



**COCHISE COUNTY PLANNING & ZONING COMMISSION
MINUTES**

Wednesday, August 10, 2011

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

ROLL CALL

Chair Lynch noted the presence of a quorum. Commissioners introduced themselves to the public. Chair Lynch then explained to the audience the procedures for considering a docket and expected standards of conduct.

1. **Present:** Duane Brofer, Jim Lynch, Dan Abrams, Gary Brauchla, Pat Edie, Cruz Silva.
2. **Absent/Excused:** Ron Bemis, Jim Martzke, Rusty Harguess,

CALL TO THE PUBLIC

Chair Lynch opened the meeting to the public. No one indicated a desire to speak and Chair Lynch then closed the "Call to the Public."

APPROVAL OF THE MINUTES

Motion: Motion was made to approve the minutes as presented. **Action:** Approve, **Moved** by Duane Brofer, **Seconded** by Dan Abrams

Vote: Motion carried by unanimous vote (**summary:** Yes = 5).

Yes: Duane Brofer, Dan Abrams, Jim Lynch, Cruz Silva, Gary Brauchla.

Abstained: Pat Edie

Chair Lynch explained the process by which dockets are presented to the Commission. He also asked that cell phones be turned off as noted on the sign at the entrance to the meeting room.

Item 1 – PUBLIC HEARING, Docket Z-11-05 (Reaves): Interim Planning Manager Beverly Wilson presented the request to downzone a parcel of land from GB (General Business) to R-18 (one dwelling per 18,000 square feet). The subject property consists of two parcels (Parcel# 106-24-013 and 106-24-014) and is approximately 55,190.53 square

feet in size. There is an existing garage and warehouse with living quarters on the site located at 2136 N. Coronado Frontage Road, Huachuca City, AZ.

Ms. Wilson stated the factors in favor and against and that staff had received 3 calls in favor of support with 2 letters then sent in expressing their support in writing. There were no apparent factors against the requested re-zoning.

Chair Lynch asked for the Applicant's statement.

Carla Reaves, the Applicant, described the property and the issues related to construction that caused them to decide that a business site was not appropriate for this parcel. She described how they had converted a building formally used for a roofing business into a seasonally residential unit for their elderly parents. They talked to their neighbors who indicated that they would like to see residential and not business uses at that site. They currently have a buyer for their property for residential not business use. She asked the Commission to approve the rezoning.

Chair Lynch clarified for the Applicant that they can only recommend a rezoning to the Board and do not have the authority to approve it themselves.

Chair Lynch opened the meeting to the public. No one indicated that they wished to speak so he closed the meeting to the public.

Ms. Wilson stated that staff recommends conditional approval for forwarding the docket to the Board of Supervisors for approval with the conditions stated in the staff report. This docket is tentatively set for the August 23rd Board meeting.

Motion: Motion was made to forward a recommendation of approval for Z-11-05 to the Board of Supervisors for approval, with the conditions and recommendations stated by staff.
Action: Approve, **Moved by** Cruz Silva, **Seconded by** Gary Brauchla

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 6).

Yes: Duane Brofer, Dan Abrams, Jim Lynch, Cruz Silva, Pat Edie, Gary Brauchla.

Item 2 – PUBLIC HEARING, Docket SU-11-10 (Goad): Interim Planning Manager Beverly Wilson presented the request for a special use permit to establish an outdoor recreation facility per Cochise County Zoning Regulations, Section 607.07. An existing pumpkin patch is on the property, which had previously been designation as Ag-exempt. This proposal is to add hay rides, a barrel train ride, and a petting zoo to the pumpkin patch and orchard. The subject property is zoned RU-4 (Parcel #106-05-001), and is located north of Huachuca City on Highway 90 at 30 West Ivey Road. The barrel trains will be pulled by existing trailers so no additional noise is anticipated.

Ms. Wilson stated the factors in favor and against and that numerous statements of support were received in the Application packet. No letters of opposition were received. She

indicated that staff was supporting the requested modifications to site standards allowing dirt surfaces, existing driveway widths and existing fruit trees for screening. There were no apparent factors against the requested special use permit.

Chair Lynch asked for the Applicant's statement.

James Goad, Applicant, brought the Commission updated pictures showing the additional growth in the plants in the area intended for screening. He expressed his concerns about conserving water related to crop development. He has installed a new drip tape irrigation system reducing his water use by half from last year. He plans to continue to improve the property and find additional ways to conserve water.

Duane Brofer asked the Applicant if he had considered any issues about mixing kids and chemicals. Applicant states that the chemicals that they use are no stronger than anything that might be purchased at Home Depot. They do use Carboral, an insecticide, which requires a 24 hour period before you should be walking on it but this is not used in October when the proposed use would be going on.

Chair Lynch opened the meeting to the public. No one indicated that they wished to speak so he closed the meeting to the public.

Beverly Wilson stated that staff recommends conditional approval with the three requested modifications.

Motion: Motion to forward a recommendation of approval for SU-11-10. **Action:** Approve, **Moved by:** Duane Brofer, **Seconded by:** Pat Edie.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 6).

Yes: Duane Brofer, Dan Abrams, Jim Lynch, Cruz Silva, Pat Edie, Gary Brauchla.

Item 3 – PUBLIC HEARING, Docket Z-11-07 (Hannon): Senior Planner, Keith Dennis presented a request to rezone an 8,400 square foot parcel of land in the Fry Townsite from MH-72 (Manufactured Home District, one dwelling per 7,200 square feet) to GB (General Business), in order to facilitate a Contract Construction Services land use. The Applicant, Robert Hannon of New Mountain Plumbing, intends to construct a 1,216 square foot plumbing shop on the property and operate his business from the subject parcel. It is located at 110 N. 5th Street in Sierra Vista. Mr. Dennis described the setback issues that would result from the rezoning and stated that the Applicant was aware that a variance may be needed should the rezoning be approved.

