

## NOTICE OF MEETING

Planning and Zoning Commission  
**December 8, 2010**  
Cochise County Complex  
Board of Supervisors Hearing Room  
1415 W. Melody Lane, Building G  
Bisbee, Arizona

### AGENDA

#### 4:00 P.M. CALL TO ORDER

**THE ORDER OR DELETION OF ANY ITEM ON THIS AGENDA IS SUBJECT TO MODIFICATION AT THE MEETING.**

**ROLL CALL** (Introduce Commission members, explain quorum and requirements for taking legal action.)

(Also explain procedure for public hearing, i.e., after Planning Director's Report, Applicant will be allowed 10 minutes, other persons will each have 5 minutes to speak and Applicant can have 5 minutes for rebuttal at end.)

**APPROVAL OF PREVIOUS MINUTES** - (Call for motion to approve the minutes of the November 10, 2010 Meeting)

**CALL TO THE PUBLIC** (Ask if any member of the public wishes to speak on any item not already on the agenda).

### NEW BUSINESS

**Item 1 (Page 1) - Introduce Docket and advise public who the applicants are.**

**Not a Public Hearing, Docket S-05-05 La Marquesa Subdivision:** This request is for approval of an additional one-year time extension for the La Marquesa Subdivision Tentative Plat.

- Call for PLANNING DIRECTOR'S REPORT
- Call for APPLICANT'S STATEMENT
- Call for COMMISSION DISCUSSION (May ask questions of the applicant)
- Call for PLANNING DIRECTOR'S SUMMARY AND RECOMMENDATION
- Call for MOTION

- Call for DISCUSSION OF MOTION
- Call for QUESTION

ANNOUNCE ACTION TAKEN (If the Commission makes a recommendation, the docket will be heard at a future Board of Supervisors meeting at the same location as the Commission meeting.)

**Item 2 (Page 12)**

**Public Hearing, Docket SU-10-18:** The Applicant seeks a Special Use Permit for Manufacturing in an RU-4 District, activity area not to exceed 5,000 square feet, per Section 607.16 of the Zoning Regulations. The proposed business is a custom motorcycle building business in a 40' x 60' building, which the Applicant maintains would result in one to three cycles built on the property per year, to be delivered off-site after construction. The subject parcel (Parcel No. 110-60-003) is located at 3837 S. Yoruba Basin Trail, between Tombstone and Bisbee, AZ

**Applicant:** Phil Korte.

- Call for PLANNING DIRECTOR'S REPORT
- Call for APPLICANT'S STATEMENT
- Declare PUBLIC HEARING OPEN
  - Call For COMMENT FROM OTHER PERSONS (either in favor or against)
  - Call for APPLICANT'S REBUTTAL (if APPROPRIATE)
- Declare PUBLIC HEARING CLOSED
- Call for COMMISSION DISCUSSION (May ask questions of the applicant)
- Call for PLANNING DIRECTOR'S SUMMARY AND RECOMMENDATION
- Call for MOTION
- Call for DISCUSSION OF MOTION
- Call for QUESTION

ANNOUNCE ACTION TAKEN - (Note: Any individual disagreeing with this action has the right to appeal to the Board of Supervisors within 15 days. An application for appeal is available tonight with the Clerk, at our office Monday through Friday between 8 A.M. and 5 P.M., or anytime on our webpage in the "Permits and Packets" link)

**Item 3 (Page 43)**

**Public Hearing, Docket SU-10-19 (Klump):** The Applicant requests a Special Use Permit in a General Business zoning district adjacent to incorporated Willcox to establish and operate a mini-mix concrete batch manufacturing and sales facility, per Section

1205.01 (manufacturing, wholesaling, warehousing, distribution or storage of goods) of the Zoning Regulations. The subject property (Parcel No. 203-40-002) is currently used for retail sales of construction materials such as sand and gravel, and is located at 920 S. Haskell Ave., a paved ADOT-maintained road.

**Applicant:** Mr. Matthew W. Klump.

**FOLLOW FORMAT OF ITEM 2**

ANNOUNCE ACTION TAKEN - (Note: Any individual disagreeing with this action has the right to appeal to the Board of Supervisors within 15 days. An application for appeal is available tonight with the Clerk, at our office Monday through Friday between 8 A.M. and 5 P.M., or anytime on our webpage in the "Permits and Packets" link)

**Item 4 (page 71)**

**Public Hearing, Docket R-09-02:** Consideration of adoption of a new ordinance entitled the "Cochise County Hazard Abatement Ordinance" to abate/remove rubbish, trash, weeds, filth, debris or damaged or dilapidated buildings which constitute a hazard to public health and safety and which may be compelled to be removed, with due process, from buildings, grounds, lots, contiguous sidewalks, streets and alleys within the unincorporated areas of the County. The Ordinance outlines the due process for formal notification, removal by the County and recovery of costs for removal, appeal and lien processes for property owners with hazardous conditions on their property. .

**FOLLOW FORMAT OF ITEM 2**

ANNOUNCE ACTION TAKEN (If the Commission makes a recommendation, the docket will be heard in a public hearing before the Board of Supervisors on Tuesday, December 21, 2010 at the same location as the Commission meeting.)

**DIRECTOR'S REPORT ON PENDING AND RECENT MATTERS AND FUTURE AGENDA ITEMS**

1. Board of Supervisors Actions
2. Next and potential future month's Dockets

**CALL TO COMMISSIONERS ON RECENT MATTERS**

**ADJOURNMENT**

**COCHISE COUNTY PLANNING & ZONING COMMISSION  
MINUTES**

Wednesday, November 10, 2010

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

Chair Basnar explained the Rio Mesa docket will be moved to the beginning of the meeting.

**ROLL CALL**

**Roll Call.**

**Present:** Jim Martzke, Duane Brofer, Rusty Harguess, Lee Basnar, Pat Edie, Jim Lynch, Ron Bemis, Gary Brauchla.

**Absent/Excused:** Cruz Silva.

Chair Basnar noted the presence of a quorum. He then introduced the Commissioners to the public. Chair Basnar then explained to the audience the procedures for considering a docket.

**APPROVAL OF THE MINUTES**

Chair Basnar asked for a motion to approve the minutes of the October 13, 2010 regular meeting. **Motion:** Approve the minutes as mailed., **Action:** Adjourn, **Moved by** Jim Martzke, **Seconded by** Pat Edie.

**Vote:** Motion passed (**summary:** Yes = 6, No = 0, Abstain = 2).

**Yes:** Jim Martzke, Duane Brofer, Lee Basnar, Pat Edie, Jim Lynch, Gary Brauchla.

**Abstain:** Rusty Harguess, Ron Bemis.

**CALL TO THE PUBLIC**

Chair Basnar opened the meeting to the public, being there was no one who wished to speak; Chair Basnar closed the "Call to the Public"

**Item 1**

**Docket S-07-01:** Planner Keith Dennis presented a request for approval of an additional one-year extension for the Rio Mesa Subdivision tentative plat. Mr. Dennis stated that due to the state of the economy the final plat was not brought to the Board of Supervisors. The development was sold to a new owner that is requesting an extension.

Mr. Peter Selunga stated that he had nothing to add to Mr. Dennis' presentation.

**Motion:** Conditionally approve the extension for S-07-01, **Action:** Approve, **Moved by** Jim Martzke, **Seconded by** Duane Brofer.

**Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 8).

**Yes:** Jim Martzke, Duane Brofer, Rusty Harguess, Lee Basnar, Pat Edie, Jim Lynch, Ron Bemis, Gary Brauchla.

**Item 2**

Commissioner Lynch recused himself from the docket as he owns property in the area. Mr. Lynch removed himself from the bench.

**Docket SU-09-08A:** Planner Keith Dennis stated the Applicant, Elder Care for Life, currently operates a Residential Care Institution on the property, as allowed by Special Use pursuant to Section 707.06 of the Zoning Regulations. The Planning and Zoning Commission authorized the Special Use in March of 2009, with approval conditions requiring the Applicant to direct associated traffic to use Calle de Naranja, a County-maintained road west of the property. Specifically, the condition required the Applicant to:

- A. Require all traffic accessing the site to use the Calle de Naranja route;
- B. Post a sign at the property line along Labrador Lane, instructing visitors to use the Calle de Naranja route; and
- C. Inform employees, delivery drivers, and residents' family members in writing to access the site through the Calle de Naranja route.

He further stated the Applicant now seeks a Special Use Modification, to have these approval conditions removed from the Special Use and allow traffic to access Calle de Mango, a County-maintained road east of the property.

Mr. Dennis presented maps and photos of the subject parcel (Parcel # 104-02-006F) which is located at 5605 E Labrador Lane in Hereford, AZ. He presented factors in favor and against, stating staff received letters from Emergency services and 1 neighbor in support, and 32 letters in opposition.

Commissioner Bemis asked what causes the delay using Calle De La Naranja.

Mike McKearney from the Fry Fire District, stated the delay using Calle de Le Naranja is that only part of the road is County-maintained, and so the other part is not on their maps, causing a delay.

Commissioner Brofer asked staff if emergency traffic can use Labrador Lane.

Karen Lamberton explained the Calle De La Naranja is considered by the County as a primitive road, therefore does not appear on County maps as a maintained road.

Scott Wolfe, Board of Directors for Elder Care for Life, stated he was the one who had been maintaining Labrador Lane, and has seen the problems related to access on Labrador Lane. Mr. Wolfe stated they are requesting conditions to use Calle De La Naranja only.

Chair Basnar opened the meeting the public.

Duane Bennett stated his mother is a resident of Windmill Ranch, and he stated he is concerned about her well being since emergency services can not access the property except from one access point.

Robert Stachel, Attorney for the applicant, stated the easement was created in 1985 in the wrong place, however it was corrected in 19904. He further stated this is a public safety issue, however not all of the issue. The residents have friends and family that need to be able to visit for the well being of the residents.

Kenneth Sampson stated the easement is a private easement and should not be used by the visitors to the Residential care home.

Chester Lemanski stated they purchased their property last year and feels the owners should improve Calle De La Naranja and not use Calle De La Mango.

Gerry Kummer stated he put up the gates because the easement is a private easement and should not be used by anyone except the residents on Labrador lane.

Lisa Carroll stated the easement doesn't go past the Kummer's property; therefore there is no need for anyone to pass on that road.

Monica Vandivort stated she is on the Board of Director's for Elder Care. She Further addressed residents' concerns.

Robert Stachel stated it would be easier for the emergency services, and visitors to use Calle De La Mango due to flooding issues, and safety issues.

Commissioner Brauchla asked how wide the easement is.

Mr. Stachel stated the easement is 24' wide.

Chair Basnar closed the meeting to the public.

Mr. Dennis stated staff recommends approval of the modification to the Special Use request.

Commissioner Harguess asked County Attorney Britt Hansen about the dispute on the easement.

Mr. Hansen stated the dispute has no effect on the Commission.

Commissioner Basnar stated he feels the original conditions should stay in place.

Commissioners Martzke, Harguess, Brofer and Bemis concurred.

Chair Basnar asked for a motion.

**Motion:** motion to approve the modification to SU-09-08A, **Action:** Approve, **Moved by** Jim Martzke, **Seconded by** Rusty Harguess.

**Vote:** Motion failed (**summary:** Yes = 0, No = 8, Abstain = 0).

**No:** Jim Martzke, Duane Brofer, Rusty Harguess, Lee Basnar, Pat Edie, Jim Lynch, Ron Bemis, Gary Brauchla.

### Item 3

**Docket S-10-02:** Planner Keith Dennis presented the docket for Copper Hills a proposed 67-lot Conservation Subdivision, located northwest of the intersection of S.R. 92 with Rio Vista Road, West of Bisbee. Mr. Dennis presented a map showing the subdivision, and explained the density of the proposal. He further stated staff recommends approval of the final plat, with the conditions stated by staff.

Alan Thom stated they have worked hard and are not asking for any variances, and have met the mandates of ADOT.

Mr. Bemis asked where the conservation areas were located.

Mr. Thom explained they are located outside all the lot envelope area.

Mr. Dennis stated staff recommends forwarding a recommendation of approval to the board of Supervisors.

Chair Basnar asked for a motion.

**Motion:** Motion to forward a recommendation fo approval to the Board of Supervisors., **Action:** Approve, **Moved by** Duane Brofer, **Seconded by** Jim Martzke.

**Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 8).

**Yes:** Jim Martzke, Duane Brofer, Rusty Harguess, Lee Basnar, Pat Edie, Jim Lynch, Ron Bemis, Gary Brauchla.

### Item 4

**Northwest Cochise County Long Range Transportation Plan:** The County Transportation Planner, Karen Lamberton provided the Commission with a short briefing on growth projections and potential roadway network for the northwest area based on a recently completed Northwest Area Transportation Plan.

Chair Basnar asked about if the financing figures in inflation.

Ms. Lamberton stated there is a 4 percent inflation figured in.

Bob Iannarino stated they want to go on record as having concerns about the recommended illustrative.

Commissioner Martzke asked why the map shows the curve on I-10, as it is being removed.

#### **PLANNING DIRECTOR'S REPORT**

1. Next Month's Dockets will include two Special Use dockets and the Hazard Abatement Ordinance.
2. Interim Planning Director Jim Vlahovich stated we are still looking for a Planning director. He also introduced Carlos De La Torre as the new Community Development Director.

#### **CALL TO COMMISSIONERS**

#### **ADJOURNMENT**

**Motion: Adjourn, Action: Adjourn, Moved by Jim Martzke, Seconded by Ron Bemis.**

**Vote: Motion carried by unanimous roll call vote (summary: Yes = 8).**

**Yes: Jim Martzke, Duane Brofer, Rusty Harguess, Lee Basnar, Pat Edie, Jim Lynch, Ron Bemis, Gary Brauchla.**

**Planning & Zoning Commission Meeting  
Sign in Sheet**

DATE November 10, 2010

PLEASE PRINT

NAME	ADDRESS	PHONE #	ITEM #
1. Ken Sampson	6348 S Calle de Mango, Hereford AZ	803 9135	SU 09-08A
2. Vickie Sampson	same as above	803 9135	SA Above
3. GERRY KUMMER	6420 S. CALLE DE LA MANGO HEREFORD, AZ	378-0435	SU 09-08A
4. KUNIE KUMMER	6420 S Calle de la Mango Hereford, AZ	378-0435	SU 09 08 A
5. Christel & Tresty	Hereford, AZ 5761 Calle de la Perizana	520 378 1965	SU 09 08 A
6. Lisa Carroll		530-456-0436	SU 09 08 A
7. WALTER ANA Edsas	5636 MAGARQUE VISTAN Hereford AZ	520-249-1757	SU 09 08 A
8. Chester S. Lemanski Jr	6524 Calle de la Mango Hereford, AZ	609-893-7366	SU 09 08 A
9. Bob Iannarino	2200 E. River Rd Tulsa, AZ 85718	520-577-0200	Item #4
10. Mike McKeamy	4817 Apache	378-2222	
11. PETE SALWINGA	199 E. J. LOWER TULSA	292-6711	# 2
12. Duane Bennett	5880 S Hwy 82 Hereford	803-2838	SU-09-08A
13. Monica Vandivort	5335 E. Braughly Oak Hereford	803-1108	SU 09-08A
14. Marianne King	Hereford 6471 S Jaxel Rd	378-2924	SU 09-08A
15. Lynn King	" "	" "	" "

**Planning & Zoning Commission Meeting  
Sign in Sheet**

DATE November 10, 2010

PLEASE PRINT

NAME	ADDRESS	PHONE #	ITEM #
1. <i>Arjo &amp; Condova</i>	<i>310 E Oak St. Huachuca City 43</i>	<i>520 266 1687 456 0188</i>	<i>SUD 9-08A</i>
2. <i>Nancy Loud</i>	<i>4457 E. Evergreen dr</i>	<i>520-266-0378</i>	<i>SUD 9-08A</i>
3. <i>Fay Fillmore</i>	<i>525 Camino Majado</i>		<i>SUD 9-08A</i>
4. <i>Scott WOLFE</i>	<i>2870 DAVIS RD</i>	<i>520 642 1167</i>	<i>SUD 9-08A</i>
5. <i>Mary m. Wolfe</i>	<i>" "</i>	<i>" "</i>	<i>" "</i>
6. <i>Nathan Yarbrough</i>	<i>5335 Brushy Oak Ln.</i>	<i>520-266-1417</i>	
7.			
8.			
9.			
10.			
11.			
12.			
13.			
14.			
15.			



## **COMMUNITY DEVELOPMENT DEPARTMENT**

***Planning, Zoning and Building Safety***

1415 Melody Lane, Bisbee, Arizona 85603

(520) 432-9240

Fax 432-9278

*Carlos De La Torre, P.E., Director*

**TO:** Cochise County Planning and Zoning Commission

**FROM:** Keith Dennis, Senior Planner  
For: James E. Vlahovich, Planning Director

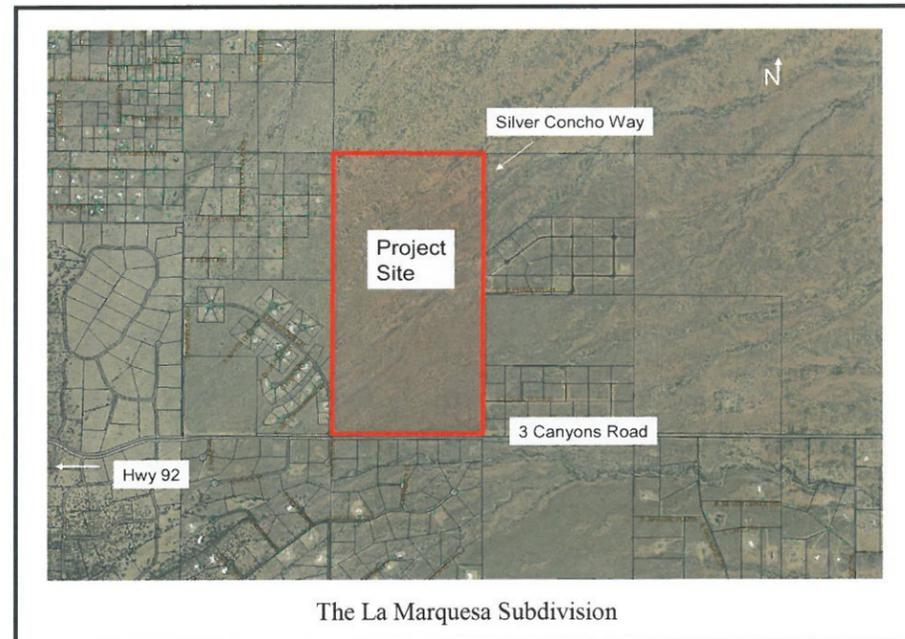
**DATE:** November 30, 2010 for the December 8, 2010 Meeting

**SUBJECT:** S-05-05, La Marquesa Subdivision, Parcel 104-01-011R in Hereford, AZ.

### **I. DESCRIPTION OF SUBDIVISION**

This request is for approval of an additional one-year time extension for the La Marquesa Subdivision Tentative Plat which was approved by the Board of Supervisors on February, 5, 2007. The Subdivider is Mr. Patrick Kirk and the Project Engineer is Mr. Blaine Reely of Monsoon Consultants in Tucson.

The subdivision is a 103-lot "conservation" subdivision located on 317 acres of land zoned RU-4 located on the north side of Three Canyons Road in Hereford, about one mile east of Highway 92.



The Tentative Plat (TP) was approved with a road curve radii waiver and a waiver from the 50% conservation area requirement, which allowed a 30% density bonus with only a 44% conservation area within the subdivision; 140 acres would be dedicated as a conservation easement. The minimum lot size is 2.8 acres. Without the density bonus, significantly fewer lots could be developed on the 317-acre Site, as the property would have to meet the one dwelling

per four acre requirement for the RU-4 District. General Note Number 22 of the TP notes that the subdivision will be served potable water by the Bella Vista Water Company.

## **II. BACKGROUND**

At the time the TP was approved, the 2004 version of the County Subdivision Regulations was in effect (Adopted 6/22/2004 by Resolution 04-41). The applicable provisions for Conservation Subdivisions are noted below and remain in the currently adopted version of the Subdivision Regulations (last revised 6/10/2008 by Resolution 08-45).

