, Ms. Weissler, Ms. Edie, Mr. Martzke, and Mr. Garcia.
No: 0
Abstain: 0

Item 5
PUBLIC HEARING -- Docket Z-13-04 (Waste Mgmt. of Arizona, Inc.): A rezoning request from GB (General Business) to LI (Light Industry) for the parcel located at 2183 N. Coyote Place in Whetstone to facilitate a solid waste transfer station land use. The site is currently being used by the Applicant as a vehicle and container storage yard with an administrative office. The Applicant is Waste Management of Arizona, Inc., Ms. Nicole Bisacchi, Agent for Applicant.

Mr. Martzke called for the Planning Director's report. Planning Manager Michael Turisk presented the docket, explaining the background of the request utilizing photos, maps, and other visual aids. He noted that the parcel currently had two zoning designations, and this request was only to change the portion zoned General Business to Light Industry, without changing the portion zoned RU-4. He explained the Special Use request granted by the Commission in 2008. Mr. Turisk explained that the Applicant intended to transport rubbish to their private landfill in Tucson rather than to the County landfill in Huachuca City. Mr. Turisk also explained the public response to the request. He noted that the request could be considered an extension of the existing use and explained that the Applicant was proposing mitigation measures to alleviate neighbors' concerns. Mr. Turisk explained that after the 2008 Special Use the Applicant was required to provide funds to improve nearby roads, and such improvement was done last year. He closed by listing factors in favor of and against approval, and explained a requested Modification and invited questions from the Commission.

Mr. Bemis asked for clarification that the Applicant would be hauling rubbish to Tucson, and Mr. Turisk concurred, but deferred details to the Applicant. Mr. Bemis then asked for clarification of weekend operation, expressing concern that rubbish may be stored on site over the weekend. Mr. Turisk explained that his understanding was that all materials would be removed before the weekend.

Mr. Martzke invited the Applicant to make a statement. Ms. Nicole Bisacchi from Waste Management spoke to explain the project, explaining the intended use that was driving the rezoning request. She explained that the Recycling Facility authorized by the Commission in 2008 had been delayed due to economic reasons. Ms. Bisacchi showed photos of the site and explained that there was a buffer around the site. She noted that there would be no hazardous waste, but only household and commercial trash on site. She defended her analysis that there would be no change to traffic from the site by stating that due to the economic downturn the current traffic was lower than previous projections.

Ms. Bisacchi spoke regarding the economics of dumping in Tucson versus locally and explained that they wanted to have both options available. She also noted that they were not going to be accepting materials from other haulers. Ms. Bisacchi detailed her communication with neighbors and explained proposed mitigation to the neighbors' concerns. She noted that waste would be removed daily and committed to ensuring that there would be no trash on the floor over the weekend and that there would be no stacked containers on site. Ms. Bisacchi explained the expected benefits to the community, noting jobs and extending the life of the local landfill. She showed examples of similar existing facilities and closed by inviting questions from the Commission.

Mr. Bemis asked about the outgoing trucks. Ms. Bisacchi explained that the haulers were full-sized semi trucks with tarps over the loads. Mr. Bemis asked for clarification on the number of loads per day, suggesting it would be 12 plus trucks per day plus the regular garbage trucks. Ms. Bisacchi concurred with Mr. Bemis' numbers. Mr. Bemis asked if the structure would be large enough to accommodate a semi truck for loading. Ms. Bisacchi explained that the trucks would be under the building and be loaded directly from above. Mr. Lynch asked for clarification if the building would be fully enclosed or three sided. Ms. Bisacchi stated that the structure would be three sided. Mr. Lynch asked if other commercial haulers would be permitted to dump on site. Ms. Bisacchi stated that no other commercial trash haulers would be permitted, but commercial recyclables would be accepted. Ms. Weissler asked for clarification on the economics of hauling versus tipping locally. Ms. Bisacchi demurred on exact numbers but explained that such an operation was common for Waste Management, and that the disposition depended on current economics. Ms. Weissler also asked about when the offending recyclable containers were removed. Ms. Bisacchi explained that the containers were removed the day that Staff explained they were in violation. Ms. Weissler commented that she had concerns about previous poor execution of the site and worried that the poor execution would continue with the expansion. Ms. Edie asked what the Applicant was currently doing with the rubbish. Ms. Bisacchi noted that currently the rubbish was being dumped in the County or Sierra Vista landfills.

