

**APPROVED BY THE PLANNING AND ZONING COMMISSION ON  
APRIL 9, 2008**

**MINUTES – VERDE**  
Yavapai County  
Planning and Zoning Commission

**March 19, 2008**  
9:30 A.M. Session

Hearing Location: 10 S. 6<sup>th</sup> Street, Cottonwood, Arizona

Commissioners Present: Curt Garner, Chairman  
Gene Kerkman, Vice-Chairman  
Joan McClelland, Secretary  
Jon Barnert  
Joe Jackson  
William Tex Province  
Tom Reilly  
Jim Stewart

Commissioners Absent: Curtis Lindner

Staff Present: Elise Link, Planning Division Manager  
Jack Fields, Deputy County Attorney  
Tammy DeWitt, Planner  
Kristy Dargue, Planner  
Joanna Buss, Recording Secretary/Transcriptionist

1/2. Chairman Garner called the meeting to order and stated this meeting would be conducted in accordance with the Arizona Open Meeting Laws, pursuant to A.R.S. §38-431.02.A (2). Chairman Garner conducted the roll call of Commissioners noting that Commissioner Lindner was absent and there was a quorum present.

3. Approval of the **Minutes of March 5, 2008**.

Upon a motion by Commissioner Stewart and seconded by Commissioner Barnert, the minutes of March 5, 2008 were unanimously approved as written.

4. Selection of Commission member for representation at the Board of Supervisors Hearing on **April 21, 2008**.

Commissioner McClelland volunteered to attend.

5. Explanation of Meeting Procedures: Chairman Garner reviewed the procedures for the benefit of the audience present.

**OLD BUSINESS**

**THESE MINUTES CONTAIN NO PUBLIC COMMENT**

6. **Zoning Ordinance Amendment; H7179.**

**Applicant:** Planning and Zoning Commission

**Request:** Consideration of an amendment to the Yavapai County Zoning Ordinance to allow outside patios as an accessory use in the C1 Zoning District.

**AMEND SECTION 420 C1 DISTRICT:**

C1 DISTRICT (Commercial; Neighborhood Sales and Services) Permitted Uses:

Q. **Outside patio(s) as defined in Section 301 as an accessory use and meeting all applicable codes and ordinances.**

**ADD to SECTION 301 DEFINITIONS:**

**PATIO, OUTSIDE (COMMERCIAL) – Outside seating for customers with food and beverage service by the establishment. No outside live or amplified music. Seating to be included in required parking calculations for said business.**

**PREVIOUS P&Z RECOMMENDATION:** On February 6, 2008 the item was heard by the Planning and Zoning Commission. No action was necessary.

**PREVIOUS P&Z RECOMMENDATION:** On February 20, 2008 the item was heard by the Planning and Zoning Commission and determined that C1 uses should also be included. This item will be deferred and re-advertised for the next regularly scheduled Commission hearing in Cottonwood on March 19, 2008. The vote was unanimous.

Elise Link, Planning Manager made the staff presentation. Ms. Link concluded her presentation by requesting that the Commission, after taking public comment, make a recommendation and forward that to the Board of Supervisors.

Chairman Garner opened the discussion to the Commission.

Commissioner Barnert asked if there had been any other feedback. Ms. Link replied that the reviewing agencies' summaries were in the Commission packet and there had been no other public input at the previous hearings.

There being no further questions of staff, Chairman Garner opened the floor to public participation. There being no public comment, the floor was closed to public participation and returned to the Commission for further discussion and/or a motion.

**Action #1:** Commissioner Reilly made a motion to recommend approval of hearing application H#7179, Zoning Ordinance Amendment as presented by Staff.

Commissioner McClelland seconded the motion.

The motion carried unanimously. This item will be heard by the Board of Supervisors on April 21, 2008.

**NEW BUSINESS**

**7. Use Permit and Minor Community Plan Amendment; APN: 405-22-002F; H#8002 & H#8003.**

**THESE MINUTES CONTAIN PUBLIC COMMENT**

**Applicant:** Kala Pearson & Frank Greene

**Project Name:** Luna Vista Bed and Breakfast Inn

**Request:** Consideration of a Use Permit and a Minor Community Plan Amendment to allow for the operation of a 5 room Bed and Breakfast Inn on an approximately 8.21 acre parcel in an RCU-2A (Residential; Rural; 2-acre minimum) zoning district. Located at 1062 East Reay Road approximately ¾ miles south from the intersection of Reay Road and Culpepper Ranch road southwest of the community of McGuireville.

Located in SEC09 TWN14N R05E G&SRB&M

Kristy Dargue, Planner made the staff presentation noting that additional signatures for the support petition had been received March 18<sup>th</sup>, that there were twenty-five (25) letters of support and five (5) letters of opposition as of March 18<sup>th</sup>, and that the applicants were requesting a ten (10)-year timeframe.

Ms. Dargue concluded her presentation by stating that there were six (6) stipulations being offered should the Commission choose to recommend approval.

Chairman Garner opened the discussion to the Commission.

Commissioner Kerkman requested clarification regarding the waiver of the access plan. Ms. Dargue explained Section 502 of the Ordinance as well as the various reviewing agencies' differing determinations of commercial/residential use and stated that the requirement had been waived by Public Works. Commissioner Kerkman asked if the requirement was aimed at public safety. Ms. Dargue said she believed Public Works had waived the requirement since the current request was not as intense as previously requested and there would be no public functions. Commissioner Kerkman asked if Public Works would still have some jurisdiction as these were private roads. Ms. Dargue replied negatively.