### **"603.02 Description of a Residential Conservation Subdivision**

- A. A minimum of fifty (50) percent of the site shall be conservation areas. If the subdivision is proposed to be done in phases, conservation areas for each phase shall be fifty (50) percent. Conservation areas are intended to conserve, in perpetuity, resources that might otherwise be permanently altered by development. These areas shall comprise no less than 40 acres for one subdivision.
- B. In zoning districts with a minimum lot size of 36,000 square feet or greater, a thirty-four (34) percent density bonus is provided so long as the subdivision complies with the design and improvement requirements of this Article.
- C. In zoning districts with a minimum lot size of 36,000 square feet or greater, a fifty (50) percent density bonus is provided, so long as the subdivision is provided with: a water utility company; a sewer system designed for effluent recharge and/or re-use; fire protection, and complies with the design and improvement requirements of this Article.
- D. Lot sizes are flexible and do not need to meet the minimum lot size of the zoning district except that the minimum individual lot-size must conform to requirements for sewage disposal, water distribution systems and fire protection described in Article 4.
- E. Density bonuses cannot be applied to areas within a previously-approved master development plan."

Both the 2004 and the current County Subdivision Regulations state in Section 408.02 that subdivisions within the Sierra Vista Subwatershed Water Conservation Overlay District shall be served by an ADEQ-approved water company:

"Unless otherwise specified in these regulations, applicants shall ensure that water is available from a County or Arizona Department of Environmental Quality approved water delivery system to each and every subdivided lot of less than one (1) acre (43,560 square feet) in size. ***In the Sierra Vista Sub-watershed Water Conservation Overlay District, this provision shall apply to subdivisions where the average lot size is five acres or smaller and 28 lots or more are proposed.***"

When the Board of Supervisors approved the TP on February 5, 2007, they granted a waiver from the 50 % conservation area requirement, approving a 30% density bonus with only a 44% conservation area, provided the subdivision would be served by a water company rather than individual wells. It is important to note that the reason for the compromise was to urge water conservation for the subdivision, which lies within the Sierra Vista Sub-watershed.

### **Request for Waiver from Conservation Subdivision Requirement for a Water Company**

Subsequent to the TP approval, Mr. Kirk requested a waiver from the General Note 22 which states that the subdivision would be served by the Bella Vista Water Company.

On June 11, 2008, the Planning and Zoning Commission considered Mr. Kirk's request for a waiver from Section 408.02 requiring a County- or ADEQ-approved water delivery system to allow individual wells. The Commission did not support Mr. Kirk's request for a waiver, stating that lots served by a water company which would meter the water lines to each lot and charge for water use would result in greater water conservation than lots served by individual wells. First,

the water company could price the water such that lower water use could be charged a lower per unit rate, thereby providing a financial motivation to conserve water; conversely, large volume water users could be charged a higher price for not conserving. In response to this direction from Commissioners during their discussion of the request, Mr. Kirk asked the Commission to table his request for a year so he could provide the Commission with additional information as to how he would design a well system with comparable or better water conservation measures. Mr. Kirk hoped to demonstrate that lot/homeowners with individual metered wells would conserve water as much as, or as well as, lot/homeowners who have metered service from a water company. The Commission granted the request, and tabled the waiver request. Since that time, the subdivider has not provided the Commission or staff with the information needed to evaluate the water conservation efficacy of individual metered wells versus metered water company service.

On January 13, 2010, the Commission approved an extension to the Tentative Plat. At that meeting, the Commission also un-tabled the waiver request and, after some deliberation, voted to again table the request until February of 2011.

**Previous Request for a Time Extension on the Tentative Plat**

Section 208.A of the Cochise County Subdivision Regulations states that Tentative Plat approvals are effective for a two-year period. Section 208 also states:

"C. The Planning Director may grant one (1) one-year time extension upon written request by the subdivider if:

1. The applicant demonstrates substantial progress towards final plat approval; and
2. The subdivision is in conformance with current County regulations or the developer agrees to conform to current regulations.

D. Additional one-year time extensions must be approved by the Planning and Zoning Commission.

E. Extensions shall be accompanied by the fee set out in the Planning Department Fee Schedule."

On December 11, 2008, at the request of Mr. Kirk, the Planning Director approved a one year time extension of the TP from the February 5, 2009 expiration date to a new February 5, 2010 expiration date. The approval was conditioned with the same conditions as the original TP approval:

1. The Final plat shall be in substantial conformance with the tentative plat and meet all the requirements for final platting as stipulated in the current Cochise County Subdivision Regulations; and the original conditions as approved which are copied below for your convenience.
2. Prior to final plat approval:
  - a. A note on the plat indicating required maintenance of drainage structures by the Homeowners Association.
  - b. The final plat should include proper recording information for Silver Concho Way and Three Canyons Road.
  - c. The final plat should depict the location of fire hydrants every 1000'.

- d. The easements for riprap at drainage structure outlets should be clearly labeled to show purpose.
- e. Legal description should be revised to fix discrepancy in the description of east line of the subdivision's boundary which does not go to the mid-section line.
- f. Per Rural Addressing, the street names S Alta Mira LN and S Aragon CT will be reversed on the plat.
- g. Applicant must secure a determination of water adequacy from ADWR.
- h. An approved and legal conservation easement document shall be completed and recorded with the final plat.
- i. Improvement plans shall be substantially approved and should include all traffic signs, including the required warning sign, per H&F variance approval, for affected curves.

In January of 2010, the Commission voted unanimously to approve a one-year extension to the Tentative Plat. As discussed, the Commission also re-tabled the waiver request at that time.

#### **Current Request for Time Extension on the Tentative Plat**

On October 29, 2010, Mr. Kirk requested an additional one-year time extension, citing the following rationale:

"The market for lots in the greater Hereford area is still very depressed as the housing market continues to work off years of excess inventory and consumers attempt to re-establish their disposable incomes."

Although the waiver is not mentioned in the correspondence, the subdivider nevertheless seeks to keep the waiver request and the Tentative Plat extension requests together. His request is that the Commission, similar to their action in January of 2010, re-table the request for an additional year (February of 2012).

#### **IV. ANALYSIS**

##### **Water Company Waiver/Deletion of General Note 22**

The Subdivider states that he continues to negotiate with the Bella Vista Water Company to provide potable water service to the project. The land lies within the service area of the Bella Vista Water Company and an on-site, competing water company would not be approved by the Arizona Corporation Commission. The Bella Vista Water Company is now a subsidiary of the larger Algonquin Water Company and the Subdivider has stated that the cost to extend service to the subdivision is great and onerous; he prefers to sink individual metered wells on lots.

As a reminder, the La Marquesa subdivision is 103 lots and the minimum lot size is 2.8-acres. The water provider provision in the Sierra Vista Subwatershed Overlay District was adopted because it has been demonstrated that households using a water provider/water company that meters water usage and prices water use by volume, rather than their own well, have an incentive to use less water because they get a monthly water bill. Water companies can also establish pricing such that households that conserve water and use less than an established base volume can be charged less than households who do not conserve water. The La Marquesa TP General Notes 29 and 30 require dual-system evaporative coolers and drip irrigation with seasonal controls

water conservation elements. However, these measures, without a water provider/water company which meters and prices water per volume usage to reduce per-lot usage, do not reduce water use to a level below water usage with a water provider/water company that meters and charges for water use.

Therefore, staff does not recommend approval of water company waivers and the deletion of General Note 22 which states that the Bella Vista Water Company will serve the subdivision.

As for the Tentative Plat extension, the Department does support the subdivider's request to extend the La Marquesa Tentative Plat for an additional year.

#### **V. STAFF RECOMMENDATION**

1. Staff recommends that the Commission make a Motion to remove from the Table the June 11, 2008 agenda item related to the request by Mr. Kirk for a waiver from the Subdivision Regulations requirement for potable water service to be provided by a water company to La Marquesa subdivision.
2. Staff recommends that the Commission deny the waiver to allow individual water wells to serve lots within La Marquesa Subdivision. By denying the waiver, General Note 22 would remain and the Bella Vista Water Company would serve the subdivision.
3. Staff recommends conditional-approval of the one-year time extension for the subdivision Tentative Plat, to expire on February 5, 2012; the conditions to be the same as for the original Tentative Plat approval on February 5, 2007.

The Department's recommendations are based on the following:

1. That the Board previously granted a waiver to the Subdivision Regulations, allowing the Conservation Subdivision density bonus with a reduced open space requirement (44% rather than the required 50%) on the understanding that a water company would provide water to the development, and;
2. The project site is within the Sierra Vista Sub-Watershed. As of this date, the subdivider has not provided information outlining how the proposed alternative to water company service would achieve the same or better level of water conservation efficacy as a water company. In the absence of such data, staff's position is that a metered water utility service is a more effective means of promoting water conservation.

#### **Suggested Motions**

*Mr. Chair, I move to remove from the Table Docket S-05-05 request for a waiver from the requirement for a water company serving La Marquesa Conservation Subdivision.*

*Mr. Chair, I move to approve the June 2008 request by Mr. Kirk to recommend to the Board of Supervisor a modification to the Tentative Plat of La Marquesa subdivision, Docket S-05-05, to delete General Note 22 in favor of allowing individual metered wells to provide potable water to lots.*

*Mr. Chair, I move to conditionally-approve a one-year time extension for La Marquesa Subdivision Tentative Plat, Docket S-05-05, with a new expiration date of February 5, 2011, and with the same conditions as the February 5, 2007 approval of the Tentative Plat.*

**VI. ATTACHMENTS**

- A. La Marquesa Subdivision Tentative Plat Sheet 1
- B. October 29, 2010 Time Extension Request Letter
- C. June 11, 2008 Waiver Request Memo



Date: October 29, 2010

To: Mike Turisk, Planning Division Manager, Cochise County

From: Patrick Kirk, Developer and President of SCONCHO LLC

Subject: La Marquesa Plat Extension

Dear Mr. Turisk,

I am requesting a one year extension for the La Marquesa tentative plat to February 2012 by the Cochise County Commission and Board of Supervisors (if necessary). I am requesting that this issue get on the December 2010 or January 2011 docket for consideration.

The market for lots in the greater Hereford area is still very depressed as the housing market continues to work off years of excess inventory and consumers attempt to re-establish their disposable incomes.

Thank you for your consideration in this matter.

Regards



Patrick Kirk

Enclosed: \$500 check payable to the Cochise County Treasurer

COCHISE COUNTY  
NOV 04 2010  
PLANNING

B 8



## **COCHISE COUNTY PLANNING DEPARTMENT**

1415 Melody Lane, Bisbee, Arizona 85603

(520) 432-9240

Fax 432-9278

*Judy Anderson, Director*

### **MEMORANDUM**

**TO:** Planning and Zoning Commission  
**FROM:** Judy Anderson, Planning Director  
**DATE:** June 2, 2008  
**SUBJECT:** S-05-05: La Marquesa Conservation Subdivision – Waiver Request

#### **BACKGROUND AND DESCRIPTION OF REQUESTED WAIVER**

La Marquesa is a 103 lot conservation subdivision on 317 acres zoned RU-4 located on the north side of Three Canyons Road about a mile east of Highway 92. The average density is one house per 3.07 acres. The tentative plat was approved by the Board of Supervisors on February 5, 2007 and is valid until February 5, 2009. The developer is Patrick Kirk. At the time of approval, the subdivision was proposed to be served by the Bella Vista Water Company thus the subdivision was in conformance with the Sierra Vista Sub-watershed Water Conservation Overlay District and related revisions to the *Subdivision Regulations* which were adopted on December 5, 2006, effective January 5, 2007. These revisions require that a subdivision be served by a County or Arizona Department of Environmental Quality approved water delivery system in other words a water provider rather than individual wells.

Per the developer, the agreement with Bella Vista was to pay \$10,770 for review of plans and the line extension to hook up to their system. The Bella Vista Water Company has been sold to Algonquin Water Company and the developer is reporting that the cost has increased to \$160,000. Because of this 15-fold cost increase, the developer is requesting that the tentative plat note 22 that states that the subdivision will be served by a water company be deleted. He is also requesting a waiver from the *Subdivision Regulations, Section 408.02--Water Distribution Systems* which states:

- A. *Unless otherwise specified in these regulations, developers shall ensure that water is available from a County or Arizona Department of Environmental Quality approved water delivery system to each and every subdivided lot of less than one (1) acre (43,560 square feet) in size. In the Sierra Vista Sub-watershed Water Conservation Overlay District, this provision shall apply to subdivisions where the average lot size is five acres or smaller and 28 lots or more are proposed.*

In summary, the developer is requesting to be relieved from the requirement to provide water from a County or Arizona Department of Environmental Quality approved water delivery system.

**ANALYSIS OF REQUEST**

The developer submitted the attached analysis of proposed water conservation measures prepared by Rick Obenshain an employee of the Arizona Department of Water Resources (ADWR) Office of Assured and Adequate Water Supply. This analysis is used as justification for substituting these water conservation measures for the requirement to use a water provider.

In summary, the analysis concluded that "by requiring installation of three conservation devices: "Smart" Irrigation Controller, High-efficiency toilets, and hot-water heater recirculation valve, the total water demand per lot can be reduced from 501.93 gallons/day/lot (200.77 gallons/day/person using an average household of 2.5 persons) to 336.03 gallons/day/lot (134.41 gallons/day/person). This equates to a 33% reduction."

In several conversations with Rick Obenshain from ADWR, he explained that the Water Adequacy Determination for this subdivision was based on service provided by a specific water provider. Consequently the starting point for this estimated reduction in water use is also based on service from a water provider at 501.93 gallons/day/lot. The *Babocomari Plan* and subsequently the *Sierra Vista Sub-watershed Water Conservation Plan and Overlay District* used 312 gallons/day/person for rural subdivisions developed on wells or 780 gallons/day/lot again using an average household of 2.5 persons. Since the developer is no longer proposing to use a water provider, it therefore seems logical to use the water usage figures that the County uses for rural subdivisions with wells on individual lots to calculate water usage. As noted in the following table the water usage calculations are 614.10 gallons/day/lot with the developers proposed water conservation savings which are still more than the calculated usage for the subdivision using a water provider without savings.

	<b>With Water Provider: Gallons per lot</b>	<b>Without Water Provider: Gallons per lot</b>
Lot water usage	501.93	780
Water conservation savings	165.90	165.90
Water usage after savings	336.03	614.10

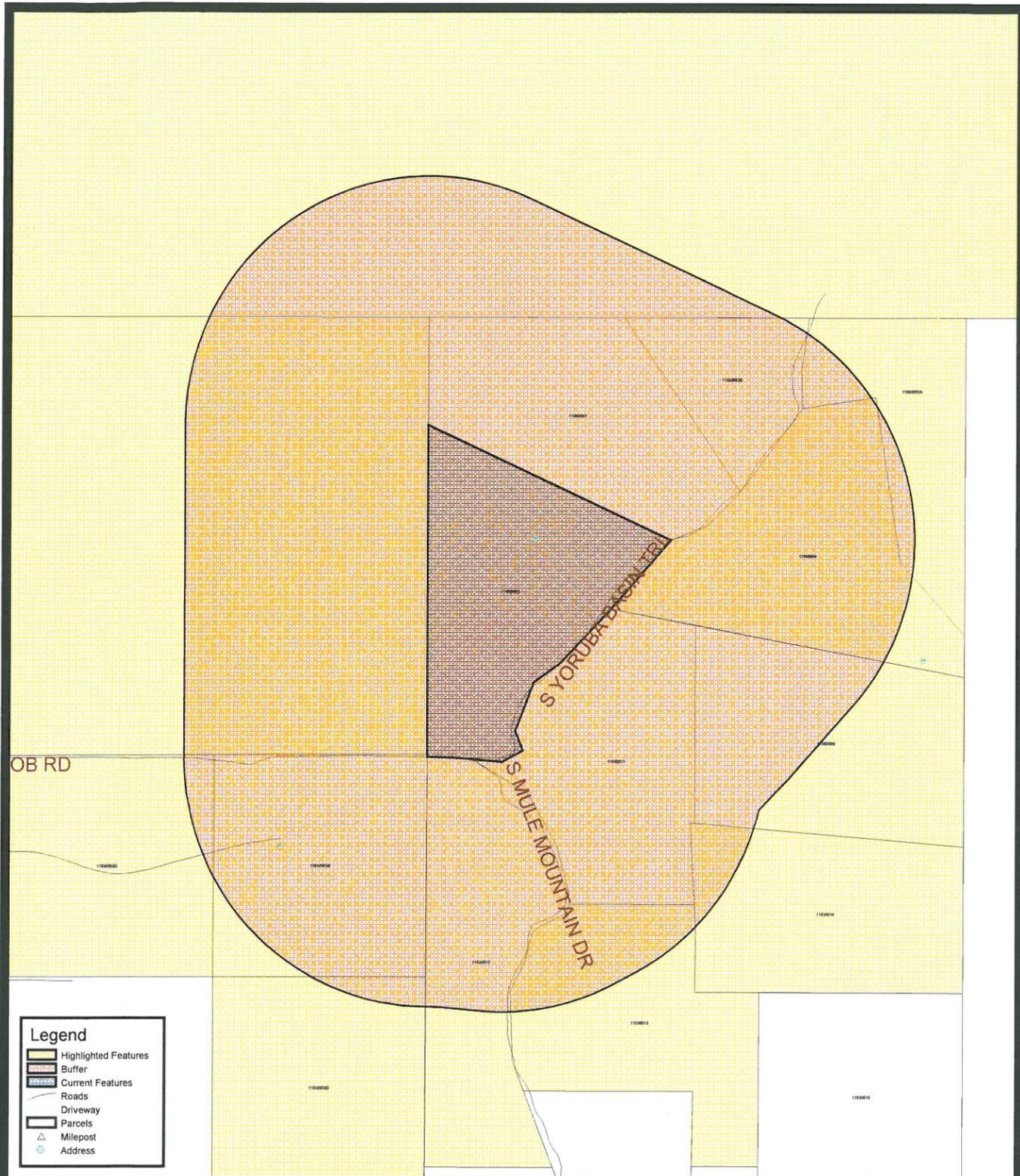
The water provider provision in the Sierra Vista sub-watershed overlay district was adopted because it has been demonstrated that households using a water provider have an incentive to use less water because they get a monthly water bill. The 312 gallons/day/person for rural subdivision lots using wells are the most current numbers available provided by ADWR and used by the County as noted in the *Babocomari Plan* and used in the numerous water budgets presented to the Commission for Babocomari rezonings. Although providing water conservation measures without a water provider reduces per lot water usage, it does not reduce it to a level below water usage with a water provider thus staff does not recommend support of these waivers.

**Water Adequacy:** It should be noted that if this waiver is approved and the subdivision is served by wells per the ADWR a new application for determination of water adequacy must be submitted and a determination of adequacy issued because the current adequacy determination was based on the capability of the Bella Vista/ Algonquin water provider to serve the site.

**Fire Protection:** As submitted by the developer, this subdivision is currently approved to be served by the Palominas Fire District and fire hydrants are proposed every 1000 feet in the development. If this waiver is approved and wells are used than new fire protection proposals will need to be reviewed and approved as part of the final plat review process as hydrants depend on a water delivery system and cannot be served by individual wells.

**RECOMMENDATION**

The Planning Department recognizes that the additional potential costs cited by the developer for supplying a rural subdivision with a County or Arizona Department of Environmental Quality approved water delivery system are substantial. Nevertheless, Section 408.02 of the *Subdivision Regulations* requiring that a water provider serve subdivisions in the Sierra Vista sub-watershed was adopted due to the particular concern for protecting the San Pedro River. The evidence supporting this requirement indicates that use of a water provider is the most reliable way to monitor and minimize water usage thus this request is not recommended to be forwarded to the Board of Supervisors with a recommendation for approval.



**Legend**

- Highlighted Features
- Buffer
- Current Features
- Roads
- Driveway
- Parcels
- Milepost
- Address



SU-10-18  
 110-60-003  
 Korte  
 1500' Buffer

This map is a product of the  
 Cochise County GIS



# COMMUNITY DEVELOPMENT DEPARTMENT

Planning, Zoning and Building Safety

1415 Melody Lane, Bisbee, Arizona 85603

(520) 432-9240

Fax 432-9278

Carlos De La Torre, P.E., Director

## MEMORANDUM

**TO:** Cochise County Planning and Zoning Commission  
**FROM:** Keith Dennis, Senior Planner  
 For: James E. Vlahovich, Planning Director  
**SUBJECT:** Docket SU-10-18 (Korte)  
**DATE:** November 30, 2010, for the December 8, 2010 Meeting

### REQUEST FOR A SPECIAL USE

**Docket SU-10-18 (Korte):** The Applicant seeks a Special Use Permit for Manufacturing in an RU-4 District, activity area not to exceed 5,000 square feet, per Section 607.16 of the Zoning Regulations. The proposed business is a custom motorcycle building business in a 40' x 60' building on 39 acres, which the Applicant maintains would result in one to four cycles built on the property per year, to be delivered off-site after construction.