Mr. Dennis stated the factors in favor and against and that staff had received two letters of support and no letters opposing the proposal. With the recommended conditions the rezoning request meets with 12 of the 13 applicable factors analyzed. The factor against would be that the new zoning designation does require a 40-foot setback, which is not possible to meet with the existing parcel.

Chair Lynch asked what the zoning was on the property south of the site. Mr. Dennis stated that it was zoned as MH-72 and currently had a manufactured home on the lot.

Mr. Abrams asked if the people living to the south had commented on this proposed rezoning. Mr. Dennis indicated that the County had received no comments from the property owners to the south.

Chair Lynch asked for the Applicant's statement.

Robert Hannon, Applicant, stated that Mr. Dennis had brought up everything he wanted to present. He stated that when he bought this property he had believed it was commercially zoned. He stated that the packet information provided to the Commission was very good.

Mr. Abrams asked a number of questions about the availability of parking to meet current and future needs noting that the pictures presented to the Commission shows a number of vehicles parked on the site of the proposed business. The Applicant stated that he is getting rid of the older trucks noted in the photograph and has less employees now than he used to but has room for anticipated growth. The Applicant also stated that there is street parking if needed.

Chair Lynch opened the meeting to the public. No one indicated that they wished to speak so he closed the meeting to the public.

Keith Dennis stated that staff recommends conditional approval to forward the requested rezoning to the Board of Supervisors for approval.

Motion: A motion was made to forward a recommendation of conditional approval for Z-11-07. **Action:** Approve, Moved by Duane Brofer, **Seconded by** Gary Brauchla.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 6).

Yes: Duane Brofer, Dan Abrams, Jim Lynch, Cruz Silva, Pat Edie, Gary Brauchla.

Item 4 – PUBLIC HEARING, Docket Z-11-04 (Ruiz): Planner Keith Dennis presented the request to rezone a parcel of land from TR-9 (one dwelling per 9,000 square feet) to MR-1 (one dwelling per 3,600 square feet). The subject property (Parcels 102-57-139C & 139E) is approximately 14,239 square feet in size and have two existing mobile homes on the site. It is located at 3724 South Rogers Avenue in Naco, AZ. Mr. Dennis described the existence of an existing mobile home owned by the adjacent property owner that straddles the existing property line. Parcels within this area are primarily smaller lots, of similar zoning as proposed, and several that are sub-standard in size. The Applicant is proposing to add another manufactured home between the two existing units.

Mr. Dennis stated the factors in favor and against and that staff had received three letters of support and three letters against the proposal. Opposition related to the crowding conditions

of too many manufacturing homes already in the area. With the recommended conditions the rezoning request complies with each of the 10 applicable rezoning factors analyzed.

Dan Abrams asked if staff had an aerial view from higher up. Keith Dennis indicated that one was not immediately available; however, he could confirm that the character of the area was consistent with the requested rezoning with smaller lot sizes. Most of the surrounding lots are TR-9 with scattered manufactured homes. Dan Abrams asked staff if the encroaching mobile home currently situated overlapping the property line affected staff's decision and expressed concern about the distance between units. Keith Dennis stated that the Applicant does own the land underneath the mobile home but not the mobile home itself. There is currently 64 feet between the two units. Keith Dennis added that the current location was not a factor in County's recommendation as these are mobile units that could be moved.

Cruz Silva asked to re-look at the proposed site plan and then asked if the mobile home at the top (the encroaching mobile unit) would be moved. Dennis stated that issue is what staff considers a civil matter between owners but would not be an issue for placing the additional mobile unit requested. If the unit is not moved there would be enough room for the additional mobile home. Permitting staff advised that it would be okay to issue such a permit even if the other unit is not moved.

Chair Lynch asked for the Applicant's statement.

Blanca Ruiz, Applicant, first apologized to the Commission for her English speaking skills. She then explained that she wants to live in Naco and owns this property. She explained that her adjacent neighbor wanted to buy this land but she doesn't want to sell because she wants to live there. She provided pictures to the Commission about what was going on her property when she was not living there which included others parking junk cars on her property and then her neighbor putting his mobile unit on it. She tried to swap out some land with the neighbor to make it right but now she doesn't have room for her second mobile unit. The Applicant then provided the Commission with a copy of the warranty deed for the land swap. She doesn't want to go back on the deal she made with her neighbor but just needs to get a place to live there in Naco. Ms. Ruiz asked the Commission for consideration for justice giving her the ability to move and live there.

The Commission had no questions for the Applicant.

Chair Lynch opened the meeting to the public. No one indicated that they wished to speak so he closed the meeting to the public.

Keith Dennis stated that staff recommends conditional approval to forward the rezoning request to the Board of Supervisors for approval.

Dan Abrams stated that he was not clear on what the warranty deed indicated. Chair Lynch asked staff what the warranty deed meant and if it had been part of the packet. Keith Dennis stated that it was not part of the Commission packet and that it relates to a transfer of land

from several years ago and is only relevant as part of the narrative of how this docket came to be in front of us. The Commission asked to see the map again of the lot lines. Chair Lynch asked for clarification as to which lot was part of the deed sale. Keith Dennis explained that both lot lines had been moved up 17 feet creating the issue on the other size along with changing the parcel sizes. Mike Turisk stated that this is not particularly an anomaly in the Naco area with many parcels that are nonconforming. Pat Edie asked for clarification of what lots the Applicant owns and asked about the mobile home on those lots. Keith Dennis stated that staff's understanding was that the land is being rented to the owner of the mobile home.

Motion: A motion was made to forward a recommendation of conditional approval for Z-11-04. **Action:** Approve, **Moved by** Pat Edie, **Seconded by** Cruz Silva

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 6).