Commissioner Province requested confirmation that the Beaver Creek Regional Council and the Lake Montezuma Property Owners Association were in favor of this item. Ms. Dargue replied affirmatively.

There being no further questions of staff, Chairman Garner asked the applicant/agent to address the Commission.

Kala Pearson, applicant addressed the issues of rural character (main attraction for guests), traffic/traffic report (insignificant in relation to future growth patterns, neighborhood opposition to road improvement/road improvement district, planned destination Bed and Breakfast) and the area economy (would attract more affluent customers, would support area businesses with tourism, monies would be spent locally/regionally). She said that they had 241 petition signatures for support (130 Beaver Creek area, 30+ immediate area) and twenty-seven (27) letters of support (including area organizations). Ms. Pearson requested a unanimous vote of support by the Commission. She noted that there were only four (4) available suites one (1) of which was a two (2)-room family suite.

Commissioner McClelland referenced the revocation of the previous Bed and Breakfast Homestay administrative approval and asked if the use/operation had been discontinued. Ms. Pearson replied affirmatively. Commissioner McClelland asked if it had been revoked in 2004. Ms. Pearson said no, it had been revoked in 2007.

Commissioner McClelland referenced the Luna Country Weddings website and requested clarification regarding commercial use of the property. Ms. Pearson responded that the functions (weddings/receptions) were not held on site.

There being no further questions of the applicant/agent, Chairman Garner opened the floor to public participation.

Support:

Faustina Rios (4050 N. Running Deer Drive) expressed her support noting that she saw no reason why the Bed and Breakfast should not go on as proposed. She said she was a neighbor and had no issues with the previous or proposed operation.

Edward Sass (Lake Montezuma resident) expressed his support noting that he had known the applicants for several years, that he was a neighbor/friend and had no issues with the previous or proposed operation.

Robert McClarin, Beaver Creek Regional Council and Lake Montezuma Property Owners Association Planning and Zoning Committee Chair expressed their appreciation for the opportunity to respond to the Commission in writing. He noted that the Beaver Creek Regional Council represented eight (8) organizations and that there had been almost unanimous support of the proposal by both the Council and the Association. Mr. McClarin described both the Lake Montezuma Property Owners Association Planning and Zoning Committee and Beaver Creek Regional Council Planning and Zoning Committee meetings noting that the issues brought forward at the meetings were largely a matter of trust. He stated that the properties within the 300' radius were in support and that they believed this operation would be an asset to the area communities.

Bernadette Dionisio (1015 E. Reay Road) said she was a neighbor and expressed her support. She expressed the opinion that a small business in the community was a good thing as it supported other area businesses. Ms. Dionisio concluded by stating that the applicants were good neighbors and requested approval of the application.

Ray Harvey (Camp Verde resident) said he was not a member of the Beaver Creek community. He expressed his support noting that the applicants' Bed and Breakfast was a class operation.

James Butler (1320 E. Boardwalk) said he was a neighbor, was in favor of the proposal, and expressed the opinion that there would be more traffic from developing properties than from the Bed and Breakfast. Mr. Butler requested that the Commission vote for approval.

Public Participation forms from members of the public not wishing to speak:

Kent Everhart (Rimrock resident) – "We fully support Luna Vista B&B"

Doug Hudson (Rimrock resident) – "Please give the good people of Luna Vista a chance to operate"

Frank Greene (1062 E. Reay Road) – "Full & ultimate support, allowing us to bring peace & relaxation to our guest and be an active & supportive community member"

Steven Sprinz (Lake Montezuma resident) – “Very much in favor of this fine B&B Inn”  
Paul Bishop (Lake Montezuma resident) – in support  
James Beard (Camp Verde resident) – “Have penultimate respect for Kala and Frank and am amazed at their integrity to their high standards of business operation. They deserve the opportunity to operate this bed and breakfast.”

Opposition:

Caroline Parsons-Korn (1435 E. Reay Road) stated that she was the owner of a portion of the access road. She read a section of a Letter to the Editor from the newspaper (posted by Frank Greene). She said that she had attended the Beaver Creek Regional Council meeting [stated she was a member of the Water Committee] and had shown the Council information on the applicants’ new website regarding country weddings/Luna Vista Spiritual Center [provided website information to the Commission]. Ms. Parsons-Korn stated that she was against the road improvement district and felt she had been harangued as a result of that opposition.

Commissioner Province asked if most of her issues/concerns regarded use of the property as a retreat. Ms. Parsons-Korn said she was not against the operation as just a Bed and Breakfast but that the events were an issue. Commissioner Province asked if there was no spill-over of off-site events onto the property, would the proposed operation be OK. Ms. Parsons-Korn said that the spiritual retreat center was described as being located on the applicants’ property.

Roger Korn (1435 E. Reay Road) said that the properties located on the west side of Wet Beaver Creek had been sold as non-landlocked properties with their access easement off Stage Coach Road. He stated that he had no objection to the Bed and Breakfast so long as they stayed within their operating parameters and he had no objection to their doing a road improvement district over there (west side). Mr. Korn expressed his concerns regarding the Beaver Creek Regional Council operations. He referenced a petition sent to the Board of Supervisors signed by the road owners (Culpepper Ranch Road and Reay Road) regarding the road improvement district [provided petition copy to the Commission]. Mr. Korn also expressed his concerns regarding the cost of the road improvement district and increased traffic.

