



## PLANNING & ZONING COMMISSION MINUTES

Wednesday, September 14, 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, and Bisbee, Arizona in the Board of Supervisors Board Room.

### ROLLCALL

Chair Lynch noted the presence of a quorum. He instructed the Commissioners to introduce themselves to the public. Chair Lynch then explained to the audience the procedures for considering a docket.

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

### CALL TO THE PUBLIC

Chair Lynch opened the meeting to the public to speak on any subject not on the agenda. A member of the public wished to speak.

Mr. Jackson commented on the Board of Supervisors 2-1 vote on September 13<sup>th</sup> to adopt Resolution 11-41 which declared approximately 8 miles of Airport Road as a County maintained road. Chair Lynch closed the "Call to the Public".

### APPROVAL OF THE MINUTES

Chair Lynch – opened for corrections on the minutes, Pat Edie mentioned she wasn't at the July meeting and so she abstained from the approval. The minutes were corrected to reflect this.

**Motion:** Motion to approve the minutes with the correction stated,

**Action:** Approve, **Moved by** Duane Brofer, **Seconded by** Pat Edie

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

**Yes:** Jim Martzke, Duane Brofer, Jim Lynch, Ron Bemis, Gary Brauchla, Cruz Silva

**Abstain:**

### Item 1

### PUBLIC HEARING, DOCKET SU-11-11 (Thome):

Chair Lynch stated that this docket was being reheard because of the implication of a tie vote which occurred at the last meeting. He continued by reading the By-laws on Special Use Dockets, which states that a tie vote will require the docket to be heard at the next Commission meeting.

Senior Planner Keith Dennis presented Docket SU-11-11, a Special Use request in order to establish a Professional Services land use on a 581-acre parcel per Cochise County Zoning Regulations Section (607.26). The Applicant's intent is to install and operate a 10' x 40' modular office building for use as a lot reservation office for the proposed Copper Hills subdivision, which is on an adjacent parcel to the north. Issues of concern for Staff included inadequate services, public safety, and the temporary use of the requested building. Staff's position was that this use would be more appropriate as a Temporary Use on the Copper Hills site rather than a Special Use on this parcel. Mr. Dennis explained the factors in favor included the temporary use of this sales trailer and that the Applicant does propose to meet all County development standards with the exception of the provision of water and wastewater. The factors against this proposal include: the Applicant previously agreed to have this access point closed off as part of a negotiation with ADOT for the Copper Hills Subdivision. Now the Applicant is asking for the access for a commercial use. Additional safety concerns from non residential traffic, inadequate access, no cattle guard, and no intent to provide wastewater services were also factors against this request. There were two letters received opposing the request.

Commissioner Bemis had a question about the gates located on the property and for a clearer understanding of the need for a Special Use instead of a Temporary Use.

Mr. Dennis suggested that the first question be asked of the Applicant. He then explained that per Section 1817, the sales trailer must be on the property being subdivided. Because this parcel adjoins the proposed Subdivision, it is considered a Special Use in an RU-4 Zoning District.

Commissioner Cruz asked if it was originally across the highway or is it in the same spot.

Mr. Dennis responded it is in the same spot.

Commissioner Cruz asked if this will be the main entrance for the subdivision.

Mr. Dennis responded that it would not be.

Chair Lynch requested the Applicant make their statement.

Mr. Alan Thome introduced himself as the representative for this request and explained his request. He updated the Commission on the recent Annexation by the Palominas Fire District and the approval received from the Arizona Department of Real Estate. He explained his negotiations with ADOT, his opinion on cattle guards, fencing and the gates that would be installed on the property.

Chair Lynch asked if a gate would be installed off the highway.

Mr. Thome responded they will install a gate.

The Commissioners asked the Applicant if there will be gates, fences and public access.

Mr. Thome responded there will be fences and gates, they will meet ADOT standards.

Chair Lynch opened the meeting for public comment on this docket.