Yes: Duane Brofer, Dan Abrams, Jim Lynch, Cruz Silva, Pat Edie, Gary Brauchla.

Chair Lynch noted that the motion passed and is now an issue for the Board of Supervisors.

Item 5 – PUBLIC HEARING, Docket SU-11-11 (Thome): Planner Keith Dennis presented the Applicant's request to seek a Special Use authorization from the Planning and Zoning Commission in order to establish a Contract Construction Services (607.13) / Professional Services (607.26) land use on the 581-acre subject property. The intent is to install and operate a 10' x 40', modular office building for a sales office for lots in the proposed Copper Hills subdivision to the North. The subject property is located west of Bisbee on Highway 92 just past Milepost 346, north of the highway. The Applicants have obtained tentative plat approval in December of 2010. The Applicants provided a new site plan today which Mr. Dennis included in his presentation. The trailer size has changed to 8' x 28', but sanitary facilities are not proposed. The land in the area is currently used for grazing. Mr. Dennis explained access concerns related to the access onto the state highway at this location. He further explained that lot/sales trailers are allowed as temporary uses on the parcels to be subdivided; however, the Applicants desire to be on an adjacent parcel, and therefore it was determined that the Applicant's needed a special use permit rather than a temporary use permit. Mr. Dennis stated that this use would be for a limited time of one year.

Mr. Dennis stated the factors in favor and against and that staff had received one letter of support and two letters against this proposal. With the recommended conditions the rezoning request meets with nine of the 10 applicable factors analyzed.

Chair Lynch asked who owns the property being proposed for this special use. Keith Dennis stated that the site is also owned by the LLC but is not the exact parcel being subdivided. Chair Lynch notes that a special use permit stays with the parcel, and also noted that this was a particularly large parcel. Keith Dennis explained that this was one of the

reasons for the recommended condition that the use be limited in timeline and be discontinued after one year.

Chair Lynch asked for the Applicant's statement.

Alan Thome, Applicant and managing partner of Cochise County 1900, LLC spoke to the Commission. He stated that they had come in and complied with all the criteria for the tentative plat. He explained that to get approval for the section currently planned to be subdivided they had to first address traffic circulation, drainage and other items for the entire site, not just for the area to be subdivided first. He stated that changes in the lending industry means that they now have to show that if they build it "will they come?" He stated that they really don't want a special use but see this request as part of the entire proposal for their master plan for future subdivisions. They planned to roll this subdivision out in phases and had agreed to put in deceleration lanes and eventually a traffic light after 30 lots have been sold. However, the economy has slowed and they need to prove that they have buyers. They believe that they have support from the Border Patrol, school district and even Cochise County employees for a new kind of development. He would like to drop the special use because the Special Use Permit requires 54 different criteria. Mr. Thome indicated that they really do just want a temporary use. They do have grazing rights but up to recently the road itself was a trespass against State Lands. He believes that current access points off of the highway are worse than the one he has and stated that they are only going to be having one to two people taking access on any given days. He requests that the Commission consider giving him a temporary use and not a Special Use on the requested section and stated that if they do not complete their final plat he will remove the trailer. He did not feel that sanitary facilities are needed because people will not be there very long at all and most lot/sales office are "dry". He stated that there is a 90' stacking ability on this approach, more than some businesses along SR 92. He stated that we are in tough times right now and the Commission can let him move forward. He stated that it was no use going off of Rio Vista drive. Mr. Thome stated that they have everything they need to move forward and just need help to get financing.

Chair Lynch asks if he wanted to remove this request from the Special Use Permit process. Mr. Thome says that this is correct. Chair Lynch is not sure how this Board can deal with it if there is not a request for them to specifically consider. Mr. Thome stated that he believed the County was splitting hairs stating that this parcel was not part of the subdivision and believes that this could be treated as a temporary use.

Chair Lynch called a recess to discuss this issue with Counsel at 5:29 p.m.

Chair Lynch called the meeting back into order at 5:43 p.m.

Chair Lynch restated his question to the Applicant asking again if the Applicant wanted to withdraw his request from the Special Use Process. Mr. Thome states that after discussion with staff of his various options he did not want to withdraw and wanted to proceed with the Special Use Permit request.

Chair Lynch opened the meeting to the public. Two people raised their hands that they wanted to speak. After requesting that the speakers fill out a speakers request form for staff he then called them up to speak on this docket.

Jack Ladd, who lives across SR 92, stated that he was in opposition. He explained that if you have ever chased cattle at night with a flashlight in fast moving traffic you would understand why cattle need to be kept out of the roadway. He added that people won't shut the gate. He wants to see a cattle-guard. This is not a bootstrap project, they paid \$2M for this property and are going to subdivide it and have a sales office. They should be able to afford to put in the cattle guard which they will have to do soon or later. He knows that the County has a problem about who has the authority to enforce this but unless they can install the cattle-guard to keep cattle off the highway, he would be in opposition.

John Ladd, said he was Jack's son, lives in the same place but different house, and stated that he doesn't really care what happens but there is a really problem with Rio Sonora where promises to put in a cattle-guard were made but were never put in and they lost two cows over there. Recent changes happened because 10-years ago, you went through the fence; you had to put in a cattle-guard. The poor business man can't afford it but he can't afford to be out there every night chasing cows that aren't even his, either. A cattle-guard has to be put in if you go off the highway.

No one else indicated that they wished to speak so Chair Lynch closed the meeting to the public.

Mr. Thome stated in his rebuttal that he has had a few cows himself, but assures that they will make the area secure. He stated that if ADOT forced them to put in a cattle-guard they would do it. He also stated that the entire west side would be fenced because they do not want cows in our subdivisions. He further stated that they will make the Ladd's happy and be a good neighbor.