Jean Seamon (1340 E. Reay Road) stated that she was opposed to any permits for the Bed and Breakfast, that she objected to having a use retroactively approved (established use first then asked for permission), and said that she wanted to preserve the rural residential environment of the area.

Wayne Young (4420 Culpepper Ranch Road) stated that he had been at the Beaver Creek Regional Council meeting and that they had refused to consider the access roads, which were private roads with no easements granted. He expressed his opposition to the road improvement district, mentioned the Letter to the Editor, expressed his concerns regarding traffic and stated that he objected to the Bed and Breakfast.

John Heerkens (1035 E. Reay Road) expressed the opinion that the applicants’ had a history of their actions/words being directly opposed. He expressed his concerns regarding traffic/access and public safety issues noting that the access issue needed to be resolved prior to approving the use. Mr. Heerkens expressed his concerns with future uses, noting that he was not against a Homestay but was against any increase in the operation at all.

Donna Gilman (4420 Culpepper Ranch Road) expressed her concerns regarding the community being fractured, residents' health, event traffic, private roads, and the website (as of 8 p.m. March 18<sup>th</sup> advertising the same as previously). She said that the services being advertised exceeded the uses allowed for a Bed and Breakfast.

Maggi Senger-Perkins (3770 E. Running Deer Drive) expressed her opposition to the five (5)-bedroom proposal noting that she had initially not been opposed to the Homestay. She refuted the petition signatures, mentioned that she was the complainant regarding the fourth suite rental, and referenced an e-mail from Frank Greene representing the Bed and Breakfast as having six (6) bedrooms/four (4) bathrooms. Ms. Senger-Perkins said that she had attended the Beaver Creek Regional Council meeting but had not been allowed to speak.

Public Participation forms from members of the public not wishing to speak:

Kathy Wilson (1450 E. Reay Road) – opposed

Michael Seamon (1340 E. Reay Road) – “I agree with everything all of opposition has said.”

There being no further public comment, the floor was closed to public participation and returned to the Commission for further discussion and/or a motion.

Chairman Garner commented that he was hesitant to recommend approval if the property was not on a dedicated easement and asked if that was an issue. Jack Fields, Deputy County Attorney said it was his understanding that the property was accessed by private easements, he had not considered the terms of those easements, but that generally if it was for a use that was approved by the County (including a Use Permit) that the easement, even though it was private, should stand. He said he believed there would be no Prop 207 issues as the County's actions dealt specifically with the subject property not the properties the easement passed through and if the terms of the easement did not allow the use that would be a civil matter. Chairman Garner mentioned rights of prescription. Mr. Fields said that might apply if they were changing the zoning or if the Use Permit was for a non-residential use (this particular use was technically residential) and in that case he would recommend deferral.

Commissioner Kerkman asked to hear rebuttal comments by the applicants regarding the websites, etc.

Ms. Pearson addressed the advertising issues and the retreat services (massage - import massage therapist). Chairman Garner noted that was a commercial operation (retail sales). Ms. Pearson said they were unaware of that [Mr. Greene said it would cease]. Ms. Pearson said in reference to the opposition that it was comprised of six (6) parties out of seventy-seven (77) parcels and described their efforts towards establishing a road improvement district (\$10,000 pledged).

Commissioner Kerkman asked if they were OK with the stipulations. Ms. Pearson replied affirmatively.

Commissioner Barnert asked in reference to the massage services, if a private guest engaged someone from off-premise would that be described as a commercial activity and what the definition of commercial was as related to a Bed and Breakfast. Mr. Fields responded that a Bed and Breakfast Country Inn was a residential use, owner-occupied, with limitations by the Ordinance and that anything beyond that would be commercial. He noted that additional meals beyond serving breakfast or conducting other activities on the premises (such as arranging for a masseuse to come to the site) would be a

commercial use; however if a service was arranged for solely by a guest that would not be a commercial use. Commissioner Barnert requested confirmation that if the arrangements were made by a guest that would not be commercial. Mr. Fields expressed the opinion that if a guest used solely their own resources or if the owners simply provided a brochure listing available area services to the guest for their use that would not be commercial but if the arrangements were made by the Bed and Breakfast that would be commercial. He said he thought these items would need to be looked at on an individual basis, but that the more ancillary services that were offered or arranged by the owners the further they moved beyond the definition of a Bed and Breakfast.

Commissioner McClelland referenced the website that mentioned the Luna Vista Spiritual Center and asked if the applicant was disavowing it and that it should not have been there. Ms. Pearson said that was a part of Luna Country Weddings and was the portion that did the wedding services. Commissioner McClelland requested clarification regarding the statement “products and services provided by local operators under contract”. Ms. Pearson said that Luna Country Weddings was a group of wedding planners/ministers that contracted with M Diamond Ranch, Crescent Moon Ranch and other area ranches to hold the services/receptions on their properties.

Elise Link, Planning Manager asked in reference to the Luna Country Weddings if that was a business run out of the applicants’ home. Chairman Garner said he believed that was correct.

Chairman Garner referenced the petition to the Board of Supervisors noting that it affected approximately fifteen (15) parcels encompassing portions of Culpepper Ranch Road/Reay Road who did not wish to participate in a road improvement district and expressed his concerns regarding the road/access issues. He said he had a difficult time recommending approval for something that was not wanted by the neighborhood and expressed the opinion that if they were facilitating people to come on-site to perform services for their guests that was a commercial operation. Chairman Garner referenced the other businesses being run out of the same dwelling and stated that he was unable to support the application.