The subject parcel (Parcel No. 110-60-003) is located at 3837 S. Yoruba Basin Trail, between Tombstone and Bisbee, AZ. The Applicant is Phil Korte of Create-A-Custom Cycles.

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

Size: 39.6 Acres  
Zoning: RU-4 (Rural, 1 Dwelling per 4 Acres)  
Growth Area: Category D (Rural Growth Area)  
Plan Designation: Rural  
Area Plan: Sierra Vista Sub-Watershed  
Existing Uses: Single Family Residence and Accessory Structures  
Proposed Uses: Same, with the addition of a 40' x 60' shop

### Surrounding Zoning

Relation to Subject Parcel	Zoning District	Use of Property
North	RU-4	Undeveloped Land
South	RU-4	Single Family Residence
East	RU-4	Undeveloped Land
West	RU-4	Undeveloped AZ State Land

### II. PARCEL HISTORY

1993 – Permit issued for single family residence, later voided. The house was never built.

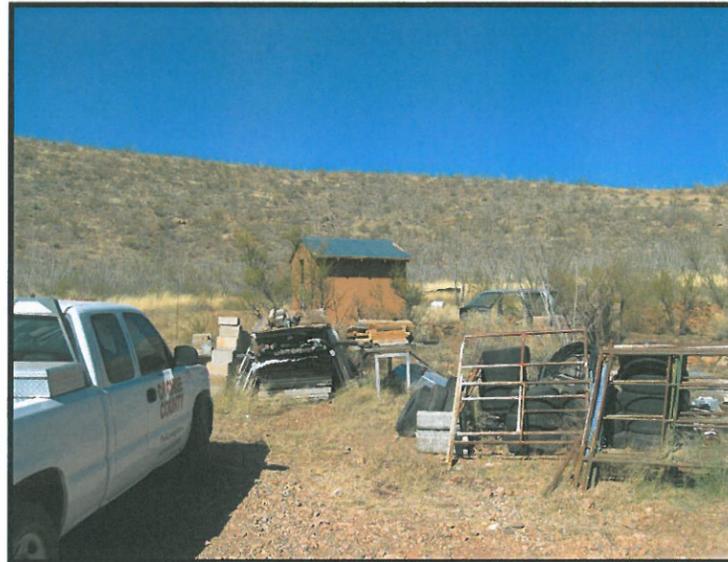
1999 – Permit issued for a 1,064 square foot single family residence, and a 1,223 square foot studio.

2006 – Permit issued for residential septic system.

There are no violations or code enforcement actions associated with the property.

### III. SPECIAL USE REQUEST

The Applicant, Phil Korte of Create-A-Custom Cycles, has operated a storefront motorcycle crafting operation in incorporated Tombstone since 2007. The business is a build-to-order custom motorcycle operation, and the Applicant primarily does business with dealers, rather than directly to the public. In recent years, Mr. Korte claims that business is down; it has been over a year, he says, since he has built a bike. He now seeks a Special Use Permit in order to scale back the operation: to build the cycles in his own shop on his own property in his spare time.

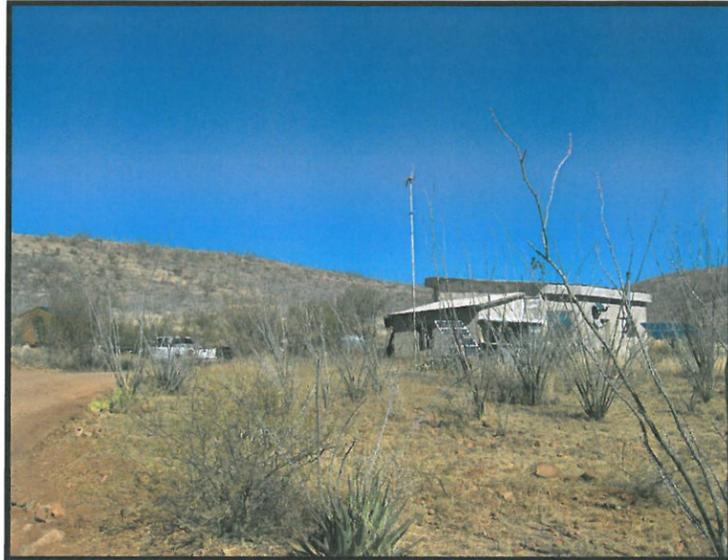


*Looking North at the project site. The debris seen in these photos is being removed from the property; the shed in the background is to be moved, and the proposed shop would be placed here.*

The Special Use, then, would consist of a 40' x 60' building, in which the Applicant would build motorcycles. The Special Use Questionnaire and the Applicant indicate a maximum of four cycles per year. Because Mr. Korte builds the bikes himself (no employees) and works through dealers rather than directly with the public, no customers nor employees would access the property. Apart from occasional deliveries via UPS, parts for the motorcycles would come from Tucson, where the Applicant intends to continue picking them up. Painting, powder-coating and other finish work would also take place at designated facilities in Tucson. As such, most activity on the site would consist of assembly, with incidental processing activities such as welding or grinding taking place within the shop.

The project site is a parcel just under 40 acres in size, in a remote location in the Northwest foothills of the Mule Mountains, between Bisbee and Tombstone. The property currently is the

Applicant's residence and studio, and is "off-the-grid," deriving electric power from on-site wind and solar generators.



*Northward view of the existing studio and project site. The shed at left is on the site of the proposed shop building. The wind generator and solar arrays can be seen in front of the studio.*

**IV. 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. Nine of the 10 criteria apply to this request. The project complies with one of the nine factors as submitted; with the recommended Conditions of Approval and requested modifications to site development standards, the project would comply with eight of the nine applicable criteria.

**A. Compliance with Duly Adopted Plans: Complies (Subject to Condition #4)**

This Factor reflects the extent to which a proposed project is consistent with policies in applicable "master development plans, transportation plans or other land use plans if any have been adopted for the area encompassing the Special Use." The project site is within the Sierra Vista Sub-Watershed Plan area. The Applicant does not propose to provide water in the building, but if it is later determined that water will be provided to the shop, Condition #4 would require compliance with the Sub-Watershed Plan.

**B. Compliance with the Zoning District Purpose Statement: Does Not Comply**

The project does not conform to any of the seven purpose statements provided in Article 6 of the Zoning Regulations.

**C. Development Along Major Streets: Not Applicable**

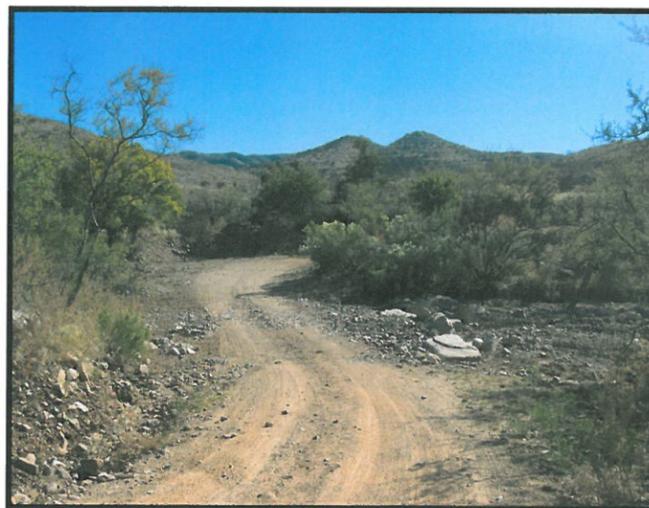
The project site is approximately three miles East of the Power Ranch Road/ State Route 80 intersection.



*Southwest view of the existing home on the Korte property, as seen from the internal driveway.*

**D. Traffic Circulation Factors: Does Not Comply (See Condition #2)**

The Comprehensive Plan Transportation Policies (Section 102.B.3) suggest that non-residential uses should have access to arterial and/or collector roads. The project would not comply with this policy. However, this circumstance could be mitigated by maintaining the road network between the project site and Highway 80. A private maintenance agreement, recommended as Condition #2, would require the Applicant to provide basic maintenance along this route.



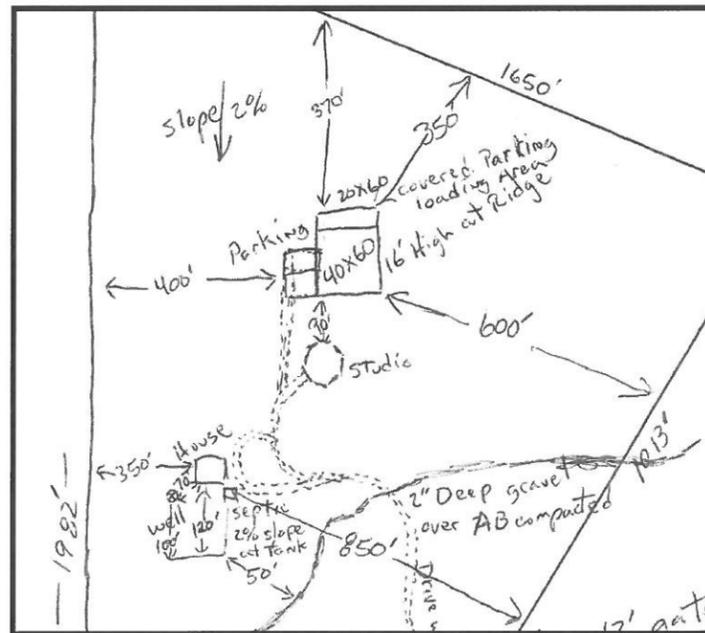
*Southward view of the bend in Yoruba Basin Trail. The Applicant and his neighbors regularly maintain the roads in the neighborhood.*

**E. Adequate Services and Infrastructure: Complies (Subject to Condition #2)**

The property is currently "off the grid," with electric power generated on-site through a combination of residential wind and solar generators. The Applicant proposes to use a diesel generator for welding and other electrical needs in the proposed workshop. Water and septic systems are also in place, and are considered adequate for the proposed use.

Compliance with this Factor also depends upon road conditions and mitigation where needed. The private maintenance agreement recommended as Condition #2 would ensure that the path between the highway and the project site is adequate for the proposed use.

**F. Significant Site Development Standards: Complies (Subject to Condition #1 – See Requested Modifications to Site Development Standards)**



The site plan, as submitted, contains a number of minor deficiencies. Condition #1 would require a new site plan which meets the applicable regulations, prior to issuance of a permit.

The Applicant can meet all site development standards, but has asked for modifications reflecting the nature of development on the property as it exists.

The Applicant has asked for a modification to the standard requiring a 24-foot wide internal driveway. He asks that the existing 12-foot driveway width be allowed to remain.

The Applicant currently maintains the road travelway between his property and the Highway 80 access, approximately three miles West. Mr. Korte does this in concert with his neighbors along the road, with whom he cooperates in what might be characterized as an unofficial road improvement district for Power Ranch Road, Sandy Bob Road, and Yoruba Basin Trail. Section 1807.02.A requires that non-residential uses along private roads enter into a private maintenance agreement with County staff, to ensure the route to the site is passable from the nearest public road. Although he maintains the travelway from his property to Highway 80, and has provided documentation of the same, he has nevertheless asked for a modification to this standard.

Staff's position is that the private maintenance agreement required by the regulations should be applied to this Special Use.

**G. Public Input: Complies**

The Applicant completed the required Citizen Review Report prior to submitting the Application, and received no response. The Department also completed the required legal advertizing, property owner notices and site posting. The Department received one opposing response from the owner of the property immediately North of the project site, and one letter in support from the neighbor immediately Southwest.

The Applicant has also submitted statements from neighbors along Power Ranch Road documenting the neighbors' collective maintenance effort along this road. Mr. Korte submitted these comments as support for his request to waive the private maintenance agreement requirement recommended by staff as Condition #2.

**H. Hazardous Materials: Complies (See Condition #5)**

The Applicant has submitted Material Safety Data Sheets for paint thinner, gasoline and motor oil. Per the County Building Official, none of these materials, which are fairly common household items, are hazardous enough to warrant mitigation. The Applicant has indicated that a waste oil burner will be installed in accordance with EPA and OSHA guidelines. Condition #5, which is a standard SUP condition, would require such compliance during the permitting phase, as well as non-residential building code compliance for the waste oil burner.

**I. Off-site Impacts: Complies (Subject to Conditions #2 and #3)**

The operation could generate some off-site impacts, particularly noise from motorcycle engine testing, or from metal grinding and fabrication if necessary. The questionnaire indicates no off-site impacts from noise, glare, odors or dust would be generated. Potential off-site impacts to the roadways would be addressed by Condition #2, requiring a private maintenance agreement.

Staff has analyzed the project as proposed. The Applicant estimates manufacturing a maximum of four cycles per year, each of which would be delivered off-site for distribution. Additionally, there are to be no employees associated with the operation. If these parameters, as provided by the Applicant, are adhered to, impacts to the surrounding neighborhood may be negligible, or mitigated. Staff recommends, as Condition #3, that the Applicant abide by the following operational conditions:

- A. Hours of operation shall be from 8 a.m. to 5 p.m;
- B. There shall be no employees on-site as part of the operation;
- C. There shall be no customers on-site, nor any business-related traffic to the site other than postal delivery drivers.

**J. Water Conservation: Complies (Subject to Condition #4)**

Although the project is within the Sierra Vista Sub-Watershed and is therefore subject to the policies in the Sub-Watershed Plan, the operation as proposed would not include any indoor water fixtures in the building. The Applicant estimates 10 gallons per day water usage for the project; daily water needs for the Applicant would be met in the nearby studio or residence on the property.

If at some point in the future, the Applicant decides to provide water to the proposed shop, Condition #4 would require compliance with the policies provided in the Sierra Vista Sub-Watershed Plan.

#### **V. PUBLIC COMMENT**

Staff mailed notices to property owners within 1,500 feet of the subject property, posted the property as required, and published a legal notice on November 17, 2010. To date, the Department has received one letter from a neighboring property owner opposing the request, and one in support.

#### **VI. SUMMARY AND CONCLUSION**

##### **Factor in Favor of Allowing the Special Use**

1. With the recommended conditions, off-site impacts can be mitigated effectively. The conditions recommended by staff are intended to limit hours of operation, and prevent visits to the site by the public or potential employees.
2. One neighbor has expressed support for the project.

##### **Factor Against Approval**

1. The Department received opposing correspondence from one neighboring property owner.

#### **VII. RECOMMENDATIONS**

Based on the factors in favor of approval, staff recommends **conditional approval** of the Special Use request, subject to the following conditions:

1. 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. Prior to operation of the Special Use, the Applicant shall submit and obtain a building/use permit for the project within 12 months of approval, including a completed joint permit application. The building/use permit shall include a site plan in conformance with all applicable site development standards (except as modified) and with Section 1705 of the Zoning Regulations, the completed Special Use permit questionnaire, and appropriate fees. A permit must be issued within 18 months of the Special Use approval, otherwise the Special Use may be deemed void upon 30-day notification to the Applicant.

2. Prior to issuance of a certificate of occupancy, the Applicant shall enter into a private maintenance agreement with County staff, to ensure that the path between the Special Use and State Route 90 is maintained in a safe, passable condition.
3. The Special Use shall be subject to the following operational conditions:
  - A. Hours of operation shall be from 8 a.m. to 5 p.m;
  - B. There shall be no employees on-site as part of the operation;
  - C. There shall be no customers on-site, nor any business-related traffic to the site other than postal delivery drivers.
4. Any water fixtures and appurtenances in the motorcycle shop shall be subject to the policies of the Sierra Vista Sub-Watershed Plan.
5. It is the Applicant's responsibility to obtain any additional permits, or meet any additional conditions, that may be applicable to the proposed use pursuant to other federal, state, or local laws or regulations.
6. Any changes to the approved Special Use shall be subject to review by the Planning Department and may require additional modification and approval by the Planning and Zoning Commission.

Sample Motion: *"Mr. Chairman, I recommend approval of Docket SU-10-18, with the conditions of approval as recommended by Staff, and with the modifications to site development standards as requested by the Applicant; with the factors in favor of approval constituting findings of fact."*

**VIII. REQUESTED MODIFICATIONS TO SITE DEVELOPMENT STANDARDS**

The Applicant has requested to following modifications/waivers to site development standards:

1. That the existing 12-foot wide internal driveway, and 12-foot entrance gate be allowed to remain (1804.06.F);
2. That the Private Maintenance Agreement required by Section 1807.02 be waived.

**IX. ATTACHMENTS**

- A. Special Use Application
- B. Location Map
- C. Site Plan
- D. Transportation Planner's Comments
- E. Requested Modifications to Site Development Standards
- F. Citizen Review
- G. Public Comment



**COMMUNITY DEVELOPMENT DEPARTMENT**

Planning, Zoning & Building Safety  
1415 Melody Lane, Bisbee, Arizona 85603

(520) 432-9240  
Fax 432-9278

**COCHISE COUNTY COMMUNITY DEVELOPMENT DEPARTMENT  
COMMERCIAL USE/BUILDING PERMIT/SPECIAL USE PERMIT QUESTIONNAIRE  
(TO BE PRINTED IN INK OR TYPED)**

TAX PARCEL NUMBER: 110-60-003  
APPLICANT: Can-Do Construction Wayne Johnston  
MAILING ADDRESS: P.O. 802 Sierra Vista, AZ 85635  
CONTACT TELEPHONE NUMBER: 520 227-1381  
PROPERTY OWNER (IF OTHER THAN APPLICANT): Jane Ferguson  
ADDRESS: P.O. Box 266  
Tombstone, AZ, 85638  
DATE SUBMITTED: 10-15-10

Special Use Permit Public Hearing Fee (if applicable) \$ 300  
Building/Use Permit Fee \$ 1  
Total paid \$ 301  
CHECK 1047  
PAID 10/20/2010

**PART ONE - REQUIRED SUBMITTALS**

LD

1. Cochise County Joint Application (attached).
2. Questionnaire with all questions completely answered (attached).
3. A minimum of (9) 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. (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. Citizen Review Report, if special use.

6. 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.)

7. 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? Home and shop
2. What is the proposed use or improvement? Shop for Building motorcycles
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? activities which facilitate building motos; welding, painting, assembly  
No impact to neighbors

4. Describe all intermediate and final products/services that will be produced/offered/sold.

Custom motorcycles  
2 per year

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)

Engineered metal Bldg.

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.

7. Provide the following information (when applicable):

A. Days and hours of operation: Days:  Hours (from \_\_\_ AM to \_\_\_ PM)

B. Number of employees: Initially: 1 Future: \_\_\_  
Number per shift Seasonal changes \_\_\_\_\_

C. Total average daily traffic generated:

(1) How many vehicles will be entering and leaving the site.  
0

(2) Total trucks (e.g., by type, number of wheels, or weight)  
0

(3) Estimate which direction(s) and on which road(s) the traffic will travel from the site?  
0

(4) If more than one direction, estimate the percentage that travel in each direction  
0

(5) At what time of day, day of week and season (if applicable) is traffic the heaviest  
0

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

Estimated total gallons of water used: per day 10 gal per year \_\_\_\_\_

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

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

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

\*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.

Does your parcel have access from a (check one):  private road or easement\*\*  
 County-maintained road  
 State Highway

\*\*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.

G. For Special Uses only - provide deed restrictions that apply to this parcel if any.  
Attached \_\_\_\_\_ NA \_\_\_\_\_

H. Identify how the following services will be provided: To property off Grid.

Service	Utility Company/Service Provider	Provisions to be made
Water	<u>well on property</u>	
Sewer/Septic	<u>septic for house</u>	
Electricity	<u>generator to power welder</u>	
Natural Gas	<u>Bar-B-Que 5gal tank</u>	
Telephone	<u>cell</u>	
Fire Protection	<u>canisters</u>	

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

1. Describe any activities that will occur outdoors.

None  
\_\_\_\_\_  
\_\_\_\_\_

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)

AB mix packed

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 Community Development, Planning, Zoning & Building Safety 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.

3600 sq ft

2. How many acres will be cleared? 60'x60' (0)  
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**

Does the proposed use involve hazardous materials? These can include paint, solvents, chemicals and chemicals wastes, oil, pesticides, herbicides, fertilizers, radioactive materials, or biological agents. Engine repair, dry cleaning, manufacturing and all uses that commonly use such substances in the County's experience require completion of the attachment.

No \_\_\_\_\_ Yes  If yes, complete the attached Hazardous Materials Attachment. Engine repair, manufacturing and all uses that commonly use such substances in the County's experience also require completion of the attachment.