Duane Brofer asked about if this was being withdrawn and the answer was no. Mr. Abrams asked Mr. Thome if the office going to be manned five days a week. Mr. Thome says the office would likely be open Monday though Saturday. Mr. Abrams asked if the salesman would have a problem without sanitary facilities. Mr. Thome says the sales people will just get in their car and drive down to his ranch house located close by and that if visitors were in need of facilities they could bring them down to the ranch house if needed.

Cruz Silva asked if the entry way for the Copper Hills drive been built? The Applicant indicated that nothing has been done or will be done until they have financing. Final plat requires Assurance Agreements to ensure that enough funding for the entryway intersection with lighting is available. Stated that it is half a million do get the Copper Hills entryway in and so he wants to use the current access point that he has for right now and will work with ADOT to get something that will work.

The Commission had no other questions so Chair Lynch asked for staff recommendations.

Keith Dennis stated that staff recommends denial of the requested Special Use based on the factors against approval.

Motion: A motion was made for conditional approval for SU-11-11. **Action:** Approve, **Moved by** Cruz Silva, **Seconded by** Duane Brofer

Gary Brauchla asked for clarification on if granting this request would result in a permanent special use permit for this parcel. Keith Dennis indicated that this only allows for the use but the next step would be a commercial permit. Mike Turisk, Interim Planning Director, stated that if the Commission wants to approve this Special Use Permit, that staff recommends a sunset clause. Structures associated with the sales office would have to be approved as part of the commercial permit process. Mr. Brauchla asked if the commercial permit process would require the Applicants to meet ADOT's conditions. Keith Dennis indicated that staff would transmit the commercial permit request to ADOT but that the access issues related to the state agency would be a separate issue. The Applicants would have to deal directly with ADOT outside the County's commercial permitting process. Mr. Lynch asked if that included the issues of a cattle guard. Again, Mr. Dennis stated that this would be included in the ADOT requirements.

Vote: Motion failed by a tied roll call vote (**summary:** Yes = 3).

Yes: Jim Lynch, Gary Brauchla, Cruz Silva.

No: Pat Edie, Duane Brofer, Dan Abrams.

Chair Lynch noted that 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 this afternoon 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 6 – PUBLIC HEARING, Docket Z-11-06 (Easter Mountain LLC): Chair Lynch noted that there were a lot of speakers for this docket and stated that he would sequence speakers in order with those against it and then those for it and finally would allow the Applicant to rebut any comments.

Interim Planning Manager Beverly Wilson presented this request to rezone a parcel of land from RU-4 (one dwelling per four acres) to SR-2 (one dwelling per two acres), in order to develop a subdivision project. The subject property (Parcel# 124-01-013H) is 556 acres in size and is located about 2 miles south of the I-10 J-6/Mescal Interchange, west of Benson, AZ. This parcel is an irregular shape adjacent to the Pima County line on the western boundary. Two proposed subdivisions are named, subject to change as this is a conceptual plan. The parcel has extreme topography with ridgelines and drainage ways running throughout the parcel. 14 neighborhoods are currently proposed. The actual subdivision will be back behind hills on the parcel and Ms. Wilson showed the Commission pictures illustrating the topography of the area.

Ms. Wilson stated the factors in favor and against and that staff had received a total of 21 letters of support this project within the notification area. Nine of those support letters came

in after the packets had gone out and they included a letter from the U of A Tech Park in Pima County. The adjacent developer for Red Hawk has indicated his support for this project. Supporters indicated the following were all positive: the use of a water company, organized development, private property rights, water conservation and recharge options, planned development instead of wildcatting, providing an asset to the area, praise for preserving the historic ranch house, control of light restrictions and the integration of smart growth policies of the State. Fifteen letters of opposition had been received within the buffer zones referencing concerns about setting precedence in higher density, water, traffic, access to the National Forest and concerns about property values.

Ms. Wilson explained that there were unresolved issues surrounding public access to the National Forest. Access to the Whetstone Mountains has been blocked off for many years. Public access has not yet been satisfactorily resolved between the Applicant and the Forest service.

With the recommended conditions the rezoning request meets with 11 of the 12 applicable factors analyzed. The area plans to be served by the Empirita Water Company and the Applicants have obtained a determination of Physical Water Adequacy. The Certificate of Need and Necessity has been issued by the Arizona Corporation Commission.

The factors in favor and factors against were presented.

Chair Lynch asked if there were any questions for Staff. There being none, Chair Lynch asked for the Applicant's statement.

Steve Lenihan, Easter Mountain Ranch, LLC, is one of the owners of the site and he indicated that his co-owner, Duff Herron, was also in the audience as well as several of his consultants who may speak to questions about the sustainability plan and any water issues. Mr. Lenihan explained that his goal was to sell real estate. He sees that maintaining the wildlife corridors, dark skies and preserving the historic ranch house will be assets to the area. They have worked on this rezoning for over five years. They early on, engaged a wildlife biologist, who spent six days on the property looking at the site and providing them with recommendations. He stated that over 100 meetings have been held with the public about this development project. He acknowledges that a lot of people are in support and a lot of people are against. He noted that most of their support is closer to the project and those against it are farther a way from the site itself.

The Applicant stated that they have agreed to grant access to the forest for equestrian, pedestrian, and bicycle access and to donate land for a trail head on their property. Water is an issue, but they have taken the step to obtain a water adequacy report from ADWR.

He turned over his presentation to Mike Grassinger, Planning Center, who stated that they have been a part of this project from the beginning. He felt that it was exciting that the developers were looking to meet many of the state's smart growth standards and that they had designed a number of sustainability standards for this site. Part of the sustainability plan is 11 categories with 72 specific standards that will be incorporated into the CCRs.