Commissioner Reilly expressed the opinion that the issue before the Commission was not the use of the road or if the applicants were running other businesses out of their house, the issue before the Commission was allowing a five (5)-bedroom Bed and Breakfast Inn in that particular area.

Commissioner Reilly made a motion to recommend approval of hearing applications H#8002 & H#8003, Use Permit and Minor Community Plan Amendment subject to the stipulations shown on the overhead as follows:

1. Approval of the requested Use Permit and Minor Community Plan Amendment to allow for the Bed & Breakfast Inn as described in Section 507 B of the Planning & Zoning Ordinance and to be in accordance with the floor plan dated February 19, 2008, and the Area site plan dated December 17, 2007, submitted with the Use Permit application and in accordance with all applicable codes, regulations and ordinance requirements, for a period of five (5) years.
2. Parcel shall remain a minimum of eight (8) acres in size, or larger, while the Use Permit is in effect or the Use Permit will become null and void.
3. No commercial “special events” to be held on location.
4. Any future expansion of use or structures will require an amendment to this Use Permit.
5. Certificate of Compliance to be issued within one year of Board of Supervisors approval or Use Permit to be revoked.

6. In the event the owner of the subject property files a claim under ARS §12-1134 regarding this Use Permit, this Use Permit shall be null and void.

Commissioner Kerkman seconded the motion.

Commissioner McClelland stated that she would vote against the motion and had intended to make a motion to send a negative recommendation to the Board of Supervisors.

Commissioner Kerkman commented in reference to the issues with the road, traffic, etc. specifically in relation to the number of trips possible if the property was split that it would be no different than that generated by the Bed and Breakfast customers and that the road improvement district was not an issue for the Commission to determine and as such he was in favor of the application.

Commissioner Province commented that he had trouble with approval of the application for two (2) reasons – one, the “trust” issue specific to the website and two, the “trust” issue with regards to non-compliance with enforcement and as such he would probably vote against the application.

Voting ensued. The motion failed by a vote of three (3) to five (5) with Commissioners Reilly, Stewart and Kerkman voting in favor of the motion and Commissioners McClelland, Jackson, Barnert, Province and Chairman Garner voting in opposition to the motion.

**Action #2:** Commissioner McClelland made a motion to recommend denial of hearing applications H#8002 & H#8003, Use Permit and Minor Community Plan Amendment.

Commissioner Barnert seconded the motion.

Chairman Garner commented that although the applicants had a lot of support, a large part of that support was from areas outside of the immediate neighborhood, and there was a substantial amount of opposition from the immediate area.

Commissioner Stewart commented that most of issues/concerns were regarding the road and the website but that those would be taken care of in the stipulations and as such he was in support of the application.

Commissioner Jackson commented that he believed the primary opposition was to the commercial operation, that if this were a straight-forward Bed and Breakfast operation there would be no controversy and that the association with other businesses gave the appearance of a commercial operation.

Commissioner Kerkman commented that the stipulations and the requirements of the Ordinance were very specific and expressed the opinion that the Commission’s decision should not be based on things that happened previously and if the applicants complied with the stipulations as stated and within the confines of the Ordinance it should be OK.

Voting ensued. The motion carried by a vote of five (5) to three (3) with Commissioners McClelland, Jackson, Barnert, Province and Chairman Garner voting in favor of the motion and Commissioners Reilly, Stewart and Kerkman voting in opposition to the motion. This item will be heard by the Board of Supervisors on April 21, 2008.



Commissioner Barnert commented that his reasons for voting to recommend denial were (1) the Commission members had been directed by their District Supervisors to defer in some part to the area neighbors and (2) he felt that if the applicants would establish an office outside of their premises for the weddings so that their operation was clearly a Bed and Breakfast Homestay prior to going before the Board of Supervisors it would greatly reduce the opposition.

Prior to proceeding to the next regularly scheduled Agenda item, the Commission took a ten (10) minute recess.

8. **Use Permit; APN: 405-38-362; H#8013.**

**THESE MINUTES CONTAIN PUBLIC COMMENT**

**Owner:** Red Rock Development, LLC  
**Applicant/Agent:** Shephard Wesnitzer, Jim Binick  
**Project:** Indian Lakes 1 Water Reclamation Facility  
**Request:** Consideration of a Use Permit for a one-acre portion of Tract Q, a 1.87 acre tract in the Indian Lakes 1 subdivision to allow for the construction and operation of a Water Reclamation Facility in an RCU-2A (Residential; Rural; 2-acre minimum) zoning district. Located at the southwest corner of the intersection of Coronado Trail and Bill Williams Drive in the Beaver Creek community.

Located in SEC11 TWN14N R05E G&SRB&M

Tammy DeWitt, Planner made the staff presentation noting that Stipulations #5 and #6 had been revised subsequent to the preparation of the Commission packets. She mentioned that the Beaver Creek Golf Course had irrigation rights from Beaver Creek and were not utilizing ground water as stated in the staff brief. Ms. DeWitt provided an update from Chris Bridges, Yavapai County Transportation Planner with Public Works regarding the secondary access.

Ms. DeWitt concluded her presentation by stating that there were six (6) stipulations being offered should the Commission choose to recommend approval.