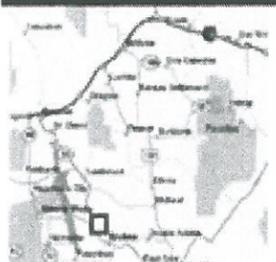
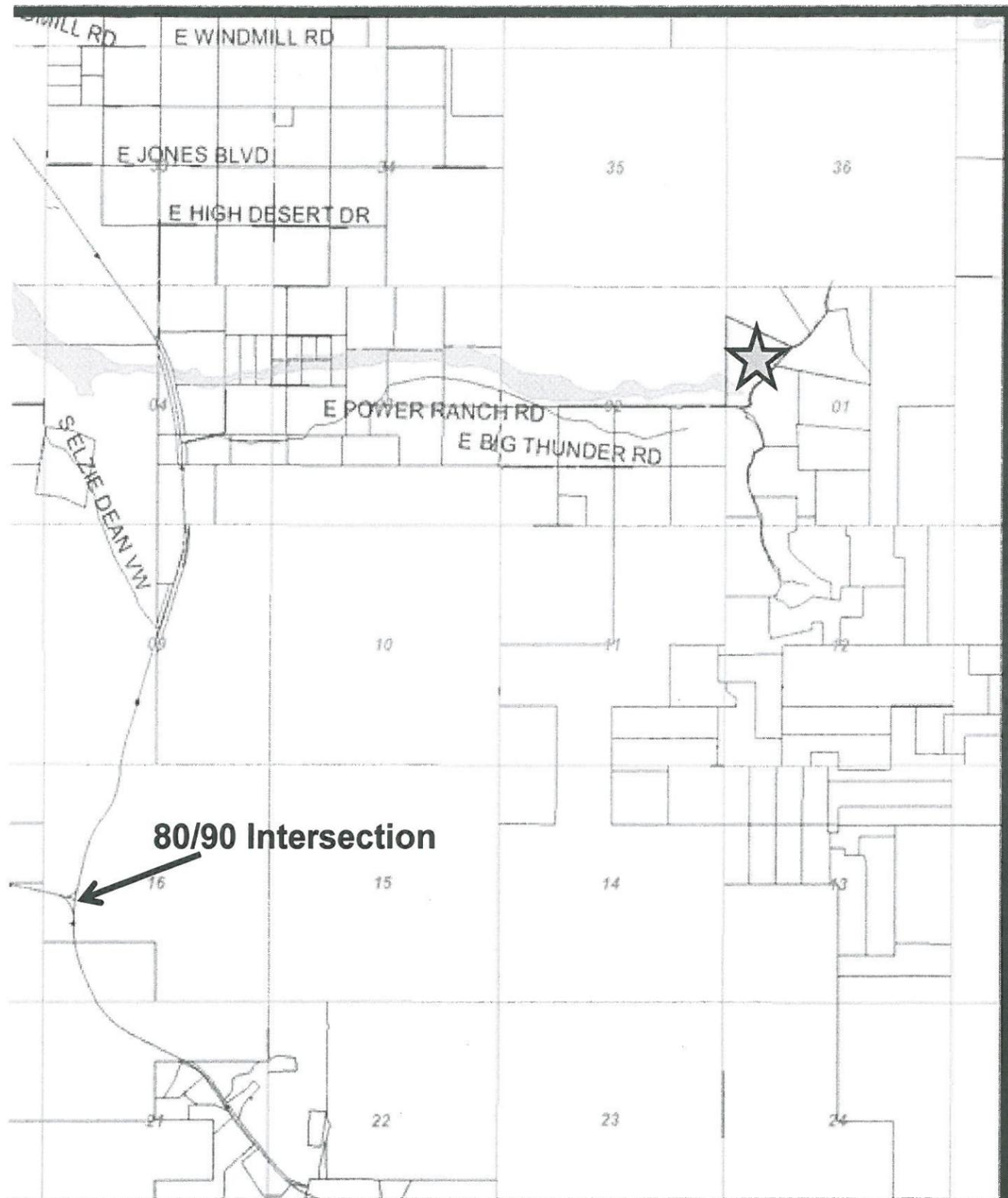
**Applications that involve hazardous or polluting materials may take a longer than normal processing time due to the need for additional research concerning the materials' impacts. The Arizona Department of Environmental Quality (ADEQ) Compliance Assistance Program can address questions about Hazardous 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 Wayne Johnston

Date signed 10-15-10

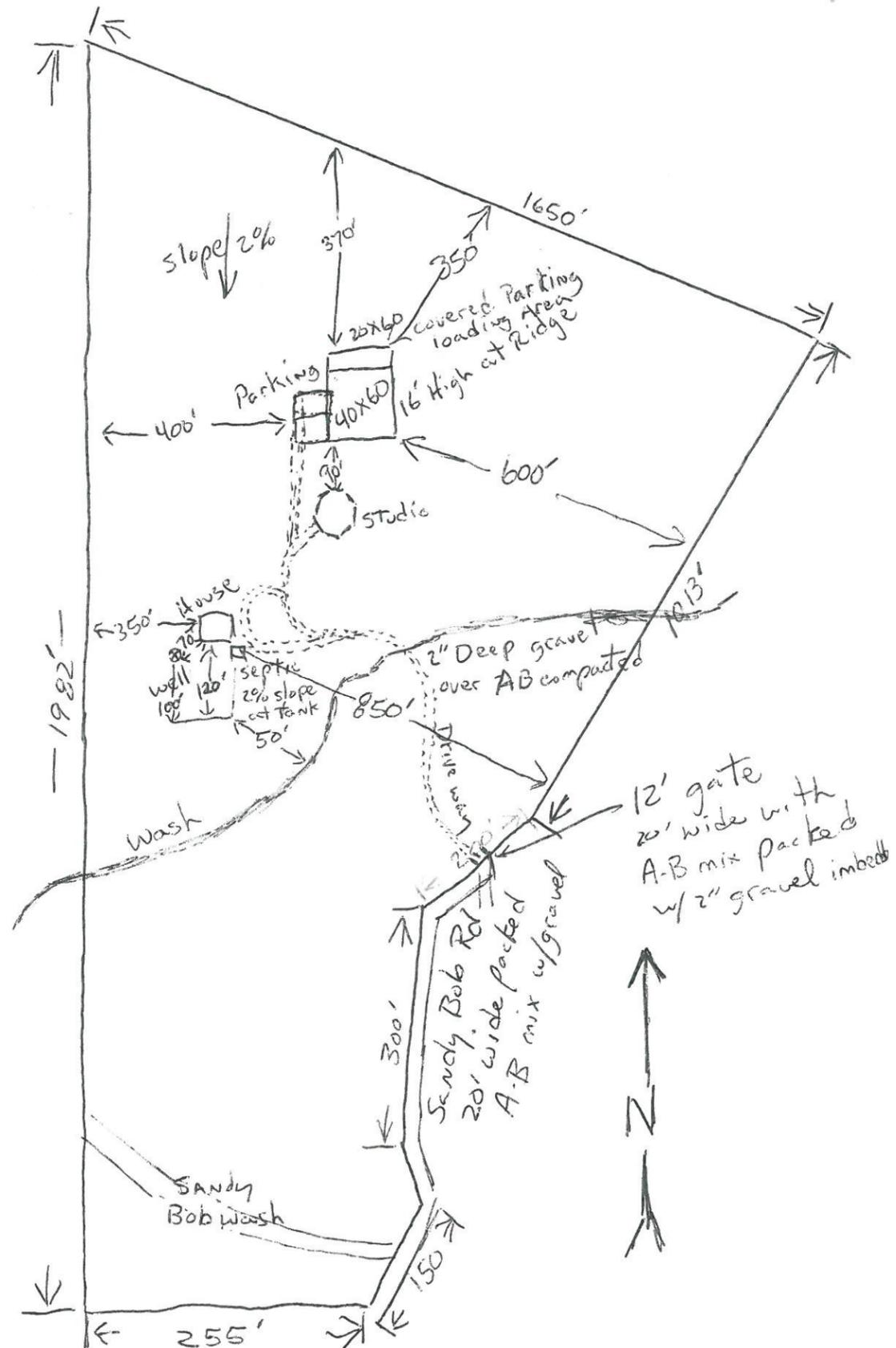


SU-10-18  
(Korte)  
Location Map

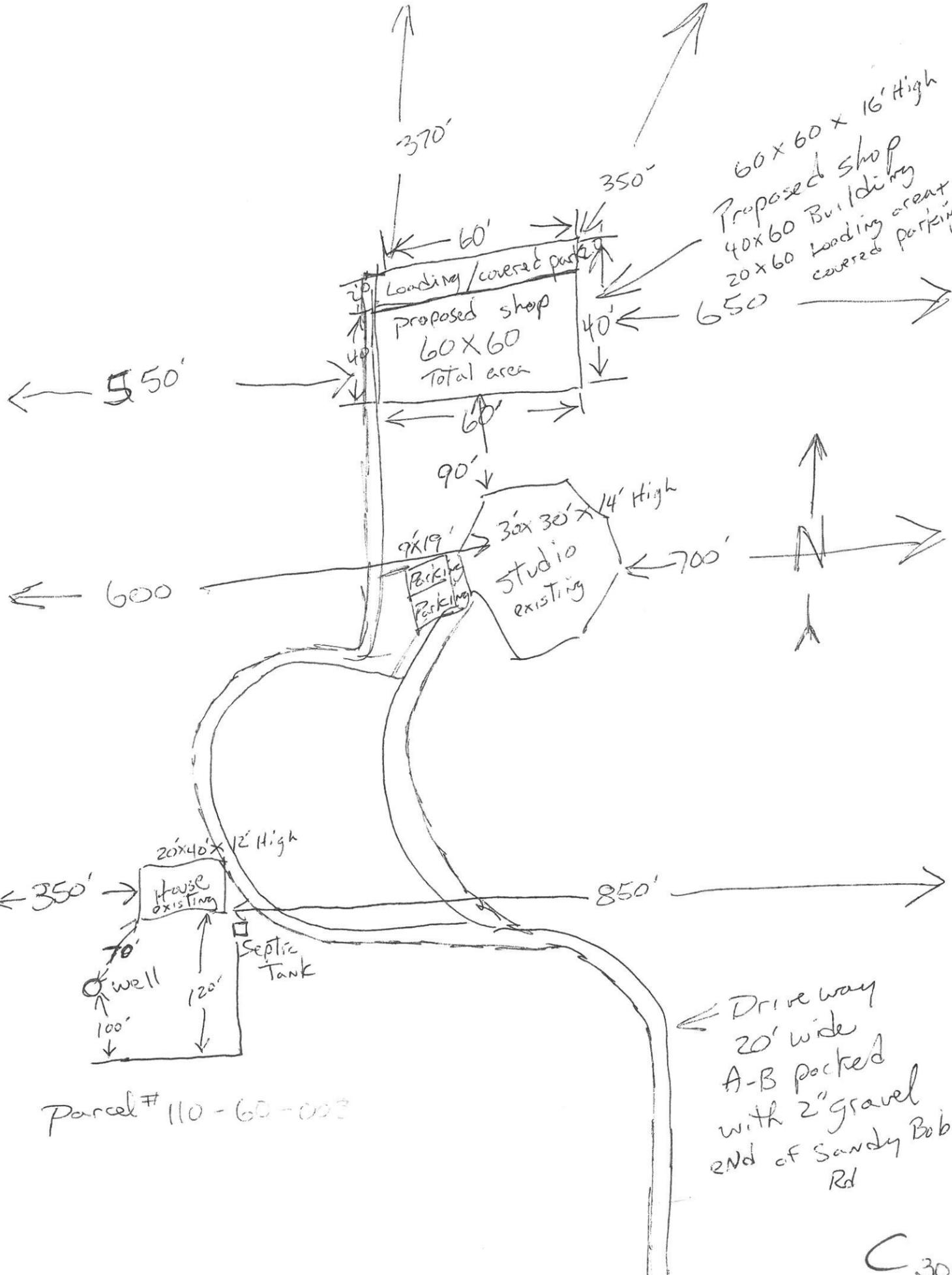
This map is a product of the  
Cochise County GIS



B



Tax parcel # 110-60-003





## **COMMUNITY DEVELOPMENT DEPARTMENT**

Planning, Zoning and Building Safety  
1415 Melody Lane, Bisbee, Arizona 85603

(520) 432-9240  
Fax 432-9278

*James E. Vlahovich Deputy County Administrator  
Interim Planning Director*

### **MEMORANDUM**

**TO:** Keith Dennis, Planner II  
**FROM:** Karen L. Lamberton, County Transportation Planner  
**SUBJECT:** Custom Cycles: SU-10-18\Parcel #110-60-003  
**DATE:** November 22, 2010

---

The applicant is proposing to operate a home-based business of constructing, and then delivering, several custom motorcycles each year. The applicant states that no sales will be held on-site and he does not plan to hire any employees to assist with this operation. The applicant's residential unit is also on the site and thus no specific work trips would be occurring off-site. Deliveries via UPS would occur from time to time as might be expected within any residential neighborhood. As such, it would be anticipated that this use would have virtually no impact on trip generation beyond that of a normal residential unit of just under 10 trips per day.

This parcel takes access off of Yoruba Trail, a non-county maintained private roadway. Yoruba Trail connects with Sandy Bob Rd., then to Power Ranch Rd. which takes access from State Highway 80. These non-county maintained roads are graveled with drainage ditches that are maintained by the residents taking access along these roads and, although narrow in places, is currently in fairly good condition. The ADOT apron is in very bad condition with a fairly large dirt pull-out (apparently used frequently by Border Patrol) but does have a functional cattle-guard at the ADOT Right-of-Way line.

The applicant intends to compact and gravel a 20 foot wide driveway to serve his property and the proposed work shed (as well as the existing residential unit and working art studio.)

#### **Recommendation**

Typically, a special use permitting a commercial type use in a residential area would require conditions related to maintaining the private road and improvements within the parcel itself for internal circulation. In this case the trip generation of the combined residential and proposed commercial use do not warrant that level of mitigation – although we would encourage the applicant to continue to participate in maintaining the private roads and improve the internal driveways on the parcel we do not feel strongly about making these a condition of this use and would support a waiver of those requirements. (e.g. Zoning Regulations 1807.02A requiring

Private Maintenance Agreements and 1804.07D requiring 2 inch thick gravel or equivalent surface treatments.)

However, this type of use, currently proposed as an intermittent, home-based business could, at some time in the future expand beyond the scope of what has currently been analyzed. The transportation infrastructure is adequate for the proposed use and, as this site is also the applicant's home, access to the parcel is assured at a minimal level acceptable to the applicant. Should the business change in scope and increase the number of motorcycles being customized a threshold could easily be reached where delivery of parts, additional employees or attraction of customers would require a higher standard for the access roads as well as improvements at the State Highway connection.

We would request that a condition be crafted clearly identifying a threshold of use consistent with the application and, at such time as the applicant expands beyond this use, the adequacy of the access roadways could then be re-assessed by this office.

The applicant should also be advised of the neighborhood's collective responsibility to maintain the ADOT apron onto Power Ranch Rd. Bringing this apron up to current ADOT design standard could potentially be costly and would be beyond the appropriate level of mitigation for this proposed use. Prior to doing any work in the ADOT ROW the applicants should contact the ADOT Safford District's Permit office for an Encroachment Permit. Permit information is available on-line at: [www.dot.state.az.us/Highways/Districts/Safford/index.asp](http://www.dot.state.az.us/Highways/Districts/Safford/index.asp) or the applicant may contact Armando Membrila, Permits Office at Safford District, at 2082 US Hwy 70, Safford, AZ 85546; or call 928.432.4915

cc: Docket SU-10-18

*Create a Custom Cycles L.L.C.*

PO Box 266  
11 E. Fulton St.  
Tombstone AZ. 85638

Phil Korte  
Phone 520 668 4596  
Fax 520 457 3312

*pkorte@createcustomcycles.com*  
*www.createcustomcycles.com*

TO THE PLANNING AND ZONING COMMISSION COCHISE COUNTY

I AM WRITING THIS LETTER IN REGARDS TO THE SPECIAL USE PERMIT I AM REQUESTING FOR 3837 S. YORUBA BASIN TRAIL

1 I AM REQUESTING A WAIVER FOR THE ROAD MAINTAINANCE AGREEMENT , BECAUSE THE WHOLE NEIGHBOR HOOD HAS AN AGREEMENT AMONGST OURSELFS THAT WE ARE ALL RESPONSIBLE FOR OUR OWN PART OF THE ROAD AND WE WORK QUITE WELL THAT WAY I HAVE NO EMPLOYES AND NO CUSTOMERS THAT WILL COME TO MY SHOP AND THE U.P.S. MAN LEAVES ALL PACKAGES AT THE FRONT GATE.

2 I AM ALSO REQUESTING A WAIVER ON THE 24 FOOT DRIVE WAY AS THE 12 FOOT DRIVEWAY SUITES MY NEEDS AND I AM TRYING TO KEEP MY ENVIRONMENTAL FOOTPRINT AT A MINIMUM. AS YOU KNOW I AM RESURFACING MY DRIVEWAY AS SOON AS MY BUILDING IS COMPLETE WITH 4 INCHES OF A/B GRADE OR SIMILAR MATERIAL THAT WILL BE COMPACTED TO STOP ERROSION AND DUST.

I WISH TO THANK YOU FOR YOUR TIME AND THE COCHISE COUNTY INSPECTORS FOR ALL THERE TIME AND EFFORT ON MY BEHALF

THANK YOU  
PHILIP M KORTE

P.S. POWER RANCH ROAD AND SANDY BOB AS WELL AS YORUBA BASIN TO THE EDGE OF MY PROPERTY WERE RESURFACED 2 YEARS AGO BY THE NEIGHBORHOOD AND HAS HELD UP QUITE WELL COSIDERING 27 INCHES OF RAIN THIS PAST YEAR WE ALWAYS MAKE SURE THAT THE ROADS ARE PASSABLE AT ALL TIMES .

E 33

*Create a Custom Cycles L.L.C.*

*PO Box 266  
Phone 520 668 4596  
Tombstone AZ. 85638*

*Phil Korte  
3837 s Yoruba basin trail  
Tombstone AZ. 85638*

*www.createacustomcycles.com  
pkorte@createacustomcycles.com*

Oct. 19, 2010

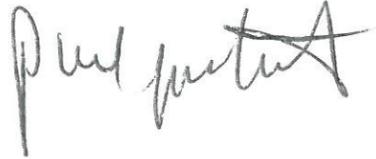
Dear Cochise County Planning Commission,

I am writing as requested, by Keith Dennis, to inform you that I have verbally spoken to many of our neighbors and sent out all letters on the mailing list you provided. I have received nothing but positive responses as of this date. Wayne Johnston of Can Do Construction will be our licensed contractor as required by the county.

Please contact me if you need any other information.

Thank You,

Phil Korte



Phil Korte

P.O. Box 266

Tombstone, AZ 85638

520-668-4596

Set. 28, 2010

To Whom It May Concern,

I am writing this letter as required by Cochise County to notify all involved that I Philip Korte , am applying for a Special Use Permit to build a 40 X 60 Pre Fab metal building, which I plan to use for my small motorcycle manufacturing business.

I only produce a few bikes a year and don't for see anything more than that in the future. I do not deal with the public. I only sell to dealers around the country. I work alone, so I don't plan on having any people around. I do have an outside job so I will only be doing this on a part time basis. When I will be working, my hours will be 8:00AM to 5:00PM and do not for see any noise problems of any kind.

Most of my parts I pick up in Tucson and occasionally a few will come by U.P.S. which delivers to our neighborhood anyway. I deliver the finished bikes myself .

I see no adverse affects on our neighborhood. Once again no public will be involved as it is only myself constructing the bikes to deliver or ship to dealers across the country.

If you have any questions or comments please call .

Phil Korte 520-668-4596 [pkorte@createacustomcycles.com](mailto:pkorte@createacustomcycles.com)

Keith Dennis Cochise County Planner 520-432-9240 [kdennis@cochise.az.gov](mailto:kdennis@cochise.az.gov)

Sincerely,

Phil Korte

F  
35

Nov. 29, 2010

Mike & Joan Powers

324 / Power Ranch Rd.

Tombstone, AZ 85638

To Whom It May Concern,

We do not have any objections to Phil Korte getting a Special Use Permit to build a building on his property for his motor cycle business. We have agreed with him that the maintenance of the road, to keep it passable, is to be shared by the residents living on Power Ranch and Sandy Bob road, as it has been in the past.