They range from architectural standards, including energy efficiency and light pollution to open space, with over 50% of the parcel dedicated to open space including trails and tied into the area of healthy living, especially for exercise. Water issues are addressed throughout the entire subdivision as it will be designed to use low water use, drought tolerant plants, mostly native and on a drip system and the entire project will have water harvesting which will enhance the open space. Standards for solar use and energy reduction are included along with cultural features and historic preservation. Economic development is also a factor, to encourage home occupation so there is a nexus between work and living. The U of A Tech Park is less than a half an hour commute from the site. The development will be set up with CC&R's to keep the sustainability committee and a development review committee to be maintained, reviewed and updated as technology progresses. They desire to use local people and local materials to construct.

Mr. Lenihan then addressed the market for this proposed development stating that they are planning to target the U of A Tech Park where they have over 8,000 employees, businesses in the airport area, Davis Monthan, Fort Huachuca, Border Patrol, and plan to talk with employees and relocation companies. They do think there is a way to make this work even in this economy. Every property owner, adjacent to their site, is in support. He believes the Commission should support his project because it is a model low density project; minimum drain on County services because they will maintain their own roads, their own Parks and Recreation, will have private water, septic and will join the Mescal Fire District. There will be off-site traffic requirements that they will be paying for. He thinks they are good neighbors from a fiscal standpoint and this is a good water conservation plan and will meet the factors for re-zoning. If approved, we will preserve the historic J-Six ranch house; donate an easement for equestrian, pedestrian and bicycle access along with a trail head; good for economic development.

The Commission had no questions for the Applicant at this time.

Chair Lynch opened the meeting to the public. He stated that there were three speaker requests that had no indication of for or against and he clarified speaker position with each. Chair Lynch then called members of the public that wished to address the Commission up individually to speak.

Thomas Lorenz, representing the US Forest Service, stated that they are opposed this subdivision at this time as it does not provide adequate access to the Forest, in particular motorized vehicle access which would connect to a road system within the forest.

George McKay, Access and Boundary Staff Officer for the US Forest Service clarified that the Forest Service never did send a letter in support of the project although they own adjacent land. Forest Service staff handed out a Coronado Forest Service map to the Commission. He stated that these areas do not have adequate access nor documented right-of-way. There is only one permanent legal access route at this time at Dry Canyon on the southeast side of the Whetstone Mountains. McKay described the types and kinds of access that they now hold. He questioned the character of the legal access as currently

proposed, especially if access is contingent on going through State Trust Land. He describes the Forest Services preferred access route and the need for a road.

Brad Fulk, representing Az. Game and Fish Dept., does not support this proposal as written, based on the lack of guaranteed, legal access to the Forest Service lands. Willing to entertain options to legal access and would change their position should adequate access be provided. They need an unrestricted dedicated access to the Forest, for hunting and fishing activities and general use of Public Lands. He didn't understand what a parking lot would do for access. He asked for a raise of hands of those that enjoy the use of public lands and then asked the Commission for questions.

Dan Abrams asked Mr. Fulk if the subdivision would block access that currently exists, or if he is asking for an access. Mr. Fulk stated that they are asking this developer through the development process to create the access. Dan Abrams clarified with Mr. Fulk that the Forest Service was asking for new access, not to reopen an old access that once existed.

Aaron Miller, Game and Fish, had nothing further to add.

Larry Audsley, from Tucson, representing Arizona Wildlife Federation, stated that they are opposed to the current proposal due to the lack of public access to public lands. They are looking for restoration of access that was lost about 30 years ago. The Whetstone Mountains are currently land locked just like other vast sections of public lands that the public cannot get to because of locked gates on adjacent privately owned lands. Once in a while a rezoning comes up that can be either a threat or an opportunity. This is an opportunity in southeast Arizona to get access to this site. Many areas are only accessible through private landowners. He stated that he supports private property rights but there is also such a thing as public access rights. Temporary, non-permanent access doesn't do us any good, in particular for future vehicle access. He indicated that he understands concerns about ATV; however, that is a matter for the National Forest to manage, not the surrounding landowners.

Samuel Wise, Red Hawk area, states that the three dozen or so people he has talked to aren't dead set against it except for the smaller lot size. Likes the four acre lot size; Red Hawk developed with three acre lots, which he believes is pushing the envelope. States that the closer the houses are together the sooner it goes to slums. He has seen it many times. Jim Vermilyea rebuilt J-Six Ranch Road to standards and they are tying into the end of it and they should help pay for it. However, he emphasized that he really wants them to stay with four acre lots.

Gray Gordon, Cochise County owner of 20 acres, brought in 62 petitions against this proposed re-zoning. They are primarily against the higher density. Would like four or larger acres. He stated that he would like to get around on his ATV but is locked out of most places. He thinks the Applicants have a good idea and he asks why they can't just stay with three acre lots. He states that he has over 240 names of people that are against the J-Six road being made larger or tied into state highway 90. He believes that the Applicants

should figure out how to connect into Marsh Station traffic interchange. He states that once this density is set it will be precedent for other development in the area.

Cruz Silva asked about the letters Mr. Gordon is referencing and Mr. Gordon indicated that he had not brought them in. Chair Lynch asks why the submitted letters were not provided to the County in advance to be included in the Commission packet. Gordon stated that he is sorry; he thought the procedure was that he should bring them in.

Bob Hendryk, lives in the older J-Six area, owns 15-acres bordering the ranch. His main concern is the water availability. He stated that he and his wife hiked up the washes, on the Pima County side, before the monsoons began, and the plants all looked totally dead. They stumbled onto the Empritia water supply site with an active well and everything east of that was green. He states he is not a hydrologist but he is concerned about this. The owner of the Emprita water company said they will sell them water if they run out but they don't want to buy it when they have their own well water right now.

Deborah Hendryk, J-Six area, stated that this was once a rural area. She is very concerned about this project setting precedent for higher density. She stated that she doesn't mind the project but does mind the density proposed.