Mr. Martzke opened the Public Hearing, noting that there were several petitions that had been delivered prior to the meeting, and asked if there were any members of the public wishing to speak in favor of or in opposition to the project.

Ms. Lucinda Earven of Huachuca City spoke against the request. She noted that the Applicant's initial citizen review letter was incorrect, the letter stating that the request was a Special Use rather than a rezone. She expressed concern regarding traffic on West Oak Street, pointing out that Staff felt the trips count was much higher than the Applicant's estimates, and that the trucks would be larger than current trucks. Ms. Earven noted that Quail Ridge RV Park was required to use entrances on Oak Street only in emergencies to minimize traffic and questioned why the garbage trucks and semis could use the road. She expressed concern about spreading trash and noise, noting that the traffic operates outside of daylight hours, and that equipment would create additional noise. Ms. Earven also expressed concern about air and water quality and vermin, as well as visual impact of the proposed structure. She stated that she felt the only winner from this request was the Applicant.

Mr. Gilbert Reeves of Huachuca City spoke against the request. He noted that the County landfill had plenty of capacity for the foreseeable future. He asked if the Commissioners would like to have huge trucks driving by their homes at four in the morning. Mr. Reeves stated that the residents of Oak Street had cleaned up the neighborhood and that this use would negate those efforts. He stated that he felt the Whetstone area was neglected on the Commission as none of the Commissioners were from that area. He also stated that the route of the Applicant's trucks is easy to follow by tracing the spilled hydraulic fluid. Mr. Reeves stated the request was "unthinkable" in that area.

Ms. Lisa Barnett of Huachuca City thanked the Commission for hearing the public on this issue. She mentioned handout that she had passed out to the Commission. She noted that the area was residential and explained the pride the residents had in their neighborhood. She also expressed concern about property values and the ability to sell a home in the area. Ms. Barnett noted how close the local landfills were to the site, and explained how other transfer stations in the area were located away from homes. She stated that she felt it should not be the responsibility of residents to bear the cost of the Applicant's business model. She stated the she felt due to the failure of Whetstone to incorporate, there was no one working to protect Whetstone and asked the Commission if it made sense to put a Light Industrial property in the middle of a residential area and asked for the Commission's protection.

Ms. Jere Fredenburgh of Sierra Vista concurred that the area was residential and that the project would harm property values.

Ms. Diana Barton of Huachuca City spoke against the project. She expounded on the amount of trash that would be handled and expressed concern about the early hours of operation. She also noted that the Applicant's written request stated that the site would be open to other commercial haulers. Ms. Barton stated that she felt the plan to accept materials from other commercial haulers was the intent of the project, and if it passed then the County "might as well close the local landfill," and stated that all the tipping fees would go away. She asked if anyone in Planning and Zoning lived on West Oak, and stated that if anyone lived there they would not recommend the project for approval. She stated that the proposed zoning did not fit in the neighborhood. Ms. Barton expressed concern for the safety of semi trucks turning left from Oak onto Highway 90. She claimed that 'Planning wants to regulate how many dogs I own or where I put my manure, but are plotting to allow a transfer station in a rural area where I can only have ten dogs and have to have my manure pile 25-feet from my fence, but we applaud that Waste Management wants to haul trash into the area." She stated that the project should be denied, claiming that it will "bring financial ruin to our County."