Mr. Jack Ladd introduced himself as a neighbor to Copper Hills, and commented on the abundance of problems with cattle on the highway. He also mentioned the history of cattle coming through the gates and off that property onto the highway. He talked about the cost associated with fencing and cattle guards. Mr. Ladd offered a cattle guard to the Applicant.

Chair gave the Applicant an opportunity to rebut.

Mr. Thome mentioned the only reason for this trailer is for lot reservations to acquire financing. Afterwards it will be removed.

Chair Lynch asked Mr. Thome if Mr. Ladd offered him a cattle guard.

Mr. Thome responded yes he did however he is uncertain it meets ADOT standards.

Commissioner Bemis asked about other methods to meet the standard.

Mr. Thome said ADOT has specific requirements.

Chair Lynch closed the meeting to the public, and asked for the Planning Director's recommendation

Mr. Dennis recommended denial on the Special Use request, but did mention that staff had approval conditions to recommend in the event of approval.

Commissioner Bemis talked about Article 1 of the Zoning Regulations, which provides for public safety.

Chair Lynch entertained a motion for the docket.

Commissioners and Staff discussed ADOT position and County's position.

**Motion:** Motion to approve Docket SU 11-11 as written with the conditions of approval as recommended by staff.

**Action:** Approve, **Moved by** Cruz Silva, **Seconded by** Jim Martzke

**Vote:** Motion failed (**summary:** Yes = 2, No = 5, Abstain = 0)

**Yes:** Jim Lynch, Gary Brauchla

**No:** Jim Martzke, Duane Brofer, Ron Bemis, Pat Edie, Cruz Silva

**Abstain:**

Chair Lynch reminded the Applicant of their right to appeal.

## Item 2

**PUBLIC HEARING, Docket R-11-03:** Interim Planning Director Michael Turisk presented a proposed Zoning Amendment to Article 20, Section 2003 of the Zoning Regulations, concerning continuation, changes, or modifications to non-conforming land uses, lots and structures in a

catastrophic event. Currently, per Article 20, nonconforming lot redevelopment must comply with the current zoning regulations with regards to site development standards such as setbacks and site coverage. The proposed revision would allow property owners with structures damaged or destroyed by catastrophic events to be exempt from compliance only if the Board of Supervisors has deemed the catastrophic event an emergency.

Staff recommended to the Commission to forward a recommendation of approval to the Board of Supervisors.

Commissioner Edie asked if under the current zoning, a home could not be rebuilt on a parcel of 3 ½ acres in an RU-4 Zoning District.

Mr. Turisk stated that she was correct.

Commissioners discussed the docket.

Chair Lynch called for public comment.

Mr. Dave McElroy asked for clarification of the proposed regulations changes would these changes apply to potential property owners if a building was rebuilt with the same original footprint.

Mr. Turisk replied that the provision/exemption would be available to any future property owner; the determination of non-conformance will go with the land.

The meeting was closed to the public.

**Motion:** Motion to approve Docket R-11-03

**Action:** Approve, **Moved by** Jim Martzke, **Seconded by** Duane Brofer

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

**Yes:** Jim Martzke, Duane Brofer, Jim Lynch, Ron Bemis, Gary Brauchla, Pat Edie, Cruz Silva

**Abstain:**

### **Item 3**

**PUBLIC HEARING, Docket R-11-04:** Interim Planning Director, Michael Turisk presented a proposed regulation amendment to Section 508 of the Cochise County Zoning Regulations, known as the Cochise County Building Safety Code Owner-Builder Amendment (Opt Out Provision The proposed zoning amendment would allow property owners whose structures were damaged or destroyed by a catastrophic event as declared by the Board of Supervisors who wish to repair or rebuild on less than 4 acres to qualify for the residential owner-builder opt-out. Chair Lynch called for public comments, there being none; Chair Lynch closed the meeting to the public.