Edward Soyring, adjacent property owner, supports the development; however, he has two concerns. The first is water. He stated that he believes that the doubling of homes will have an impact on the water table. He recognizes that they have proposed low water and recycling but these are all soft ideas, not requirements. The plan uses words like "encourage" not "required". People do not follow up on restrictions. Red Hawk has restrictions on non-native plants but you can see them all over in the fronts of homes. Other issue is precedent for the density. Support, as it has been presented, is slanted since the owners indicating support actually own multiple parcels. He noted that the Smith Ranch was voted down by referendum. He stated that this development first came up in 2007 and is virtually unchanged. He referenced the proposed plant list for the development and noted that pecan, and ash are moderate water users, are not appropriate for this area and do not manage to survive in less than 20 degrees. He then noted that this area dropped down to three (3) degrees last winter.

John Rodgers, stated that he is in opposition because of the problem with water table dropping and he doesn't want to lose his well. He would have to bring in water and he doesn't want that.

Julia Rebecca Robinson, Benson, read a statement from her neighbor, Barbara Bunting, J-Six, that spoke to the issue of the lack of marketability and the problem with developers that do not live here that are trying to build or make money by flipping higher density. The writer of the letter is against the higher density and references the Smith Ranch referendum. It was suggested that the Applicant work within the conservation subdivision regulations.

Lawrence Martinez, J-Six resident, expressed that residents out there have a number of concerns including water as number one and traffic as number two. All roads are currently 25 mph in the area and they do not want to see the speeds raised to 45 mph. They do not

want that or traffic signals. He stated that he believes that this development would result in the wells going dry. He expressed his concern that swimming pools would be allowed. The owners had previously stated that they would use a community pool but they don't plan to stop private swimming pools. He suggested that an escrow account be created to hold the local residents harmless if the wells go dry in the amount of one million dollars. Most wells are within the 400 foot range. Not sure that this will be suitable in the long term. He commented that costs for drilling a new well is difficult for seniors on fixed incomes.

Susan Moran, St. David, representing Cochise Trails Associations, stated that they are opposed to the plan as written. She indicated that in the 1960's the general public had vehicular access to the Whetstone Mountains but now are locked out. The only viable options are partnerships with developers of private lands. Exclusive access should not be allowed but a continuous access road should be required. Present plans take access through State Trust Lands which do not provide a legal access route at this time. Homeowner Associations should not have control over such a permanent access road. She referenced the recently approved PLAC policies regarding access to federal lands and the economic impact of birding and recreational uses in Cochise County.

Olga Halich, is against the proposal but did not wish to speak.

Mary McCool, Barbara Radzykewycz, Harry Stacy spoke as a team representing the J-Six/Mescal Community Development Organization. A PowerPoint presentation was presented to the Commission and provided a follow-up to the materials provided in a letter, with attachments, to the Commission. Mary reiterated the concerns regarding water, the necessity of the County to mitigating impacts, and questions posed by Pima County regarding water demand. Barbara spoke about the sustainability plan and noted that it does not offer specific requirements or restrictions but only suggestive policies. She asked for restrictions on swimming pools and requiring water conserving fixtures. Harry then spoke of the increased densities that allowing one-acre lots would cause, especially since this development is right up against the National Forest. An additional set of 31 letters were provided to the Commission. The Commission was asked to clearly listen to the public comment brought forward at this evenings meeting that are not supportive of doubling the density in this development. They support access to the Forest, and would like to ask for a new transportation analysis. 186 homes is the developer's right. He asked the Commission to consider the surrounding communities opinions before approving this re-zoning.

Chair Lynch called for a short five minute break and adjourned the meeting at 7:20 p.m.

Chair Lynch called the meeting back to order at 7:29 p.m. He explained that he had one more request to speak in opposition and stated who he had left to speak and asked if there was anyone else that wanted to speak. No additional attendees indicated they wanted to speak so Chair Lynch called up the next speaker.

Duane Bennett, US Forest Service, addressed the access issue to the Forest Service. The use of ATV's is restricted to off-county travel and there are limits to use only on authorized

routes. Monitoring is done by the Game and Fish Dept and other agencies, including law enforcement, drug trafficking, and illegal aliens. He notes that private owners will be backed up to the Coronado National Forest and, in his experience, these owners will put in gates and just access directly to the Forest. It will not be legal, but they will do it. The Forest Service would like an extension to the existing J-Six road and then disperse these visitors into the National Forest, which would minimize impacts on the private owners. They are only asking for a legal easement and the Forest Service will build and maintain the road.

Chair Lynch asks about the history regarding previous access. Mr. Bennett indicated that they have never had legal recorded access but folks did let people go through in the past but now gates are closed. Chair Lynch stated that it seems odd that the federal government has to ask for access. Mr. Bennett stated that they do have the power of condemnation but do not like to use it if there are other options.

Don Smith, lives about a mile east of this development, and wants to express his support for this project. He believes that this development will be a high-end place for someone to live. He contrasted this project with the J-Six Ranchettes, which was developed with smaller lots, even less than one acre. The biggest asset of this development, he believes, would be the use of a commercial water company with no private wells and good water conservation elements in place. He investigated the use of private wells in surrounding areas and the average ends up being less than three acres each and they have to also serve animals in the area. He is guessing that there are around 3,000 wells in that area and that might be why the wells are going dry. Dry wells can also be a natural thing and have nothing to do with development given the number of private wells in the area.

Patricia Fischer, J-Six area, supports this project because it would be positive for businesses in this area. These businesses moved into the area assumed growth would occur and she believes it would positively affect her home values. It would also add to property taxes to support Cochise County services, public schools, libraries, fire and police departments. She stated that the Northwest Transportation Plan is an excellent plan and this project would be a positive outlook for this plan. This project has complied with all the state and local laws so they should qualify for this rezoning.