Ms. Nellie Lowry of Huachuca City stated that she was a longtime resident of the area and opposed the request. She stated that the Applicant had violated the terms of the previous approvals and claimed personal knowledge of the Applicant storing trash from Friday night until Saturday. She complained about trucks running in the early hours. Ms. Lowry also expressed concern about damage to West Oak Street.

Dr. Catherine Ricks of Huachuca City emphasized that the area was residential and opposed the request.

She referenced a publication from the Environmental Protection Agency and stated that there was no way to eliminate problems. She also noted that the area experienced high winds that would readily spread any odor and trash throughout the community. Dr. Ricks asked for clarity regarding the number of trucks using the site and expressed concern for future expansion. She stated that everyone she spoke with in the neighborhood was opposed to the request.

Ms. Janice Lackner of Huachuca City stated she found it frustrating and upsetting to be before the Commission before regarding this property. She stated that she felt people wanted to "use Whetstone as a dump". She emphasized that it was a neighborhood and stated she could not understand "how it even gets this far, and how that could even be considered next to a house." Ms. Lackner closed by noting agreement with previous speakers.

Mr. Gary Miller of Huachuca City stated that he owned the Quail Ridge RV and Mobile Home Park. He explained that ADOT prohibited his park from using West Oak Street due to safety issues on the highway. Mr. Miller explained that a transfer station is essentially a portable dump and expressed concern for offsite impacts such as odor, vermin, and noise. He emphasized the noise generated by the equipment to run the station. He stated that he felt there would be raw sewage on site and expressed concern regarding commercial garbage. Mr. Miller also worried about issues over the weekend. He claimed to have spoken with other local transfer stations and dumps and that none of those facilities understood why the Applicant would do this. He also expressed concern for growth on this site. Mr. Miller stated that he felt that there was no way to adequately mitigate the offsite impacts from a transfer station except to deny the rezoning in the first place.

Ms. Candice Cheek of Huachuca City stated that she had concerns for Oak Street when rain falls. She stated that several neighbors had moved out and attributed it to the presence of Waste Management. She stated that competing companies are much better about cleaning up loose trash. Ms. Cheek also disputed the Applicant's assertion that there was no trash left on site over the weekend.

Mr. Sean Wales of Huachuca City noted that he is Vice-Chair of the District Three Board of Adjustment, and that he had been asked by several citizens to speak on their behalf. He expressed concern that the notification radius is too small and asked the Commission to review the minimum requirement. Mr. Wales also expressed concern about the previous push for a dump in Whetstone and questioned the need for another. He noted that there is a large well near the site, and expressed concern that the proposed transfer station could harm that well, limiting water availability to Huachuca City. He also expressed concern about how the transfer station could impact other local businesses such as Mr. Miller's RV Park.

Mr. Jim Wales of Huachuca City noted that he was a longtime resident of the area and agreed with the sentiment that people wanted to use Whetstone as a dump. He stated that he felt another transfer station in the area was not necessary. He also expressed concern about the limited notification radius. Mr. Wales expressed concern that the project would harm the appearance of the area, and stated that the area was already in need of improvement.

He recalled a docket when he was on the Commission, explaining that another Commission member told him that she decided based on "who was there first." He asked the Applicant to work out a deal with the County to use existing facilities.

Ms. Eileen Swiers of Huachuca City expressed concern that the project would only harm the neighborhood.

There being no further speakers, Mr. Martzke then called for the Applicant's rebuttal. Ms. Bisacchi addressed the concern about the traffic times and offered a limit on semis being run from 7am until 5pm. She emphasized that only internal trucks would be dumping onsite, and that no external trucks would be using the facility. She also addressed concerns about recyclables being mixed together by stating that the materials are sorted later. Ms. Bisacchi addressed the concerns about the well by stating that the industry is highly regulated and inspected by ADEQ and emphasized their excellent compliance record. She explained that misters would be used to control odor and dust. She also noted that the site would not accept sewage or wastewater. Ms. Bisacchi addressed the financial questions by explaining that Waste Management had recently opened a new landfill in Pima County, which changed the economic considerations. She invited further questions from the Commission.