**Motion:** Motion to approve Docket R-11-04 and send to the Board of Supervisors for approval

**Action:** Approve, **Moved by** Jim Martzke, **Seconded by** Duane Brofer

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

**Yes:** Jim Martzke, Duane Brofer, Jim Lynch, Ron Bemis, Gary Brauchla, Pat Edie, Cruz Silva  
**Abstain:**

**Item 4**

**PUBLIC HEARING, Docket R-11-05:** Michael Turisk, Interim Planning Director presented proposed revisions to Article 20 of the Cochise County Zoning Regulations to codify the Board of Supervisor's authority to modify or waive site development standards for existing non-conforming structures or uses as part of a rezoning action. Site development standards, such as setbacks, may become nonconforming as a result of rezoning actions, which currently force the Applicant to apply to the Board of Adjustment for a variance to modify or waive the standard. This proposed amendment would give the Board of Supervisors this same authority. Mr. Turisk clarified that any future development on rezoned parcels would be required to adhere to the new zoning district's site development standards.

Mr. Turisk recommended the Commission forward to the Board a recommendation for approval.

Chair Lynch called for public comments, being none he closed the meeting to the public.

**Motion:** Motion to approve Docket R-11-05

**Action:** Approve, **Moved by** Jim Martzke, **Seconded by** Duane Brofer

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

**Yes:** Jim Martzke, Duane Brofer, Jim Lynch, Ron Bemis, Gary Brauchla, Pat Edie, Cruz Silva

**Abstain:**

**PLANNING DIRECTOR'S REPORT**

Mr. Turisk then presented the Planning Director's Report. He announced that there will be no meeting in October. He updated the Commission on recent and upcoming dockets. The application for the medical marijuana dispensary in Huachuca City on East Red Wing Lane approved by this Board in July has since been withdrawn by the Applicant. The application by Blanca Ruiz which was recommended for approval by this body last month was approved on September 13 by the Board of Supervisors.

The Madison 1240 Master Development Plan which was also recommended for approval will be considered by the Board on the 27th of September. The request to rezone 550 acres in the J-Six area from RU-4 to SR-2 will be considered by the Board of Supervisors on October 11. Staff continues to work on an update of the Cochise County Zoning Regulations.

**CALL TO COMMISSIONERS**

Chair Lynch opened the floor to the Commissioners.

Commissioner Bemis expressed his concern over highway access and egress issues and the Commissions responsibility to public safety.

Mr. Turisk deferred to Community Development Director Carlos De La Torre.

Mr. De La Torre Carlos stated the direction given to the Department from the Board of Supervisors is to continue to transmit the dockets to the various agencies. However, from this point forward, the Department will no longer recommend conditions requiring ADOT's approval. Applicants will be made aware that they need to deal with these issues separately with ADOT. From a land use component the Department will continue its role and responsibility for public safety.

Commissioner Bemis stated it seems the Commissioners do not need to be concerned as long as there was a letter of transmittal in the packet to ADOT.

Mr. De La Torre responded yes.

Commissioner Edie asked about the clout ADOT has.

Mr. De La Torre responded ADOT does have a lot of control. In the past the County has been acting as their enforcement arm by withholding permits and Certificates of Occupancy until ADOT's requirements were satisfied. There is a policy shift in regards to enforcement of those conditions.

Commissioners discussed the policy. Chair Lynch asked if it comes from the Board of Supervisors.

Mr. De La Torre responded affirmatively to Chair Lynch.

Chair Lynch asked for an item for another meeting; to review the County Planning Commission Ordinance. It would be useful to email to all the Commissioners the Ordinance.

Commissioners discussed timelines and the bylaws.

Commissioner Bemis asked Mr. Turisk about discussing the bylaws with another individual Commissioner.

Gussie Motter responded two may have a discussion.

Mr. Turisk stated however no quorum (5 or more) may; otherwise it is a violation of the Open Meeting Law.

**Motion:** Motion to adjourn

**Action:** Approve, **Moved by** Jim Martzke, **Seconded by** Ron Bemis

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

**Yes:** Jim Martzke, Duane Brofer, Jim Lynch, Ron Bemis, Gary Brauchla, Pat Edie, Cruz Silva

**Abstain:**

**ADJOURNMENT**