Mike and Joan Powers

*Mike Powers*  
*Billie J. Powers*

COCHISE COUNTY

NOV 29 2010

PLANNING

*A* 36

# SPECIAL USE: Docket SU-10-18 (Korte)

YES, I SUPPORT THIS REQUEST

Please state your reasons: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

NO, I DO NOT SUPPORT THIS REQUEST:

Please state your reasons: We do not want a business operation in our neighborhood because it opens a can of worms. How could you deny permits for other businesses? Applicants property is already unsightly, and because its open land sloping to the road there is no way for him to do this discretely.  
(more)

(Attach additional sheets, if necessary)

PRINT NAME(S): DAVID CHANDLER ALYCE CHANDLER  
SIGNATURE(S): David Chandler Alyce T. Chandler

YOUR TAX PARCEL NUMBER: 110-60-001 2 (the eight-digit identification number found on the tax statement from the Assessor's Office)

110-60-002 A 4  
110-60-002 B 3

YOUR ADDRESS 201 Riverlinks Dr, Burnsville, NC 28714

Upon submission of this form or any other correspondence, it 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 November 30, 2010 if you wish the Commission to consider them before the meeting. We can not make exceptions to this deadline, however, if you miss the written comment deadline you may still make a statement at the pubic 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: Keith Dennis  
Cochise County Planning Department  
1415 Melody Lane, Building E  
Bisbee, AZ 85603  
Email: [kdennis@cochise.az.gov](mailto:kdennis@cochise.az.gov)  
Fax: (520) 432-9278

COCHISE COUNTY  
NOV 04 2010  
PLANNING

A37

The road is difficult to maintain as it is - 3 miles of gravel - and the additional traffic is also a problem.

I purchased my land because of its isolation and quiet and I wish to keep it that way.

Keep it residential only!

Thank you for permitting me to express my thoughts on this application.

Please help us keep property values up by keeping noxious activities out.

I apologize I cannot attend in person, we will not return to Arizona until after Christmas.

David Chandh

Dear Sirs,

Nov 29 10

I live at 4020 So Male Mt. Dr.  
and the road in is not county maintained  
so everyone takes part in the upkeep  
of our roads.

Thank you  
Quentin W. Li  
President  
4120 So Male Mt. Dr.  
Tombstone Ariz.

C

To Whom it may concern,

We as a neighborhood have maintained Power Ranch Road for our own use and Phil Korte has been apart of that for the last year and a half.

Una Williams Roy Williams  
Una Williams Roy Williams

Power Ranch Rd.

To Whom it may concern,

We, as a neighborhood have maintained Power Ranch Road for our own use and Phil Korte has been apart of that for the last year and a half.

Una Williams     Roy Williams  
Una Williams     Roy Williams

Power Ranch Rd.

---

11-28-10

To Whom It May Concern,

All of us, as neighbors on Power Ranch Road, maintain our road.

Phil Korte, as one of the neighbors, has been part of the road maintenance for the last year and a half.

Marion Skael     Ron Skael  
Marion Skael     Ron Skael

Power Ranch Road

11-20-11

To Whom It May Concern,

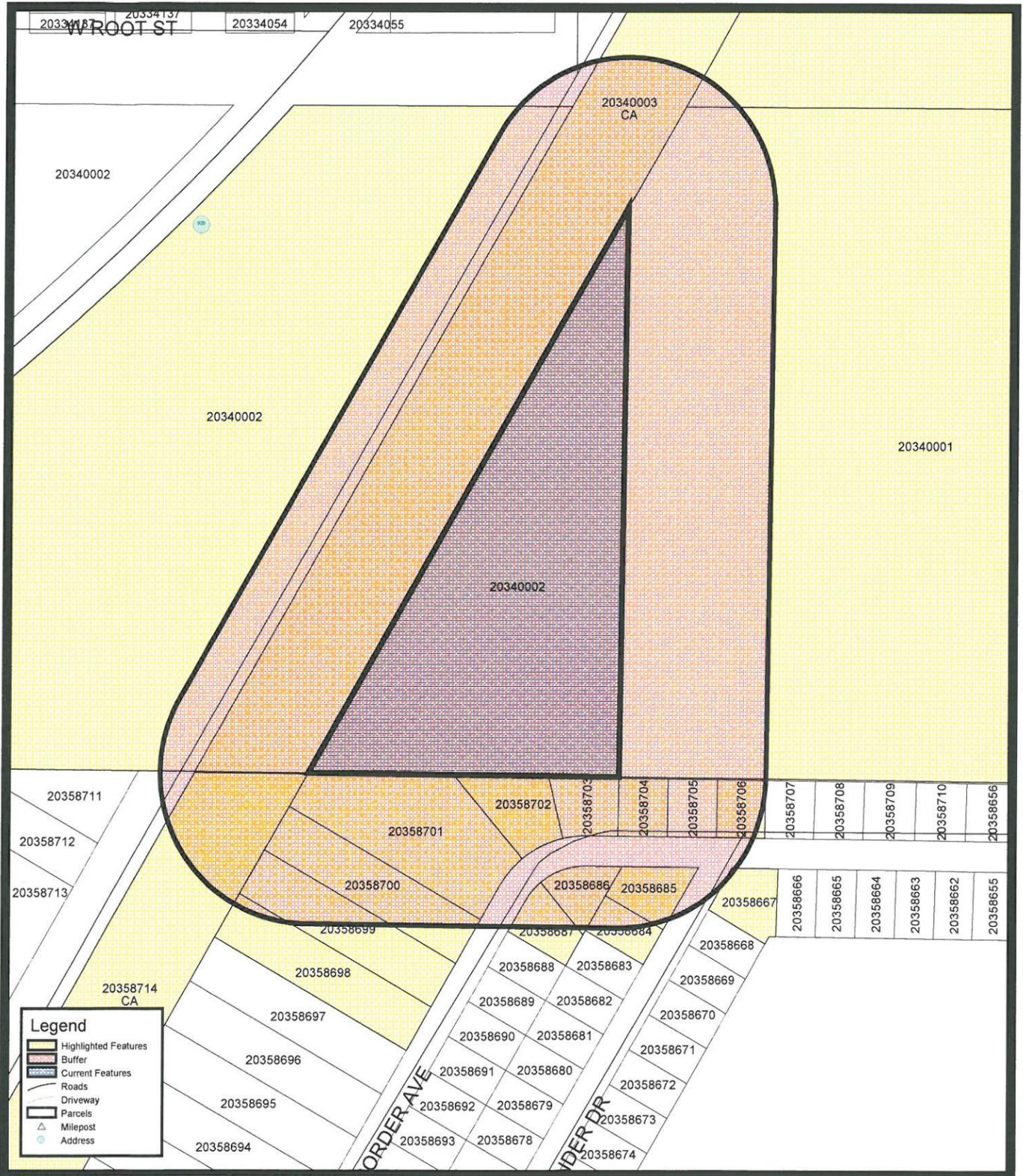
All of us, AS neighbors ON Power Ranch Road, maintain our road.

Phil Korte, AS one of the neighbors, has been part of the road maintenance for the last year and a half.

Marian Skarl  
Marian Skarl  
Ron Skarl

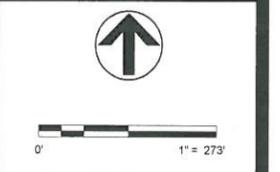
Power Ranch Road

42  
a



SU-10-19  
203-40-002  
Klump  
300' Buffer

This map is a product of the  
Cochise County GIS





**COMMUNITY DEVELOPMENT DEPARTMENT**

*Planning, Zoning and Building Safety*

1415 Melody Lane, Bisbee, Arizona 85603

(520) 432-9240

Fax 432-9278

Carlos De La Torre, P.E., Director

**MEMORANDUM**

To: Planning and Zoning Commission  
From: Michael Turisk, Planning Manager   
For: James E. Vlahovich, Planning Director  
Subject: Docket SU-10-19 (Klump Materials, LLC)  
Date: November 24, 2010 for the December 8, 2010 meeting

**APPLICATION FOR A SPECIAL USE PERMIT**

This is an application for Special Use approval to establish and operate a concrete batch manufacturing and sales facility in a General Business zoning district adjacent to the City of Willcox, per Section 1205.01 (manufacturing, wholesaling, warehousing, distribution or storage of goods) of the Zoning Regulations. The Applicant is Mr. Matthew W. Klump.

**I. Description of Subject Parcel**

Parcel Number: 203-40-002  
Parcel Location: 920 S. Haskell Ave. in unincorporated Willcox  
Parcel Size: 29-acres (*the proposed use would be on a 19-acre portion*)  
Zoning: General Business (GB)  
Growth Area: Category B (Community Growth Area)  
Plan Designation: Developing  
Area Plan(s): None applicable  
Existing Use(s): Undeveloped at this time; however, the site is currently being cleared in preparation for construction materials storage and sales.  
Proposed Use(s): Concrete batch manufacturing

**Zoning/Use of Surrounding Properties**

Direction	Zoning	Use(s)
North	City of Willcox Industrial (I-2)	Vacant; then general commercial businesses
South	City of Willcox Industrial (I-2)	Vacant
East	GB	Vacant, then rail tracks
West	TR-36	Vacant; northwest is the Sagebrush Mobile Home Park

**II. Parcel History**

March 2010 – Commercial permit issued for construction materials storage and sales yard.

There are no violations on record for the property.

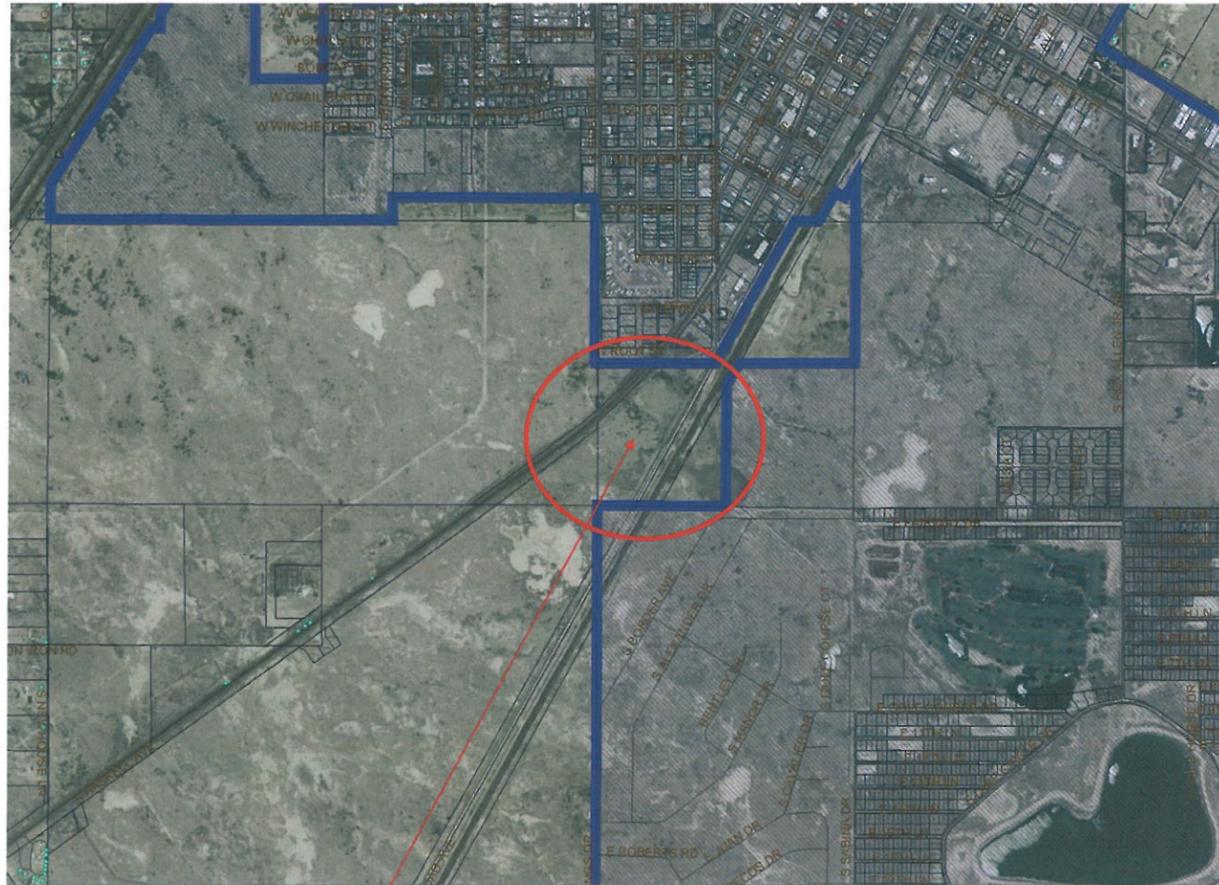


Fig 1; project site (Parcel 203-40-002) shown in circle

### III. Project Description

The Applicant requests Special Use approval in a General Business zoning district to establish and operate a concrete batch manufacturing and sales facility on a 19-acre portion of a 29-acre site that abuts the City of Willcox. Concrete batch plants typically store, measure and transfer concrete constituents into trucks for transport, use a central mix drum to manufacture concrete on-site for transfer to transport trucks, or pre-cast products on-site, such as concrete bricks. The property is currently being readied for use as a construction materials storage and sales yard primarily for sand and gravel, as well as farm and ranch supplies (all are permitted uses in the GB districts). The Applicant owns a gravel pit, and wishes to establish a complementary concrete batch manufacturing and sales operation near to the City. A Special Use Permit is required for the proposed use owing to the potential for more intense off-site impacts generated by the manufacturing component of the project.

The permitted construction material sales operation is on a 6-acre portion of the site, which has heretofore been in use as grazing land. This subject parcel is split into three portions, consisting of: (1) a 2.32-acre northwest portion which is separated from the (2) 19.4-acre middle portion by Highway 86/S. Haskell Avenue; this middle portion is separated from (3) the 8.2-acre southwestern portion by Southern Pacific Rail Road tracks. The property is surrounded on three sides by the incorporated limits of the City of Willcox. The hours of operation would be five days per week from 6am to 5pm. Initially two employees would operate and maintain the facility. The attached site plan shows the development plan for the business, including several display areas, a proposed office, and the proposed batch manufacturing area located at the southeastern portion of the property.

#### **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 or not to recommend approval, as well as to determine what conditions and/or modifications and/or waivers may be needed. Nine of the 10 criteria apply to this request. As proposed, the project complies with six of the nine factors, complies with Modifications and Waivers with one factor, and does not comply with two factors.

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

Per the Comprehensive Plan, the subject property lies within a Category B Growth Area. The proposed use would be in accord with the characteristics of these areas described in the Zoning Regulations, as the site shows transition between an urban growth and rural area. Furthermore, Category B Growth Areas support a moderate level of commercial development by having improved arterial or collector streets; the project site takes access via S. Haskell Ave., an improved ADOT-maintained roadway.

What's more, the Comprehensive Plan designation for this area of the County is "Developing." These are areas developed with scattered, mixed residential, business or industrial and agriculture-related uses that ultimately will accommodate future growth as more populated areas reach build-out.

##### **B. Compliance with the Zoning District Purpose Section: Does Not Comply**

Per Article 12, the GB districts serve the following purposes:

- *To provide appropriate areas for office uses, retail stores and service establishments in which the market area extends beyond the nearby neighborhoods;*
- *To provide wholesale or distribution activities in locations with adequate access to major streets and highways;*
- *To encourage concentrated development of commercial activities or the convenience of the public;*
- *To provide adequate space to meet the needs of commercial development, with adequate off-street parking and minimal traffic congestion; and*
- *To protect commercial uses from objectionable influences of industrial uses as well as incompatible residential development.*

Although the project site has adequate access to a State roadway, is proximate to I-10 and a Southern Pacific rail line, and is in an area with several established commercial uses, the project as proposed would not comply with the overall intent of the General Business zoning districts because the use would be characterized as an industrial-type activity. Addressing this point, the Applicant has indicated that the concrete manufacturing component would be on a scale and scope that would not generate major industrial-type impacts, such as excessive dust, noise and truck traffic.

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

The proposed use would not result in the creation of any additional access points to S. Haskell Ave. or any other street in the area.

**D. Traffic Circulation Factors: Complies**

Access to the site is via S. Haskell Ave., an ADOT-maintained roadway that serves as a major thoroughfare through the "historic" downtown of Willcox. S. Haskell Avenue takes the motorist out of town and through the more "industrial" business section of the historic downtown Willcox. The subject parcel is bisected by Haskell Road, with a small portion at the southeast corner isolated by the Southern Pacific rail line. Railroad Ave. abuts the site to the east. The Applicant estimates that 15 vehicles would visit the site per day, of which 10 would be mixer trucks, fewer than is estimated by our County Transportation Planner who indicates that the site and access are adequate for the use as proposed. However, any expansion or new uses would likely trigger the need for a traffic statement or report to determine the full traffic impacts upon the State roadway and the scope of improvements required. The Applicant has obtained an encroachment permit from ADOT for construction of a 40-foot wide commercial apron; Condition 1 requires the Applicant to submit a final inspection and acceptance report from ADOT for the apron prior to permit issuance.

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

Adequate services and infrastructure would be available, including power from the SSVEC and emergency services from the City of Willcox. A septic system was recently approved by Environmental Health, and an on-site private well would provide water.



*Fig 2; view of cleared site from improved apron*

**F. Site Development Standards: Complies with Approved Modifications and Waivers**

On February 9, 2010, the District 3 Cochise County Board of Adjustment conditionally approved each of the following seven requested Variances/Waivers to site development standards in a Category B General Business District for the construction materials storage and sales yard. The Applicant is requesting the same Modifications/Waivers for the Special Use:

**Surfacing Variances:**

1. Section 1804.07.C, which requires chip seal surface on the driveways and parking areas (2-inch gravel cover approved); and
2. Section 1804.08, which requires gravel surface of outdoor storage areas (waiver approved).

The Applicant requests a Modification to allow gravel surfacing on internal driveways, parking and loading areas, and to allow dirt surfacing in outdoor storage areas. The Zoning Regulations require at least a chip-seal surface for the former, and at least gravel surfacing for the latter. The Applicant suggests that because the property is going to be used as a material sales yard which will include sand and gravel, any pavement would be damaged or destroyed while handling these types of materials. Because the outdoor storage areas will be used for piles of sand and/or gravel, the Applicant believes there is no need to apply any surface treatment, gravel or otherwise, to these areas. Much of the development in the area is characterized by dirt or gravel driveways and parking areas.

**Parking and Loading Area Variances/Waivers:**

3. Section 1804.09.C, which requires physical row ends to parking areas (waiver approved);
4. Section 1804.09.E, which requires striping of parking areas (waiver approved); and
5. Section 1804.10.B, which requires 4 loading spaces (one space approved).

The construction materials business will include large storage areas containing earthen construction materials used in site work and surfacing. The square footage needed to store these materials is necessarily high, and the calculation for the required number of parking spaces is based on the square footage of outdoor storage areas. The resulting parking space requirement of 20 spaces is, therefore, more than one might expect for such a business, but as the attached site plan shows, the Applicant intends to provide the required spaces. The Applicant is, however, asking for a waiver from the requirement that the ends of the row of parking spaces be clearly defined, and a waiver from the striping requirement for parking areas. In order to promote safety, however, the Applicant must ensure that the parking areas and spaces are clearly defined.

The sales yard for site work construction materials consists of trucks depositing or removing quantities of the earthen material. Loading operations are the primary business activity taking place on site. The Applicant proposes to provide one 12' x 45' loading space, but maintains that during regular operations, most of the site would in fact serve as a loading area.

**Screening and Landscaping Waivers:**

6. Section 1203.05, which requires screening for outdoor storage areas (waiver approved); and
7. Section 1806.02.B, which requires 5% of developed site is landscaped and minimum 5-foot landscaped perimeter strip around site (waiver approved).

The Applicant intends to install an eight-foot perimeter fence around the project site, but requests a waiver from screening and landscaping requirements. Solid screening would serve to conceal most of the activities and structures, save for the batch storage and silos, which, according to specs provided by the Applicant, would reach to 14-feet. The property is adjacent to a TR-36 District to the west, but the abutting property is undeveloped at this time.

Note that the approved Variances/Waivers are contingent upon the Applicant's willingness to mitigate dust-related off-site impacts in the event of a complaint. Should the County receive a complaint from any neighbor due to dust impacts from the property, the Applicant is responsible for providing adequate dust-control measures. In the event that dust mitigation is required, the Applicant shall be allowed to choose the mitigation method.

