



COCHISE COUNTY PLANNING DEPARTMENT

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Susan Buchan, Director

MEMORANDUM

TO: Cochise County Planning and Zoning Commission
FROM: Keith Dennis, Planner
For: Susan Buchan, Planning Director
SUBJECT: Docket SU-09-08 (Elder Care for Life)
DATE: February 26, 2009, for the March 11, 2009 Meeting

APPLICATION FOR A SPECIAL USE

The Applicant requests a Special Use Permit to allow a Residential Care Institution on a 3-acre parcel in a TR-36 District, pursuant to Section 707.06 of the Zoning Regulations. The Applicant intends to add two additional residents in an existing, permitted Residential Care Home. No expansion to the existing home is proposed.

The subject parcel (Parcel # 104-02-006F) is located at 5605 E Labrador Lane in Hereford, AZ. It is further described as being situated in Sections 5 and 8 of Township 23, Range 21 East of the G&SRB&M, in Cochise County, Arizona.

Applicant: Monica Vandivort of Elder Care for Life

I. DESCRIPTION OF SUBJECT PARCEL AND SURROUNDING USES

Size: 2.98 Acres
Zoning: TR-36 (1 dwelling per 36,000 square feet)
Growth Area: Category B (Community Growth Area)
Plan Designation: NC – Neighborhood Conservation
Area Plan: None Applicable
Existing Uses: Residential Care Home
Proposed Uses: Residential Care Institution

Surrounding Zoning

Relation to Subject Parcel	Zoning District	Use of Property
North	TR-36	Undeveloped Land
South	TR-36	Single Family Residence
East	TR-36	Undeveloped Land
West	TR-36	Undeveloped Land

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II. PARCEL HISTORY

There are no violations associated with the subject property.

Per the Applicant, the structures on the property were constructed in the 1960s. The County has no record of permits for the construction of any structure on the site.

In 2007, the Applicant obtained a permit for a Residential Care Home with up to six residents ("Windmill Ranch"). The facility opened in January of 2008. The Application did not include any new construction or interior modifications to the home.

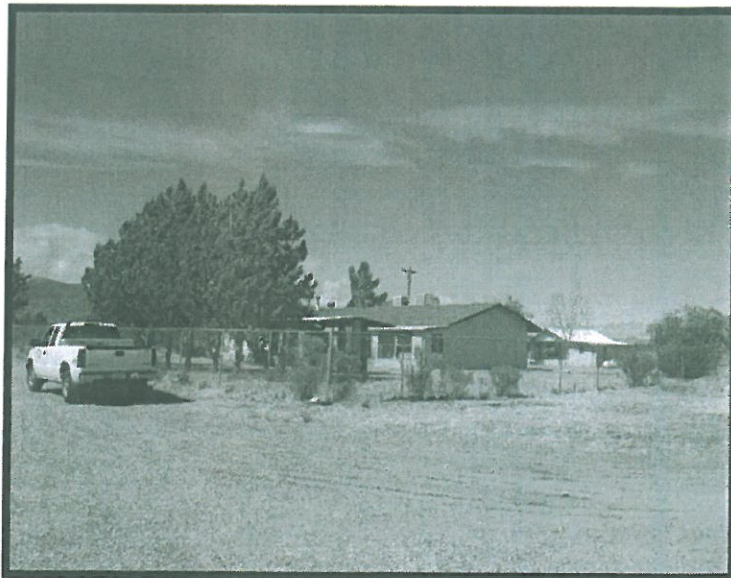
III. PROJECT DESCRIPTION

As defined in Article 2 of the Zoning Regulations, a Residential Care Home is intended to provide housing, supervisory personal or custodial care for up to six residents; with caretakers, the operator of the home, and family members who may reside in the home, the maximum number of residents allowed is 10.