Mr. Martzke then called for Planning Director's summary and recommendation. Mr. Turisk noted that the recommendation was difficult for Staff and emphasized that the neighbor input had come at a late date, and recommended Conditional Approval, explaining the Conditions and Modification requested by Staff. Mr. Lynch asked what the other Light Industrial property in the area was used for. Mr. Turisk explained that the parcel had been rezoned to facilitate an automotive salvage yard. Mr. Lynch also asked if there was anything prohibiting the Applicant from accepting trash from other haulers, noting that the Applicant had stated that they did not intend to do so, but wondering what would happen if that changed. Mr. Turisk answered that Staff had not crafted a Condition addressing that concern, but noted that the Commission could do so. He did express concern that such a Condition may be difficult to enforce. Mr. Hanson added that unless there was a Condition prohibiting such an action then the Applicant's statement from the podium was not binding and that if the Commission had a concern to that effect then an appropriate Condition should be attached. Mr. Lynch stated that as a pure land use the use was conceivably appropriate, but felt that the Commission had an obligation to listen to the citizens and stated that he was opposed to the request. Mr. Bemis agreed that the request could work, but felt that an approval would be asking the local community to subsidize the Applicant's operation at the expense of their quality of life and stated that he would oppose it. Mr. Cervantes commented that he understood the neighbors' concern about noise, dust, and vibration from the trucks. Mr. Garcia noted that his neighborhood has semi trucks twenty-four hours a day and explained that the project in his neighborhood had made promises that they had not kept regarding the site, and opposed the current request on that basis. Ms. Weissler expressed concern that while trash must go somewhere, the proposed location was a poor choice. Mr. Martzke called for a motion. Mr. Lynch made a motion for recommending Approval of the Special Use with the Conditions and Modification given by Staff with the additional Condition prohibiting the Applicant from accepting other material from other commercial haulers. Mr. Bemis seconded the motion and Mr. Martzke asked for discussion and a vote. The motion failed unanimously.

Motion: Motion to forward to the Board of Supervisors with a recommendation of approval with Conditions and Modifications recommended by Staff and a Condition prohibiting the Applicant from accepting refuse from other collectors.

Action: Approve with Conditions and Modifications **Moved by:** Mr. Lynch **Seconded by:** Mr. Bemis
Vote: Motion failed (**Summary:** Yes = 0, No = 8, Abstain = 0)
Yes: 0
No: Mr. Lynch, Mr. Cervantes, Ms. Miller, Mr. Bemis, Ms. Weissler, Ms. Edie, Mr. Martzke, and Mr. Garcia.
Abstain: 0

WORK SESSION

Mr. Martzke asked if the previously voted on changes had been heard by the Board of Supervisors. Planning Director Beverly Wilson explained that the Board was going to hear the docket on October 22. She explained that the purpose of the Work Session was to discuss some of the questions regarding some of the previous changes. Mr. Hanson and Ms. Wilson proceeded to address the questions posed at the previous meeting. Mr. Hanson explained that as Sections were eliminated the numbers were held in reserve as a drafting technique to eliminate the requirement to renumber every other section and reference. He clarified a question regarding changes to city codes by explaining that the County had adopted their own codes rather than adopting city codes. He went on to explain that the recently established Building Code Advisory and Appeal Board would make recommendations pertaining to Building Code changes. Mr. Hanson explained that language pertaining to penalties was taken directly from State statute, but noted that the County had never utilized the options therein. He clarified that area plans are only applied if they are adopted by the Board of Supervisors for a particular area. Mr. Hanson then addressed concerns about Appeals by explaining the difference between appeals to the Board of Adjustments, the Board of Supervisors, and the Building Code Advisory and Appeals Board. He closed by addressing Section 307, explaining that this language was standard nationwide, and expounded on the practical reasons for it. He explained how it protected property owners from noxious uses that were not yet covered in the regulations, and noted that a list of prohibited uses would be voluminous and would likely still not be complete. Mr. Martzke asked if the Board of Appeals had wide-open authority. Mr. Hanson asked if Mr. Martzke meant the Building Code Advisory and Appeals Board. Mr. Martzke responded that he did and asked "if someone goes before the Board of Appeals and they grant something, is that then the law as far as that's concerned?" Mr. Lynch interrupted to ask Mr. Martzke if he meant the Board of Adjustment. Mr. Martzke referenced a case involving a park model home "that was denied by the Planning and Zoning Commission because it did not meet the requirements for a mobile home area." He continued that "it went before the Board of Appeals and they determined that the park model mobile home was a mobile home and is now in place where no one else can have a mobile home of that size." He stated that "the Board of Appeals really overrode the regulations." Mr. Lynch and Ms. Wilson interrupted to correct Mr. Martzke that the case was before the Board of Adjustment, and Ms. Wilson used it as an example of the process that Mr. Hanson had explained as it was an appeal of her decision as the Zoning Inspector, in which the Board of Adjustment overturned her appeal.

