



**NOTICE OF MEETING**  
**Cochise County, Planning and Zoning Commission**

**September 14, 2011, at 4:00**

Cochise County Complex  
Board of Supervisors, Hearing Room  
1415 W. Melody Lane, Building G  
Bisbee, Arizona 85607

**AGENDA**

**1. 4:00 P.M. - CALL TO ORDER**

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

- 2. ROLL CALL** (Introduce Commission members, explain quorum and requirements for taking legal action.)
- 3. CALL TO THE PUBLIC** (Opportunity for members of the public to speak on any item not already on the agenda).
- 4. APPROVAL OF PREVIOUS MONTH'S MINUTES**
- 5. NEW BUSINESS**

**Item 1 – (Page 1) Introduce docket and advise the public who the applicants are.**

**PUBLIC HEARING, DOCKET SU-11-11 (Thome)**: The Applicant seeks Special Use authorization from the Planning and Zoning Commission in order to establish a 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 use as a lot reservation office for the proposed Copper Hills subdivision to the North.

**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 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 2 – (Page 38) Introduce docket and advise public who the applicants are.**

**PUBLIC HEARING, Docket R-11-03:** Consideration of amendments to Article 20, and Section 2003 of the Cochise County Zoning Regulations concerning continuation, changes, or modifications to non-conforming land uses, lots and structures. The Commission will consider and forward to the Board of Supervisors recommendations concerning the proposed amendments, which are intended to provide regulatory relief to property owners affected by the Monument and Horseshoe II fires.

**ANNOUNCE ACTION TAKEN** (If the Commission makes a recommendation, the docket will be heard by the Board of Supervisors on Tuesday, September 27, 2011 at 10:00 a.m., at the same location as the Commission meeting).

**Item 3 – (Page 40) Introduce docket and advise public who the applicants are.**

**PUBLIC HEARING, Docket R-11-04:** Consideration of adoption of revisions to the existing Cochise County Building Safety Code Owner-Builder Amendment Options and to Section 508 of the Cochise County Zoning Regulations. The Commission will consider and forward to the Board of Supervisors recommendations concerning the proposed amendments, which are intended to provide regulatory relief to property owners affected by the Monument and Horseshoe II fires.

**ANNOUNCE ACTION TAKEN** (If the Commission makes a recommendation, the docket will be heard by the Board of Supervisors on Tuesday, September 27, 2011 at 10:00 a.m., at the same location as the Commission meeting).

**Item 4 – (Page 42) Introduce docket and advise public who the applicants are.**

**PUBLIC HEARING, Docket R-11-05:** Consideration of adoption of revisions to Article 20 and of the Cochise County Zoning Regulations. The Commission will consider and forward to the Board of Supervisors recommendations concerning the proposed amendments, which would codify the Board of Supervisors' authority to modify or waive site development standards for existing non-conforming structures or uses as part of a rezoning action.

**ANNOUNCE ACTION TAKEN** (If the Commission makes a recommendation, the docket will be heard by the Board of Supervisors on Tuesday, September 27, 2011 at 10:00 a.m., at the same location as the Commission meeting).

**6. PLANNING DIRECTOR'S REPORT, INCLUDING PENDING, RECENT AND FUTURE AGENDA ITEMS**

**7. PENDING AND RECENT MATTERS**

- A) FUTURE AGENDA ITEMS/DOCKETS
- B) BOARD OF SUPERVISORS'S ACTIONS

**8. CALL TO COMMISSIONERS ON RECENT MATTERS**

**9. ADJOURNMENT**

Pursuant to the Americans with Disabilities Act (ADA), Cochise County does not, by reason of a disability, exclude from participation in or deny benefits or services, programs or activities or discriminate against any qualified person with a disability. Inquiries regarding compliance with ADA provisions, accessibility or accommodations can be directed to Chris Mullinax, Safety/Loss Control Analyst at (520) 432-9720, FAX (520) 432-9716, TDD (520) 432-8360, 1415 Melody Lane, Building F, Bisbee, Arizona 85603.

***DRAFT***  
**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 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 = 6).

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

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 23<sup>rd</sup> 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. 5<sup>th</sup> 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 through 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 Empritia 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 thought 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 ½ to ¾ 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. <u>Lawrence Beckler</u>	<u>PO Box 64096 Tucson 85728</u>	<u>520-325-4980</u>	
2. <u>Carla Reaves</u>	<u>Po Box 1817 Sierra Vista AZ 85636</u>	<u>266-3114</u>	
3. <u>DONALD HERRIMAN</u>	<u>3396 W. Lynx Ln Benson AZ 85612</u>	<u>586-2962</u>	
4. <u>JUDY HERRIMAN</u>	<u>3396 W. Lynx Ln Benson AZ 85612</u>	<u>586-2962</u>	
5. <u>John Geary</u>	<u>5070 S. Pima Rd Tucson</u>	<u>382-2487</u>	
6. <u>John Soper</u>	<u>28 Old Douglas Rd Bisbee, AZ</u>	<u>293-5050</u>	
7. <u>Bob Hendryk</u>	<u>24440 E. Tonopah Trail</u>	<u>520 586 2642</u>	<u>6</u>
8. <u>Del Hendryk</u>	<u>24440 E. Tonopah Trail</u>	<u>520 586 2642</u>	<u>6</u>
9. <u>George McKay</u>	<u>300 W. Congress</u>	<u>520-388-8423</u>	<u>6</u>
10. <u>George Scott</u>	<u>PO BOX 1312 Benson 160 W 4th St Benson</u>	<u>265-6858</u>	<u>6</u>
11. <u>Aaron Miller</u>		<u>591-5960</u>	<u>6</u>
12. <u>Patricia Fischer</u>	<u>1720 S. Circle Bar Rd Benson AZ 85602</u>	<u>520-586-8955</u>	<u>6</u>
13. <u>Thomas Lorenz</u>	<u>5990 S. Hwy 92 Herndon, AZ 85616</u>	<u>520-559-2761</u>	<u>6</u>
14. <u>Mary Mulwal</u>	<u>Bill Clark Rd Benson AZ</u>	<u>520-647-3585</u>	<u>6</u>
15. <u>Thomas R. Fischer</u>	<u>1720 S. Circle Bar Rd BENSON, AZ</u>	<u>520-586-8955</u>	<u>6</u>

# Planning & Zoning Commission Meeting Sign in Sheet

DATE \_\_\_\_\_

PLEASE PRINT

NAME	ADDRESS	PHONE #	ITEM #
1. Olga Klich	657 S. Shortline dr Benson AZ	520-586-796	6
2. Sheila Gordon	3173 W Williams Benson, AZ 85602	520-586-8227	6
3. Sheila Gordon	3173 W Williams Rd Benson AZ 85602	520-586-8227	6
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## **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 *VD*  
For: Michael Turisk, Interim Planning Director  
**SUBJECT:** Docket SU-11-11 (Thome)  
**DATE:** September 6, 2011 for the September 14, 2011 Meeting

### **REQUEST FOR A SPECIAL USE**

**Docket SU-11-11 (Thome):** The Applicant seeks Special Use authorization from the Planning and Zoning Commission in order to establish a Professional Services land use on the 581-acre subject property, per Section 607.26 of the Zoning Regulations. The intent is to install and operate a 10' x 40' modular office building for use as a sales office for the proposed Copper Hills subdivision to the North.

The project site, located on Parcel No. 102-34-001C, is located along the North side of S.R. 92, just West of Milepost 346. The Applicant is Alan Thome of Cochise 1900, LLC, represented by Jerry Gruetzemacher.

### **AUGUST 10, 2011 COMMISSION HEARING**

This Docket was the subject of a public hearing on Wednesday, August 10, 2011, before the Commission. A motion to approve the Docket resulted in a tie vote (3 – 3). The Commission bylaws explain the procedures surrounding tie votes as follows:

*“3.9.2 Majority votes on Special Use Permits shall be the final decision of the Commission unless appealed to the Board of Supervisors. Tie votes on Special Use dockets will result in the failure of the motion, not the docket and will automatically be moved to the next regularly scheduled meeting. A tie vote at the subsequent Commission meeting will result in the failure of the docket.”*

This Docket has been re-advertised and re-scheduled, in accordance with the above.

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

**Size:** 581 Acres  
**Zoning:** RU-4  
**Growth Area:** Category D (Rural Growth Area)  
**Plan Designation:** Rural  
**Area Plan:** Southern San Pedro Valley Area Plan

Existing Uses: Undeveloped

Proposed Uses: Addition of a 10' x 40' modular office building

**Surrounding Zoning**

Relation to Subject Parcel	Zoning District	Use of Property
North	RU-4	Undeveloped Land
South	RU-4	Undeveloped Land
East	RU-4	Undeveloped Land
West	RU-4	Undeveloped Land

**II. PARCEL HISTORY**

There is no history of any permit or violation for the subject property.

**III. SPECIAL USE REQUEST AND BACKGROUND (SEE CONDITIONS #1 AND #4)**

The Applicant, Alan Thome of Cochise County 1900, LLC, is the project manager for the proposed Copper Hills development. The Board of Supervisors approved the Tentative Plat for Copper Hills Phase 1 in December, 2010. This development, if approved and built, would be situated near the Northwest corner of S.R. 92 and Rio Vista Road (see Attachment C). While the developers and engineers associated with the LLC continue to work towards obtaining Final Plat approval for Copper Hills, the company has decided to attempt to market the project by installing a 10' x 40' modular office building near Highway 92, to be used as a "Lot Reservation" office.