Chairman Garner opened the discussion to the Commission.

Chairman Garner commented that the final stipulation seemed to be a development agreement and asked if that was OK with the County Attorney. Jack Fields, Deputy County Attorney responded that he had not reviewed the stipulation as presented and he was not sure at this time, he believed it would be OK, but he could not give a definitive answer as he needed to review it.

Commissioner Kerkman asked if a road impact fee would be charged to each parcel. Ms. DeWitt responded affirmatively, \$3400 per lot. Commissioner Kerkman commented that seemed unusual in light of Mr. Bridges' statement. Ms. DeWitt responded that the properties would be charged an additional \$600 impact fee that would be placed into a separate account.

Commissioner Reilly requested clarification regarding the content and creation of Stipulation #6. Ms. DeWitt replied that the developer had been meeting with the community and with Public Works to create a stipulation that would work for both Public Works and the developer that would also satisfy the community.

There being no further questions of staff, Chairman Garner asked the applicant/agent to address the Commission.

Connie Dedrick, agent thanked Staff, Public Works, the Lake Montezuma Property Owners Association and the Beaver Creek Regional Council then introduced Yves Fedrigault, owner, John Friedman, Project Manager, Dwight Zemp, Santec Corporation and Peter Hill, Beaver Creek Golf Course who were in attendance and available to answer any questions. Ms. Dedrick presented information regarding the background of the subdivision, noting that Red Rock Development owned 245 out of the 345 lots, described re-use vs. recharge of the effluent (A+ quality), described the community meetings/issues, explained/described the creation of Stipulation #6 (addressed Board of

Supervisors' direction to participate in a secondary access), addressed the requests made by the Beaver Creek Regional Council and the Lake Montezuma Property Owners Association (agreed to do traffic study, conceptual agreement regarding the 18 items requested by the Lake Montezuma Property Owners Association, possible inclusion of an additional stipulation – "Prior to Board of Supervisors' action, Red Rock Development, County staff, Lake Montezuma Property Owners Association and Beaver Creek Regional Council to meet to further discuss the items and goals/policies as stated.").

Commissioner McClelland thanked Ms. Dedrick and said she appreciated the copy of the community meeting minutes provided for the Commission packet.

Commissioner Kerkman asked if the golf course would use the effluent all year. Ms. Dedrick deferred to Mr. Hill. Peter Hill, Beaver Creek Golf Club replied affirmatively. Chairman Garner asked if the golf course would utilize at a maximum flow rate the entire amount of effluent. Mr. Hill replied affirmatively.

Commissioner Kerkman asked in reference to the additional lots not owned by Red Rock Development if those lots wanted to connect to the system would the cost be equivalent to the cost of installation of a conventional septic system. Ms. Dedrick said that they would be creating a wastewater improvement district that would determine those fees. John Friedman, Project Manager said he thought it would be less than the cost of a septic system. Commissioner Kerkman asked if the wastewater improvement district would include all of the lots. Ms. Dedrick said it would include the 245 lots owned by Red Rock Development and they would provide information regarding the district to the other 100 lots. Commissioner Kerkman commented if the connection cost was less than that of installing a conventional septic system it would be a more attractive option.

Chairman Garner asked if the treatment plant was slated to be built first. Ms. Dedrick replied affirmatively. Chairman Garner asked how many homes were needed to maintain viability of the plant or would they need to provide a water source for the plant to keep it viable/operable. Dwight Zemp, Santec Corporation responded that the plant was designed to function in multiple modes - 1<sup>st</sup> mode, pump & haul, 2<sup>nd</sup> mode, batch (collect and treat), 3<sup>rd</sup> mode, design (continuous flow mode when flows reached about 25%).

There being no further questions of the applicant/agent, Chairman Garner opened the floor to public participation.

Support:

Robert McClarin, Beaver Creek Regional Council and Lake Montezuma Property Owners Association Planning and Zoning Committee Chair expressed their support of the application with the stipulation that the developer work with the Lake Montezuma Property Owners Association to deal with the impact issues, i.e., traffic. He stated that they were in support of Stipulation #6 and asked that Stipulation #7 be added [provided copy of list of objectives to the Commission].

Chairman Garner noted that those were typically items that were standard to any development and that the Commission could not hold a developer hostage regarding established County-maintained roads.

Mr. McClarin said that Stipulation #6 delineated money that would be made available on a certain time schedule and that they needed to have some agreement as to how that money was managed, etc.

Kala Pearson, Beaver Creek Regional Council secretary stated that the Council voted 8 to 1 in support of the proposal with the stipulation that “Red Rock Development and the project owners financially, civically and environmentally participate in traffic abatement and access remedies with the affected communities.” She said that there was a letter of support pending that should be ready by the time of the Board of Supervisors meeting.

Caroline Parsons-Korn (1435 E. Reay Road) said she did not live in Lake Montezuma, that she was a Beaver Creek Regional Council Water Committee member, but that she lived downstream on Wet Beaver Creek. She referenced the golf course irrigation rights and expressed the opinion that with the 10% current mixture of effluent/irrigation water which would increase with additional effluent use that the proposed facility would be preventing the creek water from being taken and used on the golf course (protection of wildlife, riparian areas).

Public Participation forms from members of the public not wishing to speak:

Peter Hill, Beaver Creek Golf Club owner – “The ownership of Beaver Creek Golf Club strongly supports the Indian Lakes proposal. As the end user of the treated effluent water, we feel that it is in the best interest of the community and the environment to use the water on the golf course.”