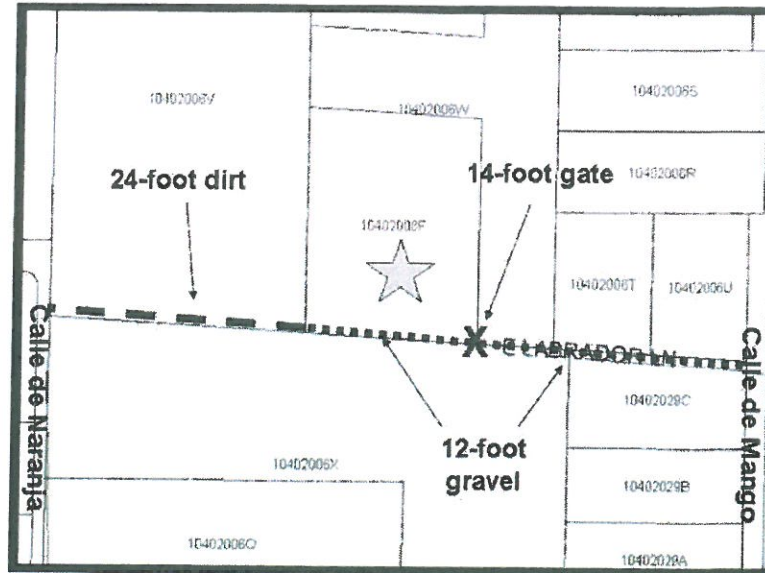
For applicable site development standards, the Zoning Regulations treat Residential Care Homes as single-family dwellings not subject to non-residential site development standards.

The Applicant seeks to expand the number of residents at the existing facility from six to eight. The Zoning Regulations would then define the project site as a Residential Care Institution, subject to non-residential site development standards; in a TR Zoning District, such Institutions are allowed by Special Use, per Section 707.06.

As with the initial Residential Care Home permit, no new construction is proposed as part of this expansion. The Applicant maintains that there is adequate space to provide residency for two additional persons without the need for a building addition.



Northwest view of Windmill Ranch.



The Labrador Lane roadway is 24 feet wide between Calle de Mango and Calle de Naranja, both of which are County-maintained roads.



Westward view of Labrador Lane as seen from the Calle de Mango entrance. This private easement is improved with a 12-foot gravel surface, surrounded by 6 feet of native vegetation on either side.

IV. ANALYSIS OF IMPACTS (SEE CONDITIONS #2 AND 3, REQUESTED MODIFICATIONS)

Impacts associated with the proposal are limited to traffic. The Applicant estimates an average of 11-25 trips per day for passenger cars, as well as twice-weekly trash pickup and a weekly truck delivery of medical supplies.

Labrador Lane is a 24-foot wide private easement running between Calle de Mango on the East side and Calle de Naranja on the West. On the East side, the easement features a single, 12-foot wide drive lane with 6 feet of vegetation on either side. Westbound traffic along this route passes through a 14-foot wide gate at the property entrance, and the gravel roadbed continues along the Southern length of the property. Continuing West and off the property towards Calle de Naranja, the easement is improved with a 24-foot wide dirt road.

As the attached Citizen Review and Public Input letters indicate, neighbors East of the property have indicated concern over traffic along the Calle de Mango route. The Applicant has responded to these concerns by requiring employees and delivery trucks to use the Calle de Naranja route. Staff recommends that the Applicant address traffic concerns in the following ways:

- A. Enter into a private maintenance agreement with the County, to ensure that Labrador Lane is maintained in a safe, passable condition;
- B. Require all traffic accessing the site to use the Calle de Naranja route;
- C. Post a sign at the intersection of Calle de Mango and Labrador Lane, instructing visitors to use the Calle de Naranja route; and
- D. Inform employees, delivery drivers, and residents' family members in writing to access the site through the Calle de Naranja route.



Looking West on Labrador Lane, as seen from the subject property. The gravel surfacing ends at the property line, after which the easement becomes a 24-foot wide dirt road.