Mr. Martzke asked if the decision was a precedent and therefore anyone could bring a park model mobile home into a mobile home residential area. Mr. Hanson explained that the Board of Adjustment's decisions did not set precedent and applied only to that particular case and explained that different Boards or the same Board at a later date may come to a different decision. Mr. Bemis returned to Section 307, and admitted that he disagreed with Mr. Hanson's logic, but suggested changing the word "specifically" with "may be" in front of "prohibited." Mr. Hanson explained that such a change would be meaningless from a legal standpoint, noting that something either "is prohibited or it isn't."

Mr. Bemis again expressed concern that "the permission of the king is needed to do anything in the County," and stated that his suggested language came from another attorney. Mr. Hanson stated that Mr. Bemis' assertion was incorrect and stated that regulations are crafted to create acceptable uses in any area, as well as those that are questionable that would come before the Commission. Mr. Bemis again expressed confusion as to the point of the Section, as "we have to do that anyway." Mr. Hanson reiterated that without that section, if a particular use was not specifically prohibited then it would be permitted without any requirement to go before the Commission.

Ms. Wilson explained that the regulations pertaining to agriculture had been reviewed by the Commission and changed by the Board several months prior. She also reiterated the State statutes regarding agricultural exemption and explained why poultry farms were regulated and how they were defined under State law. She also addressed questions regarding Home Occupations, noting that such language had been in the regulations since their inception. She also clarified the requirements and the permitting process for them. Ms. Wilson also explained the difference between Contract Construction Services being a primary use while a Home Occupation was an accessory use. She noted suggestions for process from Mr. Lynch. Mr. Martzke asked Mr. Lynch to explain his suggestions.

Mr. Lynch stated that he felt the process by which the previous regulation changes were reviewed took too much Commission and Staff time. He suggested an alternative involving breaking changes into several smaller sections with each section being voted on separately. He suggested using work sessions to come to agreement on the text of proposed regulations rather than changing language during the regular meeting. Mr. Lynch stated that he was concerned that making changes at a meeting would violate open meeting law as then changes may happen that had not been advertised. He also suggested that if a Commissioner was absent from a Work Session on a Section then they should forgo the opportunity at the next meeting to rehash language discussed at that Work Session. He emphasized again that the Building Code Advisory and Appeals Board had no role to play in changing the Zoning Regulations. Mr. Martzke asked Mr. Lynch when the public input would occur. Mr. Lynch stated that Call to the Public was an option and that any vote would be a public hearing at which the public could speak. Mr. Martzke asked if, prior to a vote, there was a major issue raised by the public what the Commission should do, and suggested voting it down. Mr. Lynch suggested tabling such items to the next meeting and having another Work Session. He reiterated his concern about wordsmithing during the public hearing. Mr. Martzke agreed with this concern and the suggestion of breaking changes into small chunks. He did express concern about how it would be sent to the Board of Supervisors. Mr. Lynch suggested asking the Board for direction.