Opposition:

Jim Bennett (3301 E. Montezuma Avenue) noted that he was past the 300’ notification area. He said he had spoken previously in opposition and had sent in a letter of opposition although Staff indicated that they had not received it. Mr. Bennett expressed his concerns regarding traffic, expansion of the girl’s school and the proposed future expansion of the treatment facility (referenced the previous Commission meeting’s minutes).

Commissioner Reilly asked if the school expansion was fact or conjecture. Mr. Bennett replied he did not know it for a fact.

Dale Graves (3279 E. Montezuma Avenue) said he owned four (4) properties on Coronado Trail and he was opposed to the application. He expressed his concerns regarding the location of the treatment facility (too close to the creek) and proximity [of the effluent use] to wells of the lots adjacent to the golf course (well contamination). Mr. Graves demanded that provisions be put in place to require Red Rock Development to buy him out if this application was approved.

There being no further public comment, the floor was closed to public participation and returned to the Commission for further discussion and/or a motion.

At the request of Chairman Garner, Ms. Dedrick addressed the issue of septic vs. a wastewater treatment facility and confirmed that the facility was planned to be upgraded but that it would still have a limited capacity even at build-out. Mr. Friedman said that the facility currently would accommodate 345 lots and would need a new application with ADEQ to go beyond that.

Mr. Friedman stated that they would provide an incentive to the additional 100 lots particularly since the existing platted lot sizes were prohibitive to accommodating both a septic system and a well.

Chairman Garner asked if the school was a potential client. Mr. Friedman replied affirmatively but that they had no idea regarding the school’s actual plans. Chairman

Garner asked if they planned to take the sewerage from Lake Montezuma. Mr. Friedman said that was not their intent, but that one of the objectives of the Beaver Creek Regional Council and the Lake Montezuma Property Owners Association was for Red Rock Development to agree that the force main be sized appropriately to allow for additional hook-ups/treatment options for failed septs in the area.

Commissioner Kerkman referenced the concern voiced regarding contaminants in the water and requested clarification. Mr. Zemp explained the reasons for the concern, described the treatment process comparison (septic vs. treatment facility) and expressed the opinion that re-use water was safer than direct flow water in that regard. Commissioner Kerkman asked for information regarding sludge disposal. Mr. Zemp said that had not been specifically addressed at this time, but that there were two (2) options – store, thicken and transport to an approved site or thicken, bag and transport to an approved landfill after testing.

Mr. Friedman mentioned that they had agreed to include information in their sales documents and CC&R's regarding the proper disposal of medical waste, etc.

Chairman Garner asked if staff had considered the additional stipulation requested. Ms. Link responded that it would be problematic for staff to set up meetings between private entities and that she felt uncomfortable creating a stipulation for other County departments.

Discussion ensued between Chairman Garner, Ms. Link, Commissioner Barnert and Mr. Fields regarding Stipulation #6 with Mr. Fields suggesting that a motion to recommend approval include Stipulation #6 as being subject to review/modification by the County Attorney prior to the Board of Supervisors meeting.

**Action #3:** Commissioner Barnert made a motion to recommend approval of hearing application H#8013, Use Permit subject to the stipulations shown on the overhead as follows:

1. Use Permit to be approved for a Water Reclamation Facility to be developed in conformance with the site plan dated January 28, 2008, and the Landscape Plan submitted with application and in accordance with all applicable codes, regulations and ordinance requirements.
2. Waiver of screening requirement to allow for vegetative screening to match the vegetative plan submitted with the application.
3. In the event the owner of the subject property files a claim under ARS Section 12-1134 regarding this Use Permit, this Use Permit shall be null and void.
4. Any future expansion of use or structures will require an amendment to this Use Permit.
5. Certificate of Compliance to be issued within three years of Board of Supervisors approval or Use Permit to be revoked.
6. The \$50,000 contribution at the issuance of the waste water treatment plant building permit and subsequent \$600 contribution for each new residential dwelling permit, to be paid by the developer and any subsequent developers, shall be placed into an account to be established by Yavapai County and be designated for the implementation of improvements mitigating the impacts of the additional subdivision related traffic in the Lake Montezuma/Beaver Creek Golf Course area. The funds in this account may be used for improvements to either the primary access and/or the Lake Montezuma secondary access as may be warranted and shall be approved by Yavapai County Public Works.

Commissioner McClelland seconded the motion.

Chairman Garner noted that Stipulation #6 would be ultimately reviewed by the County Attorney prior to the Board of Supervisors meeting.

The motion carried unanimously. This item will be heard by the Board of Supervisors on April 21, 2008.

9. **Use Permit; APN: 405-34-004S; H#8011.**

**THESE MINUTES CONTAIN PUBLIC COMMENT**

**Applicant:** Kathleen McGahan

**Project:** McGahan Bed and Breakfast

**Request:** Consideration of a Use Permit to allow for the operation of a Bed and Breakfast Homestay offering 3 guest units on an approximately 35,283 sq. ft. parcel in a R1L-35 (Residential; Limited; 35,000 sq. ft. minimum) zoning district. Located south of Wild Horse Mesa Drive on Wild Horse Mesa Circle in the community of the Village of Oak Creek.