While it seems clear that some drivers, especially those accessing the site for the first time, will use the Calle de Mango route in error, the above conditions are anticipated to be effective in directing traffic away from the more developed portions of the neighborhood.

As shown on the site plan, the driveway running North from Labrador Lane to the parking area sits on the Western property line. Section 1804.06.F requires that driveways used to access parking areas be a minimum of 15 feet from an adjacent residentially-zoned property. The property immediately West of the project site is zoned TR-36. The Applicant has asked for a modification to this Section to allow the driveway to remain in its current location.

Section 704.07 requires that the developed area of non-residential land uses in a TR District be screened from adjacent residentially-zoned properties with a 6-foot high screening device. The Applicant has asked for a waiver of this site development standard as well.

The adjacent property is undeveloped at this time, but may be developed in the future. At that time, this neighboring property may experience off-site impacts related to traffic accessing the site along the property line. Such impacts could be mitigated by screening that portion of the Western property line along which the driveway and parking area are situated. Section 704.07 also carries a provision allowing the Zoning Inspector to defer screening "if the abutting residentially-zoned property is not yet developed with a residential use." While staff has no issue with the screening modification request overall, there remains concern about future off-site traffic impacts when the adjacent property to the West is developed. Staff recommends, as Condition #3, that the Applicant provide a 6-foot solid screen along the Western property line, from the driveway entrance at the Southeast corner of the property along the length of the driveway and parking area when the abutting TR-36 property is developed. This would screen the driveway and parking area from the abutting property to the West.

V. DEED RESTRICTION

The property and Labrador Lane are both subject to restrictions that took effect when the property was originally deeded. The deed, the applicable portions of which are attached to this Memo, dates from 1985, and covers the subject property and Labrador Lane. A map showing the affected area is also attached. The applicable language on the deed is as follows:

Single family and private residence only. With construction of permanent nature attached to the property. Absolutely restricted against Mobile Homes single or double-wide, Modular Homes, single or double-wide and trailers. Pre-fab structures shall not be placed on the subject property.

No commercial businesses or pet businesses shall be operated from the premises of any of the lots, except for the boarding of horses within reason.

The language on the deed, which applies to several parcels North of Labrador Lane and to the easement itself, thus restricts the use of the land and easement. Although this Memo deals primarily with the land use implications of the proposal, the restriction against businesses constitutes a strong factor in favor of denial.

VI. COMPLIANCE WITH SPECIAL USE FACTORS (SECTION 1716.02)

Section 1716.02 of the Zoning Regulations provides a list of 10 criteria with which to evaluate Special Use applications. These are considered factors in determining whether or not to approve a Special Use Permit, as well as to determine what conditions and/or modifications may be needed. Seven of the 10 criteria apply to this request. The project complies with five of the seven criteria, subject to conditions of approval and requested modifications to site development standards where applicable.

A. Compliance with Duly Adopted Plans: Does Not Comply

The subject property is within a Category B, Neighborhood Conservation area on the Comprehensive Plan. Neighborhood Conservation areas are in part so designated when an area "is a developed residential neighborhood that warrants protection from non-residential land uses." From a zoning perspective, the proposal is for a non-residential land use, which generates a greater level of traffic than it would if the property were used as single family residential.

However, it should be noted that, as an assisted-living home, the purpose of the existing and proposed land use is to provide a home for individuals in need of supervisory care in a residential environment. Although in a strict sense the land use is a business and therefore non-residential, particularly with regard to site development standards and the necessity of the Special Use public process, the Applicant intends to maintain the residential scale of the property within its rural residential environs.

B. Compliance with the Zoning District Purpose Statement: Complies

Section 701.01 states that the purpose of the TR District is "to provide an area for family living at a variety of low to medium densities." Although, as discussed above, the proposal is non-residential from a land use perspective, the nature of the business is to provide a residential environment for long-term, end of life care for elderly persons. With a three-acre site, the proposal would be approximately the same density as would three single-family residences, assuming a family size of four persons.