Thomas Fischer, J-Six area, stated that they hold the grazing rights all around the Easter Mountain development. He stated that there is public access to the Coronado National Forest Service boundaries through Empirita Ranch in Pima County to the boundary. The Forest Service property has to take access through private lands and wants to know if they have to give up their own land to the Forest Service. There are no roads into the National Forest there now so he was wondering if the Forest Service was going to build a new road. He stated that he though the Forest service has a moratorium on new roads. He does not support the new access to the Forest Service across $\frac{3}{4}$ of mile across private land.

Cruz Silva asked if that access through Empirita Ranch in Pima County was shown on any of the maps presented to the Commission. Mr. Fischer indicated that this access was in Pima County and not shown on these maps.

Jim Vermilyea, developer of Red Hawk and owner of Empirita Water Company, and owns a home in Red Hawk. He lives in Tucson. He addressed previously mentioned concerns by earlier speakers. The Empirita well is half a mile to the west in Pima County. He had to go through a number of agencies to expand the service area, including ADWR. An impact study was completed confirming that the water supply was adequate for over 1,000 homes. He has suggested to other private owners on private wells they might want a water company, or to expand his system because it might be better all around in terms of reducing the impacts of all the private wells on each other. However, there is enough water for the planned homes without impacting existing wells. This project will generate millions of dollars for the County in taxes, while minimizing cost to the County with private roads. He believes this is a good project and would like to see the Commission approve it.

John MacKenzie, J-Six area, indicated that he was in favor of this project since the Applicants have spent a lot of time and resources on this project. He stated that all and all this project represented a good project and will supply homes that will be needed into the future. He supported the Applicants developing their property to the proposed standards.

John Soper, Tucson area and other properties in Cochise County, spoke in favor of the project because the Applicants have done a good job with designing this development. He believes this project could spark hundreds of jobs and economic development in Cochise County.

John Grabo, Tucson, representing U of A Tech Park, spoke in support of the project. From an economic standpoint this project provides quality of place, a factor in companies choosing to come to this area and could serve as an anchor to bring in economic development. Proximity to the workplace for housing is an important factor and the travel time to reach J-Six is within the average commute time for the greater Tucson area. The Science and Technology Park has future deployment potential with close to 7,000 people currently employed at the Park. These employees earn, on average double that of the average salary of Cochise County. They do expect up to 22,000 employees at this site in the future and this type of development, he believes, is viable.

George Scott, Benson, representing Southeast Arizona Economic Group, supports the project and believes that some of the issues with the Forest Service can be resolved by this Commission. He acknowledges that J-Six area has issues with many private wells but even at the time of the Smith Ranch project there was concern that water lines needed to be eventually brought out to J-Six from the City of Benson, because the area is not sustainable with just private wells. He feels that the 50% open space is one of the great features in this plan. He feels this is a good opportunity for increased sales tax and property tax to Cochise County. His group supports bringing economic development into the County and into the City of Benson.

Steve Lenihan offered in rebuttal his clarification that emergency access will be provided to the Forest Service and Mescal Fire Department since they will be provided a gate code. As for Forest Service public access, they do propose to open up access but just not for vehicle

access. He pointed out that there had never been any legal access to the Forest. Regarding lot size the Applicant noted that in J-Six two miles to the north lots are about an acre and a quarter in size. That would be the smallest lot they would have and the sizes would go up from there. He further stated that their well field is within Pima County where there is a good aquifer. Two problems with private wells in the area that he can see are that 1) they compete against each other and 2) they are sited in fractured bedrock. Their water access is in an aquifer in Pima County, not in fractured bedrock. This aquifer has the capacity to supply all of Red Hawk and this entire project at full build out. He noted that the Sustainability Plan has a vast majority of standards that are mandatory, possibly as many as 70%, and acknowledged that some are just recommendations. He noted that they have their hydrologist with them if the Commission has questions about the water issues.

Dan Abrams asked about traffic and traffic studies. The Applicant stated that PSOMAS do an engineering traffic study that showed that full build-out of both Red Hawk and their project with full growth in the area would bring the J-Six Ranch Road to about 70% of capacity at full build out. Improvements would likely be needed on the ramps to the Interstate and they will build those improvements when the threshold is reached that warrants them.

Dan Abrams asked if the Applicant maintained that their water use would have no impact on the J-Six wells. The Applicant responded that he would not say "no impact" but would say minimal impact, and noted that after five years there was a possibility of a six foot drop in the nearest well per their hydrologist's study. After 100 years, the water might be drawn down about 22 feet on the closest well. He then noted that the J-Six wells are quite a bit farther away from the nearest well, which he identified as being about $\frac{1}{2}$ to $\frac{3}{4}$ of a mile from their wells.

Chair Lynch then closed the meeting to the public and asked for the Director's recommendations.

Beverly Wilson stated that Pima County did have an opportunity to review the packet and has provided comments to the Commission. The access issue to the National Forest is also addressed by a recommended condition. She noted that the County had no knowledge of the letters of opposition provided at today's meeting and if we had staff might have had different findings or recommendations. Beverly Wilson then stated that the staff recommended conditional approval to forward the rezoning request to the Board of Supervisors for approval.

Chair Lynch asked for discussion from the Commission. Cruz Silva asked if the Applicants are required to open up a road or if it was up to the owners. Ms. Wilson stated that it is up to the Commission as it is not required by law. Chair Lynch stated that the Applicant does not appear to be in agreement with the condition. Mike Turisk, Interim Planning Director, stated that staff feels that the Forest Service issue has been an overarching bone of contention since 2007 and felt that this concern was significant enough to require a condition. Many of the County's policies speak to the need and desire for multiple uses on federal public lands like the Forest Service and multiple uses requires public access, including vehicular access. Pat Edie notes that the condition does not explicitly state vehicle

access, and notes that the Applicants say they will allow other types of access but not vehicles. Mike Turisk says that Ms. Edie is correct and that the Commission could add clarifying language if they desired. The language implies wholesale access but for the sake of clarification the Commission could add explicit language. Pat Edie indicated that she has a problem with requiring a private individual property owner to have to provide access.