The subject parcel, and other tracts of land in the area, are also owned by Cochise 1900, LLC, and are marked for use as future phases of the Copper Hills development (See Attachment C).



*Northward view of the project site as seen from the existing gated entrance.*

A developer may legally take lot reservations for subdivisions that do not have final plat approval under certain circumstances – if, for example, a public report has been filed for the subdivision. Another method is to file a Notice of Intent to Accept Lot Reservations with the Arizona Department of Real Estate (AZDRE). Upon acceptance by the AZDRE Commissioner of the request, a developer may accept deposits of up to \$5000.00 per each lot of the proposed

subdivision. Since the August 10, 2011 Commission hearing, the Applicant has completed this AZDRE requirement (See Attachment E).

The Application and subsequent legal advertisement for this use initially listed "Contract Constructive Services" as a proposed land use, but the Applicant has since clarified that the building would be used strictly as a lot reservation office, and would see no heavy truck traffic. The Special Use Application (Attachment A) represents an updated application reflecting the proposed use and anticipated impacts of the use.

Although the Applicant describes the proposed land use as a "Lot Reservation Office," the most applicable land use category would be that of a "Temporary Subdivision Sales Office," which is allowed in all Zoning Districts as a temporary use permit. Such permits, however, may only be issued on the property to be subdivided. Staff advised the Applicant to this effect, suggesting that a temporary use would be the best way forward, as it would be subject to fewer requirements, less time to complete, and lower fees than a Special Use. The Applicant instead chose the project site under current consideration, due to its proximity to and visibility from S.R. 92; the fact that there exists a paved access connecting the site to the latter; and the ready accessibility of electrical power and water to the project site. Because the project site is not on the proposed Copper Hills subdivision property, the Applicant was ineligible for a temporary use. Instead, Personal and Professional Services is the most applicable land use designation for the request on the chosen property. Such uses are allowed only by Special Use in the Rural District.

Per the Applicant, the life span of the project would be one year (See Attachment F – Citizen Review Report). The temporary nature of the proposal means this Docket is unique among Special Uses, which are intended to be "durable" land use changes that remain in effect unless actively changed, or unless revoked by Commission action. Likewise, Applicants must agree to the approval conditions imposed by the Commission in writing; such conditions are then recorded with the County Recorder's office, and "run with the land" thereafter.

Section 1716.03.F forms the basis of the standard condition #1, which staff recommends for all Special Uses. This Section requires that a Special Use Applicant *apply* for a permit meeting all conditions and development standards except as modified "within 12 months of approval of the special use or within the time frame otherwise specified by the Planning Commission." This Section further specifies that the commercial permit be *issued* no more than 18 months post-approval, or, again, "within the time frame otherwise specified." The Regulations thus provide the Commission with the means to modify the time frame within which permits must be issued.

Staff recommends that, due to the temporary nature of the proposal, that the Commission impose a modified standard Condition #1, requiring the Applicant to apply for the permit within 30 days of approval, and that the permit be issued within 90 days of approval. In order to ensure the use is temporary, staff recommends, as Condition #4, that the use be discontinued, and the trailer removed, within one year of Commission approval.

#### **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 these factors as submitted, but with the recommended conditions, would comply with five of the

nine applicable factors. The proposal is out of compliance with four factors. Staff notes that compliance with several of the factors depends upon the Applicant's willingness to comply with ADOT permit requirements and design standards which are outside County jurisdiction.

**A. Compliance with Duly Adopted Plans: Does Not Comply**

*The special use is consistent with 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 boundaries of the *Southern San Pedro Valley Area Plan*, which requires such items as landscape plans, color elevations and exhibits for proposed Special Uses, as well as architectural guidelines. It should be noted, however, that the Plan policies address what are assumed to be permanent land uses, whereas the current proposal is for a temporary use.

The application may be out of compliance with the Area Plan's access management policies as well. The Plan includes specific policies regarding new development along the Highway 92 corridor. Several of these reference the importance of compliance with County and ADOT recommendations. Two of these are most applicable here (p. 16):

*6. New development to identify means to ensure safe travel on Highway 92 where slower local traffic merges with faster through traffic.*

*7. Any added off-site impacts created by a new development will be identified in a report appropriately documented to the satisfaction of the County and ADOT and improvements made based on this report.*

The transportation aspects related to this Docket are more fully discussed below.



*Looking North at the project site. The proposed office would be situated at right.*

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

*The proposed special use shall comply with one or more of the purposes stated in the "Purpose" section of the applicable zoning district and harmonious with existing development.*

The purpose statements provided in Article 6 do not, generally, apply to the proposed use. One statement, however, does include a clause relevant to the request. Section 601.04 mentions, among other items, the need to minimize traffic congestion. For reasons described below, the project would not comply with this statement.

**C. Development Along Major Streets: Does Not Comply (See Condition #2)**

*The development limits the number of access points on major thoroughfares or arterial streets, and County collectors through the use of frontage roads, shared access, no access easements or other safe methods designed to minimize road cuts that create unsafe traffic conflicts, hazardous traffic congestion and obstruct the functioning of arterials.*

Although there is an existing paved access apron connecting the project site to S.R. 92, the access sees a minimal amount of traffic at this time. It is used for access to seasonal cattle grazing on the land, as well as to access to well sites intended to serve the future Copper Hills subdivision. The access is not, however, permitted by ADOT for the proposed use, nor does it meet ADOT standards for commercial Right-of-Way access.

As the population along S.R. 92 has grown, the highway has seen a steady increase in use. ADOT's access management plans for this corridor include limiting the number of access points, particularly non-residential access, to the Right-of-Way. In August of 2010, the developers met with ADOT to negotiate traffic-related strategies and mitigation. It was agreed then, that this point of access would be equipped with a cattle guard, that it would remain open for well site access only, and that, as the subdivision is built and internal access to the well site becomes available, it would be eventually closed altogether (See Attachment D – Transportation Planner Memo).



*Northward view of the existing single-lane concrete apron as seen from the South side of Highway 92.*

The current proposal, however, would allow non-residential traffic to enter and leave the site along a one-way driveway access. A one-way driveway along the highway means that, should a vehicle stop at the S.R. 92 travelway, waiting to merge onto the highway, approaching traffic would have to stop altogether to allow the vehicle to move before entering the site. Staff notes

that the speed limit along this portion of 92 is 65 mph, which could serve to exacerbate potential traffic conflicts related to the proposed use. The fact that the land is used for seasonal grazing also means an increased risk of cattle entering the Right-of-Way. The Applicant has stated his intention not to construct a cattle guard, but rather to fence off the area so as to keep livestock out of the project site. However, ADOT's position is that a cattle guard installed in an access that meets their commercial apron standards would be the most effective means of ensuring safety for livestock and vehicular traffic.

Condition #2, which is a modified version of the condition typically recommended by staff for all Special Use applications, would remind the Applicant of the need to comply with ADOT permit requirements, as well as design and construction specifications for improvements. As noted previously, however, ADOT standards and permit requirements are outside County jurisdiction.

**D. Traffic Circulation Factors: Complies (Subject to Condition #2)**

- 1. The special use is consistent with preservation of the functions of surrounding streets as defined in Section 102B3 (a-g) of the Comprehensive Plan.*
- 2. The special use does not result in the use of any residential street for non-residential through traffic.*
- 3. Consideration of future circulation needs in the surrounding area have been taken into account through right-of-way dedication and off-site improvements, if warranted.*

Number 3, immediately above, is the most applicable consideration here. As discussed in Factor C, above, Condition #2 would remind the Applicant of his responsibility to work with ADOT on matters relating to off-site improvements, which would serve to ensure orderly circulation and safety along this corridor.

**E. Adequate Services and Infrastructure: Does Not Comply (See Conditions #2 and #3)**

*The following factors are used to determine if there are adequate services and infrastructure to serve the special use:*

- 1. The applicant has provided adequate information to evaluate the impacts on roads, other infrastructure and public facilities. The applicant must demonstrate that there are adequate provisions to address the impacts identified; the applicant shall provide data supporting the estimated traffic volume as part of the application.*
- 2. If the site accesses on a road where existing demonstrable traffic problems created by incremental development have already been identified, such as a high number of accidents, substandard road design or surface, or the road is near or over capacity. If so, the applicant has proposed a method to address these problems.*
- 3. The proposed development meets or will meet the applicable requirements for street, sewer, or water improvements.*

4. *The site has access to streets that are adequately designed and constructed to handle the volume and nature of traffic typically generated by the use.*

The project site, as discussed, was selected in part due to its proximity to existing electrical and water utilities. Condition #2 would address the transportation-related aspects of this Factor.

The Applicant indicates no water or restroom services would be needed for the use, characterizing the unit as a “dry trailer.”

Section 1808 of the Zoning Regulations requires that all land uses comply with applicable water and wastewater standards per County, State, and Federal requirements. In addition to transportation-related requirements, Condition #2 would ensure compliance with water and wastewater standards prior to operation of the use.

#### **F. Significant Site Development Standards: Complies (See Conditions #1 and #2)**

*The special use adequately addresses the significant applicable site development standards, including development in or near a floodplain. The applicant has adequately justified any waivers requested from site development standards.*

The Applicant intends to meet all applicable site development standards, and has requested no modifications or waivers. Condition #1 would require, if needed, a revised site plan, meeting all development standards as applicable; Condition #2 would require compliance with other local, state or federal requirements as applicable.