C. Development Along Major Streets: Not Applicable

D. Traffic Circulation Factors: Does Not Comply

Compliance with this factor in part depends upon using streets according to their design and purpose. The proposal would generate non-residential traffic along streets designed to serve rural residential areas.

Prior to submitting the application the Applicant conducted traffic surveys on two separate dates in September of 2007: one in the morning hours and one in the afternoon. The results of this survey are attached to this Memo.

E. Adequate Services and Infrastructure: Complies (Subject to Conditions #2 and 4)

The site is served by the Southern Sunrise water company and Sulphur Spring Valley Electric Cooperative. An on-site propane tank provides natural gas, and the property is within the Fry Fire District.

The Health Department has determined that the existing septic system on the property may not be adequate for the proposed use. Their comments are also attached to this Memo. Staff

recommends, as Condition of approval #6, that the Applicant adhere to the requirements of the Health Department, prior to operation of the Special Use.

While, as discussed above, the project would result in non-residential traffic along residential streets, the actual impact of such traffic is consistent with the expected traffic volume of an otherwise residentially-developed site. The Transportation Planner's comments (attached) state that the site "would not be expected to produce much more in the way of traffic with the proposed use than would be on this parcel if it were built out to the full extent of the TR-36 zoning." Condition #2 would require the Applicant to enter into a private maintenance agreement for the length of Labrador Lane between Calle de Naranja and Calle de Mango, which are both County-maintained roads. This would ensure that the road remains adequate for the proposed use.

F. Significant Site Development Standards: Does Not Comply (See Requested Modifications, Conditions #3 and #5)

The proposal is deficient with regard to the following site development standards:

1. The required six parking spaces and one ADA space are not labeled on the site plan;
2. The driveway accessing the parking area is situated along the Western property line; the requirement is that the driveway be at least 15 feet from a residentially-zoned site (1804.06.F). The Applicant requests that the Commission waive this standard;
3. Screening, as required by Section 707.04, is not shown on the plan. The Applicant requests that the Commission waive this standard. Staff recommends that screening along the Western property line be deferred until the adjacent TR-zoned property is developed (see Condition #3);
4. Although Labrador Lane is 24 feet wide as required by Section 1804.06.F.3, a gate across the road, on the Eastern property line, is 14 feet wide. The Applicant requests that the Commission modify this standard to allow the gate to remain; and
5. The proposal does not include landscaping, which is required on no less than 5% of the developed site area (1806.02.B). The Applicant requests that the Commission waive this standard as well.

Condition #3 would ensure that screening is provided along the Western property line when the abutting TR-36 property develops; Condition #5 would require that the Applicant revise the site plan to label the parking area.

G. Public Input: Complies

Prior to submittal, the Applicant engaged in a thorough Citizen Review process. Three of the five respondents indicated opposition to the proposal, primarily based on traffic concerns. The Applicant responded to traffic concerns along the Calle de Mango access by requiring that employees and delivery drivers instead use the Calle de Naranja access. Condition #2 would make the Applicant's voluntary changes to the traffic pattern into conditions under which the Special Use is allowed to operate.



Northeast view of the subject property from the driveway entrance onto Labrador Lane. The driveway and parking area are situated along the Western property line.

H. Hazardous Materials: Not Applicable

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

Off-site impacts are discussed in Section IV of this Memo.

J. Water Conservation: Not Applicable

The project uses existing water fixtures in a single-family residence. No new construction is proposed, and the principal use on the property occupies less than one acre.

VII. PUBLIC COMMENT

The Department mailed notices to neighboring property owners within 1,000 feet. Staff posted the property on February 17, 2009 and published a legal notice in the *Sierra Vista Herald* on February 24, 2009. To date, the Department has received no letters of support and one letter of opposition to the Special Use request. However, the letter opposing the request indicates that the property owner could support the proposal if project traffic were made to use the Calle de Naranja entrance.