Mr. Hanson noted that it would likely be four to five years before another major update would occur. Mr. Martzke stated that he felt the Commission had come up with a number of new changes during the discussion of the proposed changes. Ms. Weissler commented that the Commission was unable to agree on any such changes and noted that most substantial changes had been removed. Ms. Bemis concurred with Mr. Lynch's suggestion regarding process. He asked if during the review of the previous changes the Commission had been charged with reviewing the changes or with an entire review of the regulations.

Mr. Hanson stated that the primary focus was the changes that were suggested by staff, but noted that there was nothing prohibiting a Commission member from suggesting or writing a change. Mr. Bemis suggested a training session prior to such a review so that the Commission knew what their mandate was. Mr. Lynch suggested voting in Work Sessions to determine if a change should go in. Mr. Hanson explained that such a vote would not be permitted. Mr. Lynch, Mr. Martzke, and Ms. Edie further discussed the process, suggesting two reads, or a Work Session and a public hearing on regulation changes. Ms. Weissler noted that Mr. Lynch's suggestion would fit this process. She also expressed concern that the process of Ms. Wilson reading the proposed changes was a waste of time and asked that Commissioners come to Work Sessions "prepared" rather than seeing the document for the first time at the Work Session. Mr. Martzke asked how many Articles the Commission could handle at one time. Mr. Garcia stated that he accepted the position at the request of the Supervisor, and felt that the training and explanation would come on the fly during the meetings and stated he would not have the time to read everything prior to the meetings. Ms. Weissler clarified that she meant that Commissioners should show up with questions regarding the issues at hand. Mr. Hanson asked Mr. Martzke if the Commission had specific changes in mind or if they wanted to do an entire line-by-line review. Mr. Bemis stated that he would like to see direction from the Supervisors and expressed concern about going beyond their expectation. Mr. Hanson suggested asking the appropriate Supervisor, and stated that he did not think that the Board was expecting a comprehensive review. Mr. Cervantes agreed, stating that he felt the purview of the docket was the proposed changes rather than a comprehensive review. Mr. Martzke agreed asking the Board for direction and waiting to see how the Board receives the proposed changes before them. Mr. Lynch reminded that while not everyone may be satisfied with every regulation, the current regulations have been reviewed by prior Staff, Commissioners, and accepted by the Board of Supervisors. He also suggested that Staff should put the draft changes together based on input from elected officials and the public. Ms. Weissler asked if Staff had any changes that could be discussed next month. Ms. Wilson stated that the water changes would come forward as a docket next month. Ms. Weissler suggested following Mr. Lynch's proposed system for future changes. Ms. Miller asked if there would be a work session on the water regulations for further discussion. Ms. Wilson explained that the changes had been made at the suggestion of the Commission and the Commission was welcome to table the item for a Work Session. Ms. Miller and Mr. Martzke expressed concern that the docket was being pushed through, and Mr. Lynch reminded that the Commission could table the item for further discussion.

PLANNING DIRECTOR'S REPORT

Mr. Martzke then called for the Planning Director's report.

Director Beverly Wilson informed the Commission that on October 22 the Board would hear the Zoning Regulations and an appeal to the AIRES docket denied by the Commission, and that on November 5 the Board would hear an appeal of the West Edge Medical Marijuana Greenhouse docket approved by the Commission in September. She also informed the Commission that there is one Special Use docket and an update to water conservation zoning regulations for the November meeting.

CALL TO COMMISSIONERS

Mr. Martzke asked about absences for the next meeting. Mr. Bemis asked to withdraw his name from consideration for Chair. Mr. Martzke asked Mr. Hanson if a vote could be taken at the time. Mr. Hanson stated that the answer was no due to the action item section of the agenda being closed.

ADJOURNMENT

Ms. Weissler moved to adjourn, Mr. Cervantes seconded and the meeting was adjourned at 7:54 p.m.