Motion: A motion was made to forward a recommendation of conditional approval for Z-11-06. **Action:** Approve, **Moved by** Cruz Silva, **Seconded by** Gary Brauchla

Duane Brofer stated that the Commission is here to have public discussions on how they feel about projects. Public access seemed to him to be an issue and he thought that asking for a key isn't providing public access. If it was midnight one should be able to go into the Forest without having to ask for a key. He stated that he believed that we ought to insist on this. We do have to start working on access. He does not feel that two acres is good and he doesn't support that. Too many people with traffic and talk about the bottom line but we miss that how we can make this work. He thinks that the strong CC&R's should just state it not say 'encourage'. He does not support the rezoning.

Chair Lynch stated that the CC&R business...he has dealt with it and it is a civil court issue and it doesn't have much teeth. The County can't legislate that.

Duane Brofer says the CC&R's are like a deed restriction. He agrees that they are not enforced by the County; however, the home owners can enforce if they need to do so.

Chair Lynch says that the Homeowner Association where he lives hasn't met in 25 years and they aren't always very effective.

Mike Turisk stated that purpose of the optional conservation subdivision is to encourage innovative site plans and intended as a more cost effective way to develop land. But the County doesn't have sharp teeth to enforce; however, it is a carrot to encourage these types of developments.

Cruz Silva stated he is supportive of this rezoning because it meets all our regulations and there are zonings in the area that are less than two acres. He believes it will positively affect our economy and that we want that in the County.

Gary Brauchla stated that he also supports this because the Science and Tech Park people are the kind of people we want to attract to live in the County.

Vote: Motion carried by a majority roll call vote (**summary:** Yes = 5).

Yes: Dan Abrams, Jim Lynch, Cruz Silva, Pat Edie, Gary Brauchla.

No: Duane Brofer.

Chair Lynch noted that 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 this

evening 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.

PLANNING DIRECTOR'S REPORT

Mike Turisk noted that the Madison 1240 considered by the Commission last month will be before the Board of Supervisors on 8.23.11. The Landy Medical Dispensary has been appealed and will be heard by the Board on 9.27.11.

FUTURE AGENDA ITEMS/DOCKETS

One docket is expected next month for a zoning regulation amendment(s) related to the Monument Fire. The County is taking a look at the ALQ process with a work session expected to be scheduled shortly. Staff is also working on an item related to the Board's authority to modify site development standards, for example, those related to setbacks in matters that are before them for re-zonings.

Chair Lynch asked about the Elder Care Home that has now been involved in a Court case and asked if it has been resolved. Mike Turisk stated that it has not yet been resolved.

Mike Turisk provided the Commission with copies of the County's strategic plan, the first ever completed by the County. He stated that he believed the Commission would find it informative and interesting to read.

CALL TO COMMISSIONERS

Duane Brofer asked if any of the Commission members had taken a look at the Commission By-laws recently. He noted that about two or three years ago they were created and he thinks they need to be looked at again. He indicated that there are possible inadequacies in the By-laws as currently written noting that some things could be worded better. Mike Turisk asked if there were specific issues he recalled and Duane Brofer says he didn't write anything down. Mike indicated that any member could certainly e-mail staff with any thoughts and Chair Lynch asked that staff send all the members a current version with a request for them to take a look and forward any comments to Staff.

ADJOURNMENT

Chair Lynch, noting that there was no further business and with the consent of the members, adjourned the meeting at 8:30 pm. Duane Brofer seconded and approval was unanimous.

Planning & Zoning Commission Meeting

Sign in Sheet

DATE August 10, 2011

PLEASE PRINT

NAME	ADDRESS	PHONE #	ITEM #
1. Lawrence Becker	PO Box 64096 Tucson 85728	520-325-4980	
2. Carla Reaves	PO Box 1817 Sierra Vista AZ 85636	266-3114	
3. DONALD HERRIMAN	3396 W. Lynx Ln Benson AZ 85612	586-2962	
4. JUDY HERRIMAN	3396 W. Lynx Ln Benson AZ 85612	586-2962	
5. JOHN GERARD	9070 S. RIM RD Tucson	382-2487	
6. John Soper	28 Old Douglas Rd Tisbee, AZ	293-5050	
7. Bob Hendryk	24440 E. Tonopah Trail	520 586 2642	6
8. Del Hendryk	24440 E. Tonopah Trail	520 586 2642	6
9. George McKay	300 W. Congress	520-388-8423	6
10. George Scott	PO BOX 1312 Benson 160 W 4TH ST Benson	265-6858	6
11. Aaron Miller		591-5960	6
12. Patricia Fischer	1720 S. Circle Bar Rd Benson AZ 85602	520-586-8955	6
13. Thomas Lorenz	5990 S. Hwy 92 Herald, AZ 85616	520-559-2761	6
14. Max McNeal	Bill Clark PO Benson AZ	520-647-3585	6
15. Thomas R. Fischer	1720 S. Circle BAR Rd BENSON, AZ	520-586-8955	6

Planning & Zoning Commission Meeting

Sign in Sheet

DATE _____

PLEASE PRINT

NAME	ADDRESS	PHONE #	ITEM #
1. Olga Helich	657 S. Shortline dr Benson AZ	520-586-7915	6
2. Sheila Gordon	3173 W Williams Benson AZ 85003	520-586-8227	6
3. Sheila Gordon	3173 W Williams Rd Benson AZ 85003	520-586-8227	6
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