VIII. SUMMARY AND CONCLUSION

Factors in Favor of Allowing the Special Use

1. The business provides a valuable and needed service to the elderly population of Cochise County. Per the Applicant, there is a waiting list for persons seeking care at the facility.
2. The Applicant has addressed the traffic concerns of neighbors East of the property, along Calle de Mango, by requiring employees and delivery drivers to access the property through the Calle de Naranja access.

Factors Against Approval

1. The property and the easement by which it obtains access are restricted by the warranty deed to single-family residential use only, with a specific prohibition on business land uses.
2. One neighbor would oppose the Special Use request, but would support it if Condition #2 were applied to the approval.

IX. RECOMMENDATIONS

The deed restriction language limiting the property and easement to single family residential use constitutes a strong factor in favor of denial. The Commission may decide that this factor alone is sufficient to warrant a denial of the request.

Staff's analysis is concerned with the land use implications of the proposal; based on the land use analysis, staff recommends **conditional approval** of the Special Use request, with the following conditions:

1. Within thirty (30) days of approval of the Special Use, the Applicant shall provide the County a signed Acceptance of Conditions form and a Waiver of Claims form arising from ARS Section 12-1134. Prior to operation of the Special Use, the Applicant shall submit and obtain a building/use permit for the project within 12 months of approval, including a completed joint permit application. The building/use permit shall include a site plan in conformance with this approval and with Section 1705 of the Zoning Regulations, and meeting all site development standards (except as modified), the completed Special Use permit questionnaire, and appropriate fees. A permit must be issued within 18 months of the Special Use approval, otherwise the Special Use may be deemed void upon 30-day notification to the Applicant.
2. Prior to operation of the Special Use, the Applicant shall:
 - A. Enter into a private maintenance agreement with the County, to ensure that Labrador Lane is maintained in a safe, passable condition;
 - B. Require all traffic accessing the site to use the Calle de Naranja route;
 - C. Post a sign at the intersection of Calle de Mango and Labrador Lane, instructing visitors to use the Calle de Naranja route; and
 - D. Inform employees, delivery drivers, and residents' family members in writing to access the site through the Calle de Naranja route.
3. When the abutting TR-36 zoned property to the West develops, the Applicant shall screen the Western property line along the length of the driveway and parking area with an approved 6-foot high, opaque screening device.
4. Prior to operation of the Special Use, the Applicant shall abide by the requirements of the County Health Department.

5. Prior to the issuance of a building or use permit, the Applicant shall revise the site plan to label the location and dimensions of the six required parking spaces, and the one required ADA parking space. The ADA space shall be labeled as having a firm, stable surface, with a firm and stable path from the parking space to the nearest building entrance.
6. 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.
7. Any further changes to the approved Special Use Modification shall be subject to review by the Planning Department and may require additional modification and approval by the Planning and Zoning Commission.

X. REQUESTED MODIFICATIONS TO SITE DEVELOPMENT STANDARDS

The Applicant requests the following modifications to site development standards:

1. To Section 1804.06.F, to allow the existing gravel driveway along the Western property line to remain at the property line;
2. To Section 707.04, which would require that the use be screened from adjacent, residentially-zoned properties with a 6-foot high, solid screening device. (Staff recommends that screening along the Western property line be instead deferred until the adjacent TR-zoned property is developed – see Condition #3);
3. To Section 1804.06.F.3, in order to allow the existing 14-foot wide gate to remain on Labrador Lane, rather than the required 24 feet;
4. To Section 1806.02.B, which would require landscaping on no less than 5% of the developed site area.

XI. ATTACHMENTS

- A. Special Use Application
- B. Location/Surrounding Zoning Map
- C. Site Plan
- D. Property Deed and Map
- E. Health Department Comments
- F. Transportation Planner's Comments
- G. Applicant's Traffic Study
- H. Request for Modifications to Site Development Standards.
- I. Citizen Review
- J. Public Comment