The project would meet the development standards for site coverage (maximum 85%) and setbacks (minimum 80-ft.). Screening would be required because whenever a non-residential use abuts a residential zoning district, the developed area of the non-residential site shall be screened with a six-foot high solid screen in Category B Growth Areas. As noted, the Applicant intends to install an eight-foot perimeter fence around the project site, but requests a waiver from screening and landscaping requirements for the batch manufacturing component.

Again, the Applicant has requested that these same Modifications and Waivers be approved should this Special Use request be approved.

#### **G. Public Input: Complies**

The Applicant mailed letters to property owners within 1,000-feet of the property to fulfill the Citizen Review requirement for Special Use requests. The Applicant received one letter of support for the project. The Department mailed letters to neighboring property owners within 300-feet of the subject property, published a legal ad in the *San Pedro Valley News-Sun* and posted legal notices on and near to the property on November 20, 2010. To date, the Department has received no letters in support or in opposition to this Docket.

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

Per the Applicant, there would be no use and/or storage of hazardous materials on the site.

#### **I. Off-site Impacts: Complies**

The primary concerns associated with the proposed use are the potential for excessive noise and dust generation from the concrete manufacturing activities.

Regarding noise generation, Section 1203.07 of the Zoning Regulations states:

*No noise or vibration (other than normal vehicular traffic) shall be permitted which is discernible on neighboring residential sites to the unaided human senses for 3 minutes or more duration in any 1 hour of the day between the hours of 7:00 a.m. and 7:00 p.m. or of 30 seconds or more duration in any 1 hour between the hours of 7:00 p.m. and 7:00 a.m.*

Although the project site is proximate to County residential-zoned areas, they remain undeveloped. However, the Sagebrush Mobile Home Park is to the northwest, so it is important that the use does not generate excessive noise, odors and particulates in quantities sufficient to be offensive or to create a nuisance or hazard beyond the property boundaries. The Applicant has indicated that noise generation would be minimal and that noxious odors or emissions would not be generated. However, Condition 4 requires the Applicant to adhere to the hours of operation indicated on the submitted Special Use application (6am to 5pm; five days per week) as a measure of protection for area residents.

There are a number of construction service businesses that exist in the neighborhood north of the property. In fact, the project site is at the terminus of the heavy commercial/light industrial section of town, and such zoning/development is the only development pattern abutting the subject property. Land to the west, south and east remains undeveloped. Furthermore, the parcel is large enough to offer a reasonable buffer to surrounding properties.

In order to mitigate transient dust, the Applicant would apply crushed aggregate surface treatment to all parking, loading and driveway areas. As mentioned in Section F, the Applicant must demonstrate effective dust suppression and a willingness to mitigate dust-related off-site impacts in the event of a complaint.

The Applicant is encouraged to evaluate Best Management Practices (BMPs) with respect to reducing or eliminating the potential for off-site impacts, including:

- *Storing materials under cover whenever possible and away from any drainage areas;*
- *Loading trucks in a way to minimize airborne dust emissions; and*
- *Practice effective overall dust control measures.*

#### **J. Water Conservation: Does Not Comply**

Water use is essential in the manufacturing or mixing of concrete, and can be significant depending on the scale of the batch facility. The Applicant's Special Use application indicates that estimated daily total water use would be 10,000 gallons, and although the site is not within the Sierra Vista Sub-watershed, the Applicant has not indicated what water conservation measures would be employed in the operation, such as waste water, wash water and storm water reuse.

#### **V. Summary and Conclusion**

The Applicant requests a Special Use Permit in a General Business zoning district near to incorporated Willcox to establish and operate a mini-mix concrete batch manufacturing and sales facility. The Applicant was approved for a number of Variances and Waivers for a construction materials storage and sales yard in February 2010, and the property is currently being readied for this use. A concrete batch manufacturing facility in this area would constitute an appropriate land use in this area, especially considering the Applicant's construction material storage and sales yard and the presence of other commercial uses in the area.

#### **Factors in Favor of Approval**

1. The subject parcel lies within a Category B Growth Area. These areas are characterized as having established or planned commercial development. In addition, this area of the County is designated "Developing," areas typically developed with scattered, mixed residential, business or industrial and agriculture-related uses;
2. The project would be complementary to the construction materials storage and sales yard;
3. The area is home to other businesses and the use is considered appropriate for the area;
4. Most of the surrounding property, including the adjacent TR-36 District, is undeveloped at this time. The developed property adjacent to the subject property is within an Industrial District; and
5. On February 9, 2010 the District 3 Board of Adjustment was approved for two variances of and five waivers from site development standards for the construction materials sales yard.

**Factors Against Approval**

1. The proposed use has the potential to use a significant amount of groundwater without water conservation measures in place; and
2. The use has the potential to generate significant transient dust, unless mitigated.

**VI. Recommendation**

Based on the factors in favor of approval, staff recommends **conditional approval** of this Special Use request for a concrete batch manufacturing facility near incorporated Willcox, with the following conditions:

1. Prior to permit issuance, the Applicant shall submit a final inspection and acceptance report from ADOT for the recently constructed commercial apron;
2. Prior to permit issuance, the Applicant shall submit a written protocol indicating what methods will be employed to reduce or eliminate transient dust;
3. Prior to operation, the Applicant shall ensure that all parking areas and spaces are clearly defined in order to promote on-site safety;
4. The Applicant shall adhere to the hours of operation indicated on the submitted Special Use application (6am to 5pm; five days per week);
5. The Applicant shall provide the County a signed Acceptance of Conditions and a Waiver of Claims form arising from ARS Section 12-1134 signed by the property owner of the subject properties within thirty (30) days of approval of the Special Use Permit Modification. Prior to permit issuance, the Applicant shall submit and obtain building/use permits within 12 months of approval, including a completed joint permit application. The building/use permit(s) shall include a site plan in conformance with this approval and meeting all site development standards (except those specifically waived or modified by the Planning Commission as part of this approval), the completed special use permit questionnaire, and appropriate fees. A permit must be issued within 18 months of approval, otherwise the approval may be deemed void upon 30-day notification to the Applicant;
6. It is the Applicant's responsibility to obtain any additional permits or meet additional conditions, if any, that may be applicable to the proposed activities pursuant to other federal, state, or local laws or regulations; and
7. Any changes to the approved Special Use shall be subject to review by the Community Development Department and may require additional modification and approval by the Planning and Zoning Commission.

**VII. Staff recommends approval of the following Modifications and Waivers:**

1. Section 1804.07.C, which requires chip seal surface on the driveways and parking areas (Applicant requests 2-inch gravel cover);
2. 1804.08, which requires gravel surface of outdoor storage areas (Applicant seeks a waiver);
3. 1804.09.C, which requires physical row ends to parking areas (Applicant seeks a waiver);

4. 1804.09.E, which requires striping of parking areas (Applicant seeks a waiver);
5. 1804.10.B, which requires 4 loading spaces (Applicant requests to install one);
6. 1203.05, which requires screening of outdoor storage areas in a GB District (Applicant seeks a waiver); and
7. 1806.02.B, which requires a 5-foot wide landscape strip on the Site (Applicant seeks a waiver).

Sample Motion: *Mr. Chairman, I move to approve Docket SU-10-19, granting the waivers and variances as requested by the Applicant and as recommended by staff, with the factors in favor of approval listed in the staff report as findings of fact.*

**VIII. Attachments**

- A. Special Use Permit Application
- B. Site Plan
- C. Proposed Batcher Specifications Sheet
- D. Zoning Map
- E. Staff Comments
- F. Commercial Permit Issuance Letter Dated 22 March 2010 for Construction Materials Sales Yard
- G. Citizen Review Letter with Public Comment



**COMMUNITY DEVELOPMENT DEPARTMENT**

Planning, Zoning & Building Safety  
1415 Melody Lane, Bisbee, Arizona 85603

(520) 432-9240  
Fax 432-9278

**COCHISE COUNTY COMMUNITY DEVELOPMENT DEPARTMENT  
COMMERCIAL USE/BUILDING PERMIT/SPECIAL USE PERMIT QUESTIONNAIRE  
(TO BE PRINTED IN INK OR TYPED)**

TAX PARCEL NUMBER: 203-40-002

APPLICANT: Klump Materials LLC

MAILING ADDRESS: P.O. Box 448 Bowie, AZ 85605

CONTACT TELEPHONE NUMBER: 520-507-5118 Matt

PROPERTY OWNER (IF OTHER THAN APPLICANT): Matthew W. Klump

ADDRESS: P.O. Box 448

Bowie, AZ 85605

DATE SUBMITTED: 10/21/10

Special Use Permit Public Hearing Fee (if applicable)

Building/Use Permit Fee

Total paid

\$  
\$  
\$

300

MT  
10/21/10

**PART ONE - REQUIRED SUBMITTALS**

1. Cochise County Joint Application (attached).
2. Questionnaire with all questions completely answered (attached).
3. A minimum of (9) 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. **(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. Citizen Review Report, if special use.

6. 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.)

7. 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? Material Sales Yard  
\_\_\_\_\_  
\_\_\_\_\_
2. What is the proposed use or improvement? Concrete Batch Plant  
\_\_\_\_\_  
\_\_\_\_\_
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? Concrete Batch Plant used to load mixer trucks. No impact on neighboring properties.  
\_\_\_\_\_

4. Describe all intermediate and final products/services that will be produced/offered/sold.

Concrete

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)

Plant is portable

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

7. Provide the following information (when applicable):

A. Days and hours of operation: Days: 5 Hours (from 6 AM to 5 PM)

B. Number of employees: Initially: 2 Future: ?  
Number per shift Seasonal changes NA

C. Total average daily traffic generated:

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

15 per day

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

10 +/- per day

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

50/50

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

50/50

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

NA

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

Estimated total gallons of water used: per day 10,000 per year 2,500,000

E. Will you use a septic system? Yes  No  If yes, is the septic tank system existing? Yes  No   
Show the septic tank, leach field and 100% expansion area on the site plan. County approved will be installed shortly

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

\*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.

Does your parcel have access from a (check one):  
 private road or easement\*\*  
 County-maintained road  
 State Highway

\*\*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.

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

H. Identify how the following services will be provided:

Service	Utility Company/Service Provider	Provisions to be made
Water	<u>Private Well</u>	
Sewer/Septic	<u>Septic to be installed</u>	
Electricity	<u>SSVEC</u>	
Natural Gas	<u>      </u>	
Telephone	<u>Qwest</u>	
Fire Protection	<u>Willcox Fire</u>	

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

1. Describe any activities that will occur outdoors.

Mixing, handling of materials in order to make concrete

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? Minimal noise. Plant will be located on the back of the parcel, away from any structures.

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. Security Lighting

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. Permitted under previous permit  
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 X

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 X

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)

Crushed aggregate

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 X 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 Community Development, Planning, Zoning & Building Safety 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.

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

2. How many acres will be cleared? \_\_\_\_\_

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**

Does the proposed use involve hazardous materials? These can include paint, solvents, chemicals and chemicals wastes, oil, pesticides, herbicides, fertilizers, radioactive materials, or biological agents. Engine repair, dry cleaning, manufacturing and all uses that commonly use such substances in the County's experience require completion of the attachment.

No X Yes \_\_\_\_\_ If yes, complete the attached Hazardous Materials Attachment. Engine repair, manufacturing and all uses that commonly use such substances in the County's experience also require completion of the attachment.

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

**SECTION E - Applicant's Statement**

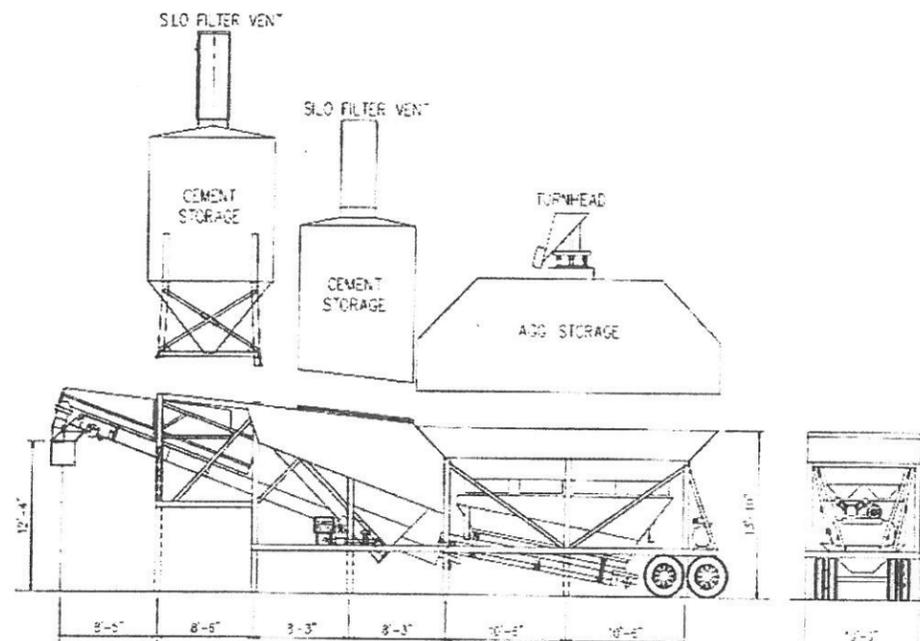
I hereby certify that I am the owner or duly authorized owner's agent and all information in this questionnaire, in the Joint Permit Application and on the site plan is accurate. I understand that if any information is false, it may be grounds for revocation of the Commercial Use/ Building/ Special Use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

Applicant's Signature 

Date signed 10/24/10



# LO-PRO® Model 10



## SPECIFICATIONS

### PRODUCTION CAPACITY:

Theoretical capacity — 150 to 300 cubic yards per hour (110 to 225 cubic meters per hour)

### BATCHER CAPACITY:

Aggregate — 10 cubic yards (7.6 cubic meters)  
 Cement — 10 cubic yards (7.6 cubic meters)  
 Scales — Suspension hopper type with load cells or dials  
 Note: oversized batcher for batching 10 cubic yards for 4 of 8 gates

### AGGREGATE BATCHER CONVEYOR:

30" wide (762 mm) with 10 horsepower drive.  
 Optional 36" (914 mm), 15 horsepower.

### AGGREGATE DISCHARGE CONVEYOR:

30" wide (762 mm), 35" trough with 10 horsepower drive. Optional 36" (914 mm), 15 horsepower

### CEMENT BATCHER RECIRCULATING SCREW:

14" diameter (360 mm), 15 horsepower.  
 Optional 18" diameter (460 mm), 20 horsepower

### CEMENT FEEDER SCREWS:

Two 9" diameter (230 mm) with 15 horsepower drive. Operational 12" diameter (300 mm), 20 horsepower

### CEMENT AERATION:

5 horsepower, high volume, low pressure blower.

### HIGH PRESSURE AIR COMPRESSOR:

7.5 horsepower with 80 gallon (0.30 cubic meters) receiver. Optional 10 horsepower, 120 gallon (0.45 cubic meters)

### ELECTRICAL:

225 amp, 3-phase with 120 VAC transformer for control voltage. All motors are TEFC. All motor circuit wiring protected by individual circuit breakers. Electrical components housed in a NEMA 12 dust tight steel enclosure. Wiring in conduit. Minimum service size: 100 KVA.

### BATCH CONTROL SYSTEM:

Semi-automatic cut-off of cement by presets on digital readouts  
 Push-button for electric over air on gates. Optional fully automatic CON-E-CO Series computerized batch control system

### WATER METER:

CON-E-CO, 2" diameter (50 mm) all electronic stainless steel turbine.  
 25 to 300 gallons (87 to 1,064 liters) per minute. Optional 3" diameter (77 mm) with up to 500 gallons (1,740 liters) per minute

### TRANSPORTATION SYSTEM:

Rear-mounted 36,000 lb. (16,330 kg) capacity tandem axle with eight (8) 9.00 x 20 12-ply tires, wheels, air brakes, heavy duty spring suspension, tail and break lights, and fifth wheel rub plate with king pin

### STORAGE BIN CAPACITIES:

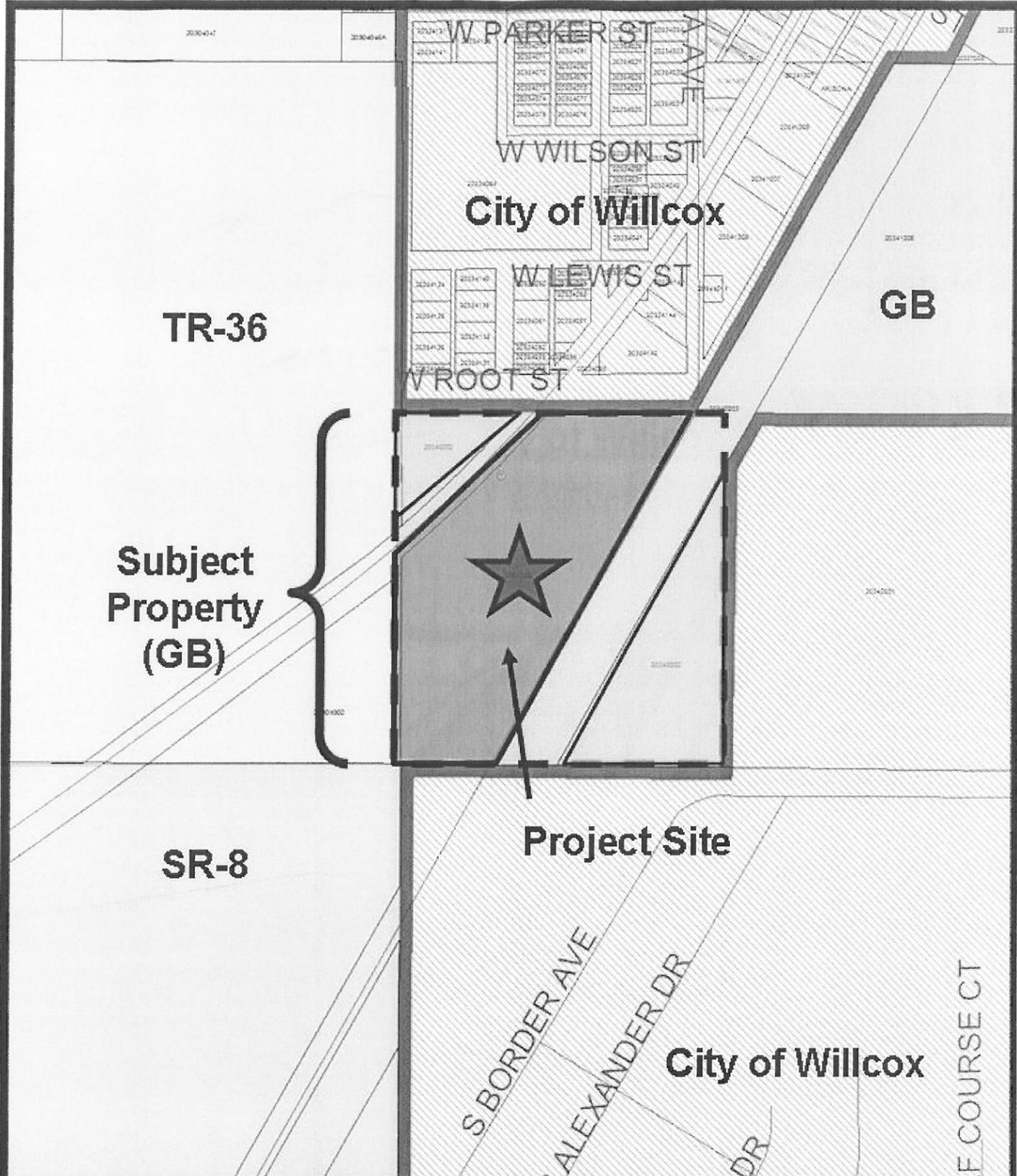
AGGREGATE	HEAPED VOLUME
	50 to 270 cubic yards
	38 to 200 cubic meters
CEMENT I	GROSS VOLUME
	860 to 2860 cubic feet
	24 to 80 cubic meters
CEMENT II	GROSS VOLUME
	1340 to 4190 cubic feet
	37 to 116 cubic meters

### DIMENSIONS:

Towing length	50'0" (15,240 mm)
Towing height	14'0" (4,270 mm)
Towing width	10'0" (3,050 mm)
Empty weight, total	44,000 lbs (19,958 kg)
Shipping volume	8,400 cubic feet (237 cubic meters)

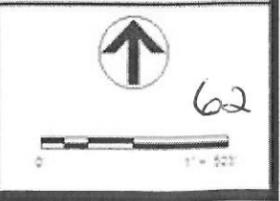
### NOTES:

In accordance with CON-E-CO's policy of constantly improving its products, the above specifications are subject to change without notice. CON-E-CO assumes no responsibility for foundation design. Consult factory for column loadings.