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

The Applicant completed the Citizen Review process and received no response.

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

#### **I. Off-site Impacts: Complies (Subject to Condition #2)**

*Adequate measures have been taken to mitigate off-site impacts such as dust, smoke, noise, odors, lights or storm water run-off.*

The use itself would generate few if any discernable off-site impacts. No substantial clearing of land would take place; no outdoor lighting is proposed and the nature of the proposed use is not likely to create noise or dust impacts. Although the estimated trip generation for the project is low (4 to 21 trips per day), traffic-related impacts along Highway 92 are to be considered as part of this Application. As discussed above, Condition #2 would help contain and mitigate traffic impacts on Highway 92.

#### **J. Water Conservation: Complies (See Condition #2)**

*The special use complies with the water conservation policies in Section 102E of the County Comprehensive Plan or any other adopted area plan.*

The project site is within the boundaries of the Sierra Vista Sub-Watershed Policy Plan area. Although the Applicant intends to use the facility as a “dry trailer,” staff’s position is that, per Section 1808, some provisions must be made for water utilities and wastewater disposal for the

use. The standard Condition #2 would, if applied, ensure compliance with Sub-Watershed policies for water fixtures associated with the office.

## **V. PUBLIC COMMENT**

Staff mailed notices to property owners within 300 feet of the subject property, posted the property as required, and published a legal notice on July 20, 2011. Within the 300-foot notification buffer, staff has received a response from a neighbor opposing the project, due to livestock safety considerations along Highway 92. The Department has also received correspondence opposing the request from one neighbor outside the notification area. The objections cited by this neighbor are primarily concerned with potential water table-related impacts relative to the Copper Hills subdivision. Finally, staff also received a letter in support of the request from an additional neighbor outside the buffer area.

## **VI. SUMMARY AND CONCLUSION**

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

1. The proposed use would be, per the Applicant, a temporary use;
2. The Applicant proposes to meet all County site development standards;
3. Staff has received one letter supporting the request.

### **Factors Against Approval**

1. As part of subdivision related negotiations, the Applicant previously agreed to allow the closure of this point of access due to access management and safety concerns expressed by ADOT. The request, if granted, would instead sanction the use by non-residential traffic of a generally unused and inadequate point of access to the ADOT S.R. 92 Right-of-Way;
2. Compliance with several of the Special Use factors used by staff to evaluate the request depend upon the Applicant's adherence to ADOT improvement standards as mentioned in Condition #2. Staff has safety concerns with allowing non-residential traffic onto a one-lane driveway where the speed limit is 65 mph, as well as the possibility of livestock entering the right-of-way. ADOT design and construction standards would, if implemented, mitigate these concerns, but these are ultimately beyond the ability of the County to enforce, as the Highway 92 right-of-way is not under County jurisdiction. Moreover, the Applicant has indicated in writing his intention not to comply with such standards;
3. The Applicant seeks to establish a commercial land use, but does not intend to provide water or wastewater services to the proposed use;
4. Staff has received two letters opposing the request.

## **VII. SUMMARY AND RECOMMENDATIONS**

Special Use Permits are considered and granted for permanent land use changes, intended to run with the land in perpetuity. The Applicant proposes to use the Special Use process to establish a temporary use. Staff's position is that the proposed land use should be located on the property to

be subdivided. This would allow the lot reservation office to proceed as a temporary use, as intended by the Applicant. Additionally, traffic and safety concerns arising from the proposed location along S.R. 92 would be remedied if the project were to be sited on the Copper Hills property, as it would not directly access Highway 92.

Based on the factors against approval, staff recommends **denial** of the Special Use request.

Should the Commission vote to approve the use, staff recommends such approval be subject to the following conditions:

1. Within thirty (15) 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. The Applicant shall apply for a building/use permit for the project within 30 days of approval, such application to include a completed joint permit application. The building/use permit shall include a site plan in conformance with all applicable site development standards, and with Section 1705 of the Zoning Regulations, the completed Special Use permit questionnaire, and appropriate fees. A permit must be issued within 90 of the Special Use approval, otherwise the Special Use may be deemed void upon 30-day notification to the Applicant;
2. 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. This includes, but is not limited to compliance with ADOT permit requirements and design and construction standards; compliance with the Sierra Vista Sub-Watershed water conservation policies; and any regulations as may be applicable per the Arizona Department of Real Estate;
3. 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;
4. This Special Use Permit will be valid for one year after the date of Commission approval, after which time operation at this location shall cease and the trailer removed from the property.

Sample Motion: *"Mr. Chairman, I recommend approval of Docket SU-11-11, with the conditions of approval as recommended by Staff; with the factors in favor of approval constituting findings of fact."*

**VIII. ATTACHMENTS**

- A. Special Use Application
- B. Location Map
- C. Site Plans
- D. Transportation Planner Comments
- E. Correspondence
- F. Citizen Review and Public Comment



A statement has been submitted that a site plan will be submitted within one year of the first phase and building permits will be submitted for the entire project within 5 year.

**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: 10201005 ZONING DISTRICT Pu-4

APPLICANT: TERRY GRUETZEMACHER

MAILING ADDRESS: P.O. BOX 4111

CONTACT TELEPHONE NUMBER: 520 366-0111 (602) 367-8444

PROPERTY OWNER (IF OTHER THAN APPLICANT): Cochise County 1900 LLC

ADDRESS: 4025 E. PRESIDIO ST  
ME SA, AZ 85215

DATE SUBMITTED: 6/24/2011

Special Use Permit Public Hearing Fee (if applicable) \$ \_\_\_\_\_  
Building/Use Permit Fee \$ \_\_\_\_\_  
Total paid \$ \_\_\_\_\_  
*PAID BY [Signature] CHECK # 5409*

**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.

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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? VACANT LAND

2. What is the proposed use or improvement? SALES/ CONSTRUCTION TRAILOR  
FOR TEMPORARY USE

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? OCCASIONAL VISITORS  
TO DISCUSS REAL ESTATE HOME SALE - NO IMPACT ON NEIGHBORS

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

SALES OFFICE FOR HOMES TO BE BUILT 1/2 MILE AWAY  
IN COPPER HILLS SUBDIVISION

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)

WOOD FACTORY BUILT SALES/CONSTRUCTION TRAILOR

6. Will the project be constructed/completed within one year or phased? One Year yes  
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: 7 Hours (from 9 AM to 6 PM)

B. Number of employees: Initially: 2 Future: 3  
Number per shift Seasonal changes N/A

C. Total average daily traffic generated:

(1) How many vehicles will be entering and leaving the site.  
5 TO 20

(2) Total trucks (e.g., by type, number of wheels, or weight)  
ASSORTED SOME HEAVY SOME NOT

(3) Estimate which direction(s) and on which road(s) the traffic will travel from the site?  
EAST & WEST ON HWY 92

(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 heavies  
UNKNOWN

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 None 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:

Service	Utility Company/Service Provider	Provisions to be made
Water		
Sewer/Septic		
Electricity	APS	
Natural Gas		
Telephone	QWEST	
Fire Protection	PALOMINAS	

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

1. Describe any activities that will occur outdoors.

PARKING  
\_\_\_\_\_  
\_\_\_\_\_

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. Nothing will be visible to neighbors as the closest neighbor is over a mile away
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. \_\_\_\_\_

**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 Jerry D. Gaudin

Date signed 6/24/2011

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)

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 is one acre or larger, what specific water conservation measures are proposed? Describe here or show on the site plan submitted with this application.

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2. How many acres will be cleared? 1/2  
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.) \_\_\_\_\_

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# COMMUNITY DEVELOPMENT DEPARTMENT

*Planning, Zoning & Building Safety*

1415 Melody Lane, Bisbee, Arizona 85603

(520) 432-9240

Fax 432-9278

## Hazardous Materials Attachment

Firm's current name: GRANDE VISTA REALTY

Current location: 4605 HWY 92

Fire district: PALOMINAS

Nearest main intersection with street names: HWY 92 + RIO VISTA

Distance: ONE MILE miles      Direction: EAST

### Firm's previous location(s)

Previous name(s) of firm/operation: NONE

Previous location(s): NONE      Date(s): \_\_\_\_\_

Previous compliance/accident history: \_\_\_\_\_

Date(s): \_\_\_\_\_

1. List hazardous and polluting materials (including raw materials, products, wastes, emissions, discharges, etc.) that will be brought to, stored, manufactured, produced, generated, processed or otherwise used at or released or transferred from the site and the quantities you will store. Material Safety Data Sheets (MSDS) are required for all such substances.

NONE

Material \_\_\_\_\_ Quantity \_\_\_\_\_

Material \_\_\_\_\_ Quantity \_\_\_\_\_

Material \_\_\_\_\_ Quantity \_\_\_\_\_

Material \_\_\_\_\_ Quantity \_\_\_\_\_

2. How will substances be stored? (For example, automotive batteries require impervious flooring, flammables require NFPA 30 cabinets, gas cylinders need restraints, and many chemicals have specific requirements, such as secondary containment areas for liquids. These requirements are found in the MSDS or can be requested from ADEQ.)

N/A

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3. What methods will ensure proper containment during use or ventilation? (Waste and by-products as well as substances have specific needs to control damage from those products.)

N/A

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4. Is any welding being performed and where? (Flammables must be kept away from sources of ignition such as electricity, arcs, sparks, hot metal or open flame. Gas cylinders must be secured.)

No

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5. How will waste/ excess substances be disposed of? (Commercial operators may not use the County transfer stations' hazardous waste program. They handle only household materials.)

N/A

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6. What evacuation, treatment and notification will be made if there are any releases to groundwater or air? (Notification may be required to the Sheriff's Department, adjacent neighborhoods, State Fire Marshal, local fire district, ADEQ, and/ or EPA.)

N/A

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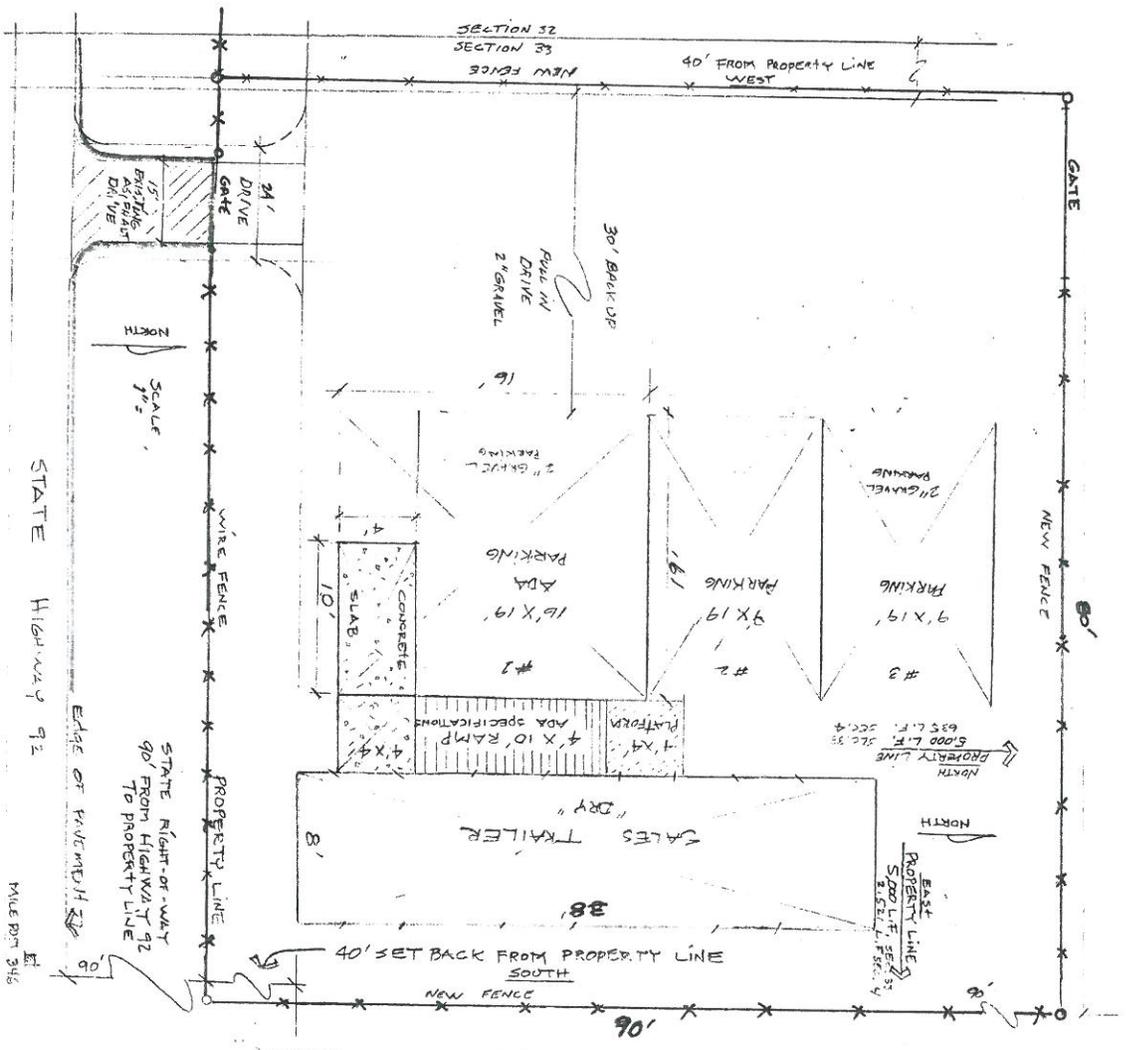
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Signature Jerry Gonzalez  
Date 6/24/2011





**Site Plan for Sales Trailer**

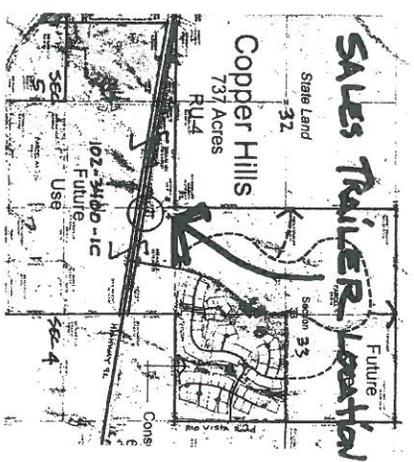
Jerry Gruetzemacher  
520-366-0111

Alan E. Thome  
480-390-9990

Tax Parcel Book 102-3400-1C  
Northwest corner of Section 4,  
Township 24 South, Range 23 East  
Zone RU-4  
Site area 80' wide 90' deep  
7,200 sq. ft. (.17 acres)

No washes are within 300' of subject

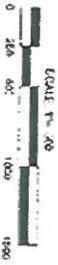
Sales Trailer - is dry  
Bottle water will be on site  
No waste water  
Short stay with Customers



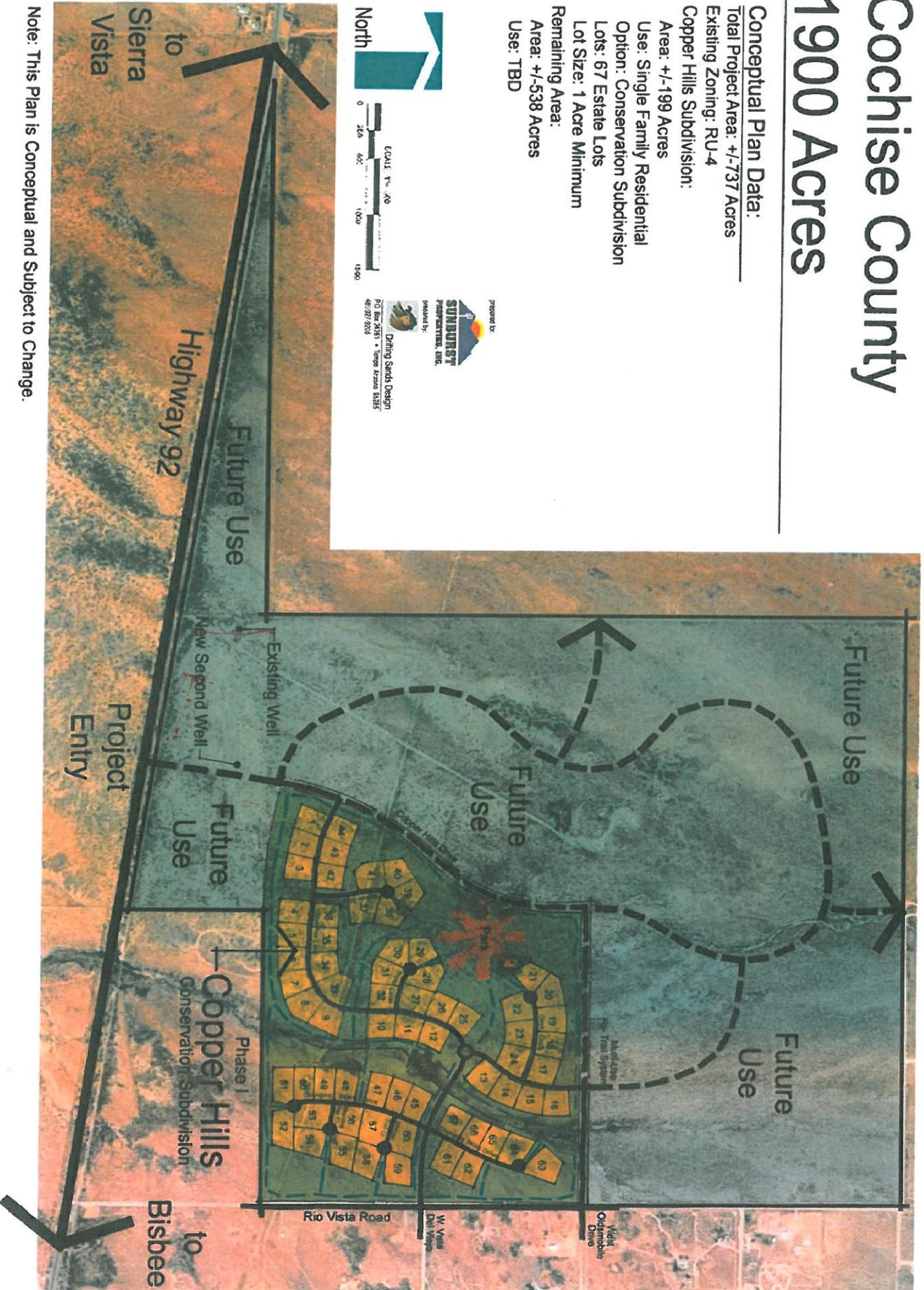
# Cochise County 1900 Acres

## Conceptual Plan Data:

- Total Project Area: +/- 737 Acres
- Existing Zoning: RU-4
- Copper Hills Subdivision:  
Area: +/- 199 Acres  
Use: Single Family Residential  
Option: Conservation Subdivision  
Lots: 67 Estate Lots  
Lot Size: 1 Acre Minimum
- Remaining Area:  
Area: +/- 538 Acres  
Use: TBD



Prepared by  
  
**SUNBURST**  
 PROPERTIES, INC.  
 Provided by  
  
**Drilling Sands Design**  
 PO Box 4000 • Sierra Vista AZ 85635  
 48-287-5258



Note: This Plan is Conceptual and Subject to Change.

C 12



## **COMMUNITY DEVELOPMENT DEPARTMENT**

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

Phone 520-432-9240  
Fax 520-432-9278

*Carlos de la Torre, P.E. Community Development Director*

### **MEMORANDUM**

**TO:** Keith Dennis, Planner II

**FROM:** Karen L. Lamberton, County Transportation Planner

**SUBJECT:** Copper Hills Construction & Sales Offices: SU-10-02/Parcel # 102-01-005

**DATE:** July 18, 2011

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The applicant has previously submitted to Cochise County a proposal for the Copper Hills Subdivision; a 1,240 acre development with an initial phase of one 67 lot subdivision on roughly 199 acres. The site is located along highway 92 and access for the development has been proposed at milepost 346.24. The applicants included a preliminary Traffic Report as part of their tentative plat submittal. Cochise County and ADOT provided comments on this report in July and then met with the applicant on August 4, 2010. At that meeting agreement was reached with ADOT, with the concurrence of the County, on off-site mitigation on Highway 92; including agreement on the location of primary access to the site and, relevant to this proposed Special Use Request, agreement that the existing Ranch access point will continue to be allowed in the near-term (for access to the well site) with an eventual permanent closure, with the inclusion of a cattle guard for existing width and a gate to limit access.

The applicant now proposes, in advance of a final plat for the subdivision, a construction office and a sales office taking primary access from the existing ranch access point. The intent of allowing, for the near-term only, the ranch access point, was to continue to permit access to the existing well site until the infrastructure was built up enough to reach the well through improved streets and an adequate access point onto the state highway. The applicant appeared to believe at the time of these negotiations that no other traffic would be accessing the development at this point and to ensure that this would be the case a gate would be installed to limit that access. Clearly, a construction office and sales office would not only be generating traffic beyond that of a occasional use but would also include larger construction trucks intermingled with visitors interested in the development. Typical trip rates for a combined general office of this size and number of employees would likely range from 4 to 21 trips per day per the ITE Manual, 8th edition. A full commercial access apron would be needed and, although the applicants did not request a sign at this time, it could anticipated a request for directional signs would rapidly follow.

#### **Recommendation**

We believe that this application is premature. The proposal moves ahead of a final plat and a completed/approved Traffic Impact Report. In addition, it proposes access in direct contradiction to agreements with ADOT on how the existing ranch access was to be used and how it would be described and phased out in the final Traffic Report.

Cochise County and ADOT were given assurances from the applicant at the time of approval of the first phase tentative plat for the Copper Hills subdivision that the Traffic Report would be finalized quickly and resubmitted for approval. Approval of a revised Traffic Report clearly stating the agreements on off-

site mitigation and phasing was required prior to final plat. A full Traffic Impact Analysis was potentially going to be needed as part of the second phase of this subdivision's development to address future phases and signal warrants. If that final and approved Traffic Report was completed, as was anticipated, this proposed access for a construction and sales office would not be under consideration. The location of such uses would logically be from the primary access gateway point as the first point of contact for potential new owners for lots throughout the entire planned development.

We do not recommend approval. This use should be included in the final plat before the Planning and Zoning Commission with access consistent with a final Traffic Report. However, if the Commission would like to consider approving this docket we would recommend the following conditions:

- ↓ A completed and approved Traffic Report (previously required prior to final plat) be required prior to permit issuance;
- ↓ The required Traffic Report include this new use of the Ranch Rd. access point and describe a timeline for the permanent closure of this access point;
- ↓ That the access apron be reconstructed to meet ADOT's current commercial access design standards, including, as previously noted and agreed upon, a cattle-guard prior to operation.

cc: Docket SU-11-11; ADOT



John S. Halikowski  
Director

# Arizona Department of Transportation

## Intermodal Transportation Division

206 South Seventeenth Avenue Phoenix, Arizona 85007-3213

August 1, 2011

Floyd Roehrich Jr.  
State Engineer

COCHISE COUNTY

AUG 03 2011

PLANNING

Cochise County  
Planning & Zoning  
1415 Melody Lane  
Building E  
Bisbee, AZ 85603

RE: SR 92 Copper Hills, Transmittal Letter from Cochise County Community Development Department

Dear Ms Lamberton and Mr. Dennis:

We have reviewed the above referenced Transmittal Letter and review comments by the Cochise County Planning Department and offer the following responses. Regardless of any caveat, the Traffic Statement (or Traffic Impact Analysis) for full build-out of the development needs to be completed and final agreements for improvements need to be reached with the Developer. The Traffic Statement is required for any development that generates 100 or more trips in any one hour and is a requirement for the Encroachment Permit process.

The option preferred by ADOT Safford Districts Permits and Regional Traffic Engineering would be to make the improvements at the proposed Copper Hills access as was initially discussed with the Developer in July, 2010. This option would help to minimize "throw-a-way" improvements and would move toward the optimum plan for the development access. The Copper Hills access could be improved to interim specifications while the Developer opens the lot "reservation" sales trailer. Optimum improvements (right turn and left turn lanes, illumination of the intersection, etc.) could be postponed until such time as the subdivision is opened for development and lots are actually being improved for homes.

Minimum improvements would be required for any access regardless of the location in order to grant access to the ADOT right-of-way. The Developer would need to make improvements under an encroachment permit and to ADOT standards and specification. The improvements would include, but are not limited to the following:

1. Sight distances for stopping, intersection and passing to AASHTO requirements for 65 MPH.
2. A stop sign (R1-1) stopping the southbound traffic movement on Copper Hills (or alternative access) for the through traffic on SR 92.
3. A cattle guard and gate system per ADOT standard for commercial access.
4. Paved access to ADOT standards and specifications.
5. 40 ft radii at the access for commercial access.
6. Submittal of a bond that shall cover the work projected and the restoration of the ADOT right of way should the project fail.

E24

August 1, 2011

Response to Cochise County Copper Hills Transmittal

P. 2

ADOT would consider permitting an interim access at the well site road with certain stipulations:

7. The interim access shall require submittal of a bond that shall cover the work projected and the restoration of the ADOT right of way should the project fail.
8. Provide documentation of an easement to encroach the adjacent property for the interim access.
9. The interim access shall be subject to the same improvements as the Copper Hills official access.
10. Once the Copper Hills access is improved to accommodate the proposed development plan, the interim access shall be removed and the right of way shall not have a ranch access or driveway.

Should you have any question(s), please contact me.

Regards,



Armando J. Membrila, CPM  
ADOT Safford District Office  
2082 E. Highway 70  
Safford, AZ 85546  
928-432-4915 – office  
928-428-7523 – fax  
520-507-7555 – cell  
[amembrila@azdot.gov](mailto:amembrila@azdot.gov)

Cc: Bill Harmon, P.E., Safford District Engineer, ADOT  
Tom Engle, P.E., Safford District Maintenance Engineer, ADOT  
Karen Lamberton, Transportation Planner, Cochise County  
Dee Crumbacher, Transportation Engineering Specialist, ADOT  
File

E25

Memorandum

To: Keith Dennis, Planner and related parties

From: Cochise County 1900, llc / Alan Thome, Developer of Copper Hills

Subject: Pre – Sales Trailer / Special Use

Date: September 6th, 2011

Please accept these comments for the Planning and Zoning board to consider in their decision making process;

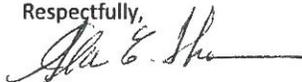
1. Our sales trailer site request will only be used for a short period of time.
2. The sales trailer will be moved when the new entrance road (Copper Hills Drive) is construction along with the subdivision.
3. The sales trailer site is approximate 90' X 90' and abuts the Highway 92 right-of-way. Visitors leaving the sales site will have minimal speed. The parking lot will be gravel and secured.
4. The existing asphalt apron is adequate for two cars (see photos).
5. We expect one to two customers per day and their visits will be a short.
6. This sales trailer will be used in daylight hours.
7. We are not requesting a permanent grant for that is typical in a Special Use Permit.
8. The sales trailer use is "normally granted" under a "TEMPORARY SUBDIVISION SALES OFFICE" utilizing a temporary use permit. This temporary sales trailer does lie within phase two of Copper Hills a part of the overall project. This trailer site along with the two servicing wells and the entrance road (Copper Hills Drive) all are within the same tax parcel. The only thing splitting these items from the subdivision itself is the tax parcel line. It's not any different than the annexation of the fire district line. Cochise County 1900, llc just annexed all of Section 33 into the Palamonis Fire District that is now a part of the overall Copper Hills plan.

The objective to using this sale trailer at this time is to provide additional assurance to our lender that interested buyers have visited the site, filled out a lot reservation form and made a minimum deposit of \$1,000.00 to a local Title Company. We are currently working with 5 potential customers.

A key requirement to the recordation of a Final Plat in Cochise County is to provide finance assurance. In today's financing environment lot reservations are a must to secure financing.

We are not asking for any changes to the original design or intent.

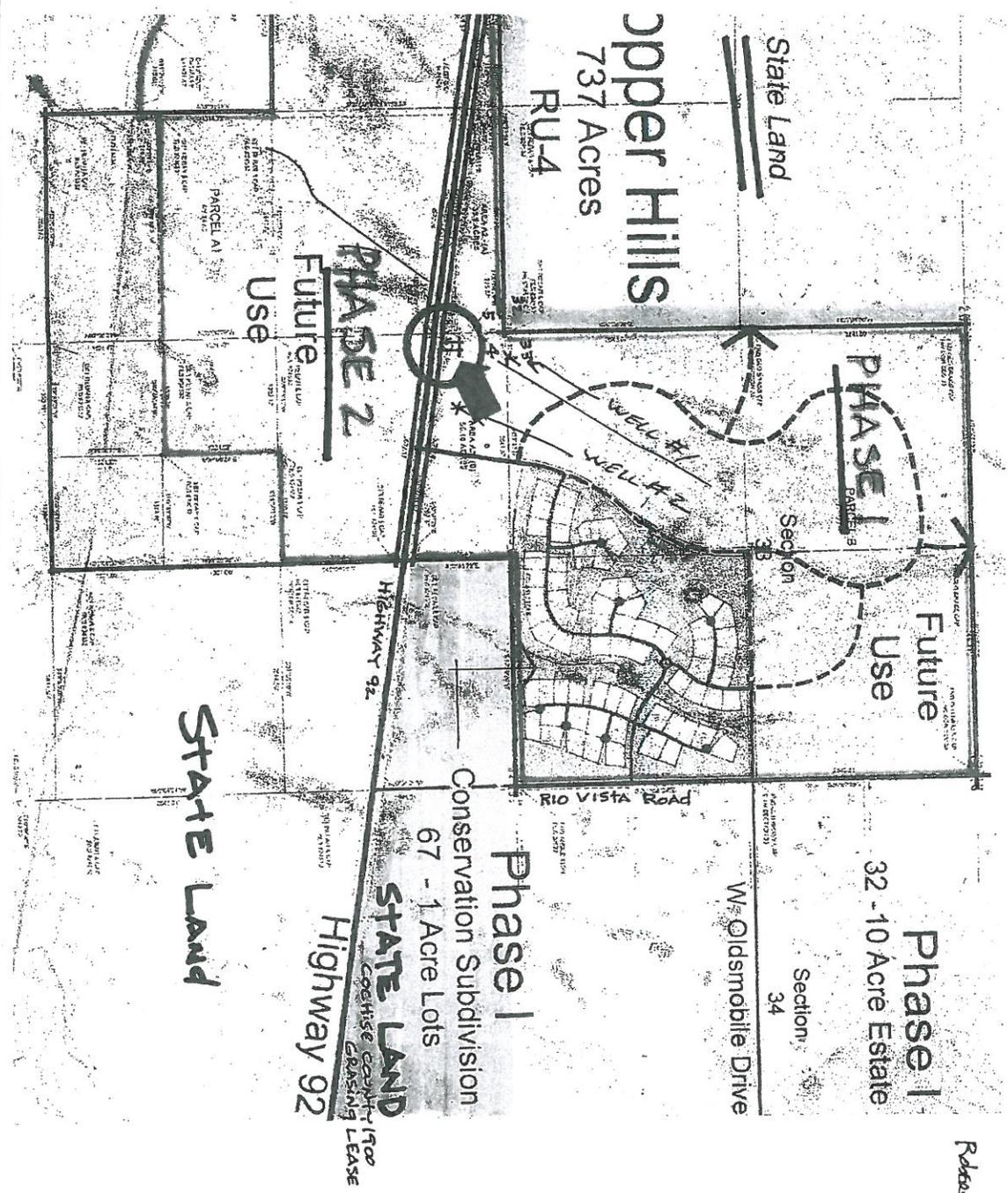
Respectfully,



Alan E. Thome  
Cochise County 1900, llc / Manager

Rafael Mess

E 27



## Dennis, Keith

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**From:** a.thome@cox.net  
**Sent:** Thursday, September 01, 2011 10:18 AM  
**To:** Dennis, Keith  
**Subject:** Copper Hills

**Attachments:** Depatrnent of Real Estate {60860936-45AF-4895-8422-55D348C774B1}.pdf



Department of Real  
Estate {608...

Hello Keith,

Yesterday I received a call from Mr. Tommy Stoner stating that the Palominas Fire District had their monthly meeting and that they voted in all of SECTION 33 (the section Copper Hills sits in). Therefore, our Sections 4 and 5 and now Section 33 are all within the service area of the Palominas Fire District. Mr. Stoner said within a day or so I will have this approval in writing and it will also be recorded with Cochise County very shortly.

You will find attached our NUMBERED approval to take lot reservations from the Arizona Department of Real Estate for Copper Hills.

Thanks,  
Alan Thome  
480-390-9990

ADRE Number: DM11-055808  
COPPER HILLS  
LOT RESERVATION

NOTICE OF INTENT  
TO ACCEPT LOT RESERVATIONS

In accordance with A. R. S. § 32-2181.03, the undersigned hereby gives notice of Seller's intent to accept lot reservations and provides the following information. (Use separate sheet if necessary)

Project Name (Recorded and marketing name, if any): COPPER HILLS

Project Location (Provide city, county, and detailed information on how to drive to the project):

BISBEE, ARIZONA - COCHISE COUNTY, 5-MILES WEST OF INTERSECTION OF NACO HIGHWAY AND HIGHWAY 92. THE SUBDIVISION FRONT HIGHWAY 92 & RIOVISTA ROAD.

Seller (Provide name, address and telephone number of each seller):

COCHISE COUNTY, 1900, LLC - ALAN THOME MANAGER  
4025 E. PRESIDIO ST. MESA, ARIZONA 85215 480-390-9990  
ALAN E. THOME IS THE DESIGNATED BROKER FOR SUNBURST PROPERTIES, INC.

Broker (Provide name, address and telephone number of any real estate broker retained by seller to promote lot reservations):

GRANDE VISTA REALTY, JERRY GRUETZEMACHER - DESIGNATED BROKER  
520-355-0111 P.O. BOX 4111 BISBEE, ARIZONA 85603

Attached to this notice is the lot reservation form, which will be used by Seller.

Seller understands that the Commissioner may deny authorization to accept lot reservations and that reservation authority expires 2 years from the date of this notice.

LOT RESERVATION FORM APPROVED FOR USE  
BY: ROSE FRAZE  
ARIZONA DEPARTMENT OF REAL ESTATE  
DATE: 8-31-2011

State of Arizona

County of Maricopa

The undersigned Alan E. Thom, being duly sworn, deposes and says that the statements herein contained, and the documents submitted herewith, are full, true and complete.

Date: AUGUST 25<sup>th</sup> 2011

Subscribed and sworn to before this

Seller: [Signature]

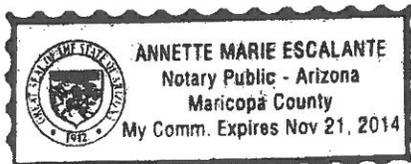
25 day of August, 2011

By (Name and Title) ALAN E. THOME

Manager Cochise County 1900, LLC

[Signature]  
Notary Public

My commission expires NOV. 21, 2011



**LOT RESERVATION**

This Reservation was made this \_\_\_\_\_ day of \_\_\_\_\_, 2011, between CCL1900LLC. "Seller," and the undersigned as "Prospective Buyer."

The Prospective Buyer hereby reserves Lot \_\_\_\_\_ (the "Lot") in COPPER HILLS Subdivision (Phase I) located in COCHISE County, Arizona and a deposit in the amount of \$\_\_\_\_\_ (maximum \$5,000.00), receipt of which is hereby acknowledged by the Seller, is made and accepted upon the following terms and conditions:

1. The deposit shall be delivered to PIONEER TITLE CO, in Sierra Vista, AZ, "Escrow Agent" and deposited by Escrow Agent within one business day of being accepted by Seller in a depository insured by an agency of the U.S. Government. Except as hereinafter set forth, the deposit shall be refunded to Prospective Buyer at any time at Prospective Buyer's option. Prospective Buyer or Seller may instruct Escrow Agent to place the deposit in an interest-bearing account with any interest earned or charges incurred in connection with the account being at or for Prospective Buyer's benefit or cost.
2. Within 15 calendar days of receipt by Seller of the "Disclosure report" applicable to the Lot issued by the Commissioner of the Arizona Department of Real Estate (the "Department"), Seller shall provide Prospective Buyer with a copy of the Disclosure report (taking a Required Receipt for Disclosure report) and a "Proposed Purchase Contract" (as filed with the Arizona Department of Real Estate) for the sale of the Lot to Prospective Buyer. Prospective Buyer or Seller shall have seven business days after Buyer's receipt of the Disclosure report and Proposed Purchase Contract to enter into a purchase contract to purchase the Lot. If Seller and prospective Buyer do not enter into a purchase contract to purchase the Lot within the seven business day period, this Reservation shall automatically terminate. Seller shall have no cancellation rights other than those set forth in this paragraph.
3. Prospective Buyer may cancel this Reservation at any time before the execution of a purchase contract by delivering written notice of termination to Seller.
4. Within five business days after this Reservation has been terminated for any reason, Seller and Escrow Agent shall refund to the Prospective Buyer the deposit made by prospective Buyer, including any interest monies earned less any account fees agreed upon, if applicable. After this refund neither the Prospective Buyer nor the Seller shall have any obligation to the other arising out of the Reservation.
5. Prospective Buyer may not transfer the rights under this Reservation without the prior written consent of Seller, and any purported transfer without the consent of Seller is voidable at the sole discretion of Seller.
6. If the Department denies the application for Disclosure report applicable to the Lot, within five days of notification by the Department, Seller shall notify Prospective Buyer in writing and instruct Escrow Agent to return the deposit.
7. Notices hereunder shall be in writing and either hand-delivered or sent by certified mail, return receipt requested, with postage fully prepaid. Notices sent by mail are deemed delivered on the earlier of actual receipt, as evidenced by the delivery receipt, or seven calendar days after being deposited in the U.S. Mail.

**THE ARIZONA DEPARTMENT OF REAL ESTATE HAS NOT INSPECTED OR APPROVED THIS PROJECT AND NO DISCLOSURE REPORT HAS YET BEEN ISSUED FOR THE PROJECT. NO OFFER TO SELL MAY BE MADE AND NO OFFER TO PURCHASE MAY BE ACCEPTED BEFORE ISSUANCE OF A DISCLOSURE REPORT FOR THE PROJECT.**

\_\_\_\_\_  
Buyer

\_\_\_\_\_  
Seller

\_\_\_\_\_  
Buyer

\_\_\_\_\_  
Seller

Buyer's Address: \_\_\_\_\_

Buyer's Telephone No. \_\_\_\_\_

FORM G

Revised 5/27/2004, RT

**ADRE Number: DM11-055808  
COPPER HILLS  
LOT RESERVATION**

F

30

# GRANDE VISTA REALTY

(520) 366-0111 [jerrygruetz@gmail.com](mailto:jerrygruetz@gmail.com)

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June 15, 2011

Greetings,

We are making application with Cochise County for a "Special Use Permit" the purpose of which is to put a Temporary Sales Office on our property to assist in the sales and marketing of the "Copper Hills Subdivision Development"

The sales office will be a 10" x 40" Office Trailer typical of the type seen at the start up of a building or sales project. It will be located approximately 130 feet North of highway 92. It will be about 45' inside our gate that goes to our water tank accessible by the paved drive off the North side of Hwy 92, 350 feet west of Mile Marker #346.

This application will be on the agenda of the Planning & Zoning Commission August 10,2011. Meetings are scheduled for the second Wednesday of each month at 4:00 P.M., 1415 MELODY LAND, BOARD OF SUPERVISORS ROOM, BUILDING G, BISBEE, ARIZONA 85603.

If you would like to comment or have any questions please feel free to call me at (520) 366-0111 at any time.

Jerry Gruetzemacher  
P.O. Box 4111  
Bisbee, AZ 85603

[jerrygruetz@gmail.com](mailto:jerrygruetz@gmail.com)

# SPECIAL USE: Docket SU-11-11 (Thome)

YES, I SUPPORT THIS REQUEST

Please state your reasons:

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NO, I DO NOT SUPPORT THIS REQUEST:

Please state your reasons: THERE MUST BE A COMMITMENT TO INSTAL

A CATTLE GUARD AT THE JUNCTURE OF THIERZ ROAD & HWY 92.  
CATTLE ARE PASTURED ON THIS PROPERTY, EVEN WHEN THERE HAS  
BEEN LIMITED ACCESS, CATTLE HAVE PASSED THROUGH A GATE LEFT  
OPEN & WANDERED ONTO HWY 92. THERE IS NO DOUBT THAT THE

INCREASED TRAFFIC ON THIS ROAD WILL OFTEN RESULT IN THE  
GATE BEING LEFT OPEN. P. & Z. SHOULD NOT APPROVE THIS REQUEST  
WITHOUT A CATTLE GUARD IN PLACE. NEITHER ADOT NOR COCHISE  
COUNTY SEEM TO BE WILLING OR ABLE TO ACT AFTER THE FACT.

(Attach additional sheets, if necessary)

PRINT NAME(S):

JOHN H. & MARIE W. LADD TRUST AGREEMENT

SIGNATURE(S):

JH Ladd

YOUR TAX PARCEL NUMBER: 10234004 (the eight-digit identification number found on the tax statement from the Assessor's Office)

YOUR ADDRESS PO Box 4012 Bisbee AZ 85603

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 September 6, 2011 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 public 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  
Fax: (520) 432-9278

COCHISE COUNTY

SEP 06 2011

PLANNING

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32

# SPECIAL USE: Docket SU-11-11 (Thome)

       YES, I SUPPORT THIS REQUEST

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

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

  X   NO, I DO NOT SUPPORT THIS REQUEST:

Please state your reasons: we strongly DISAPPROVE of a sub-division being built in such a PRISTINE AREA. We are in a severe drought, which only magnifies the real issue - there is not enough water in this area to support a sub-division. Regarding any temporary structure on this site; It's obvious that any sales/construction →

(cont'd on next pg →)

(Attach additional sheets, if necessary)

PRINT NAME(S):

Randall PIPKORN

Nancy M. PIPKORN

SIGNATURE(S):

Randall PIPKORN

Nancy M. PIPKORN

YOUR TAX PARCEL NUMBER: 10210008C (the eight-digit identification number found on the tax statement from the Assessor's Office)

YOUR ADDRESS P.O. Box 433, 3721 W. VISTA DEL VIEJO, BISBEE, AZ  
85603

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 August 2, 2011 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 public 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  
Fax: (520) 432-9278

F33

TAX PARCEL<sup>ID</sup> NUMBER: 10210008C

Continued:

.... office must be occupied each business day - not only occasionally - and alarmed at night, to ensure the building does not become another shelter / drop station for the heavy illegal "immigrant" traffic that travels this corridor each day. What documentation has been submitted outlining the plans for a ~~more~~ secure, occupied building?

We are confident our County Planning Department has the interest of its tax-paying, revenue generating citizens foremost in mind, when preventing this detrimental structure from being placed here.

# SPECIAL USE: Docket SU-11-11 (Thome)

\_\_\_\_ YES, I SUPPORT THIS REQUEST

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

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

NO, I DO NOT SUPPORT THIS REQUEST:

Please state your reasons: Is this ZONED for business? I doubt it.

- business? ① This would be a "business" of selling land, a real estate business,  
maintenance? ② More traffic is a bad thing - border patrol already SPEED up/down  
our roads but only WE (neighborhood) put in \$\$\$ to maintain. IF you allow  
illegals? ③ this trailer, then at least \$5,000 per year should be donated to road  
maintenance!! What about an empty building for illegals/drugs/guns/

(Attach additional sheets, if necessary)

PRINT NAME(S):

Shirley Rankin

SIGNATURE(S):

Shirley Rankin

YOUR TAX PARCEL NUMBER: 02 102-10-003D (the eight-digit identification number found on the tax statement from the Assessor's Office)

YOUR ADDRESS: 3726 Vista del Viejo, Bisbee, AZ 85603

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 August 2, 2011 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 public 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  
Fax: (520) 432-9278

COCHISE COUNTY

AUG 02 2011

PLANNING

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# SPECIAL USE: Docket SU-11-11 (Thome)

YES, I SUPPORT THIS REQUEST

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

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

NO, I DO NOT SUPPORT THIS REQUEST:

Please state your reasons: THERE IS NO COMMITMENT TO INSTALL

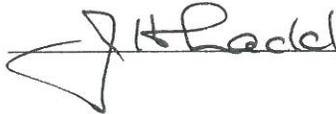
A CATTLE GUARD WHERE ~~THE~~ THEIR ROAD LEAVES HWY 92.  
WITH THE INCREASED TRAFFIC ON THIS ROAD THE EXISTING  
GATE UNDOUBTEDLY WILL BE LEFT OPEN. THERE HAVE BEEN  
INCIDENTS IN THE PAST WHERE LIVESTOCK HAVE WANDERED

(Attach additional sheets, if necessary) HAS BEEN LEFT OPEN. THIS IS A DANGEROUS  
SITUATION WHICH MUST BE ADDRESSED.

PRINT NAME(S):

JOHN H & MARIE W LADD TRUST AGZ.

SIGNATURE(S):



YOUR TAX PARCEL NUMBER: 10234004 (the eight-digit identification number found on the tax statement from the Assessor's Office)

YOUR ADDRESS PO Box 4012 BISBEE, AZ. 85603

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RETURN TO: Keith Dennis

Cochise County Planning Department  
1415 Melody Lane, Building E  
Bisbee, AZ 85603  
Email: kdennis@cochise.az.gov  
Fax: (520) 432-9278

COCHISE COUNTY

AUG 01 2011

PLANNING

F 36

# SPECIAL USE: Docket SU-11-11 (Thome)

YES, I SUPPORT THIS REQUEST

Please state your reasons: I do support this request.

If the project does not continue, I would like see Copper Hills developers be held responsible for removing all sales office & construction from the area.

My hope is that the subdivision will raise my property value.

NO, I DO NOT SUPPORT THIS REQUEST:

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

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(Attach additional sheets, if necessary)

PRINT NAME(S): Donna J. Ribke

SIGNATURE(S): *Donna J. Ribke*

YOUR TAX PARCEL NUMBER: 10221010 (the eight-digit identification number found on the tax statement from the Assessor's Office)

YOUR ADDRESS 8140 E. Rockgate Rd. Tucson, AZ 85750

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 August 2, 2011 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 public 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  
Fax: (520) 432-9278

COCHISE COUNTY

JUL 28 2011

PLANNING

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## **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: Michael Turisk, Interim Planning Director *MTD*  
For: Carlos De La Torre, P.E., Community Development Director

SUBJECT: Docket R-11-03 (Amendments to the Cochise County Zoning Regulations concerning continuation, changes, or modifications to non-conformances for catastrophic events)

DATE: September 6, 2011, for the September 14, 2011 Meeting

#### **Zoning Regulation Amendments: Continuation, changes, or modifications to non-conformances for catastrophic events**

**Docket R-11-03:** Consideration of amendments to Article 20 and Section 2003 of the Cochise County Zoning Regulations concerning continuation, changes, or modifications to non-conforming land uses, lots and structures. The Commission will consider and forward to the Board of Supervisors recommendations concerning the proposed amendments, which are intended to provide regulatory relief to property owners affected by catastrophic events that are declared emergencies by the Board of Supervisors, such as the recent Monument and Horseshoe II fires.

#### **I. BACKGROUND**

Per Article 20 of the Zoning Regulations, nonconforming lots or parcels of record are those having less site area than required for the zoning district in which it is located which lawfully existed either prior to January 1, 1975, or which was rendered nonconforming as a result of subsequent amendments to the regulations, may be developed provided the project complies with all applicable site development standards, such as setbacks and site coverage.

Furthermore, per Article 20:

*Any discontinuance of nonconforming uses as the result of destruction by fire, explosion, act of God or act of the public enemy, requires the future use(s) to comply with all requirements of the Zoning Regulations or amendments thereto for the zoning district in which such future use is located.*

The proposed revision to the zoning regulations the Planning and Zoning Commission will consider would allow property owners whose structure were damaged or destroyed by catastrophic events that the BOS declares emergencies (such as the recent Horseshoe II and Monument fires) and who wish to repair or rebuild structures deemed legal, non-conforming (or which existed prior to January 1, 1975) to be exempt from this requirement.

## **II. PROPOSED TEXT AMENDMENTS**

### **The proposed text amendment to Article 20 is boldfaced below:**

#### 2003.03 Discontinuance of Nonconforming Uses

- A. In the event that a nonconforming use of land, building or structure is changed to a permitted use, or is discontinued for a period of 12 consecutive months as a result of conduct within the control of or attributable to the property owner, any future use thereof shall be in conformity with these Regulations.
- B. In the event that a nonconforming use of land, building or structure is destroyed by fire, explosion, act of God or act of the public enemy, then the future use shall from and after the date of such destruction, be subject to all of these Regulations or amendments thereto for the zoning district in which such future use is located. **However, property owners whose structures were damaged or destroyed by a catastrophic event that the Board of Supervisors declares to be an emergency, and who wish to repair or rebuild structures deemed non-conforming, are exempt from this requirement.**

## **III. Staff Recommendation**

Staff recommends that the Planning and Zoning Commission forward to the Board of Supervisors the proposed zoning regulation text amendment with a recommendation of approval. The text amendment would allow property owners whose structures were damaged or destroyed by catastrophic events who wish to repair or rebuild structures deemed legal, non-conforming to be exempt from this requirement.



## **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:** Michael Turisk, Interim Planning Director *(MT)*  
For: Carlos De La Torre, P. E., Community Development Director

**SUBJECT:** Docket R-11-04 (Building Safety Code Owner-Builder Amendment to include a provision for catastrophic events)

**DATE:** September 6, 2011, for the September 14, 2011 Meeting

### **Zoning Regulation Amendments: Building Safety Code Owner-Builder Amendment for Catastrophic Events**

**Docket R-11-04:** This docket considers revisions to the existing Cochise County Building Safety Code Owner-Builder Amendment Option, and to Section 508 of the Cochise County Zoning Regulations. The Commission will consider and forward to the Board of Supervisors recommendations concerning the proposed amendments which are intended to provide regulatory relief to property owners affected by catastrophic events, such as the recent Monument and Horseshoe II fires.

#### **I. BACKGROUND**

The purpose of the Owner-Builder Amendment is to exempt Rural Residential Owner-Builders located in the RU (Rural), SM (Single-Household/Manufactured Home Residential) or SR (Single-Household Residential) zoning districts, and have a parcel that is four acres or more, from compliance with the Cochise County Building Safety Code for a residential construction project. The amendment also allows such an Owner-Builder to opt to comply with the Cochise County Building Safety Code, but limit inspections. Such an Owner-Builder may also opt for compliance with the Cochise County Building Safety Code accompanied by full inspections. The proposed revision to the Owner-Builder Amendment would allow property owners whose structures were damaged or destroyed by catastrophic events that the BOS declares an emergency, such as the recent Monument and Horseshoe II Fires, who wish to repair or rebuild on properties less than four acres to qualify for this option.

Per Section 508 of the Zoning Regulations, for the purposes of application of building codes, qualifying land for Owner-builder Amendment Option shall include all lands in any Growth Area Category and lying within a Zoning District in which the minimum lot size is four-acres and the parcel is a minimum of four-acres.

The Comprehensive Plan identifies Areas in the County by Growth Area Category (e.g., Category A (Urban Growth), Category B (Community Growth), Category C (Rural Community Growth), or Category D (Rural)).

**II. The proposed text amendment to Section 508 is boldfaced below:**

**Section 508**

For the purposes of application of building codes, qualifying land for Owner-builder Residential Opt Out shall include all lands in any Growth Area Category and lying within a Zoning District in which the minimum lot size is four-acres and the parcel is a minimum of four-acres. Certain lands within the above Areas, as specified in the ordinance establishing building codes or that specified exemptions for Owner Built Rural Residential structures, as currently adopted or as may hereafter be amended, may be exempted from the Cochise County Building Safety Code by the Board pursuant to A.R.S. section 11-861 et. seq. **Property owners whose structures were damaged or destroyed by catastrophic events that the BOS declares an emergency, and who wish to repair or rebuild on properties less than four acres may qualify for the Owner-builder Residential Opt Out.**

**III. STAFF RECOMMENDATION**

Staff recommends the Planning and Zoning Commission forward a recommendation of approval to the Board of Supervisors the proposed zoning regulation text amendment which would allow property owners whose structures are damaged or destroyed by catastrophic events, such as the recent Monument and Horseshoe II Fires, to qualify for the Owner-builder Residential Opt Out to repair or rebuild on properties less than four acres in size.



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(520) 432-9240

Fax 432-9278

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

### **MEMORANDUM**

TO: Cochise County Planning and Zoning Commission

FROM: Michael Turisk, Interim Planning Director   
For: Carlos De La Torre, P.E., Community Development Director

SUBJECT: Docket R-11-05 (Non-conforming site development standards and rezonings)

DATE: September 6, 2011, for the September 14, 2011 Meeting

### **Zoning Regulation Amendment: Non-conforming Site Development Standards and Rezonings**

**Docket R-11-05:** A request from staff to codify the Board of Supervisors' authority to determine when existing uses or structures would be rendered non-conforming as a result of a rezoning action due to different site development standards. According to the County Attorney, this authority is implied in our Zoning Regulations; however, this Docket is intended to formalize this authority in our Zoning Regulations by making it explicit.

#### **I. BACKGROUND**

There are occasions when particular rezoning actions render certain site development standards non-conforming (e.g., minimum setbacks; maximum site coverage). Our zoning regulations do not directly address the affects of non-conformances that result from rezonings. Applying the site development standards for the new zoning district has been default practice, which has occasionally resulted in the need for Variances.

For example, in the R-18 zoning districts (Residential; minimum lot size 18,000 sq.-ft.), the minimum setback from all property lines is 10-feet. If a R-18 property has an existing structure sited 10-feet from the property line and is rezoned to RU-4 (Rural; minimum lot size four acres), the structure is rendered non-conforming with respect to minimum setback distance in RU-4 (which is 20-feet) by virtue of the rezoning action. Under these circumstances, the Board could consider determining that the site development standard for R-18 property applies, thus allowing the existing setback, and thus allowing the non-conforming structure to remain with no need for a variance. New structures, however, would be required to adhere to the site development standards of the "new" zoning district; in other words, a new home or accessory structure would require adherence to the minimum 20-foot minimum setback, per Article 6.

Another approach would require compliance with the site development standards of the “old” zoning district. This would have the obvious effect of allowing a different array of uses as intended by the rezoning, but would restrict the Applicant/Owner by requiring them to honor the site development standards of the “old” zoning district.

The Board’s authority to determine which site development standard applies represents a much more efficient approach for staff and saves time and money for the Applicant by absolving them of the need to request Variances from the Boards of Adjustment, which in the past was the course of action required to legitimize non-conforming site development standards that resulted from rezoning actions.

## **II. The proposed text amendment to Section 2208 is boldfaced below:**

### **2208.03B.2 – Compliance with Applicable Site Development Standards**

All sites within the proposed district must be capable of reasonable development for typical uses within the proposed district, through compliance with all applicable site development standards. This criterion applies to formation of all zoning districts in all plan areas. **When a rezoning would render existing uses or structures non-conforming as result of different site development standards, at the time of the rezoning the Board of Supervisors may determine which site development standards apply.**

## **III. Staff Recommendation**

Staff recommends that the Planning and Zoning Commission forward R-11-05 which would codify the authority of the Board to determine site development standards that are rendered non-conforming as a result of rezoning action, to the Board of Supervisors with a recommendation of approval.