Located in SEC19 TWN16N R06E G&SRB&M

Tammy DeWitt, Planner made the staff presentation noting that additional information had been received subsequent to Commission packet preparation. She said that due to the amount of opposition received, a unanimous vote of the Board of Supervisors would be required and explained that the complaints received were under review by the Land Use Unit.

Ms. DeWitt concluded her presentation by stating that there were five (5) stipulations being offered should the Commission choose to recommend approval.

Chairman Garner opened the discussion to the Commission.

Commissioner Kerkman asked where the forty-eight (48) letters of support were from. Ms. DeWitt responded that they were from various areas. Commissioner Kerkman commented that a distinction needed to be made between those letters supporting the person and those supporting the Bed and Breakfast.

Chairman Garner asked if the Bed and Breakfast was currently in operation. Ms. DeWitt responded not to staff's knowledge. Chairman Garner commented in reference to the request for "non-transferable" that the time limit followed the property and requested clarification regarding the percentage of opposition by the immediate neighbors. Ms. DeWitt explained that the opposition percentage was 23% by number and 27% by area within 300'.

There being no further questions of staff, Chairman Garner asked the applicant/agent to address the Commission.

Kathleen McGahan, applicant described her background, explained the reasons for her request for a Bed and Breakfast Homestay, addressed the neighbor's complaints (vacation rental/renters, website), and stated that she had no intentions for expansion.

Commissioner Barnert asked if during the process and while working with staff had she understood the code requirements for a Bed and Breakfast Homestay. Ms. McGahan replied affirmatively.

Commissioner Province asked if the property was for sale. Ms. McGahan responded negatively.

Commissioner Kerkman asked if she had consulted with staff prior to construction of her home. Ms. McGahan said she had consulted with the previous County planner in October 2003. Commissioner Kerkman asked if she understood the process at that time. Ms. McGahan said she had no idea of the extent of the process.

Chairman Garner referenced the Big Park Regional Coordinating Council stipulation suggestions specifically as they related to no signage and no commercial activity on-site. Ms. McGahan said she had no objection to those additional stipulations. *[Staff added Stipulation #6 No Commercial Signage; Stipulation #7 No commercial activity on site]*

Elise Link, Planning Manager requested clarification regarding Stipulation #6 as to whether that meant no signage altogether or no signage identifying the Bed and Breakfast. She explained that the applicant would be allowed a four (4) sq. ft. nameplate sign by right. Chairman Garner said his intention was for no commercial signage. Jack Fields, Deputy County Attorney commented that if the applicant agreed, that would be OK but it might be problematic. Ms. DeWitt mentioned that a Bed and Breakfast Homestay was allowed the same signage as a residence and that lack of identifying signage might cause a problem with traffic in the neighborhood.

There being no further questions of the applicant/agent, Chairman Garner opened the floor to public participation.

Support:

Mark Mumaw, Big Park Regional Coordinating Council Planning and Zoning Committee Chair described their decision process, expressed their concerns regarding the Citizen Participation process, discussed the neighborhood impact/opposition, stated that the Council was neither supporting nor opposing the application and concluded by referencing the stipulations requested by the Council.

Barbara Miller (135 Las Ramblas) Las Piedras Property Owners Association President expressed their concerns with the Citizen Participation process, in general and specific to the proposed project, and stated that their Association had voted to support the decision of the Big Park Regional Coordinating Council.

Ms. DeWitt commented that Las Piedras was a member of the Big Park Regional Coordinating Council who receives referrals to be dispersed to their members. Ms. Miller said that was not her understanding. Chairman Garner said Staff would look into that.

Su Petersen (Camp Verde resident) expressed her support of the application. She said she was a friend and professional associate of the applicant, attested to her character and stated that she believed the proposed Bed and Breakfast Homestay would be an asset to the community.

Azaya Deuel (115 Wild Horse Mesa Drive) said that she was an area resident within 300' and expressed her full support for the proposed operation.

Nancy Heyser (85 Rainbow Trail) expressed her support for the applicant and the proposed operation. She said she had no concerns regarding traffic, she believed the applicant had applied in good faith and was not requesting a variance, and concluded by requesting that the Commission make a recommendation for approval.

Sunni Welles (80 Rainbow Trail North) described her property location, stated that she was supportive of the applicant and the proposed operation, and said that she had no traffic concerns.



Public Participation forms from members of the public not wishing to speak:

Freda Wrons (17 Wild Horse Mesa Drive) – “We have all chosen this area to live our lives as we please. Certainly this B&B can be an asset rather than a liability.”

Sue Miller (105 Wild Horse Mesa Drive) – “This Bed & Breakfast is such a small operation; we don’t foresee any negative impacts only positive. We shouldn’t stand in the way of someone trying to supplement their income.”

Lois Eggers (25 E. Tonto Rim Drive) – in support

Dr. Tyler Hess (25 Wild Horse Mesa Circle) – “After 20 years of visiting Sedona, last July I decided to come for a period of time to see the area as a potential resident. I was fortunate to find month-to-month accommodations with Kate McGahan. I am a quiet man who enjoys privacy. In the months that I have resided on her property, I have enjoyed tranquility engendered by both her property and Kate, herself. She is a most responsible citizen of her community and her B&B would certainly enhance the overall welfare of the community.”

Opposition:

Jan Montgomery read Denise Cohoon’s (corner of Wild Horse Mesa Drive and Hutson Lane) comments into the record – resided within 300’ area, strongly opposed, against business in residential, traffic/noise concerns, transient concerns, requested denial.