BA3-10-01 (Klump)  
Location/Zoning Map

This map is a product of the  
Cochise County GIS



**Turisk, Mike**

---

**From:** McGee, Michael  
**Sent:** Wednesday, November 10, 2010 12:17 PM  
**To:** Turisk, Mike  
**Subject:** RE: Special Use request for concrete manufacturing in Willcox

Mike,

Septic is good. ADEQ may need to know for Air Pollution and maybe the water from the concrete plant.

Thanks, Mike

**Michael McGee, RS**  
Environmental Health Director  
Cochise County Health Dept.  
mmcgee@cochise.az.gov  
Benson 520-586-8206  
Bisbee 520-432-9444

---

**From:** Turisk, Mike  
**Sent:** Wednesday, November 10, 2010 11:15 AM  
**Subject:** Special Use request for concrete manufacturing in Willcox  
**Importance:** High

All,

Please see the attached Special Use Permit transmittal and supporting documents for details regarding a proposed concrete batch manufacturing facility at 920 S. Haskell Ave. in Willcox. The property is zoned General Business and is currently used as a construction materials storage and sales yard.

Please send comments by Wednesday, November 24<sup>th</sup>. This Special Use Permit request will be considered by the Planning and Zoning Commission at their regular meeting on Wednesday, December 8<sup>th</sup>, 2010.

Thank you in advance for your time.

Sincerely,

Michael Turisk, Planning Manager  
Cochise County Planning Department  
1415 Melody Lane, Building E  
Bisbee, Arizona 85603  
tel: 520.432.9240  
fax: 520.432.9278  
email: [mturisk@cochise.az.gov](mailto:mturisk@cochise.az.gov)

*"Public Programs; Personal Service"*

11/10/2010

63



## **COMMUNITY DEVELOPMENT DEPARTMENT**

Planning, Zoning and Building Safety  
1415 Melody Lane, Bisbee, Arizona 85603

(520) 432-9240  
Fax 432-9278

*James E. Vlahovich Deputy County Administrator  
Interim Planning Director*

### **MEMORANDUM**

**TO:** Mike Turisk, Planning Manager  
**FROM:** Karen L. Lamberton, County Transportation Planner  
**SUBJECT:** Klump Concrete Batch Manufacturing: SU-10-19\Parcel #203-40-002  
**DATE:** November 22, 2010

---

The applicant is proposing to establish and operate a mini-mix concrete batch manufacturing and sales facility on their 19 acre site; a portion of which is currently a materials sales yard for building materials, sand, gravel, rock, equipment, farm and ranch supplies. The site is located between Highway 86/Haskell Ave and Railroad Ave, a 24 foot, native-surfaced, county-maintained, rural minor access road. This parcel is about 240 feet southwest from milepost 1074 on Haskell Ave. There is also a sub-standard, unused entrance around the Arizona Ave. alignment. The applicants plan to take access from their established 40 foot driveway onto the state highway system.

The applicants currently offer sales services on a variety of outdoor products in an open yard to the public five days a week with typical daytime hours of 9 a.m. to 5 p.m. A wide range of potential trips was previously identified for this parcel ranging from 27 up to 149 trips per day. This new proposed use is compatible with the existing use and would bring total number of employees per day to an estimate of 3 with daily hours from 6 a.m. to 5 p.m.

There is no direct equivalency for trip generation in the ITE Manual 8<sup>th</sup> edition with the closest matches being with Land Use 812 (Building Material and Lumber Store) and/or Land Use 110 (Light Industrial) both of which have fairly low daily trip generation but higher percentages of heavier truck traffic operating primarily during off-peak hours. Based on projected employees this site could generate a range of daily trips from 13 to 77 trips per day. Given the number of acres potentially used on this site a low range of 98 trips per day would be estimated which is significantly higher than the applicants estimates. These estimates do have a fairly large range for peak hour travel with a.m. peak hour ranging from below 10 to just over 30. Typically the threshold for lane improvements is the generation of about 25 peak hour right turning movements or about 10 peak hour left turning movements.

It is also noted that a number of variances/waivers were granted unanimously by the District 2 Boards of Adjustment for site development standards for the previously mentioned commercial use

contingent on the applicant mitigating dust related off-site impacts. These variances were granted On Feb. 9, 2010 and may or may not be applicable to this proposed special use.

**Recommendation**

The applicants have already obtained an ADOT Encroachment Permit for the construction of a full commercial apron of 40 feet in width onto State Highway 86/Haskell Ave. This apron should be sufficient for the turning radii needed for the trucks that would be accessing this site.

The applicant is requested to provide the County with the final inspection and acceptance report from ADOT for this apron prior to commercial permit issuance.

The site and access roadways appear to be adequate for the proposed use as stated in this application; however, should this business become even moderately successful and begin to produce vehicle and truck trips in keeping with the full scale of the proposed operation (19 acres) the impacts on the roadway system may require, at minimum, acceleration and deceleration lanes. These types of improvements are typically not needed until trips generated by this site exceed 100 trips per day – about 5 or 6 full-time employees would be anticipated to be on site by that time. This use, as proposed and in combination with the existing use, does have the potential to reach the threshold requiring additional mitigation on the state highway and the applicants are advised to consult with ADOT should they anticipate that their business expansion result in a substantive increase in a.m. or p.m. peak hour trips. The applicants is also advised that continued maintenance of the ADOT driveway is required by ADOT and, depending on the weight and frequency of truck traffic, this apron may wear faster than an typical commercial apron.

Per Zoning Regulation 1804.07 Category B requires that the parking, loading and driveways areas should be improved with a chip-sealed surface; however, this surface treatment was previously modified by the District 3 Board of Adjustment to allow for a 2 inch thick gravel surface with proper drainage or an equivalent or better surface treatment. The proposed site plan identifies a gravel surface and we would have no objection to allowing the previously waived conditions for surface treatment to be applied for this proposed special use.

Although the combined uses on this site are anticipated to be heavier on truck traffic and increase the number of trips from the existing use we believe that the current roadway configuration and ADOT commercial apron are adequate at this time; however, please advise the applicants that it is likely that any additional expansion or new uses on this site may trigger a request from the County for a traffic statement or report to analyze in more detail the full site traffic impacts on the state highway.

cc: Docket SU-10-19

March 22, 2010

Matthew Klump  
P.O. Box 448  
Bowie, AZ 85605

RE: Permit issuance to establish a materials sales yard and one (1) sign located at 920 S. Haskell Ave. on Tax Parcel 203-40-002; Master Permit No. 095109

Dear Mr. Klump:

As you are aware, at their regular meeting of February 9, 2010, the District 3 Cochise County Board of Adjustment voted unanimously (3 - 0) to conditionally approve each of the following seven requested Variances/Waivers to site development standards in a Category B General Business District:

1. Section 1804.07.C, which requires chip seal surface on the driveways and parking areas (you asked to be allowed to install a 2-inch gravel cover);
2. 1804.08, which requires gravel surface of outdoor storage areas (you asked for a waiver);
3. 1804.09.C, which requires physical row ends to parking areas (you asked for a waiver);
4. 1804.09.E, which requires striping of parking areas (you asked for a waiver);
5. 1804.10.B, which requires 4 loading spaces (you asked to be allowed to install one);
6. 1203.05, which requires screening of outdoor storage areas in a GB District (you asked for a waiver); and
7. 1806.02.B, which requires a 5-foot wide landscape strip on the Site (you asked for a waiver);

Since the above conditions have been met, a permit can now be issued. Enclosed please find the approved permit for the above referenced parcel. This permit is to establish a construction material sales yard and one (1) 80 sq ft 16' high free-standing, double-faced, on-site advertising sign. This permit also includes clearing of 6 acres with conditions. This permit is issued with the following conditions (all sections referred to are within the Cochise County Zoning Regulations):

1. These Variances/Waivers granted by the Board of Adjustment are contingent upon the Applicant's willingness to mitigate dust-related off-site impacts in the event of a complaint. Should the County receive a complaint from any neighbor due to dust impacts from the property, the Applicant shall be responsible for providing adequate dust-control measures. In the event that dust mitigation is required, the Applicant shall be allowed to choose the mitigation method.
2. In order to promote safety on the site, the Applicant shall ensure that the parking areas and spaces are clearly defined.

3. Refer to the memo from the Cochise County Planning Department, Building Safety Division dated March 9, 2010 for their comments and requirements (copy attached).
4. Building Code progress inspections are required. Please call the County's Building Division at (520)432-9263 to schedule inspections.
5. Refer to the memo from the Cochise County Health Department dated March 18, 2010 for their comments and requirements (copy attached).
6. Refer to the memos from the Cochise County Highway and Floodplain Department dated December 30, 2010 & January 25, 2010 for their comments and requirements (copies attached).

Also, please note any adverse impact to adjacent properties and/or roadways due to the proposed development is the responsibility of the property owner.

7. Refer to the memo from the Cochise County Transportation Planner dated January 4, 2010 for their comments and requirements (copy attached).
8. Refer to the memo from the Cochise County Highway and Floodplain Department dated January 28 2010 for their comments and requirements (copy attached).
9. Refer to the memo from ADOT dated January 7, 2010 for their comments and requirements (copy attached) A Right-of-Way permit is required from ADOT.
10. The application indicates a water truck to control dust and erosion. "Please note: it is your responsibility to control dust and erosion. Arizona Revised Statutes 48-3615A prohibit any activity that will divert, retard or obstruct the flow of waters in a watercourse if it creates a hazard to life or property, without securing written approval from the County Highway and Floodplain Department, as required by ARS #48-3613. Should the measures you propose fail, it continues to be your responsibility to mitigate any impacts and the County reserves the right to require additional measures per the Cochise County Land Clearing Ordinance."
11. It is the applicant's responsibility to obtain any additional permits, or meet any additional conditions, if any, that may be applicable to the proposed activity pursuant to other federal, state or local laws or regulations. It is recommended that the applicant contact the Arizona Department of Environmental Quality regarding the AZPDES Storm water Permit requirements (see attached brochure).
12. Sections 1203.06, .07, .08 and .09 (copy attached) of the Cochise County Zoning Regulations, refer to the minimum standards that must be adhered to for Electrical Disturbance & Glare, Noise or Vibration, Odors and Nuisances or Emissions as applied in the General Business (GB) Zoning District.
13. Pursuant to section 1804.02 required access and parking area improvements shall be completed in accordance with the approved site plan prior to commencement of use of the site and shall be maintained for the duration of the use.
14. Pursuant to BA3-10-01 the parking area and driveway, shall be improved with a 2" thick gravel surface, or with an equivalent or better surface approved by the County Zoning Inspector. The 2" gravel surface or equivalent or better surface treatment must be maintained for the duration of the use. Parking areas with gravel surface need not be striped. NOTE: If using an equivalent or better surface treatment it must first be approved by the County Zoning Inspector prior to installation of the material proposed.
15. Pursuant to section 1804.07 parking area must be designed for proper drainage to prevent impound of water.

16. The handicapped space must have a stable, firm and slip resistant surface. The accessible parking space must be designated as reserved by a sign showing the symbol of accessibility. There must be an accessible route with a stable, firm and slip resistant surface from the parking space continuously to the entrance to the building. If the accessible route has changes in level greater than 1/2", a ramp (maximum slope 12:1, maximum rise 30") must be provided. The ramp must not extend into vehicular traffic lanes.

17. Pursuant to section 1806.03(G) all required landscaping shall be maintained for the duration of the use.

18. You have indicated that the sign will not be illuminated. If this changes, the Cochise County Light Pollution Code will apply (copy attached). Electrical plans must be provided to this office for review and approval prior to any illumination being added to the sign.

19. Pursuant to section 1904.10 no permanent ground sign shall be located nearer than fifty (50) feet to any other ground sign or ten (10) feet to any public right-of-way.

20. This permit does not include lighting, if in the future lighting is proposed, lighting plans must be submitted for approval prior to installation.

21. All improvements shown on the approved site plan are considered as conditions of approval to this permit. Per Section 1709.01 and 1709.02 of the Cochise County Zoning Regulations, "Any building/use permit issued shall become void if the construction, alteration, repair or improvement for which issued has not substantially begun within twenty-four (24) months from the date of issuance (03/22/12)".

22. It is the applicant's responsibility to obtain any additional permits, or meet any additional conditions, if any, that may be applicable to the proposed activity pursuant to other federal, state or local laws or regulations.

23. Prior to commencement of use of the site, the Cochise County Planning Department, County's Building Inspection Division and ADOT must conduct final inspections. A Certificate of Occupancy can only be issued after final approval has been obtained from these agencies. Please refer to the enclosed paperwork relative to the required inspections. To schedule the inspections please call the County's Building Inspection Division at (520) 432-9263. To schedule the final Zoning inspection with the Planning & Zoning Department, please contact me (a few days in advance please) at 432-9240.

24. Remember, it is your responsibility to call for all required inspections. If you have any questions, please contact me at 432-9240. Good luck with your project.

Sincerely,

Jennifer Vincent  
Senior Planning Technician

cc: Benny Young, Planning Director  
Rick Corley, Zoning Administrator

Dora V. Flores, Permit and Customer Service Coordinator  
Armando Membrila, ADOT  
Richard Searle, Supervisor: District 3  
Mike McGee, Cochise County Health Department  
File Copy

Klump Materials  
P.O. Box 448  
Bowie, AZ 85605  
(520) 384-3622 Office/Fax  
(520) 507-5118 Cell

10-1-10

Dear Neighbor,

My name is Matt Klump with Klump Materials LLC. The purpose of this letter is to inform you of my plans to open a concrete batch plant or redi-mix plant on my property south of the City of Willcox. This property is zoned general business but a special use permit from Cochise County is also required. As a neighbor to this property this letter is to give you an opportunity to have your voice heard in this matter.

To give you a little background information:

I have started to open a material sales yard on this location, which will include farm, ranch, and construction materials. I have also decided to include a concrete batch plant. I think both will be beneficial to the local community and economy. I would appreciate your support. If you have any comments please submit them to the address above. Thank You.

Sincerely,

Matt Klump  
Klump Materials LLC

10/6/2010

Dear Mr Klump,  
Go ahead with your new business  
as planned! I am always delighted  
when new businesses open. I believe  
it is an asset to society.

Barbara Cheney  
520-384-0651



**COCHISE COUNTY PLANNING DEPARTMENT**

1415 Melody Lane, Bisbee, Arizona 85603

(520) 432-9240  
Fax 432-9278

TO: Planning & Zoning Commission  
FROM: Rick Corley, Zoning Administrator  
FOR: Carlos De La Torre, P.E., Community Development Director  
DATE: November 29, 2010 for the December 8, 2010  
SUBJECT: Docket R-09-02, County Hazard Abatement Ordinance—amendment to the whole.

I. Background

Under ARS 11-268 (see attachment A) the State legislature gives counties the authority to abate hazards, establish a payment schedule for property owner to reimburse the County for abatement expenses, and place liens on properties to recoup County expenses when not voluntarily repaid by the owner(s). There has been a hazard abatement ordinance (Resolution 84-65) in effect in the County since October 19, 1984; this was amended in 1987 (Resolution 87-91) to allow liens to be placed on properties on which the County abated hazards. However, liens have not routinely been placed on properties. On June 11<sup>th</sup>, 2009, the Board of Supervisors gave staff direction to update Resolution 87-91 to reflect current County staffing and policies, and to provide a systematic approach to recovering County funds via the lien process. A work session with the Planning & Zoning Commission took place on May 12, 2010.

Attachment B is the proposed Hazard Abatement Ordinance which is intended to simplify and clarify definitions and processes while meeting the new requirements of Statute ARS 11-268:

II. Revisions to Hazard Abatement Ordinance Resolution 87-91:

Please note that the proposed Ordinance is an amendment to the whole of the currently adopted Ordinance. The entire Ordinance is new and would replace the existing Ordinance. **Suggested changes from the Planning & Zoning Commission work session on May 12, 2010 in this staff report are noted by underlined text in red.**

Differences between the 1987 Ordinance and the proposed Ordinance:

Chapter 1 Purpose and Scope of the 1987 Ordinance is deleted.

Chapter 2 of the 1987 Ordinance is now "Part I: DEFINITIONS" instead of ENFORCEMENT

The Ordinance deleted two definitions and added fifteen new definitions for clarity. The definitions chapter has been moved ahead the enforcement chapter for reader clarity.

Part I of the proposed Ordinance consists of definitions. Note that **Dilapated Building is defined as any real property structure that is in such disrepair or is damaged to the extent that its strength or stability is substantially less than a new building or it is likely to burn or collapse and its condition endangers the life, health, safety, or property of the public;**

**Also the Hazard Abatement Officer has been clarified as the Zoning Inspector or duly authorized representative.**

Chapters 4 through 8 of the 1987 Ordinance have been streamlined and included in a new Part II which describes the definitions and processes for violations, notices of abatement orders, appeals of the notices of abatement orders, and the material removal process.

Part II is the main part of the proposed Ordinance, it establishes at subparagraph (noted below):

- A. that dumping on your private land, public land or other private land is a violation; that dumping on public or others' land is also a class 1 misdemeanor;  
At subparagraphs B & C, those cited have 30 days to remove;
- C. **any lienholder has been added to persons to issue a notice in writing;**
- C. & D.2 **reasonable belief was changed to finding probabable cause;**
- D. spells out what is to be in the order, including an estimate of cost of clean-up, and notice that appeal must be taken within 15 days and that **(D.4.) an affidavit attesting to the fact that said material was disposed of in a legal manner;**
- E. provides the appeal process, hearing before board set within reasonable time (arbitrary deadlines difficult for scheduling, political pressure will force earliest reasonable time);
- F. spells out the process if the owner doesn't appeal (appeal stays enforcement per E.4) or abate **F.1. If the removal or abatement is to be performed by an outside contractor, in retaining a contractor the Hazard Abatement Office shall comply with the County Procurement policy. In the alternative, removal or abatement may be performed by a State Prison work crew or Cochise County personnel if it is determined by the Hazard Abatement Officer to be feasible, in which case costs will be the actual costs to the County plus the time of County personnel assessed at applicable rates;**
- G. establishes that the actual cost of abatement becomes the amount of the assessment against the subject property;
- H. provides for notice of assessment and a chance to appeal;
- I. establishes the appeal right;
- J. provides for a report of assessment as a basis for imposition of assessment. This must be signed by the Board Chairman before being established as an assessment. Board approval is not required. **Upon receipt of the Report by the Board, the Chairman shall sign it, with the authority to do so hereby delegated by the Board to the Chairman. Board approval of**

the Report is not required. Thereafter, upon recordation pursuant to Paragraph II.L, the assessment shall become a lien against the property. Requested change from the Clerk of the Board of Supervisors;

- K. establishes a right to hearing on the assessment;
- L. establishes that in the end, upon recordation, the assessment takes effect. Clarifies the County as the County Zoning Inspector or his designee and that it shall be recorded instead of may be recorded, upon the Board Chairman signing a Report of Assessment pursuant to Paragraph II.J;
- M. establishes that the assessment also constitutes a lien against the property;
- N. notes that the county may foreclose on the lien by forcing a sale;
- O. establishes that more than one assessment may be imposed on the same property over time, for multiple violations;
- P. gives the Board of Supervisors the option of appointing a hearing examiner to hear all or some appeals, and
- Q. establishes the schedule for collection of assessments established by the legislature, incorporation of which in this ordinance was the motivating force behind this revision.

Chapter 3 of the 1987 Ordinance is now ENFORCEMENT instead of DEFINITIONS.

Part 3 of the proposed Ordinance reiterates that wildcat dumping is a misdemeanor, independent of any other enforcement provisions of this ordinance.

Part 4 notes that any remedies in the ordinance are in addition to any other enforcement measures that may be imposed under law.

### III. Recommendation

Staff requests the Commission to forward the attached revisions of the Hazard Abatement Ordinance to the Board of Supervisors with a recommendation of approval.

Attachment A: ARS 11-268 State Statute

Attachment B: November 15, 2010 proposed Hazard Abatement Ordinance—an amendment to the whole

Attachment A

11-268. Removal of rubbish, trash, weeds, filth, debris and dilapidated buildings; violation; classification; removal by county; costs assessed; collection; priority of lien; definition

A. The board of supervisors, by ordinance, shall compel the owner, lessee or occupant of buildings, grounds or lots located in the unincorporated areas of the county to remove rubbish, trash, weeds, filth, debris or dilapidated buildings which constitute a hazard to public health and safety from buildings, grounds, lots, contiguous sidewalks, streets and alleys. Any such ordinance shall require and include:

1. Reasonable written notice to the owner, any lienholder, occupant or lessee. The notice shall be given not less than thirty days before the day set for compliance and shall include the estimated cost to the county for the removal if the owner, occupant or lessee does not comply. The notice shall be either personally served or mailed by certified mail to the owner, occupant or lessee at his last known address, or the address to which the tax bill for the property was last mailed. If the owner does not reside on the property, a duplicate notice shall also be sent to the owner at the owner's last known address.

2. Provisions for appeal to the board of supervisors on both the notice and the assessments.

3. That any person, firm or corporation that places any rubbish, trash, filth or debris upon any private or public property located in the unincorporated areas of the county not owned or under the control of the person, firm or corporation is guilty of a class 1 misdemeanor and, in addition to any fine which may be imposed for a violation of any provision of this section, is liable for all costs which may be assessed pursuant to this section for the removal of the rubbish, trash, filth or debris.

B. The ordinance may provide that if any person with an interest in the property, including an owner, lienholder, lessee or occupant of the buildings, grounds or lots, after notice as required by subsection A, paragraph 1, does not remove the rubbish, trash, weeds, filth, debris or dilapidated buildings and abate the condition which constitutes a hazard to public health and safety, the county may, at the expense of the owner, lessee or occupant, remove, abate, enjoin or cause the removal of the rubbish, trash, weeds, filth, debris or dilapidated buildings.

C. The board of supervisors may prescribe by the ordinance a procedure for such removal or abatement and for making the actual cost of such removal or abatement, including the actual costs of any additional inspection and other incidental costs in connection with the removal or abatement, an assessment upon the lots and tracts of land from which the rubbish, trash, weeds, filth, debris or dilapidated buildings are removed.

D. The ordinance may provide that the cost of removal, abatement or injunction of the rubbish, trash, weeds, filth, debris or dilapidated buildings from any lot or tract of land located in the

unincorporated areas of the county and associated legal costs be assessed in the manner and form prescribed by ordinance of the county upon the property from which the rubbish, trash, weeds, filth, debris or dilapidated buildings are removed, abated or enjoined. The county shall record the assessment in the county recorder's office in the county in which the property is located, including the date and amount of the assessment and the legal description of the property. Any assessment recorded after the effective date of this amendment to this section is prior and superior to all other liens, obligations or other encumbrances, except liens for general taxes and prior recorded mortgages. A sale of the property to satisfy an assessment obtained under this section shall be made on judgment of foreclosure and order of sale. The county may bring an action to enforce the lien in the superior court in the county in which the property is located at any time after the recording of the assessment, but failure to enforce the lien by such action does not affect its validity. The recorded assessment is prima facie evidence of the truth of all matters recited in the assessment and of the regularity of all proceedings before the recording of the assessment.

E. Assessments that are imposed under subsection D run against the property until they are paid and are due and payable in equal annual installments as follows:

1. Assessments of less than five hundred dollars shall be paid within one year after the assessment is recorded.
2. Assessments of five hundred dollars or more but less than one thousand dollars shall be paid within two years after the assessment is recorded.
3. Assessments of one thousand dollars or more but less than five thousand dollars shall be paid within three years after the assessment is recorded.
4. Assessments of five thousand dollars or more but less than ten thousand dollars shall be paid within six years after the assessment is recorded.
5. Assessments of ten thousand dollars or more shall be paid within ten years after the assessment is recorded.

F. A prior assessment for the purposes provided in this section is not a bar to a subsequent assessment or assessments for such purposes, and any number of liens on the same lot or tract of land may be enforced in the same action.

G. Before the removal of a dilapidated building the board of supervisors shall consult with the state historic preservation officer to determine if the building is of historical value.

H. If a county removes a dilapidated building pursuant to this section, the county assessor shall adjust the valuation of the property on the property assessment tax rolls from the date of removal.

I. As used in this section occupant does not include any corporation or association operating or maintaining rights-of-way for and on behalf of the United States government, either under contract or under federal law.

J. As used in this section, "dilapidated building" means any real property structure that is in such disrepair or is damaged to the extent that its strength or stability is substantially less than a new building or it is likely to burn or collapse and its condition endangers the life, health, safety or property of the public.

**“Attachment B”**

**ORDINANCE 10 –**

**COCHISE COUNTY  
HAZARD ABATEMENT ORDINANCE**

**PURSUANT TO AUTHORITY OF A.R.S. § 11-268.**

**[Note: Where a provision is required or authorized by statute, the relevant statute section number is indicated in brackets.]**

**PART I: DEFINITIONS**

As used herein, bold-faced terms shall have the following meaning:

1. **“Board”** means the Cochise County Board of Supervisors.
2. **“Building”** means any real property structure, movable or immovable, permanent or temporary, vacant or occupied, used (or of a type customarily used) for human lodging or business purposes, or where livestock, produce, or personal or business property is located, stored or used.
3. **“Contiguous Sidewalks, Streets and Alleys”** means any sidewalk, street, or alley, public or private, adjacent to the edge or boundary, or touching on the edge or boundary, of any real property.
4. **“County”** means the unincorporated areas of Cochise County.
5. **“Days”** means calendar days unless otherwise noted.
6. **“Dilapidated Building”** means any real property structure that is in such disrepair or is damaged to the extent that its strength or stability is substantially less than a new building or it is likely to burn or collapse and its condition endangers the life, health, safety, or property of the public.
7. **“Grounds”** means any private or public land, vacant or improved.
8. **“Hazard Abatement Officer”** means the County Zoning Inspector or duly authorized representative to discharge the duties of the County pursuant to this ordinance unless otherwise expressly provided herein.

9. **“Lessee”** means a person who has the right to possess real property pursuant to a lease, rental agreement, or similar instrument.
10. **“Lots”** means any plot or quantity of land, vacant or improved, private or public, as surveyed, platted or apportioned for sale or any other purpose.
11. **“Occupant”** means a person who has the actual use, possession or control of real property. The term does not include any corporation or association operating or maintaining right-of-way for and on behalf of the United States government, either under contract or federal law. [A.R.S. § 11-268.I]
12. **“Owner”** means a person who is a record owner of real property as shown in the public records in the office of the Cochise County Recorder, and includes a person holding equitable title under a recorded installment sales contract, contract for deed or similar instrument.
13. **“Person”** means an individual, partnership, corporation, association, trust, state, municipality, political subdivision, or any other entity that is legally capable of owning, leasing, or otherwise possessing real property.
14. **“Public nuisance”** means a dilapidated building or an accumulation of rubbish, trash, weeds, filth or debris that constitutes a hazard to the public health and safety as determined by the Hazard Abatement Officer.
15. **“Real Property”** means buildings, grounds, or lots, as well as contiguous sidewalks, streets, and alleys, located in the County.

**PART II: VIOLATION OF ORDINANCE; REMOVAL OF PUBLIC NUISANCE BY OWNER, LESSEE OR OCCUPANT; SERVICE OF NOTICE TO ABATE; REMOVAL BY COUNTY; ASSESSMENT OF COSTS; RECORDATION AND PRIORITY OF LIEN.**

- A. Violation.** A person, firm or corporation shall have created a public nuisance and committed a violation of this ordinance if such person, firm or corporation without lawful authority, and in a manner that constitutes a hazard to public health and safety:
1. Places, permits, or provides for rubbish, trash, weeds, filth, debris or dilapidated buildings to remain upon property located in the County of which they are owner, lessee, or occupant. [A.R.S. § 11-268.A]
  2. Places, permits, or provides for rubbish, trash, weeds, filth, debris or dilapidated buildings to remain upon contiguous sidewalks, streets and alleys in the County which are dedicated and open to the public. [A.R.S. § 11-268.A]

3. Places, permits, or provides for rubbish, trash, weeds, filth, debris or dilapidated buildings to remain upon any other private or public property in the County not owned or under the control of the person, firm or corporation. [A.R.S. § 11-268.A.3]

**B. Duty to remove.** A person, firm or corporation shall remove or otherwise abate a public nuisance as defined herein within 30 days after mailing or personal service of a Notice and Order to Abate as provided herein. [A.R.S. § 11-268.A.1]

**C. Notice and Order to Abate.** Upon finding probable cause that a violation of this ordinance has occurred, the Hazard Abatement Officer shall issue a notice in writing which shall be served in person or by certified mail upon the owner, any lienholder, occupant or lessee at their last known address or at the address on file in the County Treasurer's Office to which the most recent tax bill was mailed. If the owner does not reside on the property, a copy of the notice shall be served upon the owner in person or by certified mail to the owner's last known address. Failure by any party to receive the notice shall not be a bar to abatement, assessment of costs or lien of assessment pursuant to this Ordinance. [A.R.S. § 11-268.A.1]

**D. Notice and Order.** The Notice and Order to Abate shall include the following:

1. The street address, parcel number and a legal description sufficient for identification of the premises on which the alleged violation occurred.
2. A statement that the Hazard Abatement Officer has determined that there is a probable cause that a violation of this ordinance has occurred on the premises identified in the notice.
3. An order that the owner, occupant or lessee shall have thirty (30) days from the date of mailing or personal service of the order to remove any rubbish, trash, weeds, filth, debris or dilapidated buildings upon the property or upon contiguous sidewalks, streets or alleys.
4. A statement that rubbish, trash, weeds, filth, debris or dilapidated building materials constituting a public nuisance must be disposed of at an appropriate waste collection facility or by other legal means and that an affidavit attesting to the fact that said material was disposed of in a legal manner, to which a tipping fee receipt or other evidence of legal disposal may be attached, is to be submitted to the Hazard Abatement Officer prior to a determination of compliance with the Notice and Order to Abate.
5. A statement that the County may cause the violation to be abated if the owner, occupant or lessee fails to comply with the order within the specified compliance period.

6. An estimate of the cost of removal or abatement by the County, including incidental costs, to be based on an estimate provided by a qualified contractor or by the Hazard Abatement Officer. [A.R.S. § 11-268.A.1]
7. A statement that the owner, occupant or lessee shall have fifteen (15) days from the post mark date of mailing or personal service of the Notice and Order to Abate to appeal the issuance of the notice to the Board of Supervisors and that failure to appeal will constitute waiver of all rights to an administrative hearing and determination of the matter.
8. A statement that a party who places any rubbish, trash, filth or debris upon any private or public property located in the unincorporated area of the county that is not owned or controlled by that party without authorized permission is guilty of a Class 1 misdemeanor and may be subject to criminal penalties in addition to the cost of abatement. [A.R.S. § 11-268.A.3]

**E. Appeal of Notice and Order to Abate.** Any person receiving a Notice and Order to Abate may appeal to the Board of Supervisors as follows[A.R.S. § 11-268.A.2]:

1. **Notice of Appeal.** A written Notice of Appeal shall be filed with the Clerk of the Board within fifteen (15) days after the Notice and Order to Abate was mailed or personally served. The date of receipt by the Board shall be the date of filing.
2. **Contents of Notice of Appeal.** The Notice of Appeal shall state in reasonable detail why the appellants should not be required to comply with the Notice and Order to Abate.
3. **Hearing on Appeal.** Upon receipt of the Notice of Appeal, the Board shall, within a reasonable time, place the matter on the agenda at a regular meeting or, if the Board has appointed a hearing officer pursuant to Paragraph II.P, refer the appeal to the hearing officer. The Hazard Abatement Officer shall appear and present evidence of the existence of the Public Nuisance. The appellant may present evidence controverting the existence of the Public Nuisance. The hearing shall be informal and without regard to the rules of procedure or evidence governing court proceedings. The Board shall decide the appeal, and its decision shall be final.
4. **Extension of Time for Compliance.** If the Board's decision is adverse to the appellant, the date of compliance set forth in the Notice and Order to Abate shall be extended by the number of days elapsed between the filing of the notice of Appeal and the rendering of the Board's decision.

**F. Removal by Board.** If the owner, lessee or occupant fails to remove or otherwise abate the Public Nuisance within thirty (30) days of mailing or personal service of the Notice and Order to Abate (or such extension thereof as may be granted in writing by the Board), the Board or its designee may, at the expense of the owner, lessee or occupant, order removal or abatement of the Public Nuisance or cause it to be removed or abated;

provided, however, that if such removal or abatement is not undertaken within one hundred and eighty (180) days after the right to do so first accrues, a new Notice and Order to Abate shall be served as provided in Paragraph II.C. [A.R.S. § 11-268.B]

1. **Cost of Removal.** The costs assessed for removal or abatement shall not exceed the actual costs and incidental expenses thereof. If the removal or abatement is to be performed by an outside contractor, in retaining a contractor the Hazard Abatement Officer shall comply with the County Procurement policy. In the alternative, removal or abatement may be performed by a State Prison work crew or Cochise County personnel if it is determined by the Hazard Abatement Officer to be feasible, in which case costs will be the actual costs to the County plus the time of County personnel assessed at applicable rates. [A.R.S. § 11-268.C]
2. **Historical Review.** Before the removal of a dilapidated building, the Board shall consult with the state historic preservation officer to determine if the building may be of historical value. [A.R.S. § 11-268.G]
3. **Removal from Tax Rolls.** Upon the removal of a dilapidated building, the County Assessor shall adjust the valuation of the Real Property on the property assessment tax roll from the date of removal. [A.R.S. § 11-268.H]

**G. Assessment.** Upon the removal or abatement of Public Nuisance as provided in Paragraph II.F, the actual cost of removal or abatement, together with the actual cost of any additional inspections and other incidental costs, shall be an assessment against the Real Property on which the Public Nuisance was located. [A.R.S. § 11-268.C]

**H. Notice of Assessment.** A written Notice of Assessment shall be served in the same manner as the Notice and Order to Abate. The Notice of Assessment shall list the common address, legal description and tax parcel number of the property. The Notice of Assessment shall set forth the facts supporting it as well as an itemized listing of the actual cost of removal or abatement, the actual costs of any additional inspections and other incidental costs. The Notice shall state that the entire cost is due and payable in full not later than thirty (30) days from the date of issuance of the Notice and that the assessment will become delinquent as of that date. The Notice shall be signed by the Hazard Abatement Officer. The Notice shall also contain the following statement in bold face print:

**NOTICE: THIS NOTICE OF ASSESSMENT PURSUANT TO A.R.S. § 11-268 SHALL CONSTITUTE A LIEN UPON THE PROPERTY DESCRIBED IN THE NOTICE IN FAVOR OF COCHISE COUNTY. THE COUNTY MAY FORECLOSE THE LIEN AND SELL THE PROPERTY DESCRIBED TO RECOVER THE COSTS STATED IN THE NOTICE OF ASSESSMENT.**

The Notice of Assessment shall indicate that the owner, lessee or occupant shall have fifteen (15) days from the post marked date of the mailing or personal service of the Notice of Assessment to appeal the amount of the assessment imposed by the County.

**I. Appeal of Notice of Assessment.** All appeals of assessments shall be in writing and shall specify the grounds for appeal of the assessment. The date of receipt of the Notice of Appeal by the Board shall be the date of filing. No appeals of violations shall be heard upon appeal of an assessment. [A.R.S. § 11-268.A.2]

**J. Report of Assessment.** If an appeal of the Notice of Assessment is not timely filed, the Hazard Abatement Officer shall prepare a Report of Assessment for review by the Board of Supervisors. The Report shall list the common address, legal description and tax parcel of the property. The Report of Assessment shall set forth the facts supporting it as well as an itemized listing of the actual cost of removal or abatement, the actual cost of any additional inspections and other incidental costs. Upon receipt of the Report by the Board, the Chairman shall sign it, with authority to do so hereby delegated by the Board to the Chairman. Board approval of the Report is not required. Thereafter, upon recordation pursuant to Paragraph II.L, the assessment shall become a lien against the property.

**K. Hearing on Appeal.** Upon receipt of the Notice of Appeal of Assessment, the Board shall, within a reasonable time, place the matter on the agenda at a regular meeting or, if the Board has appointed a hearing officer pursuant to Paragraph II.P of this ordinance, refer the appeal to the hearing officer. Written notice of the hearing shall be provided to the Hazard Abatement Officer, to other appropriate County departments and to the Appellant. The Hazard Abatement Officer shall appear and present the facts supporting the assessment as well as an itemized listing of the actual cost of removal or abatement, the costs of any additional inspections and other incidental costs. The Appellant may present evidence controverting the imposition of the assessment. The Board shall determine whether the assessment was made in accordance with the provisions of this ordinance and applicable state statutes, and whether the amount of the assessment is sufficient to cover the actual costs of abatement and related activities. After hearing all of the evidence presented, or after reviewing recommendations made by its hearing officer, the Board shall issue its findings in writing upholding or modifying the amount of the assessment. The decision of the Board of Supervisors shall be final.

**L. Recordation.** If the owner, lessee or occupant fails to pay the assessment within thirty (30) days after receipt of the Notice of Assessment (or any extension as may have been granted in writing by the County Zoning Inspector or his designee), and fails to timely appeal the assessment, that assessment shall be delinquent and shall be recorded in the office of the Cochise County Recorder, upon the Board Chairman signing a Report of Assessment pursuant to Paragraph II.J. If a Notice of Assessment is appealed to the Board and the assessment is sustained in whole or in part in a written decision by the Board, and the owner, lessee or occupant fails to pay the amount of the assessment ordered by the Board within thirty (30) days after receipt of the Board's decision, the assessment shall be delinquent and shall be recorded in the office of the Cochise County Recorder. [A.R.S. § 11-268.D]

**M. Lien of Assessment.** The assessment shall be a lien against the real property from and after the date of recordation and shall accrue interest at the statutory judgment rate until

paid. The lien of assessment shall be subject to and inferior to all prior recorded mortgages and encumbrances and to such other liens as specifically provided by law. [A.R.S. § 11-268.D]

**N. Foreclosure.** The Board may, but shall not be obligated to, bring an action to enforce the assessment lien in the Cochise County Superior Court at any time after the recordation of the assessment. The recorded assessment is prima facie evidence of the truth of all matters recited therein and of the regularity of all proceedings before the recordation thereof.

**O. Subsequent Assessments.** A prior assessment shall not constitute a bar to a subsequent assessment or assessments for such purposes and any number of liens may be recorded and may be enforced in the same or separate actions by the County. [A.R.S. § 11-268.F]

**P. Hearing Officer; Appointment and Duties.** In fulfilling the responsibilities required of the Board of Supervisors pursuant to this ordinance, the Board may, by a majority vote of its members, appoint a hearing officer to review appeals of Notices to Abate and/or Notices of Assessment. The hearing officer shall hold hearings and take testimony, make findings and prepare recommendations to be reported for action by the Board of Supervisors.

**Q. Assessment schedule.** Assessments that are imposed pursuant to this ordinance run against the property until they are paid, and are due and payable in equal annual installments as follows [A.R.S. § 11-268.E]:

1. Assessments of less than five hundred dollars (\$500.00) shall be paid within one year after the assessment is recorded;
2. Assessments of five hundred dollars (\$500.00) or more but less than one thousand dollars (\$1,000.00) shall be paid within two years after the assessment is recorded;
3. Assessments of one thousand dollars (\$1,000.00) or more but less than five thousand dollars (\$5,000.00) shall be paid within three years after the assessment is recorded;
4. Assessments of five thousand dollars (\$5,000.00) or more but less than ten thousand dollars (\$10,000.00) shall be paid within six years after the assessment is recorded;
5. Assessments of ten thousand dollars (\$10,000.00) or more shall be paid within ten years after the assessment is recorded.

### **PART III: ADDITIONAL PENALTIES**

**A. Classification; Liability.** In addition to the penalties imposed pursuant to the abatement and assessment provisions of this ordinance, any person, firm or corporation placing any rubbish, trash, filth or debris upon any private or public property located in the unincorporated areas of the county not owned or under the control of the person, firm or corporation shall be guilty of a Class 1 misdemeanor and, in addition to any fine which may be imposed for a violation of any provision of this ordinance, shall be liable for all costs which may be assessed pursuant to this ordinance for the removal of the rubbish, trash, filth or debris. [A.R.S. § 11-268.A.3]

**PART IV: NON-EXCLUSIVE REMEDY**

The remedies provided for in this ordinance shall be in addition to any and all other remedies, civil or criminal, available to Cochise County pursuant to statute and common law, specifically including those set forth in A.R.S. §§ 13-2908, 36-602 and 49-143.

**PASSED AND ADOPTED THIS \_\_\_ DAY OF \_\_\_\_\_, 2010.**

\_\_\_\_\_  
Patrick G. Call, Chairman  
Cochise County Board of Supervisors

**ATTEST:**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Katie A. Howard

\_\_\_\_\_  
Britt Hanson