Kim Stromple (30 Wild Horse Mesa Circle) [provided information packets to the Commissioners] expressed her opposition/concerns regarding website/advertising (as of March 18<sup>th</sup>), personal space rental, on-site massage treatment, floor plan/rooms for rent, and number of guests.

Brian Orsborn read Evelyn Orsborn’s (16 Wild Horse Mesa Drive) comments into the record – opposed, against business in residential, traffic/safety, noise and dust concerns, Citizen Participation concerns.

Jan Montgomery read Joanne Smalley’s (25 W. Tonto Rim Drive) comments into the record – strongly opposed, set precedent for business in residential, traffic, noise, dust, transients and property devaluation concerns.

Brian Orsborn (16 Wild Horse Mesa Drive) expressed his opposition/concerns regarding dogs not being on a leash (no shock collars on visiting animals), possible secondary dwelling, septic, website/advertising, and stated that the proposed operation was affecting the sale of his property.

Mary Boerschinger (60 W. Tonto Rim Drive) [provided a photo to the Commission] expressed her concerns regarding noise, fire safety, personal security/safety, website/advertising and business in residential. She concluded by requesting that the Commission recommend denial of the application.

Janice Montgomery (30 Wild Horse Mesa Circle) expressed her concerns regarding traffic, dust, noise, liability/maintenance issues, business in residential, and Citizen Participation.

Megan Benson (65 W. Tonto Rim Drive) stated that her property was within the 300’ area and expressed her concerns regarding business in residential, Citizen Participation, and foot traffic (hiking) – no parking at trailhead.

Dave Cook read Jorge Garcia's (35 Wild Horse Mesa Drive) comments into the record – opposed, against business in residential, traffic/noise concerns, wanted to maintain the rural character of the neighborhood. *[It was noted by Staff that Mr. Garcia's letter of opposition was dated March 2<sup>nd</sup> and that Mr. Garcia had also signed a letter of support dated March 4<sup>th</sup>.]*

Dave Cook (65 W. Tonto Rim Drive) expressed his concerns regarding maintaining the residential/rural character of the neighborhood, business in residential, noise, website/advertising, number of guests, expansion plans, traffic, and dust. He noted that most of the opposition was from properties within the 300' area and the most of the support was from outside the area. Mr. Cook stated that he had not approved the applicant's blog link to his business website that was under construction.

Mary Ann Allencourt (55 Hutson Lane) stated that she owned two (2) parcels within the 300' area and expressed her concerns regarding Citizen Participation, business in residential, setting a precedent, and changing the character of the neighborhood. She stated that she was opposed to having a Bed and Breakfast in the neighborhood and requested denial of the application.

Public Participation forms from members of the public not wishing to speak:

Dorothy O'Brien (Village of Oak Creek area resident) – 1) "Personally am concerned that this use will negatively impact the Wild Horse Mea neighborhood and surrounding community; 2) As President of the Big Park Council, we would like our P&Z Committee to look at the public process issues we are experiencing, inconsistent, expectations"

There being no further public comment, the floor was closed to public participation and returned to the Commission for further discussion and/or a motion.

Chairman Garner referenced ancillary uses in Bed and Breakfasts and asked Staff to look at re-defining the Ordinance and to review the Citizen Participation guidelines. He expressed his concerns regarding pre-advertising/pre-business prior to approval as related to this application.

Commissioner Barnert commented that although the Citizen Participation process generally worked smoothly he had some concerns regarding the process for this application, expressed his concern regarding the unanimous vote being required by the Board of Supervisors, and noted that although a Bed and Breakfast Homestay was allowed with Administrative Review in the R1L district, the opposition to the operation created the need for a hearing.

**Action #4:** Commissioner Reilly made a motion to recommend denial of hearing application H#8011, Use Permit.

Commissioner Kerkman seconded the motion.

Voting ensued. The motion carried by a vote of seven (7) to one (1) with Commissioners McClelland, Jackson, Reilly, Stewart, Kerkman, Province and Chairman Garner voting in favor of the motion and Commissioner Barnert voting in opposition to the motion. This item will be heard by the Board of Supervisors on April 21, 2008.

Commissioner Barnert explained the reasons for his opposition to the motion noting that his only concerns were regarding denial of private property rights and County liability.

**OTHER BUSINESS**

1. Update on the March 17, 2008 Board meeting.

Elise Link, Planning Manager stated that the Board had approved the APS substation and the Brittney neighborhood well and had upheld the Commission's recommendation of denial for the Zoning Ordinance Amendment (2-story reference elimination).

2. Upcoming hearing items.

Elise Link, Planning Manager mentioned that the Joint Session was scheduled for March 26<sup>th</sup> in the Verde.

3. Update and Discussion regarding Energy Conservation Committee meetings: Rural Conservation Subdivision and Building Codes.

Commissioner Reilly commented that both committees would be making a presentation at the Joint Session.

Flyer from PROJECT CENTRL distributed to the Commission

Discussion ensued between Commissioner McClelland, Commissioner Reilly, Ms. DeWitt and Chairman Garner regarding the referral process as related to the Big Park Regional Coordinating Council.

**ADJOURNMENT**

There being no further business to discuss, a motion to adjourn was made by Commissioner Reilly, seconded by Commissioner Stewart and carried unanimously. The meeting was adjourned at 1:35 p.m.

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CHAIRMAN

ATTEST: \_\_\_\_\_  
